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*Attorneys for Plaintiffs*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

ALLIANCE FOR THE WILD ROCKIES;  
NATIVE ECOSYSTEMS COUNCIL;  
COUNCIL ON WILDLIFE AND FISH;  
and WESTERN WATERSHEDS  
PROJECT,

Plaintiffs,

vs.

AMANDA JAMES, Dillon Field Manager  
of the Bureau of Land Management;  
SONYA GERMANN, Montana/Dakotas  
State Director of the Bureau of Land  
Management; BILL GROFFY, Acting  
Director of the Bureau of Land  
Management; and UNITED STATES  
BUREAU OF LAND MANAGEMENT,

Defendants.

Case No. CV-26-02-BU-JTJ

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Plaintiffs Alliance for the Wild Rockies, Native Ecosystems Council, Council on Wildlife and Fish, and Western Watersheds Project allege as follows:

### **INTRODUCTION**

1. This action arises from the U.S. Bureau of Land Management’s (“BLM”) authorization of so-called “vegetation management treatments,” including widespread prescribed fires and “intensive targeted grazing,” throughout the entire 905,000 acres managed by its Dillon Field Office (“DFO”) in southwest Montana over an unspecified timeframe.

2. Despite the Project’s massive scale and landscape-altering impacts, BLM authorized the Project without determining where and when which activities will take place. The precise location, timing, and scope of these land-disturbing activities will be decided at the implementation stage, after the Project is approved, without any further opportunity for public comment. In some cases, those decisions will be made without additional review of the underlying environmental analysis, even though the analysis of the baseline conditions is more than a decade old and missing key baseline information. BLM intends to backfill that missing data with post-decisional surveys, which also will not be subject to public comment.

3. Thus, BLM has chosen to defer selection of the precise nature of the approved activities until years after the public comment period has closed and the agency has committed its resources to the project. In effect, the Project applies “condition-based

management” in a way that undermines informed decision-making and meaningful public participation in violation of NEPA and FLPMA.

4. Consistent with this flaw, BLM’s analysis of the possible effects of the field-office-wide activities, particularly on special status species, is so generalized across an enormous project area that it fails to analyze localized impacts. This analysis also ignores a key contributor to the degraded lands and imperiled wildlife within the DFO—livestock grazing and associated infrastructure—further obscuring the Project’s reasonably foreseeable environmental effects.

5. Despite the massive size of the Project and substantial uncertainty in its actual impacts, BLM elected to prepare only an “environmental assessment.” In its environmental assessment, BLM concluded that the Project would have no significant environment impacts and therefore did not require the preparation of a more detailed “environmental impact statement.” BLM reached this conclusion even though the Project expressly intends to alter the vegetative composition of nearly one million acres of public land and even though the agency deferred critical details regarding the location, timing, and scope of those vegetation-altering activities.

6. Because BLM’s approval of the Project violates the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–70, the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701–87, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–06, this Court should set aside the Project

decision and enjoin any ground disturbing activities authorized by the BLM's actions.

7. Plaintiffs further seek declaratory judgment, injunctive relief, the award of costs and expenses of suit, including attorney and expert witness fees, pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and other such relief as this Court deems just and proper.

### **JURISDICTION**

8. This action arises under the laws of the United States and involves the United States as a Defendant. Therefore, this Court has subject matter jurisdiction over the claims specified in this Complaint pursuant to 28 U.S.C. §§ 1331 (federal question), 1346 (United States as a defendant), and 2202 (declaratory judgment and further relief).

9. Venue in this case is proper under 28 U.S.C. § 1391(e) and Local Rule 3.2 because Defendant James resides within the Butte Division of the United States District Court for the District of Montana.

### **PARTIES**

10. Plaintiff Alliance for the Wild Rockies ("the Alliance") is a tax-exempt, non-profit public interest organization dedicated to the protection and preservation of the native biodiversity of the Northern Rockies Bioregion; its native plant, fish, and animal life; and its naturally functioning ecosystems. The Alliance's registered

office is located in Missoula, Montana. The Alliance has more than 2,000 individual members, many of whom are located in Montana. Members of the Alliance observe, enjoy, and appreciate Montana's native wildlife, water quality, and terrestrial habitat quality—including in the area encompassed by the DFO—and expect to continue to do so in the future. The Alliance's members' professional and recreational activities are directly affected by Defendants' failure to perform their lawful duty to protect and conserve the ecosystem in the DFO, as set forth below. The Alliance brings this action on its own behalf and on behalf of its adversely affected members.

11. Plaintiff Native Ecosystems Council ("NEC") is a non-profit Montana corporation with its principal place of business in Three Forks, Montana. NEC is dedicated to the conservation of natural resources on public lands in the Northern Rockies. In furtherance of this mission, NEC's members and supporters remain active in wildlife management, including in efforts to conserve sagebrush habitats and the wildlife that rely on them, like sage grouse. Its members use and will continue to use the area encompassed by the DFO for work and for outdoor recreation of all kinds, including fishing, hunting, hiking, and horseback riding. BLM's unlawful actions will adversely affect NEC's organizational interests, as well as its members' use and enjoyment of the DFO area. NEC brings this action on its own behalf and on behalf of its adversely affected members.

12. Plaintiff Council on Wildlife and Fish (the "Council") is a public interest

organization (tax-exempt, non-profit) formed to ensure the maintenance of biological diversity and the ecological integrity of all natural ecosystems through the enforcement and administration of laws such as FLPMA, NEPA, ESA, and all other laws that require the recognition, discussion, and conservation of such ecosystems and protect the organic or inorganic components that comprise such natural ecosystems. The Council's registered office is in Bozeman, Montana. The Council's members are in Montana. They enjoy and appreciate indigenous wildlife, fish, spiritual connection and renewal, clean water, and high-quality aquatic and terrestrial habitat. Council members expect to continue these practices well into the future, including in the area encompassed by the DFO. The Council's members' professional, spiritual, and recreational activities are directly affected by Defendants' failure to perform their lawful duty to protect and conserve these ecosystems as set forth below. The Council brings this action on its own behalf, on behalf of its adversely affected members and on behalf of numerous, voiceless life forms eminently threatened with displacement, injury, and/or death.

13. Plaintiff Western Watersheds Project is an Idaho non-profit corporation, which is dedicated to protecting and restoring wildlife and watersheds throughout the American West. Western Watersheds Project is headquartered in Hailey, Idaho, and has additional staff and offices in Boise, as well as Montana, Wyoming, Nevada, Arizona, Utah, and Oregon. Western Watersheds Project has over 14,000 members

and supporters, residing in Montana and throughout North America, who have a strong interest in maintaining and restoring healthy native ecosystems on federal public lands. Western Watersheds Project has long-standing interests in preserving and conserving greater sage-grouse populations and habitat in Montana and other states across the range of the greater sage-grouse.

14. An actual controversy exists between Plaintiffs and Defendants. Plaintiffs' members use and enjoy the DFO area for hiking, fishing, hunting, camping, photographing scenery and wildlife, and engaging in other vocational, scientific, spiritual, and recreational activities. Plaintiffs' members intend to continue to use and enjoy the area frequently and on an ongoing basis in the future. Plaintiffs' members and staff are concerned with protecting the wildlife, ecological integrity, and other natural values of the DFO area.

15. The aesthetic, recreational, scientific, spiritual, and educational interests of Plaintiffs' members have been and will be adversely affected and irreparably injured if Defendants implement the Project. These are actual, concrete injuries caused by Defendants' failure to comply with mandatory duties under NEPA, FLPMA, and the APA. The requested relief would redress these injuries, and this Court has the authority to grant Plaintiffs' requested relief under 28 U.S.C. §§ 2201 and 2202, and 5 U.S.C. §§ 705 and 706.

16. Defendant Amanda James is the Field Manager and BLM official responsible

for preparing the September 30, 2025 decision rejecting many of Plaintiffs' objections to the Project. Ms. James is sued in her official capacity as the manager of the DFO. 43 C.F.R. § 1601.0–4(c).

17. Defendant Sonya Germann is sued in her official capacity as the State Director for the Montana-Dakotas BLM, located in Billings, Montana. As State Director, Ms. Germann is the federal official responsible for supervising all Montana-Dakotas BLM officials and ultimately approving the decision challenged in this case. *Id.* § 1601.0–4(b).

18. Defendant Bill Groffy is sued in his official capacity as the Acting Director of the BLM. As Acting Director, Mr. Groffy is the federal official responsible for all BLM officials' actions and/or inactions challenged in this case. *Id.* § 16.01.0–4(a).

19. Defendant Bureau of Land Management is an agency of the United States government within the U.S. Department of Interior, and is responsible for the health, diversity, and productivity of public lands, and for applying and implementing the federal laws and regulations challenged in this case.

20. Plaintiffs have exhausted all available administrative remedies. Plaintiffs timely submitted written comments concerning the Project in the available administrative review processes.



## **LEGAL FRAMEWORK**

### **The National Environmental Policy Act**

21. Congress enacted the National Environmental Policy Act (NEPA) to “encourage productive and enjoyable harmony between man and his environment” and to promote government efforts “that will prevent or eliminate damage to the environment.” 42 U.S.C. § 4321. NEPA is “our basic national charter for protection of the environment.” *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1215–16 (9th Cir. 1998).

22. NEPA has two basic purposes: (1) to ensure that federal agencies, in reaching their decisions, “will have available, and will carefully consider, detailed information concerning significant environmental impacts,” and (2) to “guarantee[] that the relevant information will be made available” to the public. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

23. To fulfill its mandates, NEPA requires federal agencies to prepare an environmental impact statement (“EIS”) for all “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C); *see also id.* § 4336(b)(1). Where an agency is uncertain whether it must prepare an EIS, it may prepare an environmental assessment (“EA”) to determine whether the action may have significant impacts and thus require preparation of an EIS. *Id.* § 4336(b)(2).

24. To identify the environmental impacts of a proposed agency action, NEPA

requires the agency to establish an appropriate baseline, or the existing environmental conditions, against which the agency “compares predictions of the effects of the proposed action and reasonable alternatives.” *Am. Rivers v. FERC*, 201 F.3d 1186, 1195 n.15 (9th Cir. 1999) (citation omitted).

25. “Without establishing the baseline conditions which exist . . . before [a project] begins, there is simply no way to determine what effect the [project] will have on the environment and, consequently, no way to comply with NEPA.” *Great Basin Res. Watch v. Bureau of Land Mgmt.*, 844 F.3d 1095, 1101 (9th Cir. 2016) (citation omitted).

26. The agency “must consider alternatives varied enough to allow for a real, informed choice.” *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, 141 F.4th 976, 1025 (9th Cir. 2025). “The existence of a viable but unexamined alternative renders the environmental review conducted under NEPA inadequate.” *Envtl. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 877 (9th Cir. 2022) (quotations and citation omitted).

27. NEPA requires that federal agencies ensure the professional and scientific integrity of their analyses and make use of reliable data and resources. 42 U.S.C. § 4332(D), (E). This means an EA must provide sufficient explanation of the data, methods, and reasoning underlying its conclusions to allow both the public and reviewing courts to assess the agency’s decision.

28. A court reviews an agency action for whether the agency “has taken the requisite ‘hard look’ at the environmental consequences of its proposed action” and “whether the agency decision is ‘founded on a reasoned evaluation of the relevant factors.’” *Greenpeace Action v. Franklin*, 14 F.3d 1324, 1332 (9th Cir. 1992) (quoting *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 373–74 (1989) (internal quotations omitted)).

29. A cursory analysis, consisting of “[g]eneral statements about ‘possible’ effects and ‘some risk’” does not constitute a “hard look,” and does not satisfy NEPA. *Or. Nat. Desert Ass’n v. Rose*, 921 F.3d 1185, 1191 (9th Cir. 2019) (quoting *Blue Mountains Biodiversity Project*, 161 F.3d at 1213).

### **The Federal Land Policy and Management Act**

30. FLPMA and its related regulations govern the BLM’s management of lands that fall under its jurisdiction. FLPMA directs BLM to ‘manage the public lands under principles of multiple use and sustained yield[.]’ 43 U.S.C. 1732(a).

31. In pursuit of this directive, “FLPMA provides the BLM with ample authority and direction to conserve ecosystems and other resources and values across the public lands.” 89 Fed. Reg. 40308, 40309 (May 9, 2024).

32. FLPMA directs the BLM to “develop, maintain, and when appropriate, revise land use plans,” 43 U.S.C. § 1712, called “resource management plans” (“RMPs”), that “guide and control future management actions and the development of

subsequent, more detailed and limited scope plans for resources and uses” on public lands, 43 C.F.R. §§ 1601.0–2.

33. Generally, an RMP “describes, for a particular area, allowable uses, goals for future condition of the land, and specific next steps.” *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 59 (2004). It operates like a “zoning plan” for public lands within the planning area, setting out where, and under what conditions, various land uses are permitted or prohibited. *WildEarth Guardians v. U.S. Bureau of Land Mgmt.*, 457 F. Supp. 3d 880, 885 (D. Mont. 2020) (citing 43 U.S.C. § 1712).

34. All site-specific decisions must conform with the relevant RMP. 43 C.F.R. § 1610.5–3(a). If a proposed action is not consistent with the RMP, the RMP must be amended according to NEPA. *Id.* §§ 1610.5–3(c), 1610.5–5.

35. The term “plan conformance,” as defined in the BLM planning regulations, means either that resource management actions must be “specifically provided for in the plan, or if not specifically mentioned, shall be clearly consistent with the terms, conditions, and decisions of the approved plan.” *Id.* § 1601.0–5.

### **The Administrative Procedure Act**

36. Because NEPA and FLPMA do not include a citizen suit provision, Plaintiffs’ claims under NEPA and FLPMA are brought pursuant to the APA. 5 U.S.C. §§ 551–59, 701–06.

37. The APA allows persons and organizations to challenge final agency actions

in the federal courts. *Id.* §§ 702, 704.

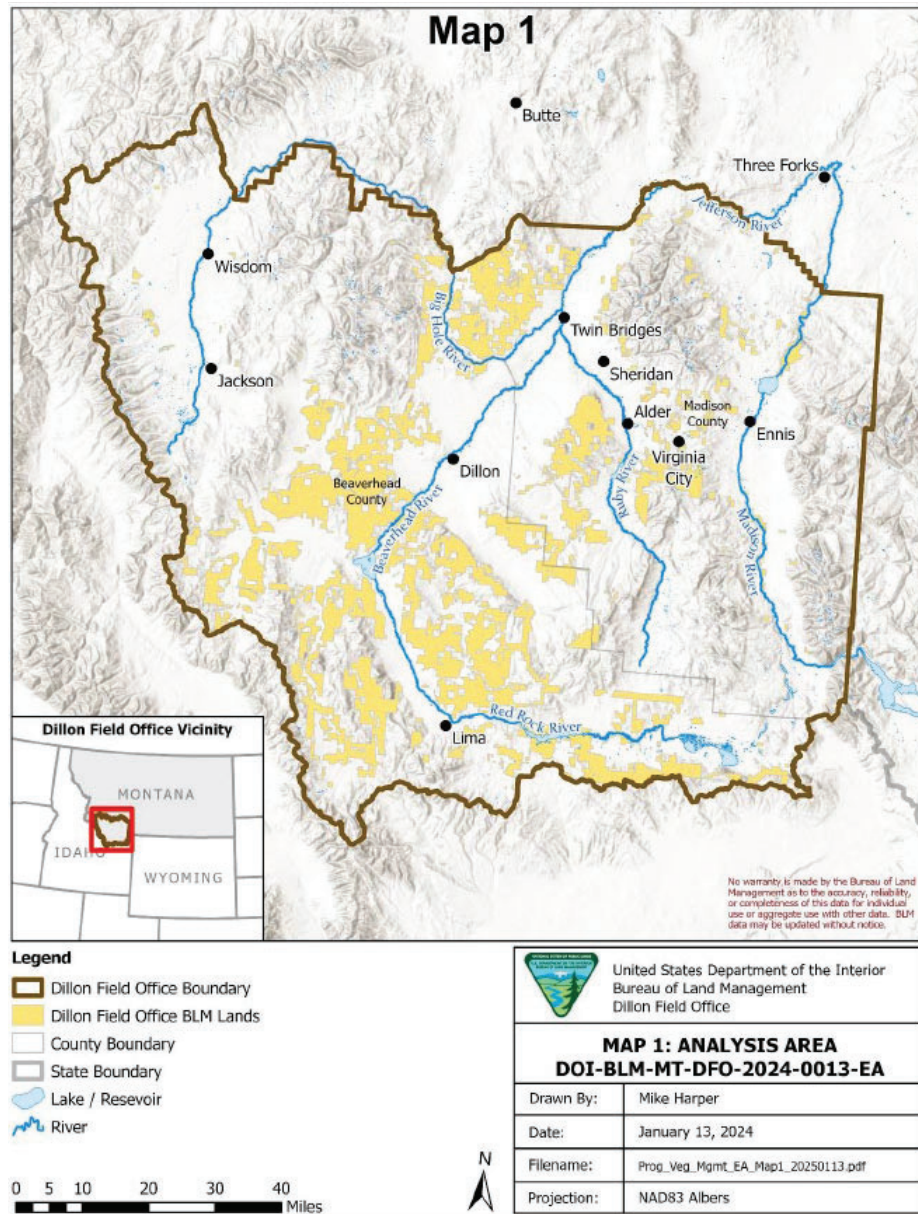
38. The APA declares that a court should hold unlawful and set aside agency actions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. *Id.* § 706(2)(A).

39. An action is arbitrary and capricious “if the agency has relied on factors which Congress has not intended it to consider, entirely fails to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

### **FACTUAL ALLEGATIONS**

#### **Dillon Field Office**

40. The DFO manages about 905,000 acres of public land in southwest Montana in Beaverhead and Madison counties. The acreage managed by the DFO stretches across multiple mountain ranges, including the Pioneer Mountains, Tobacco Root Mountains, Gravelly Range, and Centennial Mountains. The renowned Beaverhead, Big Hole, and Madison Rivers drain into the DFO area.



41. The DFO contains vast sagebrush-grassland ecosystems in the valleys and forests at higher elevations. The DFO ecosystem provides permanent and migratory habitats for a variety of wildlife, including sagebrush obligates like greater sage grouse and pygmy rabbits, big game, and songbirds like the pinyon jay.

42. The DFO is divided into 16 watershed management units. The DFO aims to



assess the land health conditions in each watershed once every ten years. According to BLM, each watershed has been assessed at least twice since 2003.

43. For these assessments, an interdisciplinary team collects field data and observations, then compiles their findings into an Assessment Report. An Assessment Report evaluates BLM's five "Standards of Rangeland Health"—upland health, riparian/wetland health, water quality, air quality, and biodiversity—and the cause of any degradation of those standards. The Assessment Reports currently in effect were completed between 2007 and 2022. After an Assessment Report is issued, BLM then typically issues an Environmental Assessment analyzing alternatives to address those resource issues identified in the Assessment Report.

44. Actions authorized by the BLM in the DFO must conform with the 2006 Dillon RMP.

### **The DFO Programmatic Vegetation Management Project**

#### *Procedural History*

45. On March 18, 2024, BLM announced that it was proposing various so-called "vegetation treatments" to address the land health condition issues identified in the Assessment Reports. The scoping notice identified conifer expansion into sagebrush, grassland, and riparian habitat, as well as the conversion of native vegetation in rangeland areas to less desirable grasses or forbs and non-native invasive species, as two of the issues identified in the Assessment Reports that the Project would seek to

address. BLM provided a 30-day scoping period, during which Plaintiffs submitted comments.

46. On March 3, 2025, BLM posted the Draft EA for the Project to its ePlanning website for public review and comment. Plaintiffs timely submitted comments.

47. On July 17, 2025, BLM posted the Final EA for the Project to its ePlanning website.

48. The Final EA analyzed three alternatives: a no-action alternative (“Alternative A”), the preferred action alternative (“Alternative B”), and a second action alternative (“Alternative C”). The only other alternative BLM considered was to eliminate livestock grazing on BLM-administered land. BLM did not analyze this alternative in detail on the grounds that it supposedly did not fit within the Project’s Purpose and Need.

49. On September 30, 2025, Defendant James signed a Finding of No Significant Impact (“FONSI”) for the Final EA finding that Alternative B will not significantly impact the quality of the human environment, and therefore, an EIS is not warranted. The same day, Defendant James signed a Decision Record for the Project to implement Alternative B.

50. Alternative B authorizes two categories of land-disturbing activities across the DFO’s 905,000 acres: conifer “removal” and rangeland “restoration.” BLM did not provide any timeframe for the Project.



51. The stated goal of the first category—conifer removal activities—is to remove certain trees, including Douglas fir and Rocky Mountain juniper, from “historically non-forested areas, including upland, riparian, aspen, and curl-leaf mountain mahogany habitats,” to “restore” sagebrush steppe habitat.

52. To remove trees from these areas, Alternative B authorizes prescribed fire and/or mechanical and manual removal on a maximum of 10,000 acres per year. Mechanical removal will involve the use of heavy machinery to cut, scatter, masticate, mulch, and/or chip trees, whereas manual removal will involve the use of hand tools to cut, girdle, or “otherwise kill[]” conifers.

53. The Final EA, FONSI, Decision Record, and supporting documents, including the Assessment Reports (together, “Decision Documents”), do not explain the basis for selecting the maximum annual acreage for the authorized conifer removal.

54. Already, between 2016 and 2024, conifer deforestation has occurred on at least 54,314 acres of sagebrush grassland across Madison and Beaverhead counties, according to a Supplemental EA and FONSI issued by the U.S. Forest Service for another “vegetation management” project in the Beaverhead-Deerlodge National Forest, which borders the DFO. The Decision Documents do not disclose this information or whether, or how, the extent of conifer deforestation that the Project authorizes is necessary given the acreage already treated in the DFO area.

55. The Decision Documents also do not provide scientific support for how such

widespread, indiscriminate conifer deforestation promotes ecosystem or wildlife conservation, particularly sage grouse conservation, including any monitoring data from the more than 50,000 acres of conifer removal already implemented in the DFO area.

56. To the contrary, the available scientific evidence—as well as BLM’s own planning materials—indicates a high potential for harm from mechanical conifer removal and prescribed fire. For instance, one of the most common outcomes of mechanical juniper and sagebrush removal is an increase in invasive annual grasses, which in turn increase fire risk and degrade native ecosystems.

57. Further, the Final EA states that prescribed fire has “high up-front conservation costs due to temporary loss of sagebrush” but has “twice the treatment life” as cutting conifers. “Cutting has less up-front conservation costs because sagebrush is unaffected but it is more expensive over longer management time horizons because of decreased durability.”

58. Despite these acknowledged tradeoffs, the Decision Documents neither specify the maximum acres that may be subjected to prescribed fire versus mechanical/manual removal, nor establish any criteria governing the selection of one method over another at specific sites.

59. It is also unclear whether the Final EA’s analysis of the environmental effects assumes implementation of the maximum allowable acreage per year or a lesser

amount. Even so, without a timeline for the Project, the full extent of the Project's impacts cannot be determined or meaningfully disclosed to the public.

60. For the second category—rangeland “restoration”—Alternative B authorizes intensive targeted grazing, fencing, mowing, harrowing, raking, herbicide applications, planting, and seeding on up to 1,000 acres per year.

61. The Decision Documents do not explain the basis for selecting this maximum annual acreage. The Decision Documents also do not specify the maximum allowable or anticipated acreage for each method, or the maximum allowable or anticipated mileage of new fencing.

62. It is also unclear whether the Final EA's analysis of the effects of these land-disturbing activities assumes the implementation of the maximum allowable acres per year or something smaller. Even so, without a timeline for the Project, the full extent of the Project's impacts cannot be determined or meaningfully disclosed to the public.

63. The Final EA also fails to analyze the effects of each type of proposed mechanical soil method, instead collapsing its analysis of distinct methods that have varying degrees of environmental impacts, including its analysis of harrowing, raking, and intensive targeted grazing.

64. According to the Decision Documents, BLM will select the locations for the authorized activities after the Project has been approved using of a combination of

“on-site field analysis and various online tools” to identify where the composition of vegetation has changed from its reference (*aka* pre-European settlement) state and thus is “in need of treatment.” Only after these areas are selected BLM will “define the geographic extent of the departure and identify treatment method(s) that are proven by best available science, combined with local knowledge, to shift [the] current condition or vegetative state most effectively towards [the] reference or desired future condition.”

65. In other words, despite completing two ecosystem health analyses for each of the 16 watersheds in the DFO and evaluating alternatives for the resource issues, BLM plans to make all site-specific decisions only after approving the Project. These decisions will determine which method to apply (e.g., method selection), where to apply them (e.g., site selection), and over how many years (e.g., total maximum allowable acreage). Because BLM did not complete this analysis prior to approval, the agency cannot know the environmental consequences of these landscape-altering activities with varying impacts applied across the entire 905,000-acre Dillon Field Office. As such, BLM is improperly applying what is commonly known as condition-based management, in violation of NEPA, FLPMA, and the APA.

66. Because BLM will plan its site-specific activities after completing the NEPA process, the Decision Documents use Design Features to supposedly ensure the site-specific Project activities comply with federal laws, regulations, and policies.

67. The Final EA describes the Design Features as apparent guardrails for Project activities intended to “mitigate or avoid potential adverse effects.”

68. Some Design Features require pre-implementation surveys of baseline conditions, including for whitebark pine, other special-status plants, special-status wildlife, and noxious or invasive species. In other words, BLM deferred critical site-specific analysis of baseline conditions until after approval.

69. To the extent the Final EA tiers to the Assessment Reports’ analysis of watershed-specific baseline conditions, many of the Assessment Reports lack the baseline conditions that BLM intends to survey prior to implementation. Additionally, some of the Assessment Reports are more than a decade old.

70. The Decision Documents also fail to explain the feasibility of completing all these surveys across potentially 11,000 acres every year.

71. Based on the findings of those uncompleted and potentially infeasible surveys, the Design Features require BLM to implement “appropriate stipulations ... to mitigate adverse effects to these species.” Yet BLM has not identified any of the “appropriate stipulations” it may implement, except to avoid intentional fire in pygmy rabbit habitat.

72. Other Design Features seem to require certain avoidance or mitigation measures but then provide exceptions to the implementation of those measures without clear standards for when BLM is permitted to apply those exceptions.

73. Proposed actions conducted within the next five years “will occur without the need for additional review” of the effects analysis in the Final EA. After this five-year exemption period, the DFO intends to review the Final EA every five years “to confirm that the initial analysis remains valid and relevant.”

74. To the extent that the Final EA tiers to the Assessment Reports’ discussions of the watershed-specific baseline conditions and the proposals to address the resource issues in associated EAs, it is not clear whether this five-year exemption will apply to site-specific activities approved in the watersheds for which the Assessment Reports and EAs are more than five years old. Fourteen of the 16 Assessment Reports were published more than five years prior to BLM’s issuance of the Final EA, FONSI, and Decision Record.

75. The Decision Documents also require BLM to complete a Determination of NEPA Adequacy form, a Pre-Implementation Checklist, and, if prescribed fire will be conducted, a Burn Plan prior to implementation of a site-specific activity. These documents will, in part, disclose, for the first time, what authorized activity will be implemented in which area over what acreage and time period; the results of the agency’s surveys for special status species, whitebark pine, sensitive and special status plant species, cultural resources, and noxious and/or invasive plants in the implementation area; and any new information or circumstances that may change the analysis of a site-specific project.

76. The Decision Documents do not state that BLM intends to offer public comment on any of these documents, despite the Decision Documents' overly generalized description of the Project activities and cursory analysis of their impacts.

*Livestock in the Project Area*

77. BLM has authorized livestock grazing and associated infrastructure in watersheds throughout the DFO.

78. The Assessment Reports have identified livestock grazing as a significant causal factor for certain watersheds not meeting the rangeland health standards. For instance, in one area of the Grasshopper Watershed, the riparian health and water quality standards were not met because livestock had caused a wetland area to dry out.

79. Livestock also reduce the available high-value vegetation for other wildlife, and have been found to cause the spread of invasive and non-native vegetation, including cheatgrass, which in turn increases wildfire risk.

80. Livestock grazing also is one of the greatest threats to high-value sage grouse habitat in southwest Montana, according to the ARMPA.

81. Yet, the Final EA lacks any analysis of the effect of existing livestock grazing on the baseline conditions of the Project area, as well as the reasonably foreseeable impacts of past, present, and future livestock grazing in the Project area.

82. Without this analysis, the Final EA is incomplete and leads to erroneous conclusions about the relative contributions of different stressors in the Project area, as well as the appropriate solutions.

83. The Final EA fails to provide scientific support for its conclusion that intensive targeted grazing is an effective restoration tool. Again, the Final EA improperly collapses its analysis of the impacts of intensive targeted grazing and mechanical soil manipulation (harrowing and raking), despite their distinct environmental effects. It also fails to consider the best available science, which undermines the effectiveness of grazing as an effective restoration tool in sagebrush ecosystems and establishes that using grazing in such a way increases invasive cheatgrass.

84. The Decision Documents set only a 30-day limit for grazing in each unit. They provide no criteria for when livestock must be removed, numbers of livestock allowed, how grazing will be conducted, or other operational parameters. As a result, the Final EA cannot adequately evaluate the impacts or effectiveness of intensive targeted grazing in the Project area.

85. Additionally, BLM eliminated an alternative for the Project that would reduce or eliminate authorized grazing on the grounds that “[t]he Purpose and Need for this EA is to utilize active vegetation management methods including prescribed fire, conifer reduction, and rangeland restoration projects, to promote healthy,



functioning ecosystems. This does not include renewing or changing livestock grazing permits or installing new water developments or any other land use authorizations or permitting activities.”

86. BLM’s justification for eliminating a reduced or no-grazing alternative ignores is that it refused to consider the same alternative when renewing grazing permits and authorizing additional livestock infrastructure in at least one DFO watershed. BLM’s rejection of this alternative in both cases (within 16 months of each other) raises serious questions as to whether BLM will ever consider reducing or eliminating livestock, despite acknowledging the well-documented harms grazing causes to rangeland health and wildlife.

87. Further, despite stating that a reduced or no grazing alternative is not justified because the Project would not involve new water developments, the Final EA later states that water troughs would be utilized for the Project’s intensive targeted grazing.

88. BLM’s justification for eliminating a reduced or no grazing alternative also ignores ARMPA’s directive to consider changing grazing management when livestock practices are not compatible with meeting habitat objectives.

89. BLM did not consider an alternative that would not authorize intensive targeted grazing, despite considering an alternative that eliminated two other rangeland "restoration" methods (mechanical surface manipulation and non-

selective herbicide application). The Decision Documents do not explain the basis for choosing these methods and not intensive targeted grazing to eliminate from Alternative C.

90. Consideration of these alternatives would satisfy not only the purpose and need for the Project, the Dillon RMP, and FLMPA, but also the ARMPA. Failure to do so violates FLPMA, NEPA, and the APA.

#### *Impacts to Greater Sage Grouse*

91. Greater sage grouse (“GRSG” or “sage grouse”) is the largest species of grouse in North America. They are “sagebrush obligates,” meaning they are entirely dependent on sagebrush ecosystems, including for food, shelter, breeding, nesting, and brooding. The species occupies large, interconnected expanses of sagebrush habitat, using different features of landscapes depending on their seasonal needs.

92. Greater sage grouse also are considered an umbrella species for other sagebrush obligates and associated species because when habitat objectives are met for sage grouse, they likely are met for the other species.

93. Before 1800, greater sage grouse occupied more than 460,000 square miles across 13 Western states, including Montana, and three Canadian provinces, with a population originally estimated at 16 million birds. However, since European settlement, sagebrush ecosystems have been destroyed, fragmented, and degraded,

leaving few pristine and intact sagebrush ecosystems for sage grouse. Greater sage grouse now occupy less than half of their historic range, and number perhaps 250,000 rangewide.

94. The loss of habitat upon which the GRSG rely has caused their population to decline across their historic range and locally. Just between 2021 and 2024, the GRSG population in Montana plummeted about 30%, from 70,346 to 48,783, according to Montana Fish, Wildlife, and Parks (“MT FWP”). Between 2002 and 2024, the population has almost halved, from 88,707 to 48,783.

95. MT FWP also reported that the number of active leks in Montana has consistently declined since 2018. A lek is a communal breeding ground for sage grouse where males engage in elaborate courtship of females. Though the number of active leks has nearly doubled since 2002—from 548 to 970—the annual rate of extirpation of confirmed leks since 2002 is more than double the annual rate of the addition of confirmed active leks.

96. In response to numerous petitions asking the U.S. Fish & Wildlife Service (“FWS”) to list the GRSG under the Endangered Species Act (“ESA”), FWS issued a finding in 2010 that listing of the GRSG under the ESA was “warranted, but precluded.” 75 Fed. Reg. 13,910 (Mar. 23, 2010). FWS reasoned that, though the best available science indicated that the species should be listed, immediate listing of the species was precluded by “higher-priority” listing proposals. *Id.*

97. In response to FWS’s “warranted” determination, the BLM in 2015 adopted the Idaho and Southwestern Montana Greater Sage Grouse Approved Resource Management Plan Amendment (“ARMPA”). The ARMPA amended the Dillon RMP (and 23 RMPs in Idaho) to “incorporate appropriate measures ... to conserve, enhance and restore [greater sage grouse] habitat in the context of the BLM’s multiple use and sustained yield mission under FLPMA.” The ARMPA explained that changes in management of greater sage grouse habitats “are necessary to avoid the continued decline of populations across the species’ range.” In the event any inconsistencies or discrepancies arise between the ARMPA and the Dillon RMP, the ARMPA takes precedence.

98. Relying on the conservation measures in the 2015 ARMPAs to create “adequate regulatory mechanisms” to conserve and recover the bird, FWS declined to list the species under the ESA in 2015.

99. However, the BLM considers sage grouse a “sensitive species,” meaning BLM has determined sage grouse are at risk of becoming ESA-listed.

100. The DFO manages 681,415 acres of GRSG habitat, 460,264 of which the ARMPA designated as “priority habitat management area,” or PHMA, and the remaining 221,151 acres of which the ARMPA designated as “general habitat management area,” or GHMA.

101. PHMAs are considered to have the highest value lands for maintaining

sustainable greater sage grouse populations and include areas used for breeding and late brood-rearing, winter concentration areas, and migration or connectivity corridors. GHMAs are lesser priority areas, where some special management will apply to sustain greater sage grouse populations. GHMAs generally include areas of occupied seasonal or year-round habitat outside PHMAs.

102. In other words, the vast majority of the land the BLM manages in southwest Montana is considered of the highest value habitat for sage grouse.

103. The Final EA concluded that the Project may impact sage grouse individuals or habitat but will not likely contribute to a trend towards federal listing or cause a loss of viability to the population or species.

104. However, the Decision Documents fail to provide basic baseline information about GRSG necessary to properly analyze the impacts of the Project on the species.

105. The Decision Documents do not provide any population data about sage grouse in the DFO or specific watersheds. Rather, it seems that the agency intends to collect that data after the Project is authorized, per Design Features SSS-3.10 and SSS-3.20.

106. The Decision Documents' authorization of landscape-altering activities on an undetermined amount of acres fails to comply the ARMPA's Required Design Features ("RDF").

107. RDF 23, for instance, requires BLM to ensure that sagebrush "treatment

acreage is conservative in the context of surrounding sage-grouse seasonal habitats and landscape.” Without disclosing and justifying the total or maximum allowable acreage for the Project or specific Project activities, the Final EA fails to demonstrate that the Project acreage is “conservative.”

108. The Final EA’s generalized assessment of how the authorized land-disturbing activities impact sage grouse in the Project area regardless of the habitat type also violates RDF’s 23’s requirement that the agency’s determination of the total acres to treat be made “in the context of surrounding sage-grouse seasonal habitats and landscape,” as well as the ARMPA’s Special Status Species Management Decision (“SSS-MD”) -7, which requires BLM to include in all project-level NEPA analyses an evaluation of the project proposals and their effects on GRSG habitat based on the habitat and values affected.

109. To this end, the Decision Documents do not disclose or discuss how the Project will impact the “soft” and “hard” triggers for sage grouse, as required by the ARMPA’s SSS-MD-21 to -26, SSS-MD-41, and Appendix E. Soft triggers are indicators that BLM’s management or specific activities may not be achieving the intended results of a conservation action, as demonstrated by population and habitat trends. If a soft trigger is met, BLM is required to enact immediate monitoring and surveillance to determine the cause and may be required to curtail certain management activities. Hard triggers are indicators that management decisions are

not achieving desired conservation results, meaning sage grouse are either not responding to conservation measures or are being negatively impacted by certain management decisions. Hard triggers are measured against the number of active leks, acres of available habitat, and population trends. If a hard trigger is met, BLM must take immediate action to stop a severe deviation from conservation objectives.

110. Even if the Decision Documents included these discussions, they do not disclose any delineations of the leks in the DFO against which the public can scrutinize the locations that BLM selects for its land-disturbing activities. The Final EA only states that there are 128 known leks in Beaverhead and Madison counties. This figure does not distinguish between lek status (*i.e.* active, inactive, unconfirmed, never confirmed active, and confirmed extirpated).

111. The Final EA's Design Features also fail to incorporate RDF 4, which requires BLM to "[a]void mechanized anthropogenic disturbance during the winter, in wintering areas when implementing ... fuels/vegetation/habitat restoration management projects." The public cannot scrutinize compliance with this RDF either, since the Decision Documents do not disclose sage grouse wintering areas in the DFO.

112. Regarding prescribed fires, the Final EA extensively describes the supposed long-term benefits of intentional fires to sage grouse habitat once the burned vegetation regenerates. However, the Final EA fails to seriously discuss the "high

up-front conservation costs,” as the Final EA describes, of any intentional fire on GRSG due to the loss of sagebrush. By the EA’s own admission, regeneration could take – and thus these high up-front costs could last – between 7 and 30 years.

113. To the extent the Final EA analyzes the short-term effects of prescribed fire on GRSG, that analysis is generic and unreliable, as it does not disclose the number of acres per year of prescribed fire it will allow or intends to conduct out of the maximum 10,000-acres-per year, how many acres the analysis assumes will impact sage grouse, and in what kind of sage grouse habitat the burning will occur.

114. BLM also fails to rationalize its conclusion that the loss of sagebrush to sage grouse from prescribed fire does not require excluding fire from sage grouse habitat or certain habitat types. The agency recognized that similar loss to another sagebrush-obligate species—the pygmy rabbit—would be so “unacceptable” that it would require exclusion of prescribed fire from pygmy rabbit habitat.

115. Regarding fencing, the Final EA fails to disclose and analyze the impacts of installing additional fencing on GRSG. Fences can kill sage grouse if sage grouse fly into them, fragment sagebrush habitat, block sage grouse seasonal movement, and provide perches for predators.

116. The Design Features for fence construction also do not comply with the ARMPA. RDF 105 requires BLM to “[a]void building new wire fences within 2 km of occupied leks,” or, if not feasible, “ensure that high risk segments are marked with



collision diverters.” Yet Design Feature SSS-3.17 only requires flight diverters to be installed “in high use areas for sage grouse (i.e. fences within ¼ mile of a lek and/or winter concentration areas, considering topography, vegetation, visibility, etc.).” Notably, Final EA does not discuss why avoiding building new wire fences within 2 km of occupied leks is not feasible.

117. SSS-3.17 also seems to grant BLM discretion to decide whether a flight diverter is actually needed within a ¼ mile of a lek and/or winter concentration area based on BLM’s evaluation of a non-exhaustive list of factors. Without a clear standard by which flight diverters will be installed, this supposed mitigation measure is rendered meaningless, and the public cannot be sure that the BLM will comply with RDF 105.

118. In sum, the Decision Documents’ cursory and speculative analysis of the impacts of the Project to GRSG fails to disclose significant information concerning the Project and fails to take a “hard look” at the impacts of the Project on sage grouse in violation NEPA and the APA. The Decision Documents also fail to demonstrate compliance with the ARMPA in violation of FLPMA.

### *Impacts to Pygmy Rabbit*

119. The pygmy rabbit is the world’s smallest species of rabbit. The species is found throughout the Great Basin states, including in southwest Montana and the

DFO.

120. Like GRSG, pygmy rabbits are sagebrush obligates. Sagebrush comprises nearly 100% of their winter diet and over half of their summer diet, with grasses and forbs accounting for the remaining 40% of the summer diet. They also require intact sagebrush for cover from predators.

121. Pygmy rabbit populations have dwindled in the last 50 years primarily due to degradation and loss of sagebrush habitat.

122. Conservation groups have petitioned FWS to consider listing pygmy rabbits under the ESA since at least 1991. *See* 56 Fed. Reg. 58,804, 58,807 (Nov. 21, 1991). In January 2024, FWS determined that listing “may be warranted” based on a petition filed by a group of conservation organizations. FWS is currently evaluating whether listing is warranted.

123. BLM classifies pygmy rabbits as a “sensitive species,” meaning BLM has identified the species as at risk of becoming listed on the ESA and must ensure that activities on public lands do not contribute to the need for their future listing.

124. The Final EA concluded that the Project may impact pygmy rabbit individuals or habitat but will not likely contribute to a trend towards federal listing or cause a loss of viability to the population or species.

125. However, the Final EA fails to disclose any pygmy rabbit population data or delineations of pygmy rabbit home ranges. Instead, despite BLM having completed

Assessment Reports and associated EAs for each watershed, the Final EA defers ascertaining the location(s) of pygmy rabbit home ranges until after the Project is approved and the opportunity for public involvement is over. This baseline is necessary for the BLM and the public to actually evaluate the impacts of the Project on pygmy rabbits.

126. The Design Features specify that prescribed fire, harrowing and raking, herbicide application, and intensive targeted grazing would not occur in pygmy rabbit habitat “to avoid loss of sagebrush cover.”

127. However, the Final EA also fails to discuss buffer zones, even though Plaintiffs requested this analysis in their comments due to the potential, for example, for prescribed fire and applied herbicides to spread into pygmy rabbit habitat.

128. Thus, the Decision Documents fail to disclose significant information about the impacts of the Project on pygmy rabbits, and the analysis of the Project’s impacts is overly generalized and speculative in violation of NEPA and the APA.

#### *Impacts to Whitebark Pine*

129. Whitebark pine is a slow-growing, five-needle conifer that exists at high elevations across the northern Rocky Mountains and Pacific Northwest. Whitebark pine is considered a keystone and foundational species in the West, as it increases biodiversity and contributes to critical ecosystem functions. Whitebark pine seeds

provide high-energy food sources to birds and mammals, including Greater Yellowstone Area grizzly bears, which rely on whitebark pine as one of their four seasonal foods. Whitebark pines are dependent on Clark's nutcrackers to disperse their seeds, as their cones do not open to release mature seeds like other pine trees.

130. Whitebark pine is known to be present in most of the DFO's 16 watersheds.

131. Whitebark pine was listed as threatened under the ESA on December 15, 2022. At the time of listing, 51% of all standing whitebark pine trees in the U.S. had died, with over half dying in the previous two decades. 85 Fed. Reg. 76882 (Dec. 15, 2022).

132. In its listing decision, FWS identified the primary threats to whitebark pine survival as white pine blister rust (a fungal disease), mountain pine beetle, altered fire regimes, and climate change.

133. The Final EA concluded that the Project is not likely to adversely affect whitebark pine.

134. However, the Decision Documents do not disclose – and it does not appear BLM knows – the location of whitebark pine individuals, as the Final EA states that “survey/mapping efforts are ongoing.” Accordingly, the Decision Documents also do not disclose the locations of any intentional fires, tree cutting, or the other authorized activities relative to whitebark pine habitat, which of those activities it will choose to implement, or the total acreage of whitebark pine habitat it intends to

impact.

135. Design Feature SSS-3.6-CM1 states that BLM will conduct pre-implementation surveys to identify whitebark pine individuals of all ages. However, such surveys will be conducted after the Project is approved and public involvement is no longer available. Without such surveys, BLM cannot know the baseline status of the species, cannot seriously analyze the impacts of the Project on whitebark pine, and cannot credibly conclude that the Project is not likely to adversely affect the species. The Final EA's analysis of the Project's impacts on whitebark pine, therefore, is generalized and speculative.

136. Design Feature SSS-3.6-CM1 also does not guarantee that the surveys will identify whitebark pine individuals of all ages; it only guarantees that such surveys will be completed "if feasible," without defining when such surveys are not feasible.

137. In the instance they are not feasible, SSS-3.6-CM1 allows the agency to "estimate" the number of whitebark pine individuals of all age classes. Yet the Final EA does not explain why this substitute is sufficient and will minimize impacts to whitebark pine.

138. The Decision Documents fail to establish criteria for when adverse effects to whitebark pine from prescribed fire become so "unacceptable" that it "may" be abandoned in favor of cutting, as stated in the Final EA. In fact, there is no mention of this procedure in the Design Features.

139. Likewise, SSS-3.6-CM23 requires BLM to avoid crushing and damaging whitebark pine seedlings and saplings “to the extent possible,” yet does not provide criteria for when such avoidance is not possible, and at what point unavoidable crushing of and damage to seedlings and saplings will cause the Project to adversely affect whitebark pine.

140. SSS-3.6-CM4 requires BLM to “[a]void ground disturbance from heavy equipment within whitebark pine stands and within 10 meters of whitebark pine trees to protect the roots and soil.” Yet the Final EA does not provide any criteria for when such heavy equipment use cannot be avoided. In fact, the Final EA does not even analyze the effects of ground disturbance from heavy equipment on whitebark pine. Thus, the Decision Documents effectively provide BLM complete discretion to use heavy equipment in whitebark pine stands without understanding the effects of that use on whitebark pine.

141. SSS-3.6-CM14, 19 and 20 contain a similar loophole: SSS-3.6-CM14 requires BLM to avoid timber cutting or ground disturbing activities that may damage or kill whitebark pine, but then SSS-3.6-CM19 and 20 provide alternatives if BLM decides it cannot avoid such damage without providing criteria for when such damage cannot be avoided.

142. These loopholes render the Design Features and the Final EA’s analysis of the impacts to whitebark pine meaningless because the actual effects of the Project are

contingent on BLM's standardless determination of the feasibility of avoiding harm to whitebark pine.

143. Accordingly, the Decision Documents have failed to disclose significant information to the public and failed to take a "hard look" at the impacts of the Project to whitebark pine in violation of NEPA and the APA.

#### *Impacts to Pinyon Jay*

144. Pinyon jay are small-medium, all-blue jays that reside throughout the West, including southern Montana. Data from the State of Montana indicates that pinyon jay have been observed in both Beaverhead and Madison Counties.

145. Juniper habitats are essential for pinyon jay. Pinyon jay utilize juniper habitats for seed caching, foraging, and nesting. The best available science has concluded that juniper removal substantially reduced pinyon jay occupancy of these habitats.

146. Over the last 50 years, the pinyon jay population has declined over 80% throughout its range in the West. Destruction of juniper woodlands and climate change are considered major factors in their decline.

147. In February 2023, FWS issued a 90-Day Finding that substantial evidence indicates that listing the pinyon jay may be warranted under the ESA because "certain habitat treatments are potentially having negative effects on pinyon jay occupancy and nesting colony sites[.]" Moreover, the 90-Day Finding concluded

that NEPA, the Migratory Bird Treaty Act, and FWS's Birds of Conservation Concern list, among other regulatory mechanisms, are inadequate to ameliorate the impacts of woodland management on pinyon jays.

148. The State of Montana considers pinyon jays a "species of concern," due to the rapid decline in their population.

149. Plaintiffs' comments requested that BLM analyze the effects of the planned juniper removal on pinyon jay. Plaintiffs attached FWS's 90-day Finding to their comments.

150. Even though the BLM was well-aware of the decline of the pinyon jay and of FWS's finding that ESA listing might be warranted, none of the Decision Documents ever mention pinyon jay, let alone provide a full discussion of the Project's impacts to the pinyon jay, its habitat, or its precipitous decline toward ESA listing.

151. Further, as BLM has not identified the areas it intends to treat, neither BLM nor the public can know whether BLM will implement land-disturbing activities will occur in areas with confirmed pinyon jays or pinyon jay habitat, or whether and how BLM is selecting sites to prioritize important pinyon jay habitat.

152. These omissions demonstrate that BLM has chosen to ignore the relevant data and important aspect of the environmental impacts of the Project. By ignoring the impacts to pinyon jay and its habitat, BLM fails to take a "hard look" at and disclose



the impacts of the Project in violation of NEPA.

*Impacts to Big Game*

153. Big game—including moose, mule deer, antelope, and elk—occupy areas throughout the DFO. Sagebrush grasslands provide yearlong forage and browse for big game, and coniferous forest, juniper woodlands, and sagebrush habitat provide important big game winter habitat, including for hiding and thermal cover.

154. The Dillon RMP characterizes coniferous forest and sagebrush habitats that provide important big game winter habitat as “priority” wildlife habitat.

155. The Dillon RMP requires BLM to “[m]inimize big game displacement by limiting sustained vegetation treatment activities of more than one week in duration (including, but not limited to, broad-scale burning and mechanical treatments) to occur in no more than two adjacent 6th order hydrologic units at a time. These adjoining units would be maintained as disturbance-free as possible during operations.”

156. The Decision Record allows any type of the authorized land-disturbing activity in big game habitat.

157. The Final EA concludes, without citation or other scientific support, that the benefits of increased cover from conifer encroachment into sagebrush are outweighed by the harms of the reduction in herbaceous and shrub forage caused by

conifer encroachment.

158. The Final EA also concludes, without citation or other scientific support, that “[t]he removal of conifers in the proposed treatment units would not appreciably impact winter browse or cover availability for big game.”

159. At the same time, the Decision Documents fail to provide any delineations of big game winter habitat in the DFO and to what extent any authorized activities would occur in that identified habitat.

160. The Decision Documents also fail to analyze the “high up-front conservation costs” of burning sagebrush on big game, including the availability of sagebrush for forage, despite the Final EA’s acknowledgment that sagebrush ecosystem regeneration can take upwards of 30 years and its conclusion that browse availability, especially during the winter, is causing the mule deer population to decline in the DFO.

161. The Decision Documents also fail to incorporate the Dillon RMP’s requirement that BLM limit such “sustained vegetation treatment” activities that will last more than one week to specific areas to minimize big game displacement.

162. These omissions are violations of FLPMA, NEPA, and the APA.

### *Climate Change*

163. Climate change is impacting landscapes throughout the West. It is considered

by BLM and other federal agencies to be a major threat to many of the species present in the DFO, including sage grouse, whitebark pine, and pinyon jay.

164. Forests play a critical role in mitigating the effects of climate change, as they sequester carbon dioxide from the atmosphere.

165. Prescribed fires not only release greenhouse gases into the atmosphere but also remove, for some period of time, a significant carbon sink from the landscape, as does forest thinning. Livestock grazing also is a significant source of carbon dioxide, especially on public lands.

166. However, BLM failed to disclose and analyze how climate change already has affected the Project area, and how it will continue to affect the Project area and the effectiveness of the authorized activities.

167. BLM also eliminated greenhouse gases and climate change from its analysis of the Project's impacts, concluding that while "emissions of greenhouse gases will occur from the proposed vegetative treatments ... emissions would be short-term, temporary, dispersed, and sporadic over several years in which potential impacts to global warming would be low or non-existent."

168. As such, BLM failed to quantify the greenhouse gas emissions of the activities authorized by the Project, in particular its intentional fires, and to analyze the change in carbon storage potential of the treated areas.

169. Accordingly, BLM failed to take a "hard look" at the impacts of climate

change on the Project area, as well as the Project's impacts on greenhouse gas emissions, in violation of NEPA and the APA.

## **CAUSES OF ACTION**

### **COUNT I**

*BLM's failure to disclose sufficient information to the public and take a "hard look" at the impacts of the landscape-altering activities authorized by the Project violates NEPA and the APA.*

170. All previous paragraphs are incorporated by reference.

171. NEPA requires that agencies take a "hard look" at the environmental consequences of its proposed actions before the agency chooses a particular course of action, without favoring a pre-determined outcome.

172. NEPA also requires that relevant information about a Project be made available to the public so that they may play a role in both the decisionmaking and implementation of the Project.

173. BLM provides little specific information about the Project or its impacts. The Final EA does not disclose:

- a. The general or specific locations of any Project activities within the 905,000-acre Project area;
- b. The timeframe for the Project;
- c. The maximum allowable acreage per type of authorized activity in total or per year, despite acknowledging the significant differences in

environmental impacts of certain activities;

- d. Whether its analysis assumes that the maximum annual acreage will be implemented, or something less.

174. Even if BLM disclosed whether its analysis assumed the maximum annual acreage, the anticipated affected acreage is impossible to calculate since the BLM does not provide a timeline for the Project.

175. The Decision Documents state this information will be ascertained and disclosed during the site-specific implementation phase—after the Project has been authorized, and after the public’s opportunity to participate is over. In effect, BLM is applying a form of “condition-based management.”

176. However, without any information about the parameters of the Project, the BLM’s impacts analysis is overly generalized and thus fails to disclose and analyze any localized impacts of this massive Project. This is an improper application of “condition-based management.”

177. Further, BLM’s analysis of the impacts of each type of authorized activity on the environment do not meet the “hard look” standard.

178. As set forth above, BLM collapses its analysis of the impacts of certain types of Project activities by failing to specify how many acres of each it anticipates implementing, despite their materially different environmental effects.

179. BLM also collapses its analysis of the impacts of three distinct methods—

intensive targeted grazing, harrowing, and raking—even though those methods have materially different environmental effects.

180. As set forth above, BLM’s analysis does not rely on the best available science in justifying its selection of different methods, including widespread, indiscriminate burning of sagebrush habitats and intensive targeted grazing.

181. These omissions are collectively and individually violations of NEPA and the APA.

## COUNT II

*BLM’s failure to take a “hard look” at the Project’s impacts on special status species in the DFO violates NEPA and the APA.*

182. All previous paragraphs are incorporated by reference.

183. The Decision Documents fail to acknowledge the presence of pinyon jay in the Project area, let alone analyze the Project’s impacts on the bird, despite scientific evidence before it that demonstrates the Project would impact pinyon jay.

184. The Decision Documents fail to establish a baseline for special status wildlife (including sage grouse, pygmy rabbit, and whitebark pine), big game, and special status plant species, instead deferring the collection of such data across upwards of 11,000 acres per year until after the Project is authorized and public involvement is over. This includes BLM’s failure to disclose and/or collect population and habitat data and delineations.

185. The Decision Documents fail to evaluate the impacts of each type of

authorized activity based on specific habitat types and/or components for special status species (including sage grouse and whitebark pine) and big game.

186. The Decision Documents fail to evaluate the impact of the “high up-front conservation costs” of prescribed fire on sage grouse and big game.

187. The Decision Documents fail to reliably assess the impacts to sage grouse, pygmy rabbits, and whitebark pine, as the mitigation measures implemented through the Design Features are vague and do not contain concrete criteria for implementation.

188. These omissions are collectively and individually violations of NEPA and the APA.

### COUNT III

*BLM’s failure to show that the Project complies with the ARMPA’s requirements for sage grouse is a violation of FLPMA and the APA.*

189. All previous paragraphs are incorporated by reference.

190. As set forth above, there are multiple standards in the ARMPA that require specific analyses of and set restrictions on activities within certain types of sage grouse habitat. The Final EA fails to fully and fairly disclose the relevant standards, the relevant known facts, and the required analysis.

191. Thus, the Final EA fails to take a hard look at the Project’s true impact to sage grouse and sage grouse habitat.

192. BLM’s failure to disclose and demonstrate compliance with the provisions of

the ARMPA in the Final EA violates FLPMA, NEPA, and the APA.

#### COUNT IV

*BLM's failure to show that the Project complies with the Dillon RMP's requirements for protecting big game winter habitat is a violation of FLPMA and the APA.*

193. All previous paragraphs are incorporated by reference.

194. Under FLPMA, an agency's activities must conform with the applicable RMP.

195. As set forth above, the Decision Documents fail to incorporate the Dillon RMP's requirements for protecting big game winter habitat.

196. This omission is a violation of FLPMA and the APA.

#### COUNT V

*BLM's failure to take a "hard look" at the reasonably foreseeable actions in the Project area violates NEPA and the APA.*

197. All previous paragraphs are incorporated by reference.

198. NEPA requires BLM to take a hard look at the reasonably foreseeable actions in and adjacent to a project area.

199. Here, BLM fails to fully disclose and analyze the impacts of its decision when viewed with the past, present, and reasonably foreseeable actions within and adjacent to the Project area. In fact, BLM does not discuss any other projects or relevant activities within and adjacent to the Project area.

200. In particular, BLM did not disclose that conifer trees were removed from at



least 54,314 acres of sagebrush grassland across Madison and Beaverhead counties between 2016 and 2024 to supposedly benefit sage grouse. The U.S. Forest Service disclosed this activity in its Supplemental EA and FONSI for the Forest Service's Greenhorns Vegetation Project in the adjacent Beaverhead-Deerlodge National Forest.

201. BLM also did not disclose that it plans to conduct conifer removal south of Virginia City starting in summer 2026, with prescribed fire expected for spring 2027, across 1,800 acres. The Forest Service disclosed this activity in its Supplemental EA and FONSI for the Greenhorns Vegetation Project.

202. The Forest Service Supplemental EA and FONSI states, "Future BLM projects are proposed adjacent to the Greenhorn Mountains to reduce conifer encroachment." The Decision Documents do not disclose these conifer removal project(s), although Forest Service statements render them reasonably foreseeable.

203. BLM does not discuss the reasonably foreseeable impacts of grazing and grazing infrastructure in the DFO. This includes grazing and infrastructure authorized by permits issued by the BLM – including those authorized as recently as December 2024 in the DFO's Grasshopper Watershed as well as unauthorized grazing.

204. BLM does not discuss the impacts of the U.S. Forest Service's Selway Saginaw Project in the Beaverhead-Deerlodge National Forest. The Selway Saginaw

Project abuts the DFO's western border and involves 2,801 acres of conifer tree removal, 4,181 acres of commercial clearcut logging, 2,156 acres of noncommercial tree-cutting, and more than 80 miles of road construction. The Selway Saginaw Project is likely to adversely affect many of the same species as this Project will affect, including sage grouse and whitebark pine.

205. BLM's failure to disclose and discuss any past, present, and reasonably foreseeable projects and activities in and around the Project area, including those listed here, is a violation of NEPA and the APA.

206. BLM also failed to satisfy its obligations with respect to climate change because it failed to disclose and analyze the reasonably foreseeable effects climate change on the DFO, and the effects of the Project – including widespread prescribed fires – the greenhouse gas emissions and the carbon storage potential of the treated areas.

207. These omissions are collectively and individually violations of NEPA and the APA.

## COUNT VI

*BLM's failure to analyze an alternative reducing or eliminating grazing and/or intensive targeted grazing is a violation of FLPMA, NEPA, and the APA.*

208. All previous paragraphs are incorporated by reference.

209. Under NEPA, an agency must evaluate a reasonable range of alternatives.

210. As stated above, BLM failed to evaluate a reasonable range of alternatives by

rejecting a reduced or no grazing alternative.

211. Its rejection of that alternative was arbitrary and capricious for two reasons.

212. First, while the Final EA states that a reduced or no grazing alternative is not within the Project's scope in part because the Project does not include new water installations, the Final EA later states that new water troughs would be used during intensive targeted grazing.

213. Second, BLM's justification for eliminating a reduced or no-grazing alternative ignores that it refused to consider the same alternative when renewing grazing permits and authorizing additional livestock infrastructure in at least one DFO watershed. By rejecting this alternative in both scenarios, BLM effectively ensures that it will never consider reducing or eliminating livestock, despite acknowledging the well-documented harms grazing causes to rangeland health and wildlife.

214. As stated above, BLM failed to evaluate a reasonable range of alternatives by refusing to consider an alternative that eliminated intensive targeted grazing as an authorized activity.

215. Its rejection of that alternative was arbitrary and capricious because it considered an alternative eliminating two other rangeland "restoration" methods without explaining why it chose those two methods and not others.

216. BLM's rejection of these alternatives without reasoned justification is a

violation of NEPA and the APA.

217. BLM's failure to consider alternatives that reduces or eliminates grazing, or eliminates intensive targeted grazing, also violates FLPMA and the APA, as the ARMPA's standards requires BLM to implement changes in grazing management when livestock management practices are "determined to not be compatible with meeting or making progress towards achievable habitat objectives."

## COUNT VII

*BLM's failure to draft an EIS is a violation of NEPA and the APA.*

218. All previous paragraphs are incorporated by reference.

219. An EIS is required under NEPA to examine all "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(C).

220. An EIS must be prepared if substantial questions are raised whether a project may cause significant degradation of some human environmental factor.

221. An EA's failure to consider crucial factors that are essential to an informed decision of whether to prepare an EIS renders the decision to not issue an EIS arbitrary and capricious.

222. The impacts of the Project are highly uncertain because BLM has not disclosed over how many years it will implement which authorized activities and in what areas or locations across the entire 905,000 acres of the DFO.

223. Further, the impacts of the Project are highly uncertain because BLM has not

established a baseline for many of the resources in the Project area, including special status wildlife and plants, and noxious and invasive vegetation.

224. With only general information about the Project and the current conditions of affected resources, BLM's analysis cannot actually assess the impacts of the Project on the environment. Its impacts, therefore, are highly uncertain.

225. Accordingly, there are substantial questions regarding whether the Project may have significant effects, and BLM's failure to prepare an EIS for the Project violates NEPA and the APA.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs request this Court:

1. Declare the Project violates the law;
2. Vacate the Project decision and/or enjoin implementation of the Project;
3. Require BLM to produce an EIS for the Project;
4. Require BLM to supplement the EA to address the above-described deficiencies, if an EIS is not ordered;
5. Award Plaintiffs their costs, expenses, expert witness fees, and reasonable attorney's fees as authorized by the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other statute; and
6. Grant Plaintiffs any such further relief as may be just, proper, and equitable.

Respectfully submitted this 12th day of January, 2026.

/s/Elizabeth M. Forster  
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/s/Timothy M. Bechtold  
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