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Sent via email to blm_id_bruneauowyheesagegrouse@blm.gov.

RE: WILDERNESS WATCH COMMENTS: BRUNEAU-OWYHEE SAGE-GROUSE HABITAT PROJECT DRAFT ENVIRONMENTAL IMPACT STATEMENT

Dear Mr. McGee:

These are comments on the Draft Environmental Impact Statement (DEIS) for the Bruneau-Owyhee Sage-grouse Habitat (BOSH) Project from Wilderness Watch. Wilderness Watch is a national nonprofit wilderness conservation organization dedicated to the protection and proper stewardship and administration of the National Wilderness Preservation System. Wilderness Watch has a satellite office in Idaho, and our members use and will continue to use the Little Jack's Creek, Big Jack's Creek, Pole Creek, North Fork Owyhee, and the Owyhee River Wilderness areas for outdoor recreation and professional pursuits, including hiking, wildlife viewing, and wildlife study. The Bureau of Land Management's (BLM's) proposed action would adversely affect Wilderness Watch's organizational interests, as well as its members' use and enjoyment of these Wildernesses.

As noted in our scoping comments, Wilderness Watch appreciates the concern for long-term viability of sage-grouse, however we believe the project as proposed is contrary to the letter and spirit of the Wilderness Act and does not address the root causes of sage-grouse decline. Thus, the project as proposed, whether inside or outside of Wilderness, may be ineffective and perhaps even harmful.

Some of the issues we raised in our scoping comment letter have not been addressed in the DEIS. Rather than repeat our earlier comments, we refer you to those comments, which are attached at the end of this comment letter.

Background

The DEIS states on page 3, “The purpose of the BOSH project is to improve and maintain suitable sage-grouse habitat at a landscape scale on BLM-managed lands within the Bruneau and Owyhee field office boundaries by removing encroaching juniper from such habitat.” The DEIS considers three alternatives, no action, the proposed project and no treatment in Wilderness. None of the alternatives look at options to benefit sage-grouse other than juniper removal. Indeed, the DEIS rejected an alternative that looked at livestock management (page 11). The proposed action directly conflicts with Wilderness as a place where “the earth and its community of life are untrammelled by man.”

Wilderness Act Violations

Wilderness and Wilderness Character

Congress defined Wilderness as “an area where the earth and its community of life are untrammelled by man” and an area “retaining its primeval character and influence” which “generally appears to have been affected primarily by the forces of nature.” 16 U.S.C. § 1131(c). Howard Zahniser, one of the drafters of the Wilderness Act, stated in a 1957 speech discussing the Wilderness Bill that “[w]e describe an area as wilderness because of a character it has – not because of a particular use that it serves. A wilderness is an area where the earth and its community of life are untrammelled by man. (Untrammelled – not untrampled – untrammelled, meaning free, unbound, unhampered, unchecked, having the freedom of the wilderness.)”

Likewise, the BLM Manual acknowledges that “‘untrammelled’ refers to wilderness as essentially unhindered and free from modern human control or manipulation. This quality is impaired by human activities or actions that control or manipulate the components or processes of ecological systems inside wilderness.”¹ BLM Manual 1.6(A)(2)(c)(i). The BLM Manual also acknowledges that natural conditions result a lack of trammeling:

The Wilderness Act states that wilderness is “protected and managed so as to preserve its natural conditions.” In short, wilderness ecological systems should be as free as possible from the effects of modern civilization. Management must foster a natural distribution of native wildlife, fish, and plants by ensuring that ecosystems and ecological processes continue to function naturally. Watersheds, water bodies, water quality, and soils are maintained in a natural condition; associated ecological processes previously altered by human influences will be allowed to return to their natural condition. [...] This quality may be affected by intended or unintended effects of human activities on the ecological systems inside the wilderness.

¹ BLM Manual 6340 (Management of Designated Wilderness Areas), *available at*: https://www.blm.gov/style/medialib/blm/wo/Information_Resources_Management/policy/blm_manual.Par.22269.File.dat/6340.pdf

BLM Manual 1.6(A)(2)(c)(ii). Because “Wilderness areas are living ecosystems in a constant state of evolution[,]” the Manual explains that “[i]t is not the intent of wilderness stewardship to arrest this evolution in an attempt to preserve the character existing” at some prior point in time. BLM Manual 1.6(A)(6)(iv). If the BLM wishes to intervene in ecological change, it must “attempt to distinguish natural from human-caused events in determining whether any action is warranted.” *Id.* Accordingly, “[w]henver possible, the BLM will rely on natural processes to maintain native vegetation and to influence natural fluctuations in populations within wilderness.” BLM Manual 1.6(A)(15)(f). A proposal to manipulate an ecosystem must address:

- A. a description of the natural vegetative community and processes, based on historical and scientific evidence, that would have existed prior to the effects of industrialized humans,
- B. the existing condition and the departure from the natural vegetative community and processes,
- C. evidence from existing research/application that the proposed treatment will bring about the desired result, and
- D. an evaluation of the likelihood of the natural system to be self-sustaining after the treatment. Treatments should allow for natural processes to resume. Where this is not possible because of conditions outside the wilderness (e.g. a fire regime influenced by adjacent private land development), the contributing conditions and factors must be described. All other projects should be designed to emphasize the role of natural restoration processes.

BLM Manual 1.6(A)(15)(f)(iii).

BLM acknowledges that there are many potential causes of sagebrush-steppe habitat decline, DEIS 1, 3, but focuses its proposed action on only one of those potential causes (juniper encroachment). While some of the other potential causes are clearly brought about by human-initiated activity (e.g. grazing activities and invasive grasses) and thus good candidates for wilderness-appropriate management restrictions, juniper dispersal may be the result of natural processes in action. Yet, BLM categorically dismisses consideration of alternatives that address human-initiated causes, and it assumes that ongoing juniper removal is appropriate without addressing the requisite questions underlying that assumption.

Here, the BLM’s proposal does not address the underlying causes of the ecological change it wishes to manipulate, it does not provide a scientific or historical basis for its assumption that the current ecological state is a variation from natural conditions, and it does not provide a reasoned evaluation that the BLM’s desired conditions will be self-sustaining after manipulation. Where the Wilderness Act and BLM’s management guidance creates a strong presumption that natural processes will prevail without hindrance from human manipulation, at a minimum, the BLM must address the underlying assumptions it is relying upon to deviate from this presumption.

The DEIS is premised on the assumptions that junipers are increasing, and that the increase is unnatural, but the BLM has not explained *why* juniper expansion is unnatural. There is no scientific consensus on whether the BLM’s underlying assumptions are true (see the NEPA section and Attachments 1 and 2 disagreeing with BLM’s contentions). Besides, the DEIS

provides no reason why junipers, a native species, are encroaching in the purpose and need. This omission is crucial because there is no way a finding of necessity can be made in Wilderness, if it is even applicable in this instance.²

Similarly, the DEIS assumes that thinning encroaching junipers will provide benefit to the greater sage-grouse, without providing information as whether benefits to the sage-grouse have been observed where such projects have been implemented. The DEIS fails to address contrary science that suggests juniper invasion is natural re-establishment of the species (see Attachment 1). It also fails to cite any science supporting its colossal assumption that without implementing the project, sagebrush species will be “extirpated” in the wilderness. Because these assumptions are flawed, so is the DEIS’s conclusion that the proposed manipulation will improve wilderness character by promoting sage-grouse persistence.

BLM has not demonstrated that ecosystem modification or modification of natural processes is “the minimum requirement for administering the area as wilderness.” The main thrust of the agency’s wilderness-based justification in the DEIS and the associated materials is that although the proposed actions will trammel the Wilderness, they will make the Wilderness more natural by changing the extent of occupancy by a native species. This makes no sense, and the agency has not explained why the extent of juniper cover is a departure from natural conditions, or how cutting down junipers will make the wilderness more “natural.” Indeed, the agency even admits in the MRDG that implementing the project will reduce the wilderness’s naturalness by altering natural processes and conditions.

This is especially problematic because there is no historic baseline from which to gauge “naturalness,” nor any reason to believe that even if it were possible to identify such a baseline, returning the wilderness to a historic state would be more “natural.” This conundrum illustrates exactly why Howard Zahniser’s foresight is so important. As the author of the Wilderness Act, he focused, primarily, on the “untrammelled” character of wilderness in the Wilderness Act knowing that what is “natural” for that area will necessarily flow from what is “untrammelled.” The uncontrolled, unmanipulated processes in wilderness create the state of naturalness for that area. This provides us with a baseline from which to measure our management actions outside of Wilderness. If we start managing Wilderness the same way we manage lands outside of wilderness, through active manipulation, we lose the untrammelled baseline and we thus lose what is “natural” for that area at that point in time. This project proposes to do exactly that.

The upshot is the interplay between the supposed purpose and need of this project, the Wilderness Act, and EIS is such that the concept of wilderness character is turned on its head. This misreading of the Act creates the illogical conclusions such as the perceived need to trammel areas to make them natural again. It is unscientific, unsupported, arbitrary, and illegal.

Another issue, which we also address in more detail under the Minimum Requirements Decision

² None of the prohibited actions in section 4c of the Wilderness Act are proposed for Wilderness. Thus, it begs the question whether the minimum necessary is even applicable. Rather, since the proposal violates the very foundational definition of Wilderness in section 2c, it is no more allowable than turning a wilderness meadow into a small lake by digging it out, even if only using hand tools.

Guide heading, deals with whether it is even necessary to conduct this activity in Wilderness.³ The DEIS itself suggests that this activity is a drop in the bucket compared to the whole country, not to mention the minor part Wilderness plays in this project. The proposed action would treat 600,000 acres; the alternative that would not manipulate wilderness would treat 553,000 acres. Why is an alternative that treats 553,000 rather than 600,000 acres, 92%, insufficient from a minimum requirements perspective?

Reasonable Alternatives

Of the “many causes for the loss of sagebrush habitat,” the DEIS discusses none except juniper encroachment. Junipers are not an invasive species but are native to this area (see https://en.wikipedia.org/wiki/Juniperus_occidentalis). Indeed, BLM’s own *Owyhee Canyonlands Wilderness and Wild & Scenic Rivers Management Plan and Environmental Assessment* discusses how junipers are an integral part of the natural environment on pages 10, 21, 29 (the North Fork Juniper Woodland Outstanding Natural Area), 33, 35, and 40. That plan should be part of the project record. Page 40 of that document states:

The North Fork Owyhee River Canyon is an excellent example of the Montane Western Juniper Woodland Subtheme for the Western Juniper Woodland Theme in the Northern Basin and Range Natural Region, based upon illustrative character, condition, diversity, rarity, and value for science and education.

The BLM fails to address this reality or provide any information to the contrary. Similarly, assuming *arguendo* that the extent of juniper presence is unnatural, the BLM fails to analyze what is causing this plant succession, and it fails to analyze alternatives that might address the underlying causes. Clearly, the minimum necessary requirement is not met by this approach because the underlying problem is not identified and thus reasonable alternatives to address the problem are not explored. Because BLM has not identified why junipers are supposedly increasing, it is also impossible to tell whether BLM is using the minimum tool necessary to address the purported “problem.”

For example, if the reason for the encroachment of a native species were fire suppression, then the minimum necessary (assuming it even applies) in Wilderness would be allow natural fire to burn.

If the reason were livestock grazing, then the answer would be to eliminate or alter livestock grazing practices.⁴

If the reason were climate related⁵ or the result of natural processes, active manipulation to resist this change would require ongoing manipulation well into the future – a prospect that is fundamentally at odds with the purpose of the Wilderness Act. The EIS admits it will be

³ This is not a suggestion we believe the activity should be pursued outside of Wilderness.

⁴ If grazing is causing sage-grouse decline, then regardless of wilderness designation, action must be taken regarding livestock. Neither the Wilderness Act nor the wilderness grazing guidelines weaken the agency’s fundamental resource management obligation inside Wilderness as opposed to outside Wilderness.

⁵ The DEIS fails to consider what role climate change may play.

necessary to constantly re-treat (manipulate) these areas. The impacts of continual manipulation in Wilderness are not adequately addressed in the DEIS.

Additionally, the State of Idaho allows hunting of sage-grouse, though the season is not long and bag limits are not great (see Attachments 3 and 4). It would seem if the situation for sage-grouse were so serious, the minimum necessary would involve or at least analyze eliminating deliberate and direct mortality of sage-grouse. The DEIS fails to look at this issue in context of the minimum necessary.

A rigorous review of the underlying causes of threats to sage-grouse, and a rigorous review of reasonable alternatives to address those problems is important because such an analysis serves to protect the untrammelled character of Wilderness. However, the DEIS ignores the overriding and definitive essence of Wilderness. The DEIS states:

Wilderness values include: solitude, naturalness, opportunities for primitive and unconfined recreation, and the presence of special features that enhance wilderness values. The BLM Manual 8560 [Sec .08 (A) (1)] states that “The Wilderness Act directs that wilderness areas be managed to provide for their protection, the preservation of their natural conditions, and the preservation of their wilderness character”, which include naturalness and outstanding opportunities for solitude and/or primitive and unconfined recreation.

It appears BLM is rewriting the Wilderness Act to exclude its untrammelled nature, sometimes conflated with its wildness. The full quotation of Section 2c of the Wilderness Act puts the preeminence of untrammelled wilderness in context as it is mentioned first:

A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

The exclusion of "untrammelled" in the DEIS is a serious omission that skews BLM's analysis and ignores this fundamental attribute of wilderness character. In a program review initiated by the four federal agencies and conducted by the Pinchot Institute for Conservation in 2001, the importance of untrammelled (or wildness)⁶ is emphasized. (See Attachment 5). The purpose of the study was to examine the critical administrative or stewardship issues facing Wilderness.

⁶ There is arguably a difference between wild and untrammelled. Untrammelled speaks more to our relationship to the place and wild to the place itself.

One of the eight “fundamental principles” for stewardship emphasized the need to preserve the wildness in Wilderness. As the Pinchot report stated, “Protection of the natural wild, where nature is not controlled, is critical in ensuring that a place is wilderness... Since wild is a fundamental characteristic of wilderness that is not attainable elsewhere, if there is a choice between emphasizing naturalness and wildness, stewards should err on the side of wildness.”

Minimum Requirements Decision Guide (MRDG)

The analysis in the MRDG appears to be little more than a justification for a predetermined outcome and the analysis presented makes little sense.

The MRDG’s determination that sagebrush manipulation is necessary to maintain naturalness is wrong. The MRDG itself and DEIS admit that the natural quality of wilderness would be harmed by imposing the imprint of man’s work by manipulating juniper in the wilderness. DEIS 90. But instead of ending the inquiry there, the MRDG concludes: “Action is needed to preserve wilderness free from the effects of modern civilization.” DEIS 151. BLM never explains why juniper encroachment is an “effect” of modern civilization and it appears BLM seeks to impose effects of modern civilization to maintain a wilderness free from those effects. BLM also states that the loss of sagebrush species from the wilderness would be unnatural and would occur without juniper manipulations. DEIS, 64, 91-92, 152. Neither assertion, of course, is substantiated: First, it seems histrionic for BLM to state that sagebrush species would be extirpated from the wilderness without human intervention, and BLM provides no scientific evidence to support this analysis. Second, BLM’s assumption that the loss of sagebrush species from the wilderness would be unnatural is also wrong: if juniper is naturally expanding, sagebrush species might be displaced from the wilderness through a natural process. If that is the case, naturalness of wilderness would be maintained by allowing juniper to expand and sagebrush species to become displaced. BLM’s asserts that cutting juniper will return the wilderness to a more natural state, but there is no evidence that the presence of juniper is unnatural. *See* MRDG, 157.

The MRDG also states that the proposed juniper manipulation is necessary to meet the requirements of other federal laws. MRDG, 149. But the two “laws” the MRDG cites to support this point are not federal laws. The Convention on Nature Preservation and Wildlife Preservation in the Western Hemisphere appears to be an international treaty. The Idaho State Sage-Grouse Plan is a state policy that has been superseded by implementation of the federal sage-grouse resource management plans and plan amendments. The MRDG’s conclusion that the project is necessary to meet requirements of other federal laws is erroneous.

Finally, the MRDG states that the juniper manipulation is necessary to preserve greater sage-grouse, a feature of value in the wilderness. Yet, BLM offers no evidence that juniper manipulation will actually preserve sage-grouse in the wilderness. BLM also offers no evidence that juniper manipulation in the wilderness is necessary to preserve sage-grouse, generally, to prevent them from becoming threatened or endangered. BLM assumes that without action, sage-grouse will be completely extirpated from the wilderness without presenting any evidence that that is likely. The MRDG’s conclusion that “action is needed” to preserve a feature of value is fatally flawed because it is completely unsupported. Moreover, according to the DEIS, sage-

grouse and/or sagebrush habitat has only specifically been identified as a “feature of value” for the North Fork Owyhee wilderness, in a 1991 publication. Arguably, nothing in the legislation guiding management of any of the wilderness areas to be affected supports that apparent position that management of sage-grouse as a “feature of value” should trump management for wilderness character.

For these reasons, BLM’s conclusion that administrative action is “necessary” is wrong. The proposed juniper removal will harm all of the indices of wilderness character and there is little evidence that any of the purported “benefits” to be produced will occur. BLM should never have proceeded to the second step of the MRDG and only did so through faulty and illogical analysis.

Step two of the MRDG’s analysis is also flawed because BLM never considered passive and more wilderness-friendly means of achieving its desired objectives. As discussed above, BLM never considered allowing juniper removal to occur through letting naturally-ignited wildfires burn. Nor did BLM consider changing livestock grazing to prevent further juniper expansion. Of course, it is hard to identify which passive alternatives might have made sense to achieve BLM’s objectives because BLM never identified why juniper is supposedly “unnaturally” expanding to begin with. Of the “alternatives” BLM considered, it chose the best one—but that choice is still inadequate to satisfy BLM’s responsibility under applicable law.

NEPA Violations

The DEIS is arbitrary and capricious, an abuse of discretion, and / or otherwise not in accordance with the law, and the BLM failed to take a hard look at the direct, indirect, and cumulative impacts of the BOSH Project. The proposed action is likely to cause significant direct, indirect, and cumulative impacts and is likely part of an ongoing project that will last years into the future. The BLM must fully disclose and consider the underlying causes of the issues it wishes to address, fully disclose and consider direct, indirect, and cumulative impacts, and rigorously explore reasonable alternatives that would lessen or alleviate impacts to wilderness character.

The Environmental Impact Statement is NEPA's core requirement. Environmental concerns must be “integrated into the very process of agency decisionmaking” and “interwoven into the fabric of agency planning.” *Andrus v. Sierra Club*, 442 U.S. 347, 350-351 (1979). NEPA directs federal agencies to prepare a detailed Environmental Impact Statement (“EIS”) for federal actions that may significantly affect the quality of the human environment. 42 U.S.C. § 4332(2)(C). The phrase “human environment” is “interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.” 40 C.F.R. § 1508.14. The purpose of an EIS is two-fold: 1) to ensure that the agency will have available and will carefully consider detailed information on significant environmental impacts when it makes decisions, and 2) to “guarantee that the relevant information will be made available to the larger audience that may also play a role in both the decision-making process and the implementation of that decision.” *Robertson v. Methow Valley Citizens*, 490 U.S. 332, 349 (1989); 40 C.F.S. § 1501.2(b). For the reasons explained in the preceding sections and below, the DEIS in this case violates these two foundational purposes.

The DEIS's wilderness analysis is internally inconsistent and suffers from numerous flaws including failure to rely on the best available (or any) science, lack of evidence that the proposed projects will promote persistence of greater sage-grouse, and failure to discuss potential consequences of the proposed project in adequate detail. The DEIS's superficial, large-scale wilderness analysis fails to meaningfully disclose to the public consequences of the proposed project to affected wildernesses, or analyze site-specific alternatives. Moreover, BLM plans to implement the project in wildernesses, without any further NEPA analysis or public disclosure, even though the MRDG discloses that the project will harm all of the indices of wilderness character. In essence, the DEIS is, at best, a programmatic document trying to pass for site-specific analysis.

NEPA's policy is to require agencies "to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions..." 40 C.F.R. § 1500.2(f). NEPA "ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). "Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." 40 C.F.R. § 1500.1(b). NEPA requires agencies to consider the direct, indirect, and cumulative effects of proposed actions. *See* 40 C.F.R. §§ 1502.16, 1508.7. This process ensures that "important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast." *Methow Valley*, 490 U.S. at 349.

Here, BLM's wilderness analysis turns on the fundamental assumption that removing junipers will maintain habitat for sage-grouse and other sage-grouse species, arresting sage-grouse population declines. But, while BLM cites several scientific articles to support its statement that juniper expansion fragments sage-grouse habitat and is not used by sage-grouse, it does not cite a single article to support the assumption that removing junipers will retain sagebrush habitat or improve populations of sagebrush species. Nor does BLM consider examples of other places where such treatments have been implemented and have failed to produce desired results. Instead, BLM will monitor habitats to see whether the treatments are effective. Without any empirical evidence that the proposed sagebrush habitat manipulations will achieve BLM's intended ends (and some evidence that they will not), however, this project is little more than an experiment and there is no evidence that BLM's analysis of its effects is accurate. This violates NEPA, the Wilderness Act, and likely other laws and policies that constrain BLM's land management discretion.

Similarly, as discussed above, BLM fails to identify the root cause of juniper expansion or what ecological state BLM is seeking to "restore." Without this information, it is impossible for the public to gauge whether BLM's actions are truly the minimum necessary (or necessary at all) within wilderness. In the MRDG, BLM suggests that juniper "encroachment" is "human

induced,”⁷ MRDG, 151, but there is no evidence or science cited describing how juniper encroachment is related to human activity. It is impossible for the public to tell whether BLM’s wilderness analysis is accurate or logical without this information, and BLM’s analysis rests on little more than unsupported statements.

Moreover, BLM’s broad wilderness analysis fails to meaningfully inform the public about specific effects on wilderness areas where juniper removal will occur. Here, the BLM’s broad, programmatic assessment fails to provide meaningful analysis and disclosure of impacts at the site-specific level. Council on Environmental Quality NEPA guidance indicates that “[a]gencies may prepare a single NEPA document to support both programmatic and project-specific proposals. Such an approach may be appropriate when an agency plans to make a broad program decision, as well as timely decisions to implement one or more specific projects under the program. Such a programmatic NEPA review should address both the broad impacts of the proposed broad Federal action and provide sufficiently detailed environmental analyses for specific decisions, such as determining the locations and designs of one or more proposals to implement the broad Federal action. If subsequent actions remain to be analyzed and decided upon, that would be explained in the programmatic document and left to a subsequent tiered NEPA review. Agencies should clearly communicate the purpose and need for the programmatic and subsequent decisions, clearly state the decisions the agency proposes to make based directly on the PEA or PEIS, and distinguish the analysis of impacts and alternatives of the broad programmatic proposals from project- or site-specific proposals.” Council on Environmental Quality, Effective Use of Programmatic NEPA Reviews 15 (Dec. 18, 2014).

Instead of looking at the effects of juniper removal on each wilderness where projects will be implemented, BLM paints with a broad brush, assuming that the impacts will be the same in each wilderness. This ignores specific characteristics of each wilderness: for example, some wildernesses may have burned in recent fires and cutting junipers in the wildernesses may add to problems with soil erosion or invasive weed infestations. BLM’s broad analysis, which devotes only one or two paragraphs to describe conditions in each wilderness, does not provide an adequate description of baseline conditions against which to judge impacts of proposed activities on each unique wilderness environment. Sage-grouse populations may have different needs in some areas than in others. But BLM does not consider potential impacts on specific wildernesses, and does not commit to any more specific analysis in the future, beyond possible preparation of MRDGs. This is particularly ironic because BLM’s own policy only permits vegetation manipulation projects in wilderness when they are approved by the State Director “on a project by project basis,” and then only when specific conditions are satisfied, which they are not, here.⁸ See MRDG, 154. This is unlawful.

⁷ If indeed juniper expansion is real and human induced, then it stands to reason that stopping the human activity is what would be considered the minimum under the MRDG. Yet, the MRDG and DEIS do not explore this topic. See also footnote 8.

⁸ The State Director may only approve vegetation manipulations in wilderness where they do not degrade wilderness character, correct conditions that are the product of human influence, or will promote the perpetuation of threatened or endangered species. But here, the proposed manipulations degrade wilderness character, there is no explanation that shows they correct conditions that are the product of human influence, and they will not promote perpetuation of threatened or endangered species because the sage-grouse is not endangered. Therefore, for the State Director to approve vegetation manipulation projects would violate the policy.

Without more specific analysis—including disclosure of supporting science, if there is any—there is no evidence that BLM’s proposed large-scale juniper cutting is truly the “minimum required” to maintain wilderness character. NEPA requires the BLM to “[r]igorously explore and objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14(a). The BLM “may not define the objectives of its action in terms so unreasonably narrow that only one alternative . . . would accomplish the goals of the agency’s action, and the EIS would become a foreordained formality.” *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991). As discussed above, the BLM has failed to sufficiently explore and analyze alternatives to the proposed action that could address the BLM’s objectives without violating the Wilderness Act (e.g., as discussed above, (1) fully disclosing and exploring other reasons for sagebrush-steppe habitat decline, including grazing, fire suppression, climate change, etc. ; (2) analyzing alternatives that could address those underlying causes without violating the Wilderness Act such as grazing restrictions and allowing fire to fulfill its ecological role without intervention; and (3) fully exploring alternatives outside of wilderness). The BLM has an obligation under both the Wilderness Act and NEPA to rigorously explore those alternatives. See *Wilderness Watch, Inc. v. U.S. Fish & Wildlife Serv.*, 629 F.3d at 1039; *High Sierra Hikers v. Blackwell*, 390 F.3d 630, 647 (9th Circuit 2004).

BLM does not consider whether other alternatives to juniper cutting would be better for sage-grouse populations in specific areas. No site-specific alternatives are considered, and BLM commits to no further analysis, focusing instead on a one-size-fits-all “solution” that is neither supported by science nor shown to be warranted by any specific facts.

Finally, BLM improperly rejects Alternative C, under which no manipulations in wilderness would occur. The analysis in the MRDG shows that the proposed vegetation manipulations in wilderness would negatively impact *all* of the indices of wilderness character. They would detract from the wilderness’s untrammelled character by imposing a modern human control; detract from wilderness’s undeveloped attribute by indicating a form of modern human occupancy; detract from naturalness by imposing a human imprint on wilderness; and detract from solitude by reducing vegetative screening. And, although the MRDG states that the manipulations would improve other features of value by maintaining habitat for sagebrush species, no evidence is provided that manipulating sagebrush habitat actually increases sage-grouse persistence. BLM never explains why juniper manipulations on 47,000 acres of wilderness is necessary for sage-grouse persistence, when juniper can be manipulated on 553,000 acres outside of wilderness. BLM’s dire predictions about catastrophic impacts on sage-grouse populations, absent these manipulations, lack any empirical or analytical support. BLM has not explained why manipulating sagebrush in wilderness is necessary for either sage-grouse, other sagebrush species, or to maintain wilderness character (See the discussion of the MRDG).

BLM must analyze and disclose to the public the following:

- 1). Why is juniper expansion occurring?
- 2). What scientific evidence shows that removing juniper promotes sage-grouse persistence and/or recovery? What scientific evidence shows that removing juniper does not promote sage-grouse persistence and/or recovery?
- 3). What evidence shows that sagebrush species will be “extirpated” from the wilderness

without juniper manipulation?

4). Why is displacement of sagebrush species from the wilderness by juniper expansion “unnatural”?

5). How will BLM determine, on a project-by-project basis, whether proposed juniper manipulation projects are appropriate? What public disclosure will occur and how will BLM satisfy its obligations under NEPA?

6). What are baseline conditions in each of the affected wildernesses with respect to the following:

- a. Sagebrush habitat;
- b. Sage-grouse occupancy and status;
- c. Recent fire activity;
- d. Invasive species occupancy and expansion;
- e. Wilderness character monitoring results;
- f. Sagebrush species occupancy;
- g. Extent of juniper “invasion”;
- h. Extent of livestock grazing;
- i. Soil erosion;
- j. Stream quality;
- k. Use of habitat by sagebrush species;
- l. Other resources that may be affected by juniper removal.

7) The DEIS indicates that motorized access to wilderness units will be restricted to designated roads and trails. DEIS 90. Does this refer to designated roads and trails *outside* of wilderness? Will there be any motorized access approved within wilderness boundaries?

8) The DEIS indicates that radio telemetry monitoring will occur as part of this project proposal. DEIS 14. How will radio telemetry monitoring take place? Will it require the installation use within wilderness? If so, how does this comport with the Wilderness Act’s prohibition on installations?

9) The DEIS indicates that noxious weeds or areas susceptible to noxious weeds may be chemically treated. DEIS 20. Wilderness Watch is concerned that the proposed ecological manipulations (juniper cutting) may trigger the need for additional ecological manipulations as mitigation measures (potentially over the span of many years). Would chemical applications be necessary if the ecological manipulations proposed do not occur?

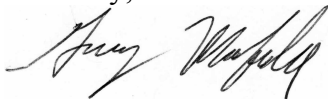
The potential that climate change may be at work (see point 1 above) deserves analysis in the DEIS. There is research that shows die-offs of pinyon-juniper forests due to drought (mainly pinyon but juniper as well) and conversion from pinyon-juniper forests to dry grasslands⁹ has occurred in Bandelier National Monument and after a fire in Mesa Verde National Park. How will climate change affect junipers in the Owyhees? Is it possible climate change will help junipers expand in the future? Or, is it possible BLM is hastening the end of an ecotype that may disappear due to climate change?

See for example Mueller, R. C., Scudder, C. M., Porter, M. E., Talbot Trotter, R., Gehring, C. A. and Whitham, T. G. (2005), Differential tree mortality in response to severe drought: evidence for long-term vegetation shifts. *Journal of Ecology*, 93: 1085–1093. doi:10.1111/j.1365-2745.2005.01042.x

All of BLM's analysis must be supported by current, high-quality science, and the public must be afforded an opportunity to comment on the new information and analysis presented. We expect that to adequately remedy the defects in BLM's analysis, a Supplemental Environmental Impact Statement and revised MRDG will be required.

Please keep us updated on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Macfarlane". The signature is fluid and cursive, with the first name "Gary" and last name "Macfarlane" clearly distinguishable.

Gary Macfarlane
Board Member