

MEMORANDUM OF UNDERSTANDING
BETWEEN
UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
AND
DESCHUTES COUNTY, OREGON
AS A COOPERATING AGENCY

I. Introduction

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management (“BLM”) and the County of Deschutes (Deschutes County), Oregon (“Cooperator”) for the purpose of preparing plan amendments to the Greater Sage-Grouse (GRSG) management in the BLM’s land use plans. The BLM is the lead federal agency for development of the Greater Sage-Grouse RMP/EIS. BLM acknowledges that Deschutes County has jurisdiction by law or special expertise applicable to the RMPA/EIS effort, as defined at 40 CFR 1508.1(n) and 1508.1(ee). This MOU describes responsibilities and procedures agreed to by Deschutes County as a Cooperating Agency and the BLM (“the Parties”).

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.7 and 1508), the BLM’s planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior Manual (516 DM 2 and 516 DM 11).

The EIS prepared under the terms of this MOU will consider amending BLM land use plans throughout the range of the GRSG, except for populations in Washington and the Bi-State population in California/Nevada.

II. Background

The BLM amended or revised land use plans in 2014 and 2015 in the States of California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming (2015 Sage-Grouse Plan Amendments) to provide for GRSG conservation on public lands. Subsequently, the BLM amended several of those plans in 2019 in the States of California, Colorado, Idaho, Nevada, Oregon, Utah, and Wyoming (2019 Sage-Grouse Plan Amendments). On October 16, 2019, the United States District Court for the District of Idaho preliminarily enjoined the BLM from implementing the 2019 Sage-Grouse Plan Amendments (Case No. 1:16-CV- 83-BLW).

This current planning process will build off the prior amendment and NEPA efforts by incorporating the new science, climate change considerations, and address continued GRSG and sagebrush habitat loss and GRSG population declines. Where existing planning decisions are still valid, those decisions may remain unchanged. Throughout the prior planning efforts GRSG planning and management has consistently been a collaboration with cooperating agencies, based on science, and it will continue to be.

The 2015 and 2019 efforts provide a foundation for GRSG conservation. Whether the changes were made through state-wide land use plan amendments or field office plan revisions, each of those efforts was a component of the larger effort to consider changes to BLM land use plans to provide for GRSG conservation. This NEPA effort will consider potential changes in GRSG management contained in BLM land use plans, culminating in the issuance of Records of Decision for each state/region.

III. Objective

The purposes of this MOU are:

- A. To designate Deschutes County as a Cooperating Agency in the RMPA/EIS amendment process.
- B. To provide a framework for cooperation and coordination between the BLM and Deschutes County that will ensure successful completion of the RMPA/EIS amendment in a timely, efficient, and thorough manner.
- C. To recognize that the BLM is the lead agency with responsibility for the completion of the RMPA/EIS amendment and the Record of Decision (ROD).
- D. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.

IV. Authorities

- A. The authorities of the BLM to enter into and engage in the activities described within this MOU include, but are not limited to:
 - 1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
 - 2. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
- B. Regulations implementing the above authorities:
 - 1. Council on Environmental Quality regulations (40 CFR 1501 et seq.)
 - 2. Bureau of Land Management planning regulations (43 CFR 1601 et seq.)
- C. The authorities of Deschutes County to enter into this MOU include, but are not limited to:
 - 1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

V. Roles and Responsibilities

- A. BLM Responsibilities:

Agreement No. BLM- OR-932-2301

Page 2 of 10

11/03/22

1. As lead agency, the BLM retains final responsibility for the content of all planning and NEPA documents, which include the Draft RMPA/Draft EIS, the Proposed RMPA/Final EIS, and the ROD. The BLM's responsibilities include determining the purpose of and need for the RMPA, selecting alternatives for analysis, identifying effects of the proposed alternatives, selecting the preferred alternative, and determining appropriate mitigation measures. In meeting these responsibilities, the BLM will follow all applicable statutory and regulatory requirements.

2. To the fullest extent consistent with its responsibilities as lead agency, the BLM will consider the comments, recommendations, data, and/or analyses provided by Deschutes County in the RMPA/EIS planning process, giving particular consideration to those topics on which Deschutes County is acknowledged to possess jurisdictional authority or special expertise.

3. To the fullest extent practicable, after consideration of the effect such releases may have on the BLM's ability to withhold this information from other parties, the BLM will provide Deschutes County with copies of documents underlying the RMPA/EIS relevant to the jurisdictional authority or special expertise of Deschutes County, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final RMPA/EISs.

B. Cooperating Agency Responsibilities under NEPA (40 CFR 1501 et seq.):

1. Deschutes County is a Cooperating Agency in this NEPA and planning process and is recognized to have jurisdiction by law or special expertise in the following areas:

- a. Local land use plans
- b. Local socioeconomic conditions

2. Deschutes County will provide information, comments, and technical expertise to the BLM regarding those elements of the RMPA/EIS, and the data and analyses supporting them, in which it has jurisdiction or special expertise or for which the BLM requests its assistance. In particular, Deschutes County will provide information on the following topics:

- a. Local plans
- b. Local socioeconomic conditions and potential impacts related to proposed amendment alternatives
- c. other local information that is relevant to planning issues or data needs.

3. Within the areas of their jurisdiction or special expertise, Deschutes County may participate in any of the other activities identified in Attachment A. These activities include, but are not limited to: providing guidance on public involvement strategies, identifying data needs, suggesting management actions to resolve planning issues, providing input to the draft analyses, identifying effects of alternatives, suggesting mitigation measures, and providing written comments on working drafts of the RMPA/EIS and supporting documents. (See also Section C.4.)

C. Responsibilities of the Parties:

1. The Parties agree to participate in this planning process in good faith and make all reasonable efforts to resolve disagreements.
2. The Parties agree to comply with the planning schedule provided as Attachment B, which includes dates for RMPA/EIS milestones and timeframes for reviews and submissions by Deschutes County.
3. Each Party agrees to fund its own expenses associated with the Greater Sage-Grouse RMPA/EIS process.
4. The Parties agree to carefully consider whether proposed meetings or other activities would waive the Unfunded Mandates Reform Act exception to the Federal Advisory Committee Act (2 U.S.C. 1534(b) and 5 U.S.C App.).

VI. Other Provisions

- A. Authorities not altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within their respective jurisdictions. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.
- B. Financial obligations. Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available.
- C. Immunity and Defenses Retained. Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.
- D. Conflict of interest. The Parties agree not to utilize any individual or organization for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the Greater Sage-Grouse RMPA/EIS. Questions

regarding potential conflicts of interest should be referred to BLM HQ or Field Ethics Counselors for resolution.

- E. Documenting disagreement or inconsistency. Where the BLM and Deschutes County disagree on substantive elements of the RMPA/EIS (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the BLM will include a summary of the views of Deschutes County in the Draft RMPA/Draft EIS and the Proposed RMPA/Final EIS. The BLM will also describe substantial inconsistencies between its proposed action(s) and the objectives of state, local, or tribal land use plans and policies.
- F. Management of information. The BLM will maintain the original records related to the RMPA/EIS. Any information furnished to any of the undersigned agencies is subject to the Freedom of Information Act (5 U.S.C. 552) and State public records laws. Deschutes County acknowledges that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other federal statutes. The Parties agree that the BLM at its discretion may withhold from Deschutes County those documents that would otherwise be available for public release under State public records laws. All records (in all media, paper and electronic) created or produced in part or in whole are to be maintained for the duration of the Agreement, made available upon request, and upon termination of the Agreement will be turned over to the BLM. The BLM will be responsible for responding to any FOIA request related to the RMPA/EIS or any request made under State public records laws. The BLM will treat requests made under State public records laws similar to FOIA requests.
- G. Deschutes County agrees to maintain the confidentiality of documents and deliberations to the extent legally permissible during the period before the BLM's public release of any planning and/or NEPA document, including drafts. Deschutes County will forward all requests for information on documents and deliberations to the BLM and the BLM will respond to these requests in accordance with all applicable Federal and State laws, regulations, and policies that govern the release of information to the public.

VII. Agency Representatives

Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between Deschutes County and the BLM during the planning process. Each Party may change its representative at will by providing written notice to the other Party.

VIII. Administration of the MOU

A. Approval. This MOU becomes effective upon signature by the authorized officials of both Parties.

B. Amendment. This MOU may be amended through written agreement of both signatories.

C. Modification: Modifications within the scope of the agreement shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

D. Termination. If not terminated earlier, this MOU will end when the ROD for the Greater Sage-Grouse RMPA/EIS is approved by the BLM State Director. This MOU will be reviewed in five years from the date of the MOU if the ROD has not been approved or the MOU has not been terminated earlier. Either Party may end its participation in this MOU by providing written notice to the other Party.

IX. Signatures

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the last date written below.

Patti Adair, County Commissioner
Deschutes County Board of Commissioners
1300 NW Wall St., Suite 206
Bend, Oregon 97703

Date

Barry R. Bushue
State Director, Oregon/Washington
BLM Oregon/Washington State Office
1220 SW 3rd Avenue
Portland, OR 97204

Date

Attachment A
Cooperating Agency Participation in the Greater Sage-Grouse RMPA/EIS

	RMP/EIS Stage	Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of jurisdiction and expertise
1	Conduct scoping and identify issues	Identify coordination requirements based on CA plans; identify significant issues; identify relevant local and regional organizations and interest groups; provide non-financial sponsorship of public forums with the BLM; identify connected, similar, and cumulative actions; identify other relevant agencies.
2	Collect inventory data	Identify data needs; provide data and technical analyses within the CA's expertise.
3	Formulate alternatives	Collaborate with BLM in developing alternatives. Suggest management actions to resolve issues. [Decision to select alternatives for analysis is reserved to the BLM.]
4	Analyze effects of alternatives	Provide effects analysis within the CA's expertise; identify direct, indirect, and cumulative effects within the CA's expertise; suggest mitigation measures for adverse effects.
5	Internal/Cooperating Agency Review of Administrative Draft RMP Amendment/Draft EIS	Collaborate with BLM in evaluating alternatives. Provide input on Preliminary Draft RMPA/DEIS. The CAs may provide written, public comments on draft if desired.
6	Issue Draft RMP Amendment/Draft EIS	Review preliminary Notice of Availability and initiation of 90-day public comment period. [Publication of a Federal Register Notice of Availability reserved to BLM]
7	Respond to comments	As appropriate, review comments within the CA's expertise and AS REQUESTED by BLM provide assistance in preparing BLM's responses.
8	Internal/Cooperating Agency Review of Administrative Proposed RMP Amendment/Final EIS	Provide input on Preliminary Administrative Proposed RMP Amendment/Final EIS.
9	Issue Proposed RMPA/FEIS	Review preliminary Notice of Availability. [Publication of a Federal Register Notice of Availability reserved to BLM.]
10	30-day Protest Period	A CA that has provided information relevant to a protest may be

	and 60-day Governor's Consistency Review	asked for clarification.
11	Record of Decision	[Action reserved to the BLM.]

Attachment B
Preliminary/Anticipated Schedule

	RMP/EIS Stage	Approximate Timeframe
1	Conduct scoping and identify issues	November 2021-March 2022
2	Collect inventory data	Spring-Fall 2022 (ongoing as becomes available)
3	Formulate alternatives	Fall/Winter 2022
4	Analyze effects of alternatives	Winter 2022/2023
5	Internal/Cooperating Agency Review of Administrative Draft RMP Amendment/Draft EIS	Winter/Spring 2023
6	Issue Draft RMP Amendment/Draft EIS	Spring/Summer 2023
7	90-Day Public Comment Period	Summer 2023
8	Respond to comments	Fall 2023
9	Internal/Cooperating Agency Review of Administrative Proposed RMP Amendment/Final EIS	Fall/Winter 2023
10	Issue Proposed RMP Amendment/Final EIS	Winter 2023/2024
11	30-Day Protest Period and 60-Day Governor's Consistency Review	Winter 2024
12	Record of Decision (ROD)	Spring 2024

Attachment C
Agency Representatives

Bureau of Land Management

Plan: Greater Sage-Grouse Resource Management Plan Amendment

Primary Representative: James (Jim) Regan-Vienop, Program Analyst,
Oregon/Washington State Office, BLM

Backup Representative: Todd Curtis, Deputy State Director, Oregon/Washington State
Office, BLM

Deschutes County

Primary Representative: Patti Adair, County Commissioner

Backup Representatives: Tarik Rawlings – Associate Planner, Deschutes County
Community Development

