



COLORADO

Governor Jared Polis

September 9, 2019

Jamie E. Connell, Director
Colorado State Office
Bureau of Land Management
2850 Youngfield Street
Lakewood, CO 80125-7093

RE: Governor's consistency review of the Proposed Uncompahgre Field Office Resource Management Plan and Final Environmental Impact Statement

Dear Ms. Connell:

Thank you for your continued cooperation and collaboration with the State of Colorado (State or Colorado) on public lands management.

In accordance with regulations 43 C.F.R. § 1610.3-2, Colorado is submitting the following comments and recommendations to correct inconsistencies between the Proposed Uncompahgre Field Office (UFO) Resource Management Plan/Final Environmental Impact Study (Collectively, PRMP/FEIS) and Colorado laws, plans, programs, and policies. The State has concerns related to the planning process for the PRMP/FEIS revision.

Public lands contribute immensely to the quality of life and economy in Colorado. State officials work closely with the Bureau of Land Management (BLM), and other federal land management agencies, through the State's cooperating agency status to improve federal land management in Colorado. While the current UFO Manager and District Manager have made significant efforts to address Colorado's concerns with the 2016 Draft RMP and Draft Environmental Impact Study (DRMP/DEIS), Colorado has ongoing concerns with the PRMP/FEIS as discussed below.

The PRMP/FEIS provides an important framework for the future management direction and use of BLM-administered lands in Montrose, Ouray, Gunnison, Delta, San Miguel, and Mesa Counties in Colorado (Counties). The Counties represent a wide diversity of land uses, environmental and wildlife resources, and associated economic drivers. The Counties within the PRMP/FEIS planning area (Planning Area) depend on responsible stewardship of our public lands to protect environmental resources, local economies, and the health of Colorado's communities. As proposed, the PRMP/FEIS will impact the Counties' unique recreation characteristics and economic interests.

Colorado has a diverse landscape and Coloradans across the State have diverse views on how to best use our State's public lands. My administration highly values our consultations with the Counties and localities within the Planning Area. Accordingly, there is varied feedback on the PRMP/FEIS that the State has gathered in close consultation with local governments. The



Counties of Montrose, Delta, and Mesa support the PRMP/FEIS. On the other hand, Ouray, Gunnison, and San Miguel have substantive concerns with both the process and the substance of the PRMP/FEIS. My administration supports the position of all six Counties, and seeks to ensure that the items of Statewide concern, including State laws around air quality, State wildlife plans, big game migration corridors, and habitat protection, are addressed. It is important to note that the State laws, plans, programs, and policies described below account for and balance the perspectives of all Coloradans. We submit these comments to express the inconsistencies between the PRMP/FEIS and carefully vetted State laws, plans, programs, and policies that Coloradans have developed collaboratively.

Outdoor recreation is important to Coloradans. For example, over 80 percent of Coloradans participate in trail-related activities on a regular basis and 90 percent of Coloradans participate in outdoor recreation annually. Across the State, outdoor recreation provides \$35 billion to Colorado's gross domestic product, which supports 511,000 jobs and contributes \$9 billion in local, State, and federal tax revenues.¹

Our State's public lands also support critical water resources. Our State is striving to meet water supply demands of our growing population while fostering a strong and resilient natural environment. To that end, engagement with our federal partners reflects a dual purpose of addressing Colorado's water-related needs while continuing to afford the appropriate environmental protections. Water resources are also critical to agriculture and the growing agritourism industry in the Planning Area.

Protecting our State's air quality and combating climate change depends on reducing emissions from the oil and gas sector Statewide. While local air quality monitoring data within the Planning Area indicate that ozone concentrations are below the federal 8-hour ozone standard, increased energy production in the Planning Area could increase ozone pollution from emissions of volatile organic compounds (VOCs) and nitrogen oxides (NOx). Oil and gas emissions in the UFO area contribute to ozone in the Four Corners region, which often approach National Ambient Air Quality Standards.

Exploration and production emissions from the oil and gas industry, and more broadly by emissions from the transport and use of those fuels, significantly contribute to regional haze. CDPHE is in the process of developing Colorado's Regional Haze State Implementation Plan (Regional Haze Rule) for the second 10-year implementation period. The Regional Haze Rule requires that Colorado submit a Long-Term Strategy (LTS) that addresses regional haze visibility impairment for Class I Areas in Colorado and outside the State. Designated Class I Areas in and near the Planning Area include Mesa Verde, Great Sand Dunes, and Black Canyon of the Gunnison National Parks, as well as Weminuche, West Elk, Maroon Bells-Snowmass, and La Garita Wilderness Areas. LTS planning requirements for the Regional Haze Rule will include emissions limitations and control measures for point and area source categories. Simply put, regional haze and visibility problems do not respect BLM field office, state, and tribal

¹ Colorado's 2019 Statewide Comprehensive Outdoor Recreation Plan (SCORP), *available at* <https://cpw.state.co.us/Documents/Trails/SCORP/Final-Plan/2019-SCORP-Report.pdf>.

boundaries, and therefore increased emissions resulting from the PRMP/FEIS will affect haze in the Planning Area and regionally.

Methane emissions from the Planning Area also contribute considerably to State greenhouse gas inventories and the large elevated methane dome over the Four Corners. Methane is a potent greenhouse gas and its control is critical for achieving State, national, and global climate targets. The U.S. Geological Survey released its first inventory of greenhouse gas emissions from federal lands in 2018 that showed that Colorado already has disproportionate emissions from fossil fuel development on federal lands. The study showed that federal lands in Colorado emitted an estimated 13% of total U.S. methane emissions, even before the large increase in oil and gas development proposed in the PRMP/FEIS.²

In addition to expressing the above-mentioned considerations and concerns, I would like to bring the following inconsistencies to your attention:

Inconsistency 1: Recently Enacted State Legislation

In the PRMP/FEIS, BLM's preferred alternative (Alternative E) estimates a 27% increase in direct greenhouse gas (GHG) emissions over a ten-year planning period.³ Out of all the alternatives considered by BLM, Alternative E resulted in the second highest increase in GHG emissions. Colorado's 2019 legislative session resulted in two successful legislative measures that could present inconsistencies with the PRMP/FEIS: (1) House Bill 19-1261 (HB19-1261); and (2) Senate Bill 19-181 (SB19-181).

HB19-1261 developed several GHG reduction targets compared to a 2005 baseline for the State: (1) 26% by 2025; (2) 50% by 2030; and (3) 90% by 2050. SB19-181 enacted a broad set of reforms to oil and gas development in the State. SB19-181 empowers locally impacted governments to participate in decision-making concerning oil and gas development within their jurisdictions. Additionally, SB19-181 includes direction to minimize emissions, including methane, hydrocarbons, VOCs, hazardous air pollutants (HAPs), and NO_x emissions from oil and gas development. As we implement HB19-1261 and SB19-181, State agencies will also be closely engaging local governments across Colorado to analyze avenues to reduce emissions, and protect community health and environmental resources. This work extends to our public and federal lands, including the BLM-administered lands contemplated in this PRMP/FEIS. To mitigate potential inconsistency with the above-mentioned legislation and the PRMP/FEIS, I make the following recommendations:

- Ensure that any oil and gas activities occurring on federal lands in Colorado implement best management practices to the maximum extent practicable, including but not limited to:

² USGS, Federal Lands Greenhouse Gas Emissions and Sequestration in the United States: Estimates for 2005–14 (2018) at 9.

³ PRMP/FEIS at 4-22 and 4-23.

- Compliance with applicable State air quality, water quality, and waste management rules, regulations and permitting requirements;
- Construction of adequate pipeline infrastructure for produced water, natural gas, crude oil, and condensate prior to commencement of commercial production;
- Compliance with Colorado's 2014 methane rule and rules under SB19-181 to minimize methane emissions; and
- Public participation, including public hearings, as required by the Federal Land Policy and Management Act, the National Environmental Policy Act, SB19-181, and all relevant rules, regulations, and laws.

Inconsistency 2: State Wildlife Plans

The PRMP/FEIS is inconsistent with several of Colorado's species management plans and agreements. In its 2016 comments regarding the DRMP/DEIS, Colorado Parks and Wildlife (CPW) noted that the draft failed to incorporate the objectives and commitments of the following State plans and agreements, some of which BLM is a party to:

- Gunnison Sage-grouse Rangewide Conservation Plan (2006);
- Rangewide Conservation Agreement and Strategy for Roundtail Chub, Bluehead Sucker and Flannelmouth Sucker (2006);
- Conservation Agreement for Colorado River Cutthroat Trout in the States of Colorado, Utah and Wyoming (2006);
- Gunnison and White-tailed Prairie Dog Conservation Strategy (2010);
- Colorado Bighorn Sheep Management Plan (2009-2019);
- Colorado State Wildlife Action Plan (2015);
- Recommended Buffer Zones and Seasonal Restrictions for Colorado Raptors (2008);
- Uncompahgre Plateau Deer Management Plan;
- Uncompahgre Plateau Elk Management Plan; and
- RBS-21 West San Juan bighorn sheep DAU Plan.

Previously identified inconsistencies with the above-mentioned plans, policies, and agreements were not rectified in the PRMP/FEIS. The PRMP/FEIS still lacks specific goals and objectives for resource conditions and desired conditions of wildlife populations and wildlife habitat across the Planning Area.

Since CPW filed comments in 2016, Colorado has adopted two relevant policies and plans regarding big game winter range and migration corridors: (1) Executive Order D-2019-011, Conserving Colorado's Big Game Winter Range and Migration Corridors; and (2) Colorado's Action Plan for Implementing Secretarial Order 3362 (submitted to BLM September 6, 2019). *See Attachments A and B.* These two documents are consistent with comments on previous drafts of the PRMP/FEIS that urged BLM to adopt limits on development in big game winter range and migration corridors.

The PRMP/FEIS's failure to adopt commitments consistent with these State plans, policies, and agreements hinders Colorado's ability to meet its own goals and objectives for wildlife in the Planning Area. To remedy inconsistencies between the PRMP/FEIS and the plans and policies listed above, I recommend that the PRMP/FEIS be revised to incorporate explicitly the goals, objectives, and commitments in the above-mentioned State plans, policies, and agreements. In addition, the PRMP/FEIS should be revised to include the goals and actions discussed below to ensure consistency with Colorado's species-specific management plans, including (1) Big Game Habitat and Migration Corridors; and (2) Gunnison Sage-grouse Rangewide Conservation Plan.

1. Big Game Habitat and Migration Corridors

Big game migration corridors, severe winter range, winter concentration areas, production areas (calving or lambing areas), and desert bighorn sheep summer ranges are capable of supporting populations that meet State of Colorado population objectives. These areas provide sustainable forage and habitat in areas with acceptable levels of human disturbance that do not reduce habitat effectiveness.

To provide for healthy ungulate populations capable of meeting State population objectives, anthropomorphic activity and improvements across the Planning Area should be designed to maintain habitat components that support critical life functions. This includes providing connectivity to seasonal habitats (migration corridors), production areas (calving or lambing areas), critical winter range, severe winter range, and winter concentration areas, along with other habitat components necessary to support herd viability.

Projects or activities in important big game habitats should be designed and conducted in a manner that does not reduce habitat effectiveness. Habitat effectiveness is considered maintained when road and trail densities within CPW-mapped big game migration corridors, production areas (calving or lambing areas), elk and deer severe winter range, elk and deer winter concentration areas, and bighorn sheep summer concentration areas on UFO lands are less than or equal to one linear mile/square mile. If route densities exceed one linear mile/square mile within these CPW mapped areas on UFO lands, compensatory mitigation designed to maintain habitat effectiveness should be required.

The Uncompahgre mule deer and elk herds are a significant resource for the citizens of Colorado. On August 21, 2019, I signed Executive Order (EO) D-2019-011, Conserving Colorado's Big Game Winter Range and Migration Corridors. This EO recognizes the contribution that big game species make to the economy and quality of life for every Coloradan, and empowers CPW to identify important migration corridors and seasonal habitats for big game. Due to the local and Statewide significance of the Uncompahgre Plateau's big game population, and consistent with Executive Order D-2019-011, CPW has nominated the Plateau as a high priority landscape for the State of Colorado's Action Plan for implementing Department of Interior Secretarial Order 3362, Improving Habitat Quality in Western Big-Game Winter Range and Migration Corridors.

Incorporation of the ungulate goals, objectives, and actions outlined above is critical for meeting the herd population objectives outlined in CPW's Uncompahgre Plateau deer and elk Herd Management Plans. The current population objective for this deer herd (D-19) is 36,000-38,000 deer (CPW 2006). The graph (Figure 1) below shows the deer population decline since 1980; the current population is well below CPW's Herd Management Plan objective.

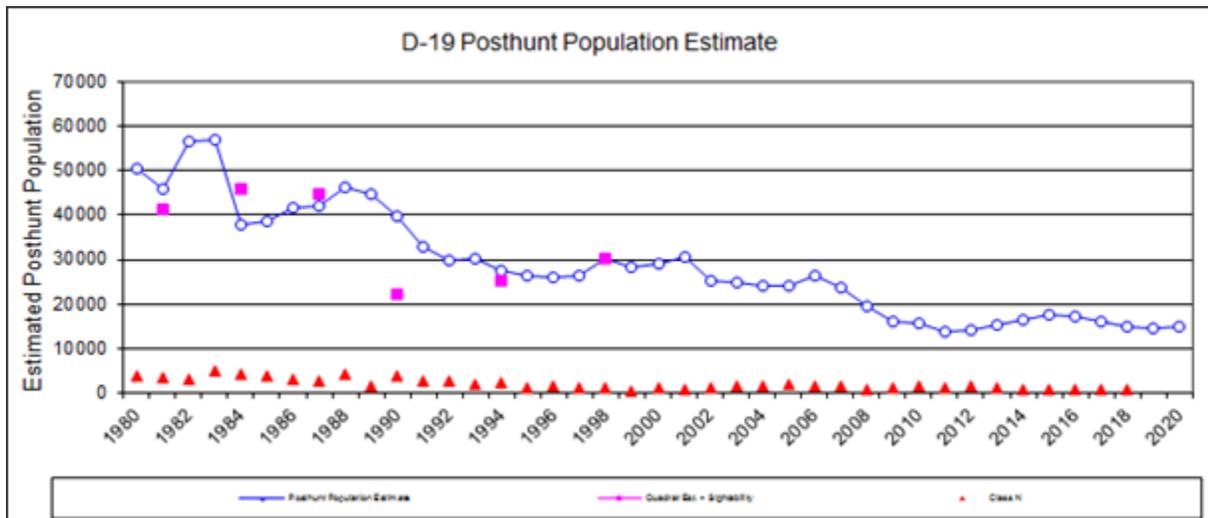


Figure 1. Post-hunt population estimates of mule deer from 1980-2018 on the Uncompahgre Plateau (DAU D-19).

Due to the population declines and low recruitment of juvenile deer into the population, the number of deer licenses has been significantly reduced over the years (limited to license draw only). The decline in mule deer population numbers is associated with the drought impacts, loss of habitat due to fragmentation (road/trail density) and development, predation, competition for quality forage, and increased density and intensity of recreation activities forcing animals to disperse into lower quality habitat and onto private lands.

The Uncompahgre elk herd (E-20) is comprised of Game Management Units (GMUs) 61 and 62. The current population objective for this elk herd is 8,500-9,500 (CPW 2006). Figure 2, below, shows the elk population's decline since 1980. More importantly, the graph also shows the negative trend and continued decline of calf/cow ratios indicating low recruitment of young into the elk population. This troubling trend signifies a stagnant or declining elk population.

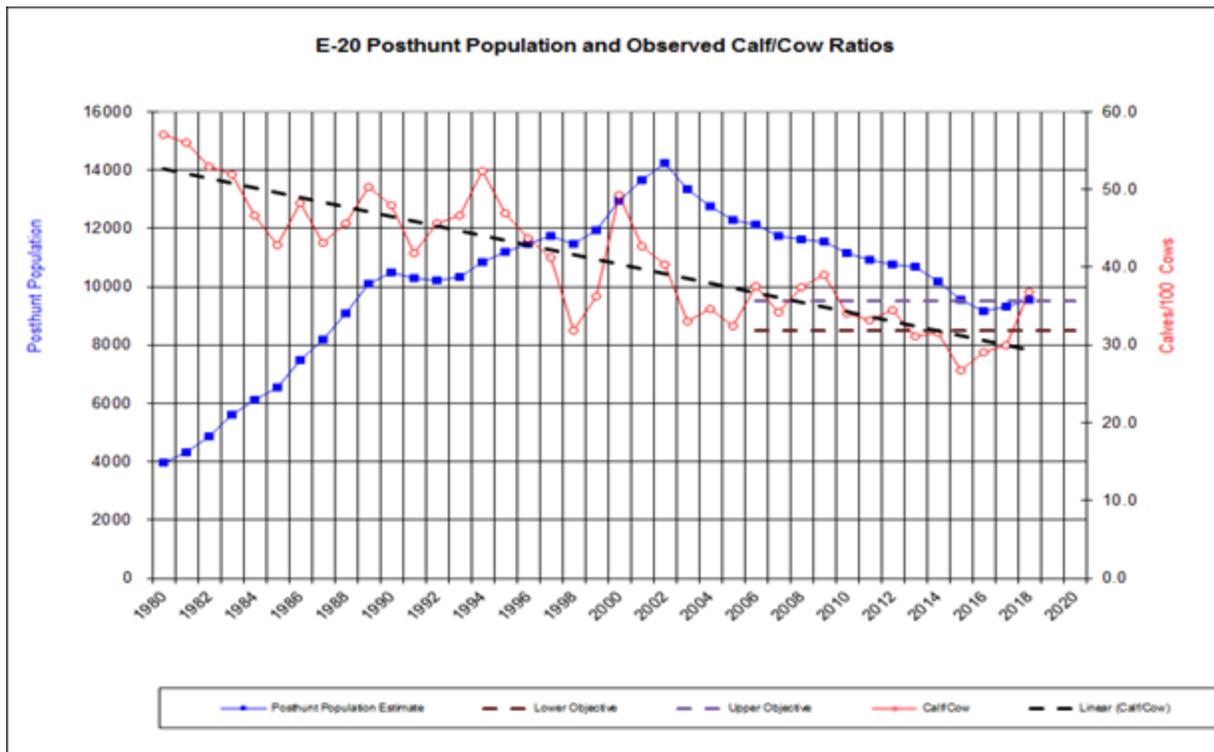


Figure 2. Post-hunt population estimates and observed calf:cow ratios from 1980-2018 on the Uncompahgre Plateau (DAU E-20).

CPW manages portions of the Uncompahgre Herd (GMU 61) for a quality elk hunting experience with limited licenses only. Due to limited availability, hunters are waiting for up to 25 years to draw a GMU 61 elk license, and CPW continues to reduce the number of licenses available in both GMU 61 and 62 due to declining herd numbers. Similar to mule deer, the decline in the elk population is attributable to drought impacts (forage quality), loss of habitat to fragmentation (roads/trail density) and development, predation, competition for quality forage, and increased density and intensity of recreation activities forcing animals to lower quality habitat and onto private lands.

In order to maintain existing deer and elk populations on the Uncompahgre Plateau consistent with CPW’s Herd Management Plans, proactive goals, objectives and actions need to be adopted by BLM in the PRMP/FEIS. There are few unfragmented, road/trail-free areas remaining on the Uncompahgre Plateau to provide security from disturbance for wildlife. Private lands on the south end and along the eastern and southeastern side of the Uncompahgre Plateau adjacent to BLM lands are being developed for agriculture, residences, and golf courses. This loss of habitat further increases the value of the remaining unfragmented public lands on the Plateau as a stronghold for wildlife.

CPW recommended the following in its protest of the DRMP/DEIS, and the State reiterates CPW’s recommendation here as a way to address the inconsistency between the PRMP/FEIS and Colorado’s ungulate plans:

Controlled Surface Use (CSU)/Site-Specific Relocation (SSR) – Big Game Severe Winter Range, Winter Concentration Areas, Production Areas and Migration Corridors

Surface occupancy or use is subject to the following special operating constraints: In order to provide for healthy ungulate populations capable of meeting State population objectives, anthropogenic activity and permanently constructed facilities shall be designed to maintain habitat function, permeability, and landscape connectivity between seasonal habitats. This includes limiting the density of permanently constructed facilities requiring daily access to one facility per square mile (640 acres) or less and limiting the density of open roads and trails designed for daily access to one linear mile per square mile (640 acres).

For the purposes of: Protecting and improving priority big game winter range and migratory habitats consistent with SO 3362, and in order to maintain reproductive success and recruitment necessary to sustain healthy big game populations capable of meeting State population objectives.

Rationale: There is an established body of evidence that timing limitation stipulations on oil and gas and other development activities are not adequate to maintain the functionality of big game habitats. Managing the concentration and intensity of development is necessary to maintain big game populations in areas subject to landscape-scale anthropogenic development. This may include requiring collocation of facilities to minimize traffic and road/trail densities.

2. Gunnison Sage-grouse Rangewide Conservation Plan

The PRMP/FEIS is inconsistent with the 2006 Gunnison sage-grouse rangewide conservation plan (State Sage-Grouse Plan), particularly Section V, Conservation Strategy. Parts of the Planning Area overlap with Gunnison sage-grouse habitat. To be consistent, the PRMP/FEIS should incorporate the conservation strategies cited in the State Sage-Grouse Plan in identified sage-grouse habitat. To remedy these inconsistencies, I recommend the following:

- Include the State Sage-Grouse Plan's strategies in mapped sage-grouse habitat in the PRMP/FEIS for the following uses:
 - Grazing (State Sage-Grouse Plan at 211-213), specifically incorporate the grazing management guidelines (State Sage-Grouse Plan at 212) that list practices that benefit Gunnison sage-grouse and their habitat and the specific habitat objectives (State Sage-Grouse Plan at Appendix H) into Land Health Assessments on BLM-administered lands;
 - Human infrastructure (State Sage-Grouse Plan at 225-228);
 - Oil and gas development and mining (State Sage-Grouse Plan at 233-238); and
 - Pesticides (State Sage-Grouse Plan at 239-240).

- Incorporate the structural habitat guidelines delineated in Appendix H of the State Sage-Grouse Plan for grazing, habitat restoration and improvement, and fuels and fire management plans into the PRMP/FEIS;
- To protect the Gunnison sage-grouse satellite populations in the Planning Area, prohibit any additional impacts to the species and its habitat pending completion of a final Gunnison sage-grouse Recovery Plan by the Fish and Wildlife Service;
- Replace the standard Exceptions, Modifications, and Waivers in NSO-31 with criteria similar to those cited by the U.S. Fish and Wildlife Service in its Biological Opinion on the PRMP/FEIS (mirroring the standards in the Northwest Colorado Greater Sage-grouse RMPA, as amended in 2019); and
- Work with CPW to establish and include clearly described and prioritized targets for Gunnison sage-grouse habitat restoration in the PRMP/FEIS.

I appreciate your willingness to acknowledge and incorporate Colorado's laws, plans, programs, and policies into the PRMP/FEIS. Pursuant to 43 C.F.R. § 1610.3-2(e), if any of the above recommendations were not considered during the public comment process for the PRMP/FEIS, please provide the public the opportunity to comment on them as you resolve the inconsistencies I have identified above.

Sincerely,



Jared Polis
Governor

CC: Senator Michael Bennet
Senator Cory Gardner
Representative Diana DeGette
Representative Joe Neguse
Representative Scott Tipton
Representative Ken Buck
Representative Doug Lamborn
Representative Jason Crow
Representative Ed Perlmutter