

**Memorandum of Understanding
between the
Department of the Interior
Bureau of Land Management, Montana/Dakotas State Office
and the
Montana Grass Conservation Commission
Regarding
Development of the
Environmental Impact Statement for the Proposed Amendment of Resource Management Plans
for Greater Sage-Grouse management**

I. Parties to and Purpose of this Document

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management (“BLM”) and the Montana Grass Conservation Commission for the purpose of preparing plan amendments for Greater Sage-Grouse (GRSG) management in the BLM’s land use plans and the associated Environmental Impact Statement (RMPA/EIS). The BLM is the lead federal agency for development of this GRSG RMPA/EIS. BLM acknowledges that the Montana Grass Conservation Commission 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 the Montana Grass Conservation Commission as a Cooperating Agency and the BLM (“the Parties”).

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. Specifically, this MOU is intended to facilitate input focused on amendments to GRSG management for land use plans in Montana, North Dakota, and South Dakota.

II. Background

The BLM amended or revised land use plans (RMPs and some Management Framework 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 prior amendments 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 so.

The 2015 and 2019 efforts (2019 amendments not applicable to Montana/Dakotas BLM) 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.

The BLM is preparing a single national-level EIS for this planning effort with individual Records of Decision (RODs) covering RMPs under each BLM State Office/Region (e.g., Montana, South Dakota, and North Dakota will be covered by one ROD). The RMPA prepared under the terms of this MOU is part of that larger BLM GRSG planning effort that is considering amendments to BLM land use plans in multiple states within the range of GRSG.

III. Preliminary Schedule

The following is a preliminary schedule for completing the proposed amendments. This schedule is very general and subject to change. The intent is to complete an informed process in a timely manner.

	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

IV. Authorities for the MOU

This MOU has been prepared under the following authorities:

Federal authorities

- National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and federal regulations codified at 40 Code of Federal Regulations (CFR) Part 1500-1508, and 43 CFR Part 46;
- Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq.;
- BLM's planning regulations (in particular 43 CFR 1601.0-5, 1610.3-1, and 1610.4)

State authorities

- Montana Executive Orders 10-2014, 12-2015, 21-2015;
- Montana Greater Sage-Grouse Stewardship Act (Mont. Code Ann. §§ 87-5-901, et seq.)
- Montana Environmental Policy Act, Mont. Code Ann. § 75-1-101, et seq.
- Montana Land Resources and Use, Mont. Code Ann. § 76-14-102
- Montana Sage Grouse Oversight Team, Mont. Code Ann. § 2-15-243
- Sage Grouse Stewardship, Admin. R. Mont. 14.6.101, et seq.

Local authorities

- Local Government Boards, Mont. Code Ann. § 7-1-2101
- Montana Land Resources and Use, Grazing Districts, Mont. Code Ann. § 76-16-101, et seq.

V. Responsibilities of the Parties

- a. *Responsibilities of the BLM:* In accordance with 40 CFR 1501.5, the BLM is the lead agency. The BLM will keep the representatives of the Cooperating Agency apprised of current events and timeframes in relation to the planning process. The BLM will provide information requests and drafts for review with as much lead time as possible to facilitate timely and thoughtful responses. The BLM will consider and may use Cooperating Agency input and proposals to the maximum extent possible and consistent with responsibilities as lead agency as described in 40 CFR 1501.7. The BLM may incorporate information provided by the Cooperating Agency into the planning document(s) as appropriate. The BLM is

solely responsible for any decisions made for the planning effort. Any BLM decisions made associated with the planning process apply only to public land administered by BLM and federal mineral estate.

- b. *Responsibilities of the Cooperating Agency:* Based on the expedited time frames for this initiative, the Cooperating Agency will participate in the environmental analysis and review process by providing information regarding environmental issues for which or where the Cooperating Agency has jurisdiction by law or special expertise. A schedule and preliminary timeframe for the respective stages of EIS development where the Cooperating Agency may participate in the planning process is outlined in Section III.

Through its representative(s), the Cooperating Agency will have the opportunity for input to preliminary draft documents prepared during the planning process. The Inter-Disciplinary Team (IDT) Leader may, at any time during the effective term of this MOU, request records or information by contacting the Cooperating Agency point of contact who will work to respond to such requests within reasonable time frames. Prior to release, all records or information requested of or provided by the Cooperating Agency pursuant to this MOU will be subject to review by the Cooperating Agency.

Under this MOU, the Cooperating Agency may be expected to assist the BLM in identifying key issues, developing reasonable alternatives, providing timely information, and reviewing preliminary environmental documents, so that the planning process remains on track to adhere to agreed-upon schedules. The Cooperating Agency agrees to commit to maintaining the confidentiality of documents and deliberations during the period prior to the BLM's public release of any NEPA document(s) including drafts as identified in section VII(g) below.

- c. *Mutual Responsibilities of the Parties:* The BLM and the Cooperating Agency agree to cooperate by informing each other as far in advance as possible, of any related actions, issues or procedural problems that may affect the environmental analysis and documentation process or that may affect either party. The parties agree to cooperate in the development and review of any operating guidelines or agreements between the BLM, the Cooperating Agency, and other entities involved in the planning process that may affect the environmental analyses and writing of the plan. The parties agree to use their best efforts to meet the time frames established in the agreement, to work cooperatively, and to resolve differences as quickly as possible.

VI. Payment

No payment will be made to any other party by the other as a result of this MOU. Each party will pay its own costs. During the course of the planning process, should it become necessary for one party to purchase from or make payment or reimbursement to any other party, such arrangements will be covered through an appropriate acquisition tool in accordance with applicable law, and contingent upon the availability and appropriation of funds. Each subsequent agreement or arrangement involving the transfer of funds, services, or property shall be made in writing and shall be independently authorized by appropriate statutory authority and regulations, including those applicable to procurement activities. Nothing in this agreement may be construed to require either the Cooperating Agency or the BLM to obligate or pay funds or in any other way take action in violation of the Anti-Deficiency Act (31 USC 1341) or any state or county law or ordinance.

VII. Other Provisions

- a. *Amendments.* Either party may request changes to this MOU. Any changes, modifications, revisions or amendments to this MOU, that are mutually agreed upon by and between the parties to this MOU, will be incorporated by written instrument, executed and signed by both parties to this MOU, and are effective in accordance with the terms of this MOU.
- b. *Applicable Law.* The construction, interpretation and enforcement of this MOU will be governed by the applicable laws of the United States.
- c. *Entirety of Agreement.* This MOU represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations and agreements concerning the parties' environmental documents, whether written or oral.
- d. *Severability.* Should any portion of this MOU be determined to be illegal or unenforceable, the remainder of the MOU will continue to be in full force and effect, and either party may renegotiate the terms affected by the severance.
- e. *Sovereign Immunity.* The Cooperating Agency and the BLM do not Waive their sovereign immunity by entering into this MOU, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.
- f. *Third Party Beneficiary Rights.* The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this MOU must not be construed so as to create such status. The rights, duties, and obligations contained in this MOU will operate only between the parties to this MOU, and will benefit only the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only parties signatory to this MOU will have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU, or to bring an action for the breach of this MOU.

- g. *Records Management.* BLM will be custodians to all data/records produced as part of this Agreement. All records (in all media, paper and electronic) created or produced in part or in whole are to be maintained according to the Bureau of Records Retention Catalog and made available for review, allowable by law, upon request. Any shared documents are recommended to be labeled with appropriate access references (eg, “public”, “confidential”, “deliberative”, “copyright”, etc). The Cooperating Agency shall not retain, use, sell, or disseminate copies of any data that contains information covered by the Privacy Act of 1974 or that which is generally protected by the Freedom of Information Act. The cooperating agencies will keep confidential and protect from public disclosure (unless required by law) any and all documents related to, or generated by this agreement.
- h. *Public Records.* The Cooperator[s] acknowledge[s] that all supporting materials and draft documents may become part of the administrative record and thus, would be subject to the requirements of the Freedom of Information Act (FOIA; 5 U.S.C. 552) and other and federal statutes. The BLM acknowledges that the Cooperator’s[s’] handling of these materials may be impacted by state-specific open records laws. The Parties agree that the BLM at its discretion may withhold from the cooperater those documents that would otherwise be available for public release under (§ 24-72-201 to 206, C.R.S.).
- i. *Administrative Considerations.* Pursuant to 204(b) of the Unfunded Mandates Reform Act of 1995, responsible Federal Agency officials may meet or enter into project level MOUs with officials of State and local Governments or their designees. During such meetings and development, implementation and monitoring of such MOUs, views, information and advice are exchanged, or input relative to the implementation of Federal programs is obtained. Such meetings and MOUs will further the administration of intergovernmental coordination. The meetings or MOUs referred to include, but are not limited to, meetings called for the purpose of exchanging views, information, advice or recommendations, or for facilitating any other interaction relating to intergovernmental responsibilities or administration.

Nothing in this MOU will be construed as limiting or affecting in any way the authority or legal responsibility of the Cooperating Agency or the BLM, or as binding either the Cooperating Agency or the BLM to perform beyond the respective authority of each, or to require either to assume or expend any sum in excess of appropriations available. It is understood that the provisions herein must be within financial, legal, and personnel limitations, as determined practical by the Cooperating Agency and the BLM for their respective responsibilities.

This MOU is neither a fiscal nor a funds obligation document. Nothing in this MOU will be construed to extend jurisdiction or decision-making authority to the Cooperating Agency for planning and management of land or resource uses on the Federal lands or mineral estates administered by the BLM. Both the

Cooperating Agency and the BLM will work together cooperatively and will communicate about issues of mutual concern.

- j. *Termination.* Either party may terminate this MOU after 30 days written notice to the other party of their intention to do so. During this period, the parties will enter negotiations to resolve any disagreement(s). If the disagreement(s), if any, have not been resolved by the end of the 30-day period, the MOU will terminate. In the event negotiations are progressing but are not concluded by the end of the 30-day period, the party initiating the termination notice may request that termination be postponed for an additional 30-day period or longer while the negotiations continue.
- k. *Commencement/Expiration Date.* This MOU will commence upon the date of the last signature made by the duly authorized representatives of the parties of this MOU and will remain in effect for five years at which time it will expire unless extended through an amendment.
- l. *Dispute Resolution.* In the event of any disagreement between the parties regarding their obligations under this MOU that cannot be resolved between the parties in a reasonable time, either party may refer the disagreement to the Montana BLM State Director to timely resolve said issue. The decision of the Montana BLM State Director will be the final decision for the purposes of resolving the issue.
- m. *Contacts:* The primary points of contact for carrying out the provisions of this MOU are:

COOPERATOR

Cooperating Agency: Montana Grass Conservation Commission
Cooperating Agency _____
Designee: _____
Address: _____
Phone: _____
Email: _____

BLM

David Wood
Conservation Biologist
Montana State Office
5001 Southgate Drive
Billings, Montana 59101
(406) 896-5246
djwood@blm.gov

Sonya Germann
State Director, Montana/Dakotas BLM
Montana State Office
5001 Southgate Drive
Billings, Montana 59101

VIII. Signature

The parties hereto have executed this Memorandum of Understanding as of the dates shown below.

The effective date of this MOU is the latest signature date affixed to this page.

Cooperating Agency by and through:

Signature

Date

Printed Name of
Signatory:

Title of Signatory:

U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, by and through:

Sonya Germann
Montana/Dakotas BLM State Director

Date

**CROOKED CREEK CSGD
By-Law Meeting
HELD 3-4-2022**

Present:

Lester Sluggett
Levi Sluggett
Lisa Sluggett
Cathy Fink
Jon Berg

Craig Iverson
Phil Schuman
Chip Styer
Jackie Grimsrud

Joe Delaney
Carol Sluggett
TJ Lynn
Kale Grimsrud

The meeting was called to order by Craig Iverson.

Craig Iverson ask if there were any questions about the Draft of Article XIV Section 1. There was none.

Craig Iverson ask for a motion to adopt the Draft of Article XIV Section 1. Joe Delaney made a motion to accept the Draft and Phil Schuman seconded. Craig Iverson called for all in favor and all were in favor. Craig called for apposed and none were. The motion carried.

Craig Iverson adjourned the meeting.

Sincerely,
Carol Sluggett Secretary

Carol Sluggett

CROOKED CREEK CSGD

ARTICLE XIV

Section 1. Class of Livestock. No permittee shall be allowed to change class of livestock without written permission to do so from Crooked Creek CSGD Board of Directors. The application to the Board must include (1) a health and disease testing plan and certification that said animals are disease free, specifically, but not limited to, brucellosis for a prospective change to bison. The application must also include (2) the location and type of fence proposed to keep said livestock from leaving the proposed grazing land and (3) an agreed upon response procedure for animals that trespass onto neighboring lands. No permittee shall be allowed to designate the class of livestock as bison/buffalo within the boundaries of Crooked Creek CSGD owned lands. Any domestic bison not permitted as outlined in Article XIV, Section 1 will be considered in trespass and MT Statute 76-16-311 shall apply.

Crooked Creek CSGD would like the draft of Article **XIV**, Section 1 to be adopted into the By-Laws of Crooked Creek CSGD.

CROOKED CREEK CSGD

ARTICLE XIV

SECTION 1. Class of Livestock. No permittee shall be allowed to change class of livestock without written permission to do so from Crooked Creek CSGD Board of Directors. The application to the Board must include (1) a health and disease testing plan and certification that said animals are disease free, specifically, but not limited to, brucellosis for a prospective change to bison. The application must also include (2) the location and type of fence proposed to keep said livestock from leaving the proposed grazing land and (3) an agreed upon response procedure for animals that trespass onto neighboring lands. No permittee shall be allowed to designate the class of livestock as bison/buffalo within the boundaries of Crooked Creek CSGD owned lands. Any domestic bison not permitted as outlined in Article XIV, Section 1 will be considered in trespass and MT Statute 76-16-311 shall apply.

DATED this 12 day of December 2022



PRESIDENT



SECRETARY

CROOKED CREEK CSGD
Annual Meeting
Held 11-4-2022

Present:

Phil Schuman
Lester Sluggett
Carol Sluggett
Dan Brunkhorst

Robert Thompson
Levi Sluggett
Skip Ahlgren

Joe Delaney
Nathan Descheemaeker
Craig Iverson

The meeting was called to order by President Craig Iverson.
The minutes from 11-5-2021 were read Craig called for a motion to approve the minutes none was made so the minutes stand approved as read.
The treasures report was given. Phil Schuman made a motion to approve the treasures report and Lester Sluggett seconded it and it passed.

Old business:
None.

New business:
Levi Sluggett made a motion to pay the PLC plus the added 2 cents. Joe Delaney seconded it and it passed.

Election of director Lester Sluggett term is up. Joe Delaney nominated Lester Sluggett and Phil Schuman seconded it, Craig Iverson called three times and Lester Sluggett is the director.

Speakers:

Skip Ahlgren -Mt State Grazing District and PLC
Dan Brunkhorst -BLM
Nathan Descheemaeker-Mt Grass Conservation Commission
Robert Thompson - BLM

Craig Iverson adjourned the meeting.

Carol Sluggett Secy-Treasurer

Carol Sluggett

MONTANA GRASS CONSERVATION COMMISSION

P.O. Box 622 • Terry, Montana 59349

RECORDS REQUEST FORM

Name _____

Address _____

Daytime Phone () _____ Cell Phone () _____

Email _____

Records Requested: (Be as specific as possible to expedite the request)

How would you like to receive these records:

_____ Pick up _____ US Mail _____ On Site Inspection

Note: There is a \$0.20 per page charge for copies picked up or mailed. If the information requested cannot be readily identified and gathered, additional fees may be charged, an estimate of time will be made to fulfill the request for public information. A fee may be required prior to identification and gathering of the requested public information. See Section 2-6-1006, MCA.

I understand and acknowledge that the Montana Grass Conservation Commission or any of its grazing districts, does not warrant the accuracy or completeness of information contained in public records. I further certify that the information I receive will be for personal use only and will not be used for any commercial purpose.

Signed _____

Date _____

Agency Use Only

Date Received: _____ Date Completed: _____

Copying Cost: _____ Payment Received by: _____

Unable to Complete Request:

MONTANA GRASS CONSERVATION COMMISSION

P.O. Box 622 • Terry, Montana 59349

PRIVACY STATEMENT

I am aware that under Title 2 Chapter 6 of the Montana Code Annotated I have an obligation to protect private information from public dissemination. **I am personally responsible for upholding the law and safeguard private or personally identifiable information.** Private information is defined in 2-6-501 MCA, and includes, but is not limited to:

- Social Security Number
- Driver's License Number
- Tribal Identification or Enrollment Number
- Financial Account Information in conjunction with name of Member
- Password or Access Code to Financial Accounts

Furthermore, any information received during the process of hiring, managing, or removing any person employed by the Montana Grass Conservation Commission will be deemed private information subject to the same safeguards.

Information that I receive as a Director will be used and shared only as necessary to conduct the business of the Grass Commission. Information regarding the Grass Commission business or any individual Commission member will not be maintained or disseminated for any purpose other than the official business of the Commission without the express written permission from the individual member. **UNDER NO CIRCUMSTANCES** will personally identifiable information be transmitted via mobile device, including a cell phone.

At such time as I am no longer a member of the Board of Directors, I will return all such information to the Grass Commission. I will not maintain any copies, compilations, or databases including private information. Furthermore, I will continue to hold all such information learned during my tenure as a Director in the strictest confidence.

I, _____, as a member of the Montana Grass Conservation Commission Board of Directors, certify that I understand my personal obligation to safeguard private information available to me as a Director.

Signed

Date