

NEVADA

Mining Association

March 22, 2012

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Subject: Scoping Comments for BLM Sage Grouse Conservation Measures

Dear Regional Project Managers:

The Nevada Mining Association respectfully submits the following comments concerning scoping for the BLM's Notice of Intent to prepare Environmental Impact Statements to incorporate Greater Sage Grouse conservation measures in BLM's Resource Management Plans and the U.S. Forest Service's Land and Resource Management Plans. Please note the following comments are not ranked in order of importance. The deadline for submittal of scoping comments was originally February 7th, 2012, but was extended to March 23, 2012 following numerous requests for an extension of that original timeline.

The Nevada Mining Association (NvMA) represents more than 300 firms and individuals who have a vested interest in mining exploration, operation, and vendor services. The Association works to ensure the Nevada mining industry has a significant and consistent voice on policy issues relating to mining in Nevada, and appreciates the opportunity to provide the following comments on this crucial issue. Changes to BLM and Forest Service current land use plans will have an immediate and significant impact on all NvMA member companies, and the following represent the collective scoping comments & concerns held by NvMA member companies.

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1. The NvMA is very concerned that the two BLM Instructional Memoranda released in December 2011 were issued without prior public or NEPA review. These documents will potentially have significant consequences on public lands use and on the mining industry in particular. The land use policy and implementation procedures contained in the Memoranda should have been issued after the NEPA process to include adequate consideration of their impacts, particularly socioeconomics. Furthermore, the actions by the agency were inconsistent with the Regulatory Flexibility Act and bypassed the opportunity for the public to participate in the rulemaking process and to develop balanced and measured land management requirements.
2. It is unclear of the role of the findings and report of the Sage-Grouse National Technical Team titled, "A Report on National Greater Sage-Grouse Conservation Measures", December 21, 2011 in the NEPA process. The EIS should address the report and detail its role in the development of the BLM's Instructional Memoranda as well as the overall NEPA process and RMP/LRMP modifications for sage grouse. The scientific basis for the report and management policies should be provided and made publicly available including methodologies used and scientific literature considered. Many of the potential conservation measures contained in the report do not provide viable, defensible or even legal means of protecting sage grouse habitat and will have dramatic adverse effects on multiple use activities on public lands. The conservation measures must focus on management, which will continue to allow existing land uses along with new uses. Furthermore, the development of the report is inconsistent with the provisions of the Federal Advisory Committee Act (FACA) and places into question its role in policy making and this EIS process.
3. The EIS must carefully consider the effects that proposed sage grouse conservation measures might have on mineral exploration and mining activities, and ensure that any measures adopted avoid or minimize adverse impacts on these activities. In this context, the EIS must recognize existing laws, requirements and policies governing public lands with respect to mineral exploration and mining including, but not limited to, the General Mining Law of 1872, the Mining and Minerals Policy Act of 1970 and the Federal Land and Policy Management Act of 1976.
4. Public lands must be managed to provide for multiple use including "the Nation's need for domestic sources of minerals, food, timber and fiber from public lands". Land management must strive for a "sustainable yield" requiring "the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple uses". Mineral exploration and extraction, grazing and other productive uses must be considered on equal footing with sage grouse management.
5. The purpose and need statement of the EIS must specifically incorporate multiple use and sustainable yield principles as mandated by federal law and case law.
6. The EIS alternatives should not default to overly broad and unnecessary prohibitions on various public land use activities. The EIS should focus on narrowly tailored management strategies that protect multiple use values for all users, with clearly defined goals that are commensurate with the sub-regions habitat and bird population trends.

7. Mineral deposits are not ubiquitous on the land and occur only in locations that possess unique geologic characteristics. Any conservation measures contemplated in the EIS must recognize this reality and refrain from absolute prohibitions of mineral exploration or mining in any particular area. Rather, mitigation and offsets should be allowed which may include revegetation, rehabilitation, enhancement of existing habitats, use of conservation easements or other land use covenants, and the use of mitigation funds or mitigation banks.
8. The EIS must clearly define, in all alternatives, habitat types, boundaries and rationale for proposed setbacks and/or buffer areas. The EIS should also identify the methodology for determining bird density, the confidence and soundness of that data and its reproducibility.
9. The EIS must address how BLM and the USFS will coordinate with state wildlife agencies to ensure that habitat areas have been appropriately designated during and following the EIS process.
10. The EIS must address the role of predators on species population and alternatives for a variety of enhanced predator control efforts.
11. The EIS and its alternatives must address and quantify the effectiveness and positive impacts modified fire suppression and fire management strategies will have on current and future sage grouse habitat.
12. The EIS must specifically define and address how Valid Existing Rights (VER) will be recognized and protected.
13. The EIS and its alternatives must stress national consistency with the various types of conservation measures, while providing sufficient recognition of habitat conditions and sage grouse populations by sub region. This will insure the flexibility required to consider local conditions during implementation.
14. The EIS alternatives must allow project proponents subject to conservation measures to confirm habitat designations based upon site-specific information. Where site-specific data indicates habitat is not present, even if designated on agency maps, adjustments to the RMPs and LRMPs should be allowed without formal land plan amendments.
15. The terms "habitat fragmentation" and "unfragmented habitats must be clearly defined in the EIS as well as how these terms related to disturbances (i.e. fire) and to rehabilitation and natural plant succession.

16. The EIS must clearly define "large intact sagebrush communities" as it relates to plant succession, the potential for wildfire and suitability for sage grouse habitat.
17. The EIS must define and provide the scientific basis and management implications for the goal to "manage or restore priority areas so that at least 70% of the land cover provides adequate sagebrush habitat to meet sage grouse needs".
18. The EIS must define "migration or connectivity corridors". How will the agencies identify such corridors especially in light of the fact they may be broken and fragments by natural processes such as PJ woodlands or other non-anthropogenic activities.
19. The EIS and each alternative must specifically identify and quantify the acreage of lands potentially subject to withdrawal for mineral entry. The EIS and alternatives must also identify a method or process for restoring those areas for use if habitat improves or if new data or information becomes available indicating such use does not jeopardize sage grouse populations.
20. The EIS encompasses a number of western states and federal agencies that have taken different approaches to the identification of habitat and its associated mapping. The EIS must address differences in those approaches and outline a process for resolving those differences.
21. The EIS and all of the alternatives must exclude the use of validity exams within proposed withdrawal areas. This was contemplated in the "Report on National Greater Sage-Grouse Conservation Measures". Such exams are expensive, time consuming and inappropriate for use in this context.
22. The EIS should evaluate land use restrictions based upon an "equivalency" basis to the lands disturbed and/or occupied by a particular industry or sector. The EIS must weigh the impacts and benefits of mandating mineral and mining withdrawals in all habitat types.
23. The EIS and its alternatives should avoid requirements for habitat mitigation and maintenance in perpetuity. It must be recognized that vegetation types are constantly evolving and changing. Mitigation in perpetuity is inappropriate and fails to recognize the realities and dynamic nature of vegetation communities and nature in general.
24. The EIS and its alternatives must fully evaluate any land uses involving seasonal restrictions. The very nature of mining activities (and many other uses on public lands) makes such restrictions inappropriate, impractical and infeasible.

25. The EIS must include an extensive and detailed socioeconomic evaluation of each proposed alternative in terms of direct, indirect and cumulative social and economic impacts to individuals, industrial sectors, state and local governments and the public who use, may use or rely on public lands. The range of alternatives must be technically and economically feasible, and the scope of the socioeconomic cumulative effects analysis must be sufficiently robust to quantify the potential impact on the economic viability of communities in the sub-region (eg: loss of wages, business, sales, and employment taxes, mining proceeds payments, transportation of goods and services, lost jobs in other parts of the US that provide goods and services to the industry, raising the tax burden on other residents, decline in public services funded by these tax revenues, etc.).
26. The EIS must identify and evaluate the impacts of any and all proposed land use management practices to be imposed on all public lands users. Such practices must be feasible, practical and cost effective to all users.
27. The EIS must address the feasibility of a state or regional habitat mitigation bank. Such a program could provide benefits of centralized funding and would reduce the possibility of piecemeal mitigation. Such a program must be affordable, accessible and simple to contribute to and identify and perform needed mitigation in critical areas.
28. Some NvMA members operate farming, ranching and grazing operations in conjunction with mining activities. The EIS must address all of the issues identified in the EIS preliminary issues statement as well as other concerns such as water use and development, wild horses and burros, hunting and how grazing and certain land use activities (including grazing, farming, some disturbances, land reclamation, etc.) may help in species protection. The assumption that all grazing, disturbances and man-induced impacts are harmful to habitat and the species is unfounded.
29. If validity patent exams or buy-outs are proposed in any of the EIS alternatives, the scientific and legal basis must be provided for such actions. Such actions are inconsistent with Congress' repeated recognition that public lands must generally remain open to mineral entry and development. Additionally, if such measures are proposed, the EIS must address the provisions of Section 204 of FLPMA and the procedures that the Department of Interior must follow in order to withdraw public lands from mining, as well as fully consider socioeconomic and cumulative effect impacts related to these actions.
30. The EIS must address how the BLM and the USFS will manage vegetation types over time considering natural plant succession. It is the responsibility of the land management agencies to ensure the proper management of current and future habitat and vegetation status to ensure the maintenance and improvement of habitat and population numbers given the ever-changing status of plant communities.

31. The EIS must specifically address water development on public lands. It is improper and short sighted to authorize and manage such activities for a single species or land use. Additionally, the EIS must address the role of the states in approving water development on public lands and how state and federal interests and authorities will be coordinated as they relate to water.
32. With regard to wild horses and burros, the EIS should note and quantify the presence of wild horses and burros in all sage grouse habitat areas, and quantify the impacts of horses and burros on habitat and bird populations.
33. The EIS must define, expand upon and determine the impacts of any actions contained in the BLM document "A Report on National Greater Sage-Grouse Conservation Measures" that are to be included in any alternative as a management measure. This includes, but is not limited to, withdrawals from mineral entry, the "maximum 3% disturbance area, fencing restrictions and setbacks, acquisitions of rights of way, delays in obtaining use permits for projects, dissolution or removal of existing rights of ways and the removal or burying of existing or proposed pipelines, fences, ditches, utility lines or other infrastructure on public lands.
34. The EIS and the alternatives should address any and all impacts associated with retroactivity of land use and management requirements that are proposed to be put into place in the RMPs and LMRPs. As an example, the EIS should address how BLM and the USFS plans to honor the valid existing rights companies hold in what is assumed will be designated Priority Habitat Areas.
35. In the EIS alternatives, no actions must be more restrictive than that required from a biological assessment and subsequent biological opinion. For example, withdrawal of mineral activities should not be a default stipulation, or "conservation measure", or taken without a full analysis warranting the decision.
36. In the document "A Report on National Greater Sage –Grouse Conservation Measures" the typical approach is to immediately seek to limit or withdraw public use as a means of conservation. The approach in the EIS and its alternatives should move away from such "stipulations" and fully analyze the full array of all potential actions. A matrix should be developed identifying the issues associated with various typical components of each type of proposed action and delineate a full range of alternatives and mitigation measures in different levels of habitat, with a focus on the most significant threats to sage grouse habitat as identified by USFWS.
37. The EIS must clearly define and justify the baseline for both species population and habitat, further designated by public versus private ownership. This is critical to evaluate the need, extent, and associated impacts of any proposed new public land use restrictions. Absent this critical review, it is conceivable that the hard rock mining industry could suffer an undue burden of restrictive land use measures, despite being ranked near the bottom of the USFWS list of sage grouse threats.

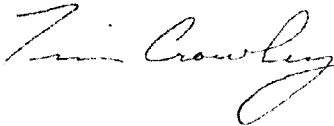
38. The EIS must recognize all sage grouse and sage grouse habitat conservation measures currently in practice in the sub-region, and evaluate their effectiveness. This is necessary to insure that any proposed new public land use restrictions are tailored to address issues that have the greatest recognized negative impact to sage grouse habitat, and not unduly focus simply on those public land users most easily regulated
39. Key to the development of alternatives and mitigation measures is the identification of various types of habitat areas and their condition. It is recognized that there are data gaps in current habitat maps by NDOW and BLM. The EIS should specifically identify where more data needs to be collected.
40. During the scoping meetings outdated data was, at times, referenced. A clear delineation of the usefulness and applicability of aged data should be established, and no decisions or alternatives should be made using data that is outdated or otherwise inadequate.
41. Proposed conservation measures need to be detailed enough to analyze the enhancement of habitat quality and quantity. These types of conservation programs can then be developed and analyzed as alternatives. The Nevada Department of Wildlife has provided input to conservation plans that deal with the quantity and quality of sage grouse habitat. These plans should be incorporated into the conservation measures of the EIS and associated RMPs and LMRPs.
42. EIS alternatives should include programs such as incorporation no net habitat loss. A current survey of habitat in a proposed project area would allow for classification according to established standards. The proposed action could demonstrate avoidance whenever possible and mitigate any loss through an established or approved restoration program.
43. In several places in BLMs supporting documentation and associated materials for the EIS it is stated that conservation measures would be applied regardless of surface ownership. Conservation measures applied to private lands is of great concern to the industry. The EIS and alternatives must fully address and describe how such a policy will be applied and the associated impacts, including cumulative impacts.
44. The EIS must fully analyze the No Action Alternative, which it is assumed, will lead the USFWS to a listing of the species. It is critical the No Action Alternative be fully analyzed, to the same level of detail as other alternatives, with a full impact assessment of how species listing compares against other alternatives including, but not limited to, impacts to land users and the socio-economic concerns. It must be clearly defined in the EIS how the sub-region's current regulatory measures are performing by analyzing public land habitat status as well as sage grouse population statistics/trends.

53. The EIS and alternatives must identify how BLM and the USFS will consistently review and modify RMPs and LRMPs across agency jurisdictional areas (i.e. Districts), and apply and implement land use restrictions (if any) within those various areas.
54. The EIS and alternatives must use the most recent science regarding the reclamation of disturbed leks and the ability of the species to use and reoccupy those areas.
55. For perhaps for the first time, agency-generated sage grouse occurrence and habitat maps will be widely available to the public. This may reduce overall bird numbers due to more concentrated hunting in a key area. The EIS and its alternatives should analyze impacts to the species as a result of this potential for concentrated pressures from hunting.
56. The EIS must fully analyze each individual proposed conservation measure and not consolidate all conservation measures in one alternative. An "all or nothing" alternative is not consistent with the NEPA process, will not serve as a useable or realistic management tool or achieve a balance between socioeconomic and conservation goals and objectives.
57. The EIS and alternatives must analyze documented trends in pinion and juniper (PJ) succession on rangelands and sage grouse habitat including proposed measures to reduce PJ aerial extent and future migration. The EIS must also evaluate the impacts such efforts may have on other species of concern.
58. It is recognized by USFWS that fire has the greatest detrimental impact to sage grouse habitat. The EIS must specifically address wildland fire prevention, fire-fighting methods, and the ability to restore fire-damaged habitat before implementing other land use prohibitions & restrictions.
59. The EIS must specifically identify what economic indicators and thresholds will be used when comparing the impacts of sage grouse habitat protection measures verses the socioeconomic costs to business, industry, governments and the public.
60. The EIS must specifically identify the types of impacts from climate change on sage grouse habitat, and provide quantifiable scientific data and analysis to support those conclusions.
61. The EIS should specifically analyze the natural cycle of wildlife populations and how they relate to sage grouse in the western U.S.
62. Several of the RMPs and LRMPs subject to modification under the subject EIS are undergoing review and modification under other agency NEPA actions. The EIS should clarify how the sage grouse EIS will be

coordinated with these ongoing landplanning efforts. It is critical that the agencies ensure a streamlined NEPA process for all actions.

The management of sage grouse and its habitat on public lands is of great concern to the Nevada Mining Association and its members. Through thoughtful, reasoned and balanced land management actions sage grouse and its habitat can be maintained and improved while at the same time preserving the multiple use concept, a vibrant economy and enjoyment of public lands by all citizens and visitors. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Tim Crowley". The signature is written in a cursive style with a large, sweeping "T" and "C".

Tim Crowley
President
Nevada Mining Association

cc: Governor Brian Sandoval
Senator Harry Reid
Senator Dean Heller
Congresswoman Shelly Berkley
Congressman Joe Heck
Congressman Mark Amodei
Nevada Association of Counties
Matt Zietlow, Chairman - NvMA Environmental Committee

China Mountain Wind Project Economic Impacts Summary

Project Location: Twin Falls County, ID & Elko County, NV,
10+ mi. west of Jackpot, NV, 40 mi. SW of Twin Falls
Project Size: 30,628 acres of BLM, Idaho & private land
Permanent Footprint: 439 acres
Generating Capacity: 170 2.3MW turbines = 391 MW
Project Proponents: RES Americas & NV Energy
Expected Life of Project: 25 years

Economic Impacts: Temporary construction impacts must be calculated separately from permanent annual impacts of operation. A project construction budget of \$705 million was developed with the help of RES engineers, based on costs from past projects, scaled to China Mt. where possible. The vast majority, 93.2% of project costs will be for equipment and labor located outside the 2-county region. Local purchases were run through an IMPLAN input-output model of the 2-county economy, in order to estimate the indirect effects (hiring & purchases made by those supplying good and services to the Project) and induced effects (the spending of earnings by employees and businesses from the Project). These are commonly called "multiplier" or "ripple" effects.)

Direct project costs of \$705 million lead to total construction economic output of \$737.1 million. Local labor spending estimated at \$29.4 million leads to total labor effects of \$41.4 million. Local hires are concentrated in building roads, trenching and laying cable, building turbine foundations, and constructing O&M facilities. An estimated 396 full and part-time temporary jobs will be created during construction. With indirect and induced effects, the Project will create a total of 749 jobs during construction. (A separate estimate, taken directly from the construction budget, calls for the equivalent of 239 full-time employees for the two-year construction period.)

Table ES-1 Summary of Estimated Impacts Construction and Operations

Economic Impact	Construction (One-Time)	Operations (Annual)	Present Value Project Total
Output (millions \$)			
Direct Effects	\$705.0	\$9.2	\$857.7
Indirect Effects	\$14.9	\$1.1	\$33.3
Induced Effects	\$17.1	\$1.1	\$35.0
Total Output Effects	\$737.1	\$11.3	\$926.0
Labor Income (millions \$)			
Direct Effects	\$29.4	\$2.4	\$70.1
Indirect Effects	\$5.4	\$0.3	\$10.5
Induced Effects	\$6.7	\$0.4	\$13.0
Total Income Effects	\$41.4	\$3.1	\$93.6
Employment (Jobs)			
Direct Effects	396	24	n/a
Indirect Effects	157	9	n/a
Induced Effects	196	13	n/a
Total Employment Effects	749	46	

Note: Totals may not add due to rounding
Employment includes both full and part-time jobs

The annual operating budget for the Project was estimated to be \$9.2 million, excluding taxes. The total economic impact was estimated to be \$11.2 million annually. Total labor income would be \$3.1 million per year. Direct jobs were estimated by IMPLAN to be 24, and a total of 46 full and part-

time jobs. A separate direct hire estimate by the developer would be for 34 full-time employees.

Impacts Outside the Region: The project will generate large amounts of economic benefit outside the 2-county region through the purchase of \$628.5 million in capital goods and \$28.4 million in outside labor. One study estimates that about half the 8,000 parts in a wind turbine are made in the United States. The project also creates environmental, international trade, and national security benefits for the nation in the renewable energy it generates

Fiscal Impacts: The Project generates tax revenues for local governments of both Twin Falls and Elko counties, as well as each state. Idaho collects a wind energy tax of 3% of gross revenues in lieu of property tax. It is estimated at \$2 million per year, with the County, highway district, CSI, Castleford schools, ambulance district, pest abatement district, and cemetery district the beneficiaries. Elko County will receive \$2.2 million in the first full year of operation, split among 12 entities, with Elko County and county schools the largest beneficiaries. The present value of these local taxes over the 25 year life of the project exceed \$30 million each for Elko and Twin Falls counties. The State of Idaho gets revenues with a present value of \$8.6 million. The State of Nevada gets an annual share of property taxes, but estimating sales and business taxes is complicated by the location of sales and by NV Energy's equity position in the project as a Nevada utility.

Table ES-2 Summary of Fiscal Impacts of China Mountain Wind Project

Tax	Twin Falls County	Idaho	Elko County	Nevada	Present Value
Habo Wind Energy Tax	\$ 2,013,000				\$33,472,000
Nevada Property Tax			\$2,045,000	\$144,000	\$31,202,000
NV Possessory Interest Tax				Negligible	
Idaho State Taxes - construction		\$1,764,000			\$1,764,000
Idaho State Taxes - operations		\$409,000			\$6,816,000
Nevada Sales Tax				Uncertain	
Nevada Business Tax				Uncertain	
Totals	\$ 2,013,000	\$2,173,000	\$2,045,000	\$144,000	\$73,264,000

Property Values, Recreation, and Community Services:

Based on the location of the Project and an extensive literature review of community effects of wind farms, it appears unlikely that there will be significant impacts of the Project on property values, recreation, or community services. The preponderance of research on this issue suggests that there is no negative relationship between wind energy developments and property values. Impacts to community services are either paid directly by the proponents or are compensated by the local taxes received.