

December 1, 2017

Bureau of Land Management

Mr. John Carlson

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<https://eplanning.blm.gov/epl-front-office/eplanning/comments/commentSubmission.do?commentPeriodId=54848>

RE: COMMENTS Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation

Dear Bureau of Land Management:

The North Dakota Industrial Commission (NDIC) appreciates the opportunity to offer comments on the Intent to Amend Land Use Plans Regarding Greater Sage-Grouse Conservation.

The NDIC supports the proposal to amend greater sage-grouse land use plans, to help improve sage-grouse conservation, and to strengthen communication and collaboration between states and the federal government. The NDIC is pleased that Secretary Zinke has taken a deeper look into the last minute changes to resource management plans in the western US in the summer of 2015. Secretarial Order Number 3353 was issued on June 7, 2017. The purpose of this order was to:

- Enhance cooperation between the Department of the Interior (DOI) and the 11 western states in the sage grouse range.
- Support a partnership with clearly defined roles and objectives for State and Federal agencies responsible for sage grouse management in order to sustain healthy sage grouse populations.
- Establish a team to review the Federal land management's sage grouse plan amendments and revisions completed on or before September 2015.

The State of North Dakota has a significant interest in this plan amendment proposal and provides the following comments to identify a few significant areas where the BLM should prioritize its efforts:

Due to North Dakota's unique history of land ownership, it is typical for oil and gas spacing units in North Dakota to consist of a combination of federal, state, and private mineral ownership. North Dakota Century Code § 38-08-01 requires the North Dakota Industrial Commission to support the development, production, and utilization of oil and gas while preventing waste of these resources and protecting the correlative rights of all owners. The Priority Habitat Management Areas (PHMAs) in the

September 2015 North Dakota Greater Sage-Grouse Approved Resource Management Plan Amendment overlay the proposed carbon dioxide (CO₂) pipeline route and the Cedar Hills oil field. This proposed pipeline and enhanced oil recovery (EOR) plan represent the current highest potential carbon utilization and storage project in North Dakota.

NET BENEFIT: The requirement for a net gain/conservation benefit on compensatory mitigation should be removed from BLM Resource Management Plans (RMPs). The genesis of term net benefit or net conservation gain is a Presidential memorandum issued by President Obama on November 3, 2015. As a result, federal agencies have included requirements for net gain in all mitigation actions to offset development. Even though President Trump has rescinded the November 3, 2015 memorandum, federal policy and BLM RMPs still require a net conservation gain when calculating compensatory mitigation.

Since North Dakota development projects in sage grouse habitat will occur on federal, state, and private land, a federal requirement of net conservation gain is forcing additional conservation to occur on private lands.

HABITAT AREAS: BLM has adopted a no surface occupancy (NSO) rule for all surface lands within their PHMAs. North Dakota allows surface occupancy in core areas under a number of restrictions; including lek buffers, seasonal timing restrictions and others. BLM should align PHMA/core area requirements with the North Dakota restrictions.

Sagebrush Focal Areas: Since President Trump's executive order rescinded the mineral withdrawal in these areas, there truly is no longer a need for Sagebrush Focal Areas. BLM should reclassify these areas.

Sincerely,

North Dakota Industrial Commission



Doug Burgum, Chairman
Governor



Wayne Stenehjem
Attorney General



Doug Goehring
Agriculture Commissioner