



Western Watersheds Project  
P.O. Box 779  
Depoe Bay, OR 97341  
tel: (928) 322-8449  
fax: (208) 475-4702  
email: [kfuller@westernwatersheds.org](mailto:kfuller@westernwatersheds.org)  
web site: [www.westernwatersheds.org](http://www.westernwatersheds.org)

*Working to protect and restore Western Watersheds and Wildlife*

May 21, 2020

*Via Email*

Jon Raby  
State Director  
Bureau of Land Management, Nevada State Office  
1340 Financial Blvd.  
Reno, NV 89502  
[jraby@blm.gov](mailto:jraby@blm.gov)  
[nvsoweb@blm.gov](mailto:nvsoweb@blm.gov),

**Subject: Request for State Director Review of Scott Federal 25-1 and 35-1 Applications for Permit to Drill Approval Decision (DOI-BLM-NV-L060-2020-0002-EA)**

Dear State Director Raby:

Pursuant to 43 C.F.R. § 3165.3(b), Western Watersheds Project and Center for Biological Diversity (“Conservation Groups”) file this Request for State Director Review of a decision made by Bureau of Land Management (“BLM”) Associate District Manager, Ely District, Jared Bybee to approve Western Oil Exploration’s Scott Federal 21-1 and 35-1 Applications for Permit to Drill (“Project”). The decision was documented in a Decision Record (“DR”) signed digitally on April 17, 2020 along with a Finding of No Significant Impact (“FONSI”).<sup>1</sup>

Conservation Groups previously submitted comments on the Project’s Preliminary Environmental Assessment (“PEA”) and an earlier version of the PEA that was only for the Scott Federal 25-1 Application for Permit to Drill (“APD”). Western Watersheds Project also submitted comments on the Scott Federal 35-1 APD during its 30-day availability period on the Automated Fluid Minerals Support System 2 (“AFMSS 2”) database (attached hereto as Exhibits A, B, and C). All three comment letters requested notification of the availability of National Environmental Policy Act (“NEPA”) documents and the BLM’s decision, per 40 CFR 1506.6 (b)(1): “In all cases the agency shall mail notice to those who have requested it on an individual action.”

Conservation Groups timely appeal this decision within 20 business days of WWP

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<sup>1</sup> BLM’s Scott Federal 25-1 and 35-1 NEPA documents are available at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=1502012&dctmId=0b0003e8814f5f9c>.

being notified of the decision via email by BLM Planning and Environmental Coordinator Tierra Arbogast on April 23, 2020 (Exhibit D). Due to the coronavirus pandemic, we are timely submitting our Request for State Director Review in writing via email.

43 CFR § 3165.3(b) states:

Any adversely affected party that contests a notice of violation or assessment or an instruction, order, or decision of the authorized officer issued under the regulations in this part, may request an administrative review, before the State Director, either with or without oral presentation. Such request, including all supporting documentation, shall be filed in writing with the appropriate State Director within 20 business days of the date such notice of violation or assessment or instruction, order, or decision was received or considered to have been received and shall be filed with the appropriate State Director. Upon request and showing of good cause, an extension for submitting supporting data may be granted by the State Director.

Unfortunately, the Decision Record does not indicate that State Director Review is available or required and provides no information about it. **Nevertheless, pursuant to 43 C.F.R. § 3165.3(b), Conservation Groups request a stay of the decision pending the State Director’s review, an opportunity for oral presentation, an extension of time to submit documentation directly related to the oral presentation shortly after that presentation, and reversal and remand of the approval decision.**

We request that the State Director reverse and remand the Bristlecone Field Office’s DR Record and FONSI approving the project, and request an immediate stay of the decision pending the State Director’s final determination on our request for review. We also request an oral presentation and extension of time to submit documentation directly related to that oral presentation shortly after the presentation. We are requesting a time extension because it has been our experience with past oral presentations to BLM State Offices during Request for State Director Review processes that BLM staff often ask questions during the presentation that require some kind of supporting information to answer. We would like to be able to provide supporting information that answers BLM staff questions to BLM staff so that they can review it. As further explained in section II.A below, a stay and reversal of the decision are well-justified in this case because BLM has:

(1) failed to comply with Federal Land Policy and Management Act (“FLPMA”) requirements for conformity with Resource Management Plans by not conforming to the 2015 Sage-Grouse ARMPA’s Management Directions, lease stipulations and Required Design Features; (2) failed to adhere to 40 CFR §1503.4(a) regarding substantive public comment, and (3) violated NEPA by approving the Scott Federal 25-1 and 35-1 APDs without an ambient noise baseline measured at the sites.

## **I. CONSERVATION GROUPS ARE PARTIES THAT ARE ADVERSELY AFFECTED**

Western Watersheds Project (“WWP”) is a non-profit, membership-based conservation organization with more than 12,000 members and supporters, dedicated to protecting and conserving watersheds and wildlife in the West. WWP has staff and offices in Nevada, as well as members and supporters who reside and travel to Nevada. WWP and its staff and members use and enjoy America’s public lands and their wildlife, cultural and natural resources for health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. For example, WWP member Laura Leigh recreates and takes photos in this area, which she has visited at least two dozen times in the last year; she has visited the area at least a dozen times every year over the last decade. She will be affected by impacts to wildlife and wild horses from the Scott Federal 25-1 and 35-1 wells and associated infrastructure. WWP commented on the Project’s PEA, on the earlier EA that was solely for the Scott Federal 25-1 APD, and when the Scott Federal 35-1 APD was listed on BLM’s AFMSS 2 database. Therefore, WWP is an adversely affected party and requests State Director Review.

The Center for Biological Diversity (“Center”) is a non-profit 501(c)(3) corporation with offices in several states including Nevada, California, Arizona, Oregon, Colorado, Washington and Washington, D.C. The Center works through science, law, and policy to secure a future for all species, great or small, hovering on the brink of extinction. The Center has approximately 67,000 members throughout the United States, including members in Nevada. The Center has a long history of involvement in species and habitat protection issues on public lands throughout the United States and specifically regarding the public lands and species in the Bristlecone Field Offices. The Center, its members, and staff members, including the Center’s Nevada Director Patrick Donnelly, use the lands surrounding the project area, for recreational, scientific, and aesthetic purposes. They also derive recreational, scientific, and aesthetic benefits from these lands through wildlife observation, study, and photography. The Center and its members have an interest in preserving their ability to enjoy such activities in the future. As such, the Center and its members have an interest in helping to ensure their continued use and enjoyment of these activities on these lands. The Center also has a long history of working to ensure that our public lands laws and environmental laws are properly followed and enforced to protect species and habitats. The Center commented on the Project’s PEA and on the earlier EA that was solely for the Scott Federal 25-1 APD. However, BLM improperly and erroneously excluded the Center from the Project’s Final EA listing of groups that commented on the Project’s PEA.<sup>2</sup> Despite BLM’s error in the Final EA, the Center is an adversely affected party and has the right to request State Director Review.

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<sup>2</sup> See Final EA at 4 and compare to Exhibit A at 1 and 23.

## **II. REQUEST FOR STAY OF DEVELOPMENT PENDING STATE DIRECTOR DECISION**

Based on our review of the relevant documents and concern for unnecessary and undue degradation and irreversible impacts to wildlife and habitat on public lands, we feel it is necessary at the outset of this request to request an immediate stay of all development related activities in the project area to prevent irreparable harm to these resources.

Although there are no regulatory criteria or other guidance for determining whether a stay is warranted while State Director Review is pending,<sup>3</sup> 43 C.F.R. § 3165.4(c) establishes criteria for a stay by the Interior Board of Land Appeals. Thus, those criteria are discussed below.

We respectfully request the State Director to grant our request for a stay of the BLM's Decision Record for the Project and associated infrastructure. In accordance with 43 C.F.R. § 4.21(b)(1), below we show that we are likely to succeed on the merits, that we will suffer immediate and irreparable harm if the stay is not granted, that the balance of harms favors a stay, and that the granting of a stay is in the public interest.

### **A. Conservation Groups Are Likely to Succeed on the Merits**

For the following reasons, among others, the BLM's approval of the Project violates FLPMA and NEPA and should be overturned by the State Director.

#### **1. The Proposed Action Does Not Conform to the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment**

In 2015, the Ely Resource Management Plan was amended by the Nevada and Northeastern California Greater Sage-grouse Approved Resource Management Plan Amendment ("2015 Sage-Grouse ARMPA"). Per an October 16, 2019 court decision,<sup>4</sup> the 2015 Sage-Grouse ARMPA is still in effect.

The Project's Final EA states that the Proposed Action conforms to the 2015 Sage-Grouse ARMPA, and the Project's FONSI states that it conforms to the 2008 Ely RMP but does not mention the 2015 Sage-Grouse ARMPA. (Final EA at 1, FONSI at 4).

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<sup>3</sup> According to regulation, the state office should issue its decision within ten working days after receipt of this Request for State Director Review. It is probably because of this short timeline that there are no regulations for issuing a stay of the decision pending this review. Of course, one way of avoiding the stay issue is to reach a decision within the regulatory timeframe, and we encourage the state office to pursue that avenue.

<sup>4</sup> *Western Watersheds Project et al. v. Schneider*, Memorandum Decision and Order. Exhibit E.

Nevertheless, for the following reasons the Proposed Action does not conform to the 2015 Sage-Grouse ARMPA:

**A. The Proposed Action’s Siting Does Not Conform to MD-SSS-1**

As Conservation Groups stated in our EA comments, MD-SSS-1 of the 2015 Grouse ARMPA requires BLM to work with the Project Applicant to avoid impacts to sage-grouse habitat, “whether in accordance with a valid existing right or not.” 2015 Grouse ARMPA at 2-6. There are three avoidance priorities. The first is to locate the Project outside of Priority Habitat Management Areas (“PHMAs”) and General Habitat Management Areas (“GHMAs”). If the Project cannot be located outside of PHMAs and GHMAs, the second is to locate surface disturbance in non-habitat areas first and then in the least suitable grouse habitat, making sure that the Project will not create barriers to grouse movement or connectivity. The third is to collocate the Project next to or in the footprint of existing infrastructure. 2015 Grouse ARMPA at 2-6. Because the Project’s lease area is entirely made up of PHMA and GHMA, BLM is unable to implement the first priority. That leaves the second and third priorities, but the Final EA provides no evidence that BLM implemented them, even though the Final EA’s Biological Report states that there are existing areas of vegetation disturbance, including a heavily disturbed area at the entrance to the general project area from the access road. *See* Final EA (Biological Report) at 108/140.<sup>5</sup> The Proposed Action does not utilize the already heavily disturbed area, but instead would place the well pads in vegetation with 25-30% cover, dominated by Wyoming big sagebrush. Final EA (Biological Report) at 108/140 and 109/140.<sup>6</sup>

This siting does not satisfy the prioritization requirements of MD-SSS-1. Conservation Groups raised this issue in our PEA comments, but BLM did not address our substantive comment in the Final EA and thus failed to meet the requirements of 40 CFR §1503.4(a), which states:

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement.

Possible responses are to:

- (1) Modify alternatives including the proposed action.
- (2) Develop and evaluate alternatives not previously given serious consideration by the agency.
- (3) Supplement, improve, or modify its analyses.

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<sup>5</sup> The Biological Survey Report has unnumbered pages, so the page number given here represents the page’s location within the Final EA’s electronic file.

<sup>6</sup> The Biological Survey Report has unnumbered pages, so the page number given here represents the page’s location within the Final EA’s electronic file.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

However, BLM did none of these and thus failed to conform to 40 CFR §1503.4(a).

### **B. The Proposed Action Does Not Conform to Lease FM 7**

In regard to Required Design Features, the 2015 Grouse ARMPA states:

Required Design Features (RDFs) are required for certain activities in all GRSG [greater sage-grouse] habitat. RDFs establish the minimum specifications for certain activities to help mitigate adverse impacts. However, the applicability and overall effectiveness of each RDF cannot be fully assessed until the project level when the project location and design are known. Because of site-specific circumstances, some RDFs may not apply to some projects (e.g., a resource is not present on a given site) and/or may require slight variations (e.g., a larger or smaller protective area). All variations in RDFs would require that at least one of the following be demonstrated in the NEPA analysis associated with the project/activity:

- A specific RDF is documented to not be applicable to the site-specific conditions of the project/activity (e.g. due to site limitations or engineering considerations). Economic considerations, such as increased costs, do not necessarily require that an RDF be varied or rendered inapplicable;
- An alternative RDF is determined to provide equal or better protection for GRSG or its habitat;
- A specific RDF will provide no additional protection to GRSG or its habitat.

2015 Sage-Grouse ARMPA at C-1.

More specifically, the 2015 Sage-Grouse ARMPA's RDF Lease FM 7 states, "Use only closed-loop systems for drilling operations and no reserve pits within GRSG habitat." 2015 Sage-Grouse ARMPA at C-4. However, according to this Project's Final EA, the Project's two drill pads and their bentonite-lined reserve pits and access roads would be located in Greater Sage-Grouse GHMA with three active leks within four miles of the lease area. Final EA at 24. The Final EA unsuccessfully attempts to evade the Lease FM 7 RDF by classifying the Project's two reserve pits in grouse habitat as a variation: "Operation would have a closed loop mud system. No oil would be permitted in the reserve pit." Final EA at 101/140.<sup>7</sup>

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<sup>7</sup> This Final EA page is unnumbered, so the number given here is its page position in the electronic document file.

This is insufficient to meet the requirements for RDF variation for several reasons. First, RDF variations are only allowable under the 2015 Sage-Grouse ARMPA if BLM demonstrates in the NEPA analysis associated with the project/activity that at least one of the following applies:

- A specific RDF is documented to not be applicable to the site-specific conditions of the project/activity (e.g. due to site limitations or engineering considerations). Economic considerations, such as increased costs, do not necessarily require that an RDF be varied or rendered inapplicable;
- An alternative RDF is determined to provide equal or better protection for GRSG or its habitat;
- A specific RDF will provide no additional protection to GRSG or its habitat

2015 Sage-Grouse ARMPA at C-1.

But BLM has not demonstrated in the Project's NEPA analysis that *any* of these three options apply. It has not documented that the Lease FM 7 RF is inapplicable, nor that its alternative RDF that still includes two reserve pits provide equal or better protection than not having them, nor that this RDF provides no additional protection to greater sage-grouse or its habitat. Second, the Final EA's variation is nonsensical because closed loop mud systems are proposed in order to replace reserve pits, avoiding them altogether. Therefore, if the Project will have closed loop mud systems, there is no need for reserve pits at all. *See* Exhibit F, which provides several sources that explain closed loop systems and how they replace reserve pits. Third, BLM has underestimated the environmental impacts of these reserve pits because the Final EA says they would not contain oil, but the DR says oil would be permitted in the reserve pits on an emergency basis and does not define what constitutes an emergency. *See* Final EA at 101/140 and DR at 5. Fourth, as we previously explained in our comments, reserve pits are well documented to be dangerous to birds. *See* Exhibit A, Conservation Groups' comment letter, at 9. *See also* Exhibits G and H (U.S. Fish and Wildlife Service publications about the risks that reserve pits post to birds). Conservation Groups previously submitted these two Exhibits to BLM with our comments on the original EA for the Scott Federal 25-1 APD and incorporated those comments by reference into our comments on this EA.

The Conservation Groups were not alone in raising the Lease FM 7 RDF issue during the Project's NEPA process. The U.S. Fish and Wildlife Service's ("FWS's") comment letter also asked that BLM explain why BLM thought Lease FM 7 was inapplicable. *See* Exhibit I, FWS Comment Letter, at 2.

### **C. The Proposed Action Does Not Conform to RDF Lease FM 9**

RDF Lease FM 9 states, "In GRSG habitat, use remote monitoring techniques for production facilities and develop a plan to reduce vehicular traffic frequency of vehicle use (Lyon and Anderson 2003)." 2015 Sage-Grouse ARMPA at C-4. But the Final EA and DR do not include remote monitoring techniques for production facilities, even

though this NEPA analysis was for both exploration and production.<sup>8</sup> Instead, the Final EA states in regard to RDF Lease FM 9, “This RDF is not realistic. Other RDFs account for this issue (RDF Gen 5, Gen 11).” Final EA at 102/140.<sup>9</sup> The Final EA’s Response to Comments also asserts, “Lease FM 9 – Changed language to state the RDF is not applicable to exploration.” Final EA at 132/140.<sup>10</sup> However, this is incorrect, as the language in the EA’s RDF chart was not changed to say it is not applicable to exploration. However, even if the language had been changed, this RDF would still apply because the Final EA is for both exploration and production. But the Project’s DR does not include Lease FM 9 as a Condition of Approval for the Project’s production phase.

BLM’s failure to apply RDF Lease FM 9 does not meet the 2015 Grouse ARMPA’s three-option standard for not applying or varying from an RDF. First, the statement “This RDF is not realistic” does not demonstrate that the RDF is not applicable to the site-specific conditions, such as for site limitation or engineering considerations. The 2015 Grouse ARMPA specifically states, “Economic conditions, such as increased costs, do not necessarily require that an RDF be varied or rendered inapplicable.” 2015 Grouse ARMPA at C-1. Second, the Final EA provides no alternative RDF and thus BLM has not determined that an alternative RDF provides equal or better protection. Third, the Final EA does not demonstrate that this RDF will provide no additional protection to GRSG or its habitat. Indeed, the two RDFs mentioned in the Final EA as allegedly “account[ing] for this issue” (RDF Gen 5 and Gen 11) do not provide equal protection to greater sage-grouse or its habitat as Lease FM 9 because they do not reduce vehicle traffic to the same degree as remote monitoring would.

## **2. The Proposed Action Will Not Accurately Implement the 2015 Sage-Grouse ARMPA’s Stipulation SG-08-CSU, and the Lack of Baseline Data Needed to Meaningfully Implement That Stipulation Violates NEPA**

As Conservation Groups stated in our EA comments, BLM’s NEPA analysis has no real-world ambient noise baseline for this Project. *See* Exhibit A, Conservation Group Comments, at 21. We remain concerned about this because since the site’s actual ambient noise baseline is unknown, and there are three leks nearby, it will be impossible for the Project to meaningfully adhere to the 2015 Sage-Grouse ARMPA’s SG-08-CSU.

Although BLM has proposed noise monitoring as a Condition of Approval, nothing in the NEPA documentation requires the monitoring to establish a pre-construction baseline. DR at 3. Since SG-08-CSU is a relative, not absolute, noise limit,

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<sup>8</sup> *See* Final EA at 1 (emphasis added): “The project (Proposed Action) would include use and improvement of access roads, construction of 2 well pads and reserve pits, drilling 2 vertical exploratory oil wells, drilling 2 water wells, *potential production of Scott Federal #25-1 and #35-1 oil wells*, and reclamation of the sites after well abandonment.”

<sup>9</sup> This section of the Final EA has unnumbered pages, so the page number here is the page’s position within the document’s electronic file.

<sup>10</sup> This section of the Final EA has unnumbered pages, so the page number here is the page’s position within the document’s electronic file.

there must be an accurate pre-construction noise baseline from the site to compare it to. This is of concern not only because of need to conform to the 2015 Sage-Grouse ARMPA in order to meet the requirements of FLPMA, but also because the lack of an accurate real-world ambient noise baseline compromises BLM's NEPA analysis. As the Ninth Circuit has previously found, “[w]ithout establishing the baseline conditions . . . there is simply no way to determine what effect the [action] will have on the environment, and consequently, no way to comply with NEPA.” *Half Moon Bay Fisherman’s Marketing Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988) Since then, the Ninth Circuit Court of Appeals reversed a BLM decision involving greater sage-grouse, in part because BLM did not adequately assess baseline conditions at the site and instead attempted to substitute analysis from another site. *Oregon Natural Desert Ass’n v. Jewell* (9<sup>th</sup> Cir. 2016).

Conversation Groups were not alone in raising the Project’s lack of a real-world ambient noise baseline as an issue. The Nevada Department of Wildlife’s (“NDOW’s”) comment letter (Exhibit J) stated:

Accurate and reasonable implementation of 2015 Land Use Plan Amendment (LUPA) Stipulation SG-08-CSU will be impossible and inherently flawed without an accurate measure of baseline ambient noise levels. Restricting activity noise levels to 10 db above ambient at least 0.25 miles from active and pending leks during lekking will not be possible unless accurate pre-project data are known. The EA’s assertion that areas “far from any sources of anthropogenic noise” would have an “ambient noise level of approximately 25-30 dBA” (EA, p. 17) is not supported by any recent science or other Nevada BLM NEPA analyses that properly measure baseline ambient noise levels, and thus should be revised.

Exhibit J at 2/3.<sup>11</sup> NDOW based its statement that BLM’s ambient noise level was too high on spring 2019 data that NDOW had from seven other undeveloped sites in Nevada, where dBA levels ranged from “ranged from 4.7 to 11.0 L90 dBA and averaged 8.6 L90 dBA for all hours of the day.” Exhibit J at 2/3.<sup>12</sup>

## **B. The Balance of Harms Clearly Favors Granting a Stay**

While our organizations and our members will be harmed as a result of the decision, the BLM will suffer no harm from the granting of a stay. Nothing in the BLM’s Final EA or DR indicates there is any overriding emergency or urgency around approving the Project at this time. Nor will the applicant suffer any harm due to a stay since the Final EA does not permit drilling except between August 16 and October 31, and BLM’s State Director is required by regulation to decide on this Request for State Director Review “within 10 business days after the receipt of a complete request for administrative review or, where oral presentation has been made, within 10 business days

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<sup>11</sup> NDOW’s comment letter has unnumbered pages and the page number here refers to the page’s position in the comment letter’s electronic file.

<sup>12</sup> NDOW’s comment letter has unnumbered pages and the page number here refers to the page’s position in the comment letter’s electronic file.

after the oral presentation.” 43 CFR § 3165.3(d). In light of these facts, any potential harm from imposing a stay during the pendency of this Request for State Director Review, so that these issues can be fully reviewed by the State Director, is speculative and unquantifiable.

On the other hand, our organizations and our members will most certainly be harmed if the new well drilling and associated infrastructure construction is allowed to go forward without having conducted proper environmental review of those impacts and ensuring that the Project fulfills the requirements of the 2015 Sage-Grouse ARMPA. Moreover, it would be difficult, if not impossible, for the harms to be undone if the new wells and associated infrastructure are allowed to be constructed.

### **C. Conservation Groups Will Suffer Immediate and Irreparable Harm if the Stay Is Not Granted**

Western Watersheds Project and the Center for Biological Diversity will likely suffer immediate and irreparable harm due to the lack of adequate public review, and the potential impacts to biodiversity in the area, which our staff and members travel to for their recreational and educational values. Of most concern are potential impacts to greater sage-grouse and their habitat. WWP and Center members will also be impacted by increased pollution from the wells, especially impacts to air quality, as well as surface disturbance; habitat destruction and fragmentation; increased vehicular traffic; air pollution; light pollution; noise pollution; and considerable risks to groundwater, special-status species (including sensitive species) and long term habitat connectivity. All of these impacts are direct and irreparable harms to the environment and to our and our members’ recreational, aesthetic, conservation, education, and spiritual interests in that environment.

### **D. The Public Interest Favors Granting a Stay**

Here, the public interest favors granting a stay for a number of reasons. Ensuring that national environmental policies and standards, as enumerated under NEPA, are met favors the requested stay. *See California ex rel. Van de Kamp v. Tahoe Regional Planning Agency*, 766 F.2d 1319, 1324 (9th Cir. 1985) (finding that public interest may be defined “by reference to the policies expressed in legislation”) (citation omitted). In this case, BLM clearly fell short of meeting legal requirements of NEPA and FLPMA.

Furthermore, in passing laws such as NEPA and FLPMA, Congress clearly meant to ensure consideration of protected resources was to occur before decisions were made that could impact such resources to avoid potentially irreversible consequences to human health and the environment as a whole. As Congress stated in the preamble to NEPA, its purpose was “[t]o declare a national policy which will encourage productive and enjoyable harmony between man and environment [and] to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man[.]” 42 U.S.C. § 4332(a).

Given the FLPMA and NEPA violations detailed above, moving forward with BLM's decision on this Project is clearly against the public interest. Given that BLM is required to meaningfully evaluate the environmental impacts of this site-specific project that will affect sensitive wildlife, groundwater, air quality, and greenhouse gas emissions, the State Director should grant a stay to protect the public interest.

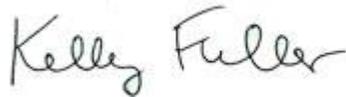
### **III. REQUEST FOR STATE DIRECTOR REVIEW**

As fully explained above, BLM's approval of the project violates NEPA and FLPMA. Accordingly, the State Director should reverse and remand BLM's approvals of the Decision Record, EA, and FONSI. We hereby incorporate the arguments made above in section II.A (our likelihood of success on the merits in support of a stay).

### **IV. CONCLUSION**

In light of the foregoing, we respectfully request the State Director reverse and remand the Final Environmental Assessment and Decision Record for the Scott Federal 25-1 and 35-1 APDs (DOI-BLM-NV-L060-2020-0002-EA), and immediately stay the decision pending a final determination of our request for State Director review. We also request BLM grant us an opportunity for oral presentation and an extension of time to submit supporting documents directly related to the oral presentation shortly after the presentation.

Respectfully submitted,



Kelly Fuller  
Energy and Mining Campaign Director  
Western Watersheds Project  
P.O. Box 779  
Depoe Bay, OR 97341  
[kfuller@westernwatersheds.org](mailto:kfuller@westernwatersheds.org)  
(928) 322-8449

Signing on behalf of

Michael Saul  
Senior Attorney  
Center for Biological Diversity  
1536 Wynkoop Street, Suite 421  
Denver, CO 80202  
[msaul@biologicaldiversity.org](mailto:msaul@biologicaldiversity.org)  
(303) 915-8308