

# **GREATER SAGE-GROUSE HABITAT CONSERVATION STRATEGY**

Prepared by

Montana's Greater Sage-grouse Habitat Conservation Advisory Council

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## I. INTRODUCTION

The Greater Sage-Grouse, a prairie species that depends on sagebrush habitat and open lands, has been the subject of significant discussion, litigation, collaboration and debate in the 11 western states that form its range. Montana has managed and regulated Greater Sage-Grouse (hereafter sage-grouse) for well over a century, but habitat loss and sage-grouse population declines in Montana and throughout the birds' range have prompted federal Endangered Species Act (ESA) petitions and litigation that seek to add the sage-grouse to the Endangered Species List.

These legal and procedural processes continue to move forward, and as they do they threaten Montana's ability to manage sage-grouse. The US Fish and Wildlife Service (Service) is cooperating with states – individually and collectively – on habitat conservation plans in advance of a court-ordered September 2015 decision on a potential ESA listing for this species. If the sage-grouse is added to the ESA List, the Service, a federal agency, would replace existing state authority and assume management responsibility for sage-grouse.

History shows loss of sage-grouse habitat and populations has occurred across all land management types, including federal land managed by the Service, Bureau of Land Management (BLM), and U.S. Forest Service. This plan calls on cooperation from federal, state, tribal, and private landowners and managers to conserve and protect sage-grouse.

In 2005, Montana created its first sage-grouse conservation plan, *Management Plan and Conservation Strategies for Sage-Grouse in Montana*. Since then, this plan has guided sage-grouse management in Montana. However, new research and science, coupled with new or expanded potential threats to sage-grouse habitat and populations, have combined with new court decisions to create a need for Montana to update its state sage-grouse conservation plan, policies and actions.

Early in 2013, following efforts in Wyoming and other states with sage-grouse populations, Montana Governor Steve Bullock issued Executive Order 2-2013 (Appendix A), creating a citizen-based Greater Sage-Grouse Habitat Conservation Advisory Council (Advisory Council). This Advisory Council was directed to “gather information, furnish advice, and provide to the Governor recommendations on policies and actions for a state-wide strategy to preclude the need to list the Greater Sage-Grouse under the ESA.” In addition, the 2013 Montana State Legislature overwhelmingly passed HB 580 (Appendix B), legislation that funded the Governor's Advisory Council and supported its purpose to recommend policies and actions for a state wide sage-grouse strategy. Paramount in the Executive Order and the legislation was a directive to the Advisory Council to craft a strategy that will serve to preclude the need to add sage-grouse to the Endangered Species List.

In April 2013, the Governor appointed the 12-member Greater Sage-Grouse Habitat Conservation Advisory Council (Appendix C). Since then the Advisory Council has held nine comprehensive meetings. A full list of Advisory Council meeting agendas, minutes, presentations, documents, and more is available on Montana Fish, Wildlife and Parks (FWP) website at <http://fwp.mt.gov/fishAndWildlife/management/sageGrouse/habitatConservation/>.

### Public Comment

This *Greater Sage-Grouse Habitat Conservation Strategy* forms the basis of recommendations from the Advisory Council to Governor Bullock. The Advisory Council held seven public hearings in Montana in primary sage-grouse areas, and well over 450 people attended the public hearings. During the hearings the draft

strategy was outlined by FWP personnel at the start of the hearing, copies of the strategy were available for the public, and the public had the opportunity to ask questions about the draft strategy or offer opinions on the draft strategy. The public hearings were held at the locations below:

CITY	LOCATION	TIME
Dillon	U of M – Western, Lewis & Clark Room, Mathews Hall	November 13 – 6 – 8 pm
Billings	FWP Region 5 Headquarters	November 18 – 6 – 8 pm
Baker	Senior Citizens Center	November 19 – 1 – 3 pm
Miles City	Miles Community College, James P Lucas Bldg, Rm 106	November 19 – 7 – 9 pm
Glasgow	Cottonwood Inn and Suites	November 20 – 6 – 8 pm
Malta	First State Bank	November 21 – 12 – 2 pm
Lewistown	FWP Lewistown Area Office	November 21 – 6 – 8 pm

In addition, the Advisory Council created a 34-day comment period for the public to offer written comments on the draft strategy. The Advisory Council received close to 380 comments during that period. During a December 18, 2013 video conference and during a January 14-15, 2014 meeting, the Advisory Council reviewed public comment and modified and finalized its recommendations to the Governor. Because the Advisory Council serves to advise the Governor, the Governor will accept, modify or reject the Advisory Council’s recommendations. After finalizing Montana’s sage-grouse strategy and developing an implementation plan, the Governor will submit Montana’s sage-grouse conservation strategy to the Service for its review. After reviewing the strategy, it is anticipated that the Service will notify the Governor about the strategy’s adequacy.

Throughout the Advisory Council’s deliberations, the Service has made it clear that for the Service to consider Montana’s *Greater Sage-Grouse Habitat Conservation Strategy (Montana Strategy)* as an effective mechanism for sage-grouse conservation in their final listing decision, the strategy must pass two critical tests: (1) the Service must have certainty the *Montana Strategy* will be implemented; and (2) once the *Montana Strategy* is implemented, the Service must have certainty the plan will be effective in protecting sage-grouse habitat and conserving sage-grouse populations. This document and Montana’s sage-grouse conservation plan are built upon Montana’s need to successfully address this two-part test.

Readers will note that the report is organized into major sections based on the primary threats facing sage-grouse. First, the main threats identified by the Service are addressed. Second, additional threats identified by the Advisory Council, are addressed. Each section contains a series of recommendations to address identified threats.

Readers will also note that this current Advisory Council ends its duties in early 2014. However, this Advisory Council is recommending that the Governor appoint a new citizen and agency-based working group to oversee sage-grouse conservation in Montana, the Montana Sage-Grouse Oversight Team. With significant amounts of emerging research and other information anticipated to be available in the near future, the Advisory Council believes it is essential that the State of Montana retain a sharp focus on the status of sage-grouse habitat, populations, threats and science. Wyoming has found the use of an established sage-grouse working group particularly effective and valuable in addressing ongoing sage-grouse issues. Montana’s Advisory Council also believes creation of a new citizen and agency-based working group will be helpful in ensuring this *Greater Sage-Grouse Habitat Conservation Strategy* is successfully and effectively implemented now and into the future.

## II. PERFORMANCE STANDARD

As of January 31, 2014, the State of Montana shall adopt a sage-grouse population target based on the number of displaying males. Displaying males are an index to sage-grouse abundance and distribution trends over time. This index to sage-grouse populations will be estimated regularly using a consistent protocol and will serve as a primary metric for quantifying the success or failure of this *Greater Sage-Grouse Habitat Conservation Strategy*. Sage-grouse populations vary naturally over time and across regions, which means numbers of birds counted in a given year or a given area could be higher or lower than average but are still within a sustainable range for the species. Between 2004 and 2013, the average number of displaying males in a given year in Montana ranged from 6.98 – 18.71 males/lek (NOTE: these numbers may change based on an ongoing evaluation of lek monitoring data by FWP). This range shall serve as the baseline for future regular population monitoring and will serve to determine sage-grouse population growth or loss as determined by a statistically-valid analysis over a 10-year period, and will also serve to guide future modifications of the *Montana Strategy* by the Montana Sage-Grouse Oversight Team and other state and federal entities. Deviations from historical or statewide trends in a given region of the state will also be taken into account when evaluating modifications to the *Montana Strategy*.

## III. GENERAL PROVISIONS

Governor Bullock's Greater Sage-Grouse Habitat Conservation Advisory Council recommends the following *Montana Strategy* to address threats to the sage-grouse in Montana. The goal of the *Montana Strategy* is to conserve sage-grouse populations and habitats and to preclude the need to list the bird under the Endangered Species Act. To achieve this goal, the following stipulations were developed to conserve sage-grouse populations and habitats while concurrently achieving substantive economic and social growth. Primary threats that led to the Service's warranted but precluded finding in 2010 include fragmentation and alteration of sagebrush systems, and a lack of regulatory mechanisms to conserve sage-grouse habitat. Specific threats identified by the Service include wildfire, non-native plant species, energy development, sagebrush removal, improper grazing, range management structures, pinyon-juniper expansion, agricultural conversion, mining, recreation, ex-urban development, infrastructure, and fences. Predation and hunting were also identified by the Advisory Council as threats to sage-grouse and are included in this strategy. In its final form, the *Montana Strategy* will be presented to Governor Bullock for consideration as the primary regulatory mechanism to conserve sage-grouse and preclude the need for listing the bird as a threatened or endangered species pursuant to the Endangered Species Act of 1973. The following are general overarching provisions intended to convey how this strategy will be implemented and how agencies will work in concert to achieve effective conservation of sage-grouse in Montana:

1. Management by all Montana state agencies should focus on the maintenance and enhancement of sage-grouse habitats, populations and connectivity areas, including inter-state and international Connectivity Areas, identified in Section IV. Core Areas play a critical role and General Habitat plays an important role in sage-grouse conservation. Because regulatory certainty is important, it is important that scientifically defensible, mapped Core Areas be retained unless substantial and compelling information indicates that boundaries may need to be changed.
2. All valid and existing land uses and rights in sage-grouse Core Areas, Connectivity Areas and General Habitat should be recognized and respected. State trust lands have valid and existing rights and responsibilities under the Enabling Act at Statehood, November 8, 1889.
3. A Montana Stewardship and Conservation Fund will be established to create and fund voluntary and incentive-based non-regulatory conservation programs designed to conserve sagebrush habitat and

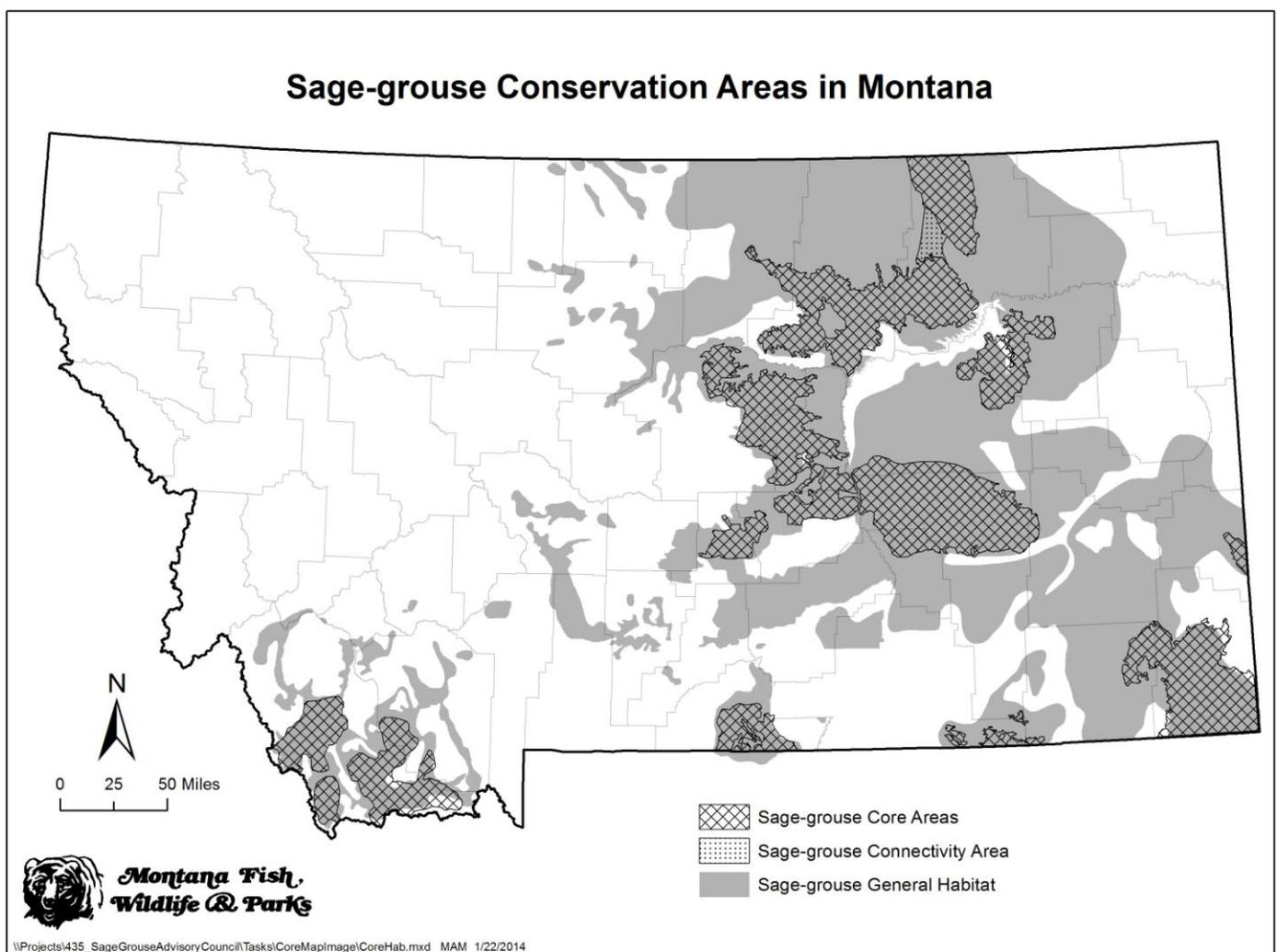
grazing lands within identified sage-grouse Core Areas, Connectivity Areas, and General Habitat areas on private lands (Section V).

4. The Governor shall direct and prioritize an appropriate amount of all state funds available for conservation of habitats for protection, enhancement, and restoration of sage-grouse habitat in Core Areas, Connectivity Areas, and General Habitat.
5. Activities conducted pursuant to a permit or permit application prior to January 31, 2014 will not be managed under the stipulations found in this strategy. Examples of existing activities include oil and gas, mining, agriculture, overhead power lines, processing facilities, housing and other uses that were in place prior to the development of this policy. Provided these activities are within a defined project boundary (such as a recognized state or federal oil and gas unit, drilling and spacing unit, mine plan, subdivision plat, etc.) they should be allowed to continue within the existing boundary, even if the use exceeds recommended stipulations (see Section VI), recognizing that all applicable state and federal actions shall continue. New development associated with existing activities may be subject to these stipulations (Section VI).
6. This strategy in no way adds or expands the review or approval authority of any state agency. Section VIII contains a list of land uses and landowner activities that do not require review for consistency.
7. New development or land uses requiring a permit or other authorizations within sage-grouse Core Areas should be authorized or conducted only when it can be reasonably demonstrated that the activity (factoring in mitigation) will not cause declines in sage-grouse populations. Activities that exceed recommended stipulations may require compensatory mitigation (Section VIII).
8. Development consistent with the stipulations set forth in Section VI shall be deemed sufficient to demonstrate that the activity will not cause declines in sage-grouse populations.
9. Core and Connectivity Areas and General Habitat will receive priority by state agencies for all sage-grouse funding, land management agreements (including Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances), habitat enhancement projects, reclamation efforts, mapping projects, and other associated proactive efforts designed to assure viability of sage-grouse in Montana.
10. Incentives to accelerate or enhance reclamation in habitats in and adjacent to Core and Connectivity Areas and General Habitat should be developed, including but not limited to stipulation waivers, funding for enhanced reclamation, and other strategies. Any incentives developed will result in net benefit to and not cause declines in sage-grouse populations.
11. Immediate suppression of wildfire in Core and Connectivity Areas and General Habitat will be prioritized by all fire-fighting units under the jurisdiction of the state, recognizing that other local, regional, and national suppression priorities may take precedent. Coordination among all fire-fighting units, including federal, state, regional, and local units, is necessary to implement fire prevention, suppression, and rehabilitation management as detailed in Section X. However, public and firefighter safety remains the number one priority for all fire management activities. Reclamation and restoration of sage-grouse habitat burned by wildfire will be a primary mitigation opportunity under this plan.
12. State agencies shall work collaboratively and in cooperation with federal and local governments and private landowners to ensure a uniform and consistent application of this strategy to maintain and enhance sage-grouse habitats and populations.
13. A Montana Sage-grouse Oversight Team (MSGOT) will be established (Section XI). This body will be responsible for providing oversight for the implementation of Montana's *Greater Sage-grouse Habitat Conservation Strategy*.
14. State agencies shall strive to maintain consistency with the items outlined in this strategy, but it should be recognized that adjustments to the stipulations may be necessary based upon local conditions and limitations. Any adjustments to these stipulations must be recommended for approval by the MSGOT

and subsequently approved by the appropriate agency. The goal is to minimize future disturbance by co-locating proposed disturbances within areas already disturbed or naturally unsuitable.

15. The protective stipulations outlined in this Strategy should be reevaluated on a continuous basis and at a minimum annually, as new science, information, and data emerge regarding the habitats and behaviors of sage-grouse.
16. The State of Montana will implement a policy of yearly surveys of sage-grouse and leks statewide using biologists, wardens, and applicable public.
17. The State of Montana shall commit funding for the implementation of this Strategy as described in Section XI). This Strategy supersedes the 2005 *Management Plan and Conservation Strategies for Sage-grouse in Montana – Final*.
18. State agencies shall report to the Office of the Governor, Montana Environmental Quality Council, State Land Board, and Montana Fish and Wildlife Commission detailing their actions to comply with this Strategy.

#### IV. SAGE-GROUSE CONSERVATION AREAS



Geographic Information System layers of Montana’s Greater Sage-Grouse Conservation Areas are available from Montana Fish, Wildlife and Parks upon request.

- A. Core Areas** – areas of highest conservation value for sage-grouse. Core Areas were delineated by Montana Fish, Wildlife and Parks (FWP) in cooperation with federal and non-governmental partners to encompass the areas with the greatest number of displaying males and associated habitat. FWP estimates the Core Areas include approximately 76% of the displaying males in Montana, as of 2013. Male counts at lek sites are assumed to represent the overall sage-grouse population.
- B. General Habitat** – areas that provide habitat for sage-grouse in Montana but are not considered Core Areas.
- C. Connectivity Areas** – areas that provide important linkages among populations of sage-grouse, particularly between Core Areas or priority populations in adjacent states and across international borders. Additional Connectivity Areas may be mapped when more information becomes available.

## V. MONTANA STEWARDSHIP AND CONSERVATION FUND

Approximately 64% of sage-grouse habitat in Montana is in private ownership. The ongoing stewardship of private landowners is critical to successful conservation of sage-grouse habitat and providing additional opportunities to support land stewardship is fundamental to this strategy. The Advisory Council recommends the creation of the Montana Stewardship and Conservation Fund (Fund) to provide immediate and ongoing annual funding to:

- 1) Conserve sage-grouse habitat and populations until sage-grouse populations are stable and the sage-grouse is no longer vulnerable to an Endangered Species Act listing.
- 2) Create and fund voluntary and incentive-based non-regulatory conservation programs on private land.
- 3) Conserve key wildlife connectivity areas to help diminish potential future ESA listings of other species.
- 4) Target appropriate funding to conserve riparian and wetland areas to help diminish potential future ESA listings.
- 5) Improve habitat health to reduce threat of catastrophic fire, including projects designed to address conifer encroachment and invasive species.
- 6) Promote and support mitigation and conservation plans and measures. Funds cannot be used directly for compensatory mitigation but can be used to leverage existing compensatory mitigation projects to maximize sage-grouse conservation benefit.

In addition, this Fund would:

- 1) Be housed in the Montana Department of Natural Resources and Conservation.
- 2) Be managed by a citizen's board (with legislative representation) that would have authority to award funding through a competitive grant process to entities based on Fund guidelines, legislative intent, rule-making, and other specific provisions.
- 3) Allow entities such as watershed groups, conservation districts, nonprofit organizations, state agencies, and others to be eligible for grant funding.
- 4) Be used as a matching source of funds to ensure that Fund dollars are maximized for on-the-ground projects. The Fund could be used as match for mitigation programs, federal programs, private donations, other state programs, and more.
- 5) Be part of the governor's budget submission in late 2014 with a defined and identified dollar amount contained within the budget. The Advisory Council recommends funding for the *Montana Strategy* in the Governor's budget. To ensure transparency, the Fund would regularly report to the

## VI. STIPULATIONS FOR DEVELOPMENT

The goal of this Strategy is to conserve sage-grouse populations and habitats and to preclude the need to list the bird under the Endangered Species Act. To achieve this goal, the following stipulations were developed to conserve sage-grouse populations and habitats while concurrently achieving substantive economic and social growth. New development projects in sage-grouse Core Areas that require any state or federal permits will be required to follow the permitting process and stipulations outlined below. Development projects in sage-grouse Connectivity Areas and General Habitat may also be required to follow certain stipulations (see below). Activities exempt from these stipulations can be found in Section VIII. The permitting entity (e.g., Bureau of Land Management, Department of Environmental Quality) will have ultimate responsibility for compliance with these stipulations.

### a) Core Area Stipulations

#### i. Core Area – Basic Stipulations

The stipulations in this section apply to all new activities in Core Areas with the exception of exempt activities defined in Section VIII. Additional stipulations that apply to specific industries and activities are described in Section VI.a.ii. Where there is a conflict between the basic and the specific stipulations for any given activity, the more specific will apply.

Sage-grouse Core Areas have been designated as areas of highest conservation priority. These stipulations are designed to maintain existing suitable sage-grouse habitat by regulating activities in Core Areas to ensure the maintenance of sage-grouse abundance and distribution in Montana.

1. **Sequence of Decisions for Surface Disturbance Activities:** State-approved projects that result in more than minimal adverse impacts to sage-grouse and/or their habitat will follow the following sequence of decisions:
  - a. **Avoid Impacts.** The best way to protect sage-grouse habitat is to avoid impacts that fragment or otherwise damage or destroy sage-grouse habitat. To accomplish this, project developers should consider alternative locations for their project located outside sage-grouse habitat (i.e., consider locations outside Core Areas, outside suitable habitat, and/or in areas already considered disturbed). To meet this provision, the project developer needs to show authorizing agencies rationale as to why a given proposed surface disturbance in sage-grouse habitat is unavoidable.
  - b. **Minimize the Size of the Impact.** If impacts to sagebrush habitat cannot be avoided, they should be minimized by limiting the magnitude of the proposed surface disturbance. Reducing impacts can preserve at least portions of the habitats' important functions, including limiting fragmentation. Impacts can be minimized by reducing the project footprint, constructing fewer structures, clustering features, shifting the development pattern to use topographical screening, timing restrictions, or similar measures. In order to meet this requirement, the project developer should be able to show that the project minimizes the impact to sage-grouse habitat, while continuing to meet the purpose of the development.

- c. **Compensation for Impacts.** If project impacts are unavoidable and Core Area stipulations cannot be met, mitigation measures shall be required, following the Mitigation Framework outlined in Section IX.<sup>1</sup> Mitigation can include enhanced reclamation.
2. **Surface Occupancy Active Leaks:** There will be a No Surface Occupancy (NSO) buffer within 1.0 mile of active sage-grouse leks within Core Areas. NSO, as used in these recommendations, means no surface facilities, including roads, shall be placed within the NSO area. Other activities may be authorized with the application of appropriate seasonal stipulations, provided the resources protected by the NSO are not adversely affected. For example, underground utilities may be permissible if installation is completed outside applicable seasonal stipulation periods and significant resource damage does not occur. Similarly, geophysical exploration may be permissible in accordance with seasonal stipulations. See Appendix D for the definition of an active lek.
3. **Surface Disturbance:** Surface disturbance will be limited to an average of 5% of suitable sage-grouse habitat within the Density and Disturbance Calculation Tool (DDCT) examination area (or other suitable term for Montana’s density and disturbance analysis process; see Appendix E). The calculation method for this disturbance density will follow Wyoming’s DDCT process that is described in Appendix E. The calculation of total percent disturbance will include:
  - a. All existing disturbance (anthropogenic);
  - b. Authorized but yet to be implemented activities; and
  - c. Proposed activities;but will not include areas that are naturally unsuitable for sage-grouse (e.g., bodies of water). A definition of unsuitable habitat is provided in Appendix D. Distribution of proposed disturbance may be considered and approved on a case-by-case basis with a goal of consolidating disturbance. Unsuitable and disturbed habitat should be identified in a seasonal and landscape context, on a case-by-case basis, outside the NSO buffer around leks. This will incentivize proponents to locate projects, where technically feasible, in unsuitable and disturbed habitat to avoid creating additional disturbance acres. Acres of development in unsuitable habitat are not considered disturbance acres. The primary focus should be on protection of undisturbed suitable habitats and protection from habitat fragmentation. See Appendix D for a description of suitable habitat and surface disturbance.
4. **Seasonal Use:** As authorized by permitting agency or agencies, activities (production, maintenance, and emergency activity exempted) will typically be prohibited from March 15 – July 15 outside of the NSO perimeter of an active lek in Core Areas where breeding, nesting, and early brood-rearing habitat is present. Allowed maintenance and production activity will not occur between the hours of 4:00 - 8:00 am and 7:00 - 10:00 pm between March 15 – July 15. In areas used as winter concentration areas, exploration and development activity will be prohibited December 1 – March 15. Activities may be allowed during seasonal closure periods as determined on a case-by-case basis. Activities in unsuitable habitat also may be approved year round on a case-by-case basis.
5. **Noise:** New noise levels, at the perimeter of a lek, should not exceed 40 dBA above ambient noise (existing activity included) from 6:00 pm - 8:00 am during the breeding season (March 15 – July 15) with the exception of those sites identified under Special Management Core Areas.<sup>2</sup> Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise. The MSGOT should follow Wyoming’s review and litigation discussion of this stipulation and amend the strategy accordingly.

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<sup>1</sup> A Minority Committee Report has been written for the Compensation for Impacts stipulation, see Appendix H.

<sup>2</sup> A Minority Committee Report has been written for the Noise stipulation, see Appendix H.

6. **Vegetation Removal:** Vegetation removal as part of permitted activities will be limited to the minimum disturbance required by the project. All topsoil stripping and vegetation removal in suitable habitat will occur between July 16 – March 14 in areas that are within 4.0 miles of an active lek. Disturbance in unsuitable habitat between March 15 and July 15 may be approved on a case-by-case basis.
7. **Reclamation:** Reclamation should re-establish native grasses, forbs, and shrubs during interim and final reclamation. The goal of reclamation is to achieve cover, species composition, and life form diversity commensurate with the surrounding plant community or desired ecological condition to benefit sage-grouse and replace or enhance sage-grouse habitat to the degree that environmental conditions allow. Seed mixes should include at least two native forbs and two native grasses with at least one native bunchgrass species. Where sagebrush establishment is prescribed, establishment is defined as meeting the standard prescribed in the individual reclamation plan. Landowners should be consulted on the desired plant mix on private lands. The operator is required to control noxious and invasive plant species, especially cheatgrass (*Bromus tectorum*) and Japanese brome (*Bromus japonicus*).
8. **Existing Activities:** Areas already disturbed or approved for development within Core Areas prior to January 31, 2014 are not subject to new sage-grouse stipulations with the exception that existing operations may not initiate activities resulting in new surface occupancy within 1.0 mile of an active sage-grouse lek. Any existing disturbance will be counted toward the calculated disturbance cap for a new proposed activity. The level of disturbance for existing activities may exceed 5%.

## ii. Core Area - Specific Stipulations

The stipulations in this section apply to specific activities and/or industries. They should be followed in addition to the basic stipulations described above. Where there is a conflict between the basic and the specific stipulations for any given activity, the more specific will apply.

1. **Transportation:** Locate main roads used to transport production and/or waste products a minimum of 2.0 miles from the perimeter of active sage-grouse leks. Locate other roads used to provide facility site access and maintenance a minimum of 1.0 mile from the perimeter of active sage-grouse leks. Construct roads to minimum design standards needed for production activities.
2. **Pipelines:** Bury pipelines and restore disturbed area with native plant species that are compatible with the surrounding ecological site conditions. Co-locate pipelines with roads, transmission lines, and other linear features when possible. Compensatory mitigation for temporary loss of habitat will be required by the applicable permitting agency.
3. **Overhead Power lines and Communication Towers:** Locate new overhead power lines and communication towers a minimum of 1.0 mile from the perimeter of active sage-grouse leks. Use topographic screening and bury lower voltage transmission lines where economically feasible. Follow the Service's Best Management Practices for tall structures when erecting new communication towers. Burying of local distribution lines should be encouraged where economically feasible. Co-locate all new power lines with roads, existing power lines, or other linear features, when possible. Burying existing overhead lines that have been identified as contributing to a decline in sage-grouse populations will be considered as a mitigation option. Anti-collision measures should be installed within 1.0 mile of the perimeter of known sage-grouse concentration areas such as leks, winter ranges, etc. where icing conditions are unlikely to occur. Raptor-proofing poles is encouraged when proven effective. Industry and their suppliers are encouraged to continue efforts to develop effective perch preventers. If effective perch preventers are identified, they should be installed within 1.0 mile of known concentration areas such as leks, winter ranges, etc. Electric utilities, including electric cooperatives, are working with the Avian Power Line Interaction Committee (APLIC), which includes

federal agencies (including the Service and BLM), and state wildlife agencies (including FWP) to develop a set of Best Management Practices (BMPs) to guide construction, operation, and maintenance activities in sage-grouse habitats. This document will not be completed until after the Advisory Council submits their recommendations to the Governor. Until the BMP document is reviewed and approved by the Service, BLM, and other appropriate state and federal agencies, it will be referenced as “Best Management Practices for Electric Utilities in Sage-Grouse Habitat”. It will be added to the Montana *Greater Sage-grouse Habitat Conservation Strategy* when the BMP document is finalized.

4. **Oil and Gas Development:** Well pad densities are not to exceed an average of one pad per square mile (640 acres) within the DDCT examination area (or other suitable term for Montana’s density and disturbance analysis process; see Appendix E). As an example, the number of well pads within a 2.0 mile radius of the perimeter of an active sage-grouse lek should not exceed 11, distributed preferably in a clumped pattern in one general direction from the lek.
5. **Coal Mining:** Conservation measures will be developed for and imposed on coal mining operations on a case-by-case basis via the terms and conditions included in permits issued by the Montana Department of Environmental Quality (MDEQ) under the authority of the Montana Strip and Underground Mine Reclamation Act (MSUMRA), and in compliance with the federal Surface Mining Control and Reclamation Act (SMCRA). The Administrative Rule components of the MSUMRA can be accessed at <http://www.deq.mt.gov/wqinfo/Laws/StripMiningReclamatio.mcp.x>. The associated coal permitting rules and standard of the Montana Department of Environmental Quality can be accessed at <http://.deq.mt.gov/CoalUranium/Coalpermitting.mcp.x>. Links to SMCRA and the enabling components of the Code of the Federal Regulations can be found at <http://www.osmre.gov/lrg.shtm>.
  - a. Coal mining will first try to avoid operating in sage-grouse habitat.
  - b. To avoid potentially significant impacts to sage-grouse, coal companies will delineate the area that will be disturbed. They will report baseline vegetation surveys of the permit area, four season sage-grouse baseline surveys of the permit area and periphery, along with population density and habitat delineations. They will show pre-mine land use conditions, capacity, productivity, and history (per ARM 17.24.304). The sage-grouse plan (per ARM 17.24.312) will include:
    - i. An operations plan (per ARM 17.24.308) that includes a plan to prevent the establishment of, or to effect the control of, noxious weeds (including cheatgrass and Japanese brome) in the proposed permit/amendment area.
    - ii. A sage-grouse plan (per ARM 17.24.312) will include:
      1. A plan to minimize disturbances and impacts on sage-grouse and related environmental values during mining and reclamation;
      2. Details on how enhancement of sage-grouse values will be achieved;
      3. Descriptions of sage-grouse enhancement features to be established; and
      4. Statements of impact control measures, management techniques, and annual monitoring methods to protect or enhance sage-grouse or habitats identified through the consultation process as important and/or high value.
    - iii. A reclamation plan to reclaim mined area back to suitable habitat (per ARM 17.24.313) will include:
      1. The proposed post-mining land use;
      2. A timetable for each reclamation step;
      3. A map of the proposed post-mining topography;

4. Demonstration that the post-mining topography can be achieved;
  5. Details on reestablishment of hydrologic balance;
  6. Details on topsoil salvage, protection, and replacement methods;
  7. A narrative on the details of the revegetation methods to be applied;
  8. Details on the reclaimed vegetation monitoring to be conducted; and
  9. Mine and reclamation plan reviews by the Service relative to threatened, endangered, and candidate species through Section 7 consultation processes.
- iv. The establishment of vegetation to protect sage-grouse (per ARM 17.24.711) will require that:
1. Vegetation must be reestablished on the disturbed areas and it must be diverse, effective, and permanent;
  2. Vegetation cover must be comprised of native species or approved alternatives and be compatible with post-mine land uses;
  3. Reclamation vegetation must be equivalent in cover to natural vegetation and be capable of self-regeneration and plant succession;
  4. There is compliance with noxious weed restrictions; and
  5. For sage-grouse habitat, shrubs must be established to achieve cover and stocking rates as approved by MDEQ after consultation and approval by FWP.
- v. Shrub species (per ARM 17.24.717) must be adapted to local conditions and meet the post-mining land use.
- vi. Monitoring (per ARM 17.24.723) requirements include:
1. Periodic vegetation, soils, and wildlife monitoring with coverage and frequency as approved by MDEQ; and
  2. Submittal of detailed monitoring reports to MDEQ.

If monitoring data indicates corrective measures are needed, then adaptive management practices need to be applied.

The requirements for monitoring shall terminate at the same time that the MDEQ has determined that phase III reclamation, as defined in ARM 17.24.1116(6)(c), has been completed

- vii. Revegetation success criteria (per ARM 17.24.724) requirements include:
1. Determination of success will be via comparison to un-mined reference areas or through approved technical standards.
- viii. Vegetation measurement (per ARM 17.24.726) requirements include:
1. Use of MDEQ-approved methods;
  2. Demonstration of equivalent production, cover, and density per MDEQ-approved standards;
  3. Minimum shrub density standards; and

4. Demonstration of compliance with noxious weed restrictions.

6. **Bentonite, Scoria, Peat, and Sand and Gravel Mining**<sup>3</sup>: Conservation measures will be developed for and imposed on opencut mining operations on a case-by-case basis via the terms and conditions included in permits issued by the Montana DEQ under the authority of the Montana Opencut Mining Act (83-4-401, Montana Code Annotated (MCA)), which can be accessed at <http://deq.mt.gov/opencut/forms/2013-Title82Chapter4Part4.pdf>.
- a. Opencut mining operations will first try to avoid operating in sage-grouse habitat.
  - b. To avoid potentially significant impacts to sage-grouse, opencut mining companies will delineate the area that will be disturbed. They will report baseline vegetation surveys of the permit area, four season sage-grouse baseline surveys of the permit area and periphery, along with population density and habitat delineations (Per ARM 17.24.222). They will show pre-mine land use conditions, capacity, productivity, and history (per ARM 17.24.217). The sage-grouse plan will include:
    - i. An operations plan (per ARM 17.24.218 and 219) that includes a plan to prevent the establishment of, or to effect the control of, noxious weeds (including cheatgrass and Japanese brome) in the proposed permit/amendment area.
    - ii. A sage-grouse plan (per ARM 17.24.219) will include:
      1. A plan to minimize disturbances and impacts on sage-grouse and related environmental values during mining and reclamation;
      2. Details on how enhancement of sage-grouse values will be achieved;
      3. Descriptions of sage-grouse enhancement features that will be established; and
      4. Statements of impact control measures, management techniques, and annual monitoring methods to protect or enhance sage-grouse or habitats identified through the consultation process as important and/or high value
    - iii. A reclamation plan (per ARM 17.24.219) to reclaim mined area back to suitable habitat will include:
      1. The proposed post-mining land use;
      2. Timetable for each reclamation step;
      3. A map of the proposed post-mining topography;
      4. Demonstration that the post-mining topography can be achieved;
      5. Details on reestablishment of hydrologic balance;
      6. Details on topsoil salvage, protection, and replacement methods;
      7. A narrative on the details of the revegetation methods to be applied;
      8. Details on the reclaimed vegetation monitoring to be conducted; and
      9. Mine and reclamation plan reviews by the Service relative to threatened, endangered, and candidate species through Section 7 consultation processes.
    - iv. The establishment of vegetation to protect sage-grouse (per ARM 17.24.219) will require that:

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<sup>3</sup> A Minority Committee Report has been written for the Bentonite, Scoria, Peat, and Sand and Gravel Mining stipulation, see Appendix H.

1. Vegetation must be reestablished on the disturbed areas and it must be diverse, effective and permanent;
  2. Vegetation cover must be comprised of native species or approved alternatives and be compatible with post-mine land uses;
  3. Reclamation vegetation to be equivalent in cover to natural vegetation and be capable of self-regeneration and plant succession;
  4. There is compliance with noxious weed restrictions; and
  5. For sage-grouse habitat, shrubs must be established to achieve cover and stocking rates as approved by MDEQ after consultation and approval by FWP.
- v. Shrub species (per ARM 17.24.219) must be adapted to local conditions and meet the post-mining land use.
- vi. Monitoring (per ARM 17.24.219) requirements include:
1. Periodic vegetation, soils, and wildlife monitoring with coverage and frequency as approved by MDEQ; and
  2. Submittal of detailed monitoring reports to MDEQ

If monitoring data indicates corrective measures are needed, then adaptive management practices need to be applied.

The requirements for monitoring shall terminate upon bond release (per ARM 17.24.203)

- vii. Revegetation success criteria (per ARM 17.24.219) requirements will include:
1. Success to be determined via comparison to un-mined reference areas or through approved technical standards.
- viii. Vegetation measurements (per ARM 17.24.219) requirements include:
1. Use of MDEQ-approved methods;
  2. Demonstration of equivalent production, cover, and density per MDEQ-approved standards;
  3. Minimum shrub density standards; and
  4. Demonstration of compliance with noxious weed restrictions.

## 7. Other Mining:

- a. For development drilling or ore body delineation drilling on tight centers (approximately 50' x 50'), the disturbance area will be delineated by the external limits of the development area. Assuming a more widely-spaced disturbance pattern, the actual footprint will be considered the disturbance area.
- b. Sage-grouse monitoring results will be reported in the mine permit annual report. This document will be given to FWP and the regulating body. Pre-disturbance surveys will be conducted as required by the appropriate regulatory agency.
- c. The number of active mining development areas (e.g., operating equipment and significant human activity) is not to exceed an average of one project per square mile (640 acres).

- d. Surface disturbance and surface occupancy stipulations will be waived within the Core Area when implementing underground mining practices that are necessary to protect the health, welfare, and safety of miners, mine employees, contractors, and the general public. The mining practices include but are not limited to bore holes or shafts necessary to: 1) provide adequate oxygen to an underground mine; 2) supply inert gases or other substances to prevent, treat, or suppress combustion or mine fires; 3) inject mine roof stabilizing substances; and 4) remove methane from mining areas. Any surface disturbance or surface occupancy necessary to access the sites to implement these mining practices will also be exempt from any stipulation.
  - e. Mining permits will include requirements for mitigation that enhances or promotes genetic diversity, critical habitat, connectivity, and population viability.
8. **Wind Energy:** Wind energy development will be excluded from sage-grouse Core Areas. This provision will be reevaluated on a continuous basis as new science, information, and data emerges.
  9. **Sagebrush Treatments:** Sagebrush eradication and treatment programs aimed at reducing or eliminating sagebrush will be prohibited on state and discouraged on private lands unless those treatments are approved by MSGOT and can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat. Sagebrush treatments are considered disturbance and will contribute to the 5% disturbance factor. Sagebrush treatments that have been approved by MSGOT will not contribute to the 5% disturbance factor. Sagebrush canopy cover should be maintained at present levels. Treatments to enhance sagebrush-grassland will be evaluated based upon the existing habitat quality and the functional level post-treatment. Restored sagebrush grassland habitats that provide effective cover and food for sage-grouse should be recognized as part of the habitat base; this provision serves as an incentive for restoring and protecting converted habitats. For government agencies managing sagebrush in Core Areas, there should be a “no net conifer expansion” policy adopted, with criteria for approve waivers. This policy can be enacted through management plans and their implementation; stipulations in permits, leases, and licenses; and similar mechanisms. Conifer removal in sage-grouse Core Areas should be done manually, unless other methods can be shown to remove conifers without significantly impacting sagebrush. Where conifer encroachment is an issue near leks, land managers should ensure that all conifers are removed within at least 0.6 miles (1,000 meters) of leks.
  10. **Conversion to Cropland Agriculture:** The Advisory Council recommends that the Montana Board of Land Commissioners enact a prohibition of conversion of native range to cropland on state land in Core Areas, with criteria for approved waivers. If enacted, prohibition details and criteria for approved waivers will be incorporated in to the *Montana Strategy* as an Addendum. The Advisory Council also requests that federal agencies prohibit the conversion of native range to cropland on lands that they control surface rights. State and federal agencies are also encouraged to work cooperatively with Tribal governments to adopt policies that prevent conversion of sage-grouse habitat to agricultural cropland.
  11. **Range Management:** Rangelands on state lands will be managed in accordance with the recommendations in Section X.a, whenever possible, taking into consideration the existing management practices of the lessee on surrounding non-state lands. State agencies are encouraged to collaborate with federal agencies and private landowners to craft grazing management plans that adhere to the concepts included in this document.
  12. **Wildfire and Prescribed Fire:** Immediate suppression of wildfire in Core Areas will be prioritized by all fire-fighting units under the jurisdiction of the state. Prescribed burns will be prohibited in sagebrush habitat in Core Areas unless those prescribed burns are approved by MSGOT and can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat. Although lands burned by

wildfire are excluded from the disturbance cap, these lands require a management plan resulting in a trend to reestablish functional sage-grouse habitat as soon as possible. Burnouts, backfires, and all other public safety measures are appropriate for fighting wildfires.

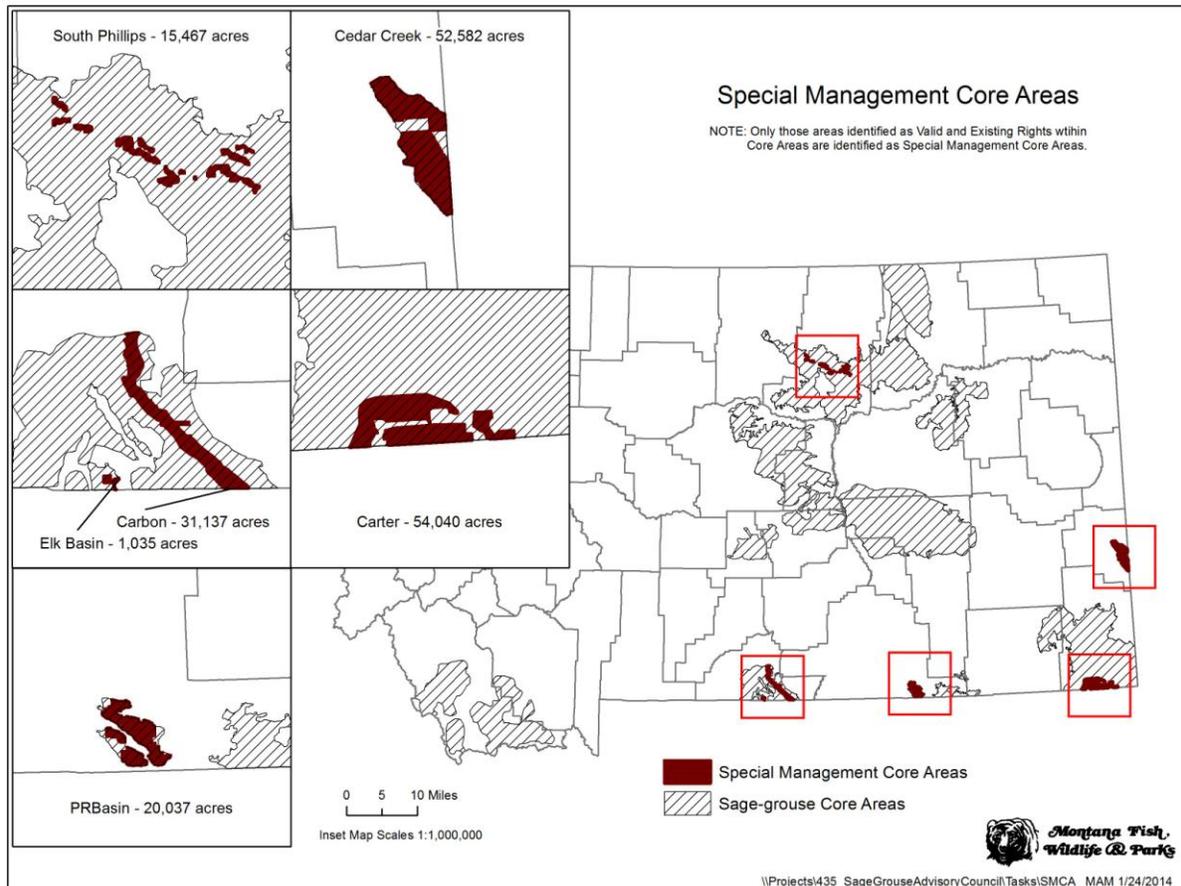
13. **Monitoring/Adaptive Response:** For all activities allowed in Core Areas, sage-grouse monitoring will be conducted to evaluate the response of active leks within 4.0 miles of the project footprint to permitted activity, excluding underground utilities such as pipelines and buried utility lines. Monitoring plans submitted by project proponents will be coordinated and modified by the permitting agency with input from FWP. Monitoring will include the evaluation of affected leks and at least three reference leks (one control area) located a minimum of more than 4 miles from the disturbance. If declines in affected leks (using a three-year running average during any five-year period relative to trends on reference leks) are determined to be caused by the project, the operator will propose adaptive management responses to increase the number of sage-grouse. If the operator cannot demonstrate a restoration of sage-grouse numbers to baseline levels (established by pre-disturbance surveys, reference surveys, and taking into account regional and statewide trends) within three years, operations will cease until such numbers are achieved. However, in the interim, the operator, permitting agency, FWP, and the MSGOT will create additional adaptive management efforts to restore sage-grouse population numbers and baseline numbers, as well as restore project operations. Natural occurrences and their effects on sage-grouse and sagebrush habitat will be considered in all cases.
14. **Exceptions:** Any exceptions to these stipulations will be considered on a case-by-case basis and must show that the exceptions are not expected to cause declines in sage-grouse populations. Operations necessary to provide essential services like delivery of electricity will be excluded from requirements to cease activity if it is shown to have caused a decline in sage-grouse after three years. Any departures from these stipulations must be recommended for approval by MSGOT and subsequently approved by the appropriate agency.

## b) Special Management Core Areas

Special Management Core Areas (SMCA) are defined as a subset of Core Areas in which special consideration has been given to valid existing rights and the fact that it is recognized that existing and planned development in these areas cannot be implemented within the constraints outlined in this document. SMCAs are as follows:

Location	Resource <sup>4</sup>	Acres
Cedar Creek Anticline	Oil and gas, wind	62,857
Carter County	Bentonite	54,039
Powder River Basin	Coal	20,653
Carbon County	Bentonite	31,110
Elk Basin	Oil and gas	1,035
South Phillips County	Bentonite	15,466

<sup>4</sup> Documentation of valid existing rights for these SMCAs will be provided to the Governor's office.



Each developer (those with the valid, existing rights) in a SMCA shall develop a conservation plan in cooperation with FWP. All applicable Core Area stipulations will apply to the SMCA until the conservation plan has been recommended for approval by MSGOT and subsequently approved by the appropriate agency. The conservation plan will follow the mitigation framework outlined in Section IX that will include a noise abatement stipulation, and will also include a strategy for restoration/reclamation within the Core Area, which results in a long-term reduction in surface disturbance. In addition, conservation plans must have a monitoring component using peer-reviewed scientific methods that is designed to monitor sage-grouse populations, the impact of development, and restoration efforts on sage-grouse populations, and provide feedback if adjustments are needed in the conservation plan to reduce impacts on sage-grouse populations. The mitigation plan will also include plans for off-set mitigation. The conservation goal of these areas is to maintain and restore seasonal sage-grouse habitats that support viable sage-grouse populations. As industrial activities subside, these populations are expected to expand into vacant functional habitats.

1. Petitions may be submitted to MSGOT to create a new SMCA. The petition shall contain a geographic description of the area proposed to be created and a detailed description of the number and location of the sage-grouse lek(s) within the area. The petition must also contain an evaluation of how the creation of the proposed SMCA would impact the Core Area function relative to the sage-grouse. The petition must also contain an explanation of the rationale for the creation of the SMCA. In evaluating whether to recommend approval of the creation of the new SMCA, the MSGOT shall consider how the creation of a SMCA will impact the habitat and population of sage-grouse both within the Core Area and on a statewide basis. The petition must include a proposal for off-set mitigation.
2. Petitions may be made to MSGOT for additional SMCA designation, but in no case will SMCA total acreage encapsulate more than 3% of the state's sage-grouse Core Areas. In addition, the Advisory

Council recommends that the MSGOT develop a population threshold that cannot be exceeded within SMCAs (i.e., the population of sage-grouse impacted by all SMCAs may not exceed a specific population, measured by the number and size of leks impacted or a similar population metric).

3. The MSGOT must develop a process where designated SMCAs can be reclassified as Core Areas. This process should be based on metrics measuring the quantity and quality of sage-grouse habitat restored and/or reclaimed, as well as the documented use of that habitat by sage-grouse.

### c) General Habitat Stipulations

General sage-grouse habitats are areas that provide sage-grouse nesting, brood-rearing and wintering habitat but are not identified as Core Areas. General Habitat was mapped by FWP biologists using lek locations, telemetry, and other available data. The health of General Habitat areas is a critical element in the effort to maintain the abundance and distribution of sage-grouse in Montana. Development scenarios in General Habitat are more flexible than in Core Areas, but should still be designed and managed to maintain populations, habitats, and essential migration routes. The goal in General Habitat is to maintain habitat conditions by implementing appropriate management practices that minimize sagebrush loss and disturbance. Applicable standard and sage-grouse management practices should be applied to development within both Core Areas and General Habitat to achieve the goals of this conservation strategy (Section X). In all General Habitat areas, the following stipulations apply:

1. **Sequence of Decisions for Surface Disturbance Activities:** State-approved projects that result in more than minimal adverse impacts to sage-grouse and/or their habitat will follow the following sequence of decisions:
  - a. **Avoid Impacts.** The best way to protect sage-grouse habitat is to avoid impacts that fragment or otherwise damage or destroy sage-grouse habitat. To accomplish this, project developers should consider alternative locations for their project located outside sage-grouse habitat (i.e., consider locations outside General Habitat, outside suitable habitat, and/or in areas already considered disturbed). To meet this provision, the project developer needs to show authorizing agencies rationale as to why a given proposed surface disturbance in sage-grouse habitat is unavoidable.
  - b. **Minimize the Size of the Impact.** If impacts to sagebrush habitat cannot be avoided, they should be minimized by limiting the magnitude of the proposed surface disturbance. Reducing impacts can preserve at least portions of the habitats' important functions, including limiting fragmentation. Impacts can be minimized by reducing the project footprint, constructing fewer structures, clustering features, shifting the development pattern to use topographical screening, timing restrictions, or similar measures. In order to meet this requirement, the project developer should be able to show that the project minimizes the impact to sage-grouse habitat, while continuing to meet the purpose of the development.
  - c. **Compensation for Impacts.** If project impacts are unavoidable and General Habitat stipulations cannot be met, mitigation measures may be required, following the Mitigation Framework outlined in Section IX.<sup>5</sup>
2. **Surface Occupancy:** Within 0.25 miles of the perimeter of an active sage-grouse lek there will be no surface occupancy (NSO).<sup>6</sup>

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<sup>5</sup> A Minority Committee Report has been written for the Compensation for Impacts stipulation, see Appendix H.

<sup>6</sup> A Minority Committee Report has been written for the No Surface Occupancy stipulation for General Habitat, see Appendix H.

3. **Surface Disturbance:** There are no specific surface disturbance limits in General Habitat. However, standard management practices will be required to minimize surface disturbance, such as co-locating new and existing structures. Structures and associated infrastructure will be removed and areas reclaimed to the standards found in item #16 (below) when a project is completed.
4. **Seasonal Use:** As authorized by the permitting agency or agencies, activities (production and maintenance activity exempted) will be prohibited from March 15 – July 15 within 2.0 miles of an active lek where breeding, nesting, and early brood-rearing habitat is present. Allowed maintenance and production activity will not occur between the hours of 4:00 - 8:00 am and 7:00 - 10:00 pm between March 15 – July 15. In areas used as winter concentration areas, exploration and development activity will be prohibited December 1 – March 15. Activities may be allowed during seasonal closure periods as determined on a case-by-case basis. This stipulation may be modified or waived for areas of unsuitable habitat. Any deviations from this stipulation for unsuitable habitat will be determined by the applicable permitting agency in coordination with FWP and the MSGOT.
5. **Noise:** New noise levels, at the perimeter of a lek, should not exceed 40 dBA above ambient noise (existing activity included) from 6:00 pm to 8:00 am during the breeding season (March 15 – July 15).<sup>7</sup> Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise. The MSGOT should follow Wyoming’s review and litigation discussion of this stipulation and amend the strategy accordingly.
6. **Pipelines:** Bury pipelines and restore disturbed area with native plant species that are compatible with the surrounding ecological site conditions. Co-locate pipelines with roads, transmission lines, and other linear features when possible.
7. **Overhead Power Lines and Communication Towers:** New overhead power lines and communication towers will be located outside sage-grouse habitat whenever possible. Where avoidance of General Habitat is not possible, develop a route or siting location – with agencies, utilities, and landowners cooperating – that uses topography, vegetative cover, site distance, etc. to effectively protect identified sage-grouse habitat in a cost efficient manner. If siting of overhead power lines is required within 2 miles of important breeding, brood-rearing, and winter habitat, follow the most current version of the Avian Power Line Interaction Committee guidelines to minimize collision potential and raptor perch sites or bury a portion of the line. Site new lines in existing corridors wherever practicable. The pending “Best Management Practices for Electric Utilities in Sage-Grouse Habitat” will be added to this Strategy when it is finalized (see Section VI.a.ii.3).
8. **Oil and Gas, Mining:** Encourage development in incremental stages to stagger disturbance and design schedules that include long-term strategies to localize disturbance and recovery within established zones over a staggered time frame. Use off-set mitigation as described in Section IX. Remove facilities and infrastructure and reclaim to the standards found in item #16 (below) when use is completed, including for exploration activities.
9. **Coal Mining:** Conservation measures will be developed for and imposed on coal mining operations on a case-by-case basis via the terms and conditions included in permits issued by MDEQ under the authority of the Montana Strip and Underground Mine Reclamation Act (MSUMRA) and in compliance with the federal Surface Mining Control and Reclamation Act (SMCRA). The Administrative Rule components of the MSUMRA can be accessed at <http://www.deq.mt.gov/wqinfo/Laws/StripMiningReclamatio.mcp.x>. The associated coal permitting rules and standard of the Montana Department of Environmental Quality can be accessed at <http://.deq.mt.gov/CoalUranium/Coalpermitting.mcp.x>. Links to SMCRA and the enabling components of the Code of the Federal Regulations can be found at <http://www.osmre.gov/lrg.shtm>.

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<sup>7</sup> A Minority Committee Report has been written for the Noise stipulation, see Appendix H.

- a. Coal mining will first try to avoid operating in sage-grouse habitat.
- b. To avoid potentially significant impacts to sage-grouse, coal companies will delineate the area that will be disturbed. They will report baseline vegetation surveys of the permit area, four season sage-grouse baseline surveys of the permit area and periphery along with population density and habitat delineations. They will show pre-mine land use conditions, capacity, productivity, and history (per ARM 17.24.304). The sage-grouse plan (per ARM 17.24.312) will include:
  - i. An operations plan (per ARM 17.24.308) that includes a plan to prevent the establishment of, or to effect the control of, noxious weeds (including cheatgrass and Japanese brome) in the proposed permit/amendment area.
  - ii. A sage-grouse plan (per ARM 17.24.312) will include:
    1. A plan to minimize disturbances and impacts on sage-grouse and related environmental values during mining and reclamation;
    2. Details on how enhancement of sage-grouse values will be achieved;
    3. Descriptions of sage-grouse enhancement features to be established; and
    4. Statements of impact control measures, management techniques and annual monitoring methods to protect or enhance sage-grouse or habitats identified through the consultation process as important and/or high value.
  - iii. A reclamation plan to reclaim mined area back to suitable habitat including (per ARM 17.24.313) will include:
    1. The proposed post-mining land use;
    2. A timetable for each reclamation step;
    3. A map of the proposed post-mining topography;
    4. Demonstration that the post-mining topography can be achieved;
    5. Details on reestablishment of hydrologic balance;
    6. Details on topsoil salvage, protection and replacement methods;
    7. A narrative on the details of the revegetation methods to be applied;
    8. Details on the reclaimed vegetation monitoring to be conducted; and
    9. Mine and reclamation plan reviews by the Service relative to threatened, endangered, and candidate species through Section 7 consultation processes.
  - iv. The establishment of vegetation to protect sage-grouse (per 17.24.711) will require that:
    1. Vegetation must be reestablished on the disturbed areas and it must be diverse, effective and permanent;
    2. Vegetation cover must be comprised of native species or approved alternatives and be compatible with post-mine land uses;
    3. Reclamation vegetation must be equivalent in cover to natural vegetation and be capable of self-regeneration and plant succession;
    4. There is compliance with noxious weed restrictions; and
    5. For sage-grouse habitat, shrubs must be established to achieve cover and stocking rates as approved by MDEQ after consultation and approval by MFWP.
  - v. Shrub species (per ARM 17.24.717) must be adapted to local conditions and meet the post-mining land use.

vi. Monitoring (per ARM17.24.723) requirements include:

1. Periodic vegetation, soils, and wildlife monitoring with coverage and frequency as approved by MDEQ; and
2. Submittal of detailed monitoring reports to MDEQ.

If monitoring data indicates corrective measures are needed, then adaptive management practices needs to be applied.

The requirements for monitoring shall terminate at the same time that the MDEQ has determined that phase III reclamation, as defined in ARM 17.24.1116(6)(c), has been completed.

vii. Revegetation success criteria (per ARM1724.724) requirements include:

1. Determination of success will be via comparison to un-mined reference areas or through approved technical standards

viii. Vegetation measurements (per ARM17.24.726) requirements include:

1. Use of MDEQ-approved methods;
2. Demonstration of equivalent production, cover and density per MDEQ-approved standards;
3. Minimum shrub density standards; and
4. Demonstration of compliance with noxious weed restrictions.

9. **Bentonite, Scoria, Peat, and Sand and Gravel Mining**<sup>8</sup>: Conservation measures will be developed for and imposed on opencut mining operations on a case-by-case basis via the terms and conditions included in permits issued by MDEQ under the authority of the Montana Opencut Mining Act (83-4-401, MCA) which can be accessed at <http://deq.mt.gov/opencut/forms/2013-Title82Chapter4Part4.pdf>.

- a. Opencut mining operations will first try to avoid operating in sage-grouse habitat.
- b. To avoid potentially significant impacts to sage-grouse, opencut mining companies will delineate what area will be disturbed. They will report baseline vegetation surveys of the permit area, four season sage-grouse baseline surveys of the permit area and periphery along with population density and habitat delineations (Per ARM 17.24.222). They will show pre-mine land use conditions, capacity, productivity, and history (per ARM 17.24.217). The sage-grouse plan will include:
  - i. An operations plan (per ARM 17.24.218 and 219) that includes a plan to prevent the establishment of, or to effect the control of, noxious weeds (including cheatgrass and Japanese brome) in the proposed permit/amendment area.
  - ii. A sage-grouse plan (per ARM 17.24.219) will include:
    1. A plan to minimize disturbances and impacts on sage-grouse and related environmental values during mining and reclamation;

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<sup>8</sup> A Minority Committee Report has been written for the Bentonite, Scoria, Peat, and Sand and Gravel Mining stipulation, see Appendix H.

2. Details on how enhancement of sage-grouse values will be achieved;
  3. Descriptions of sage-grouse enhancement features to be established; and
  4. Statements of impact control measures, management techniques and annual monitoring methods to protect or enhance sage-grouse or habitats identified through the consultation process as important and/or high value.
- iii. A reclamation plan (per 17.24.219) to reclaim mined area back to suitable habitat will include:
1. The proposed post-mining land use;
  2. A timetable for each reclamation step;
  3. A map of the proposed post-mining topography;
  4. Demonstration that the post-mining topography can be achieved;
  5. Details on reestablishment of hydrologic balance;
  6. Details on topsoil salvage, protection, and replacement methods;
  7. A narrative on the details of the revegetation methods to be applied;
  8. Details on the reclaimed vegetation monitoring to be conducted; and
  9. Mine and reclamation plan reviews by the Service relative to threatened, endangered, and candidate species through Section 7 consultation processes.
- iv. The establishment of vegetation to protect sage-grouse (per 17.24.219) will require that:
1. Vegetation must be reestablished on the disturbed areas and it must be diverse, effective and permanent;
  2. Vegetation cover must be comprised of native species or approved alternatives and be compatible with post-mine land uses;
  3. Reclamation vegetation must be equivalent in cover to natural vegetation and be capable of self-regeneration and plant succession;
  4. There is compliance with noxious weed restrictions; and
  5. For sage-grouse habitat, shrubs must be established to achieve cover and stocking rates as approved by MDEQ after consultation and approval by FWP.
- v. Shrub species (per ARM 17.24.219) must be adapted to local conditions and meet the post-mining land use.
- vi. Monitoring (per ARM17.24.219) requirements include:
1. Periodic vegetation, soils and wildlife monitoring with coverage and frequency as approved by MDEQ; and
  2. Submittal of detailed monitoring reports to MDEQ.

If monitoring data indicates corrective measures are needed, then adaptive management practices needs to be applied.

These requirements for monitoring shall terminate upon bond release (per ARM 17.24.203).

- vii. Revegetation success criteria (per ARM1724.219) requirements include:

1. Determination of success will be via comparison to un-mined reference areas or through approved technical standards

viii. Vegetation measurements (per ARM17.24.219) requirements include:

1. Use of MDEQ-approved methods;
2. Demonstration of equivalent production, cover and density per MDEQ-approved standards;
3. Minimum shrub density standards; and
4. Demonstration of compliance with noxious weed restrictions.

#### 10. Other Mining:

- a. For development drilling or ore body delineation drilling on tight centers, (approximately 50' x 50') the disturbance area will be delineated by the external limits of the development area. Assuming a more widely-spaced disturbance pattern, the actual footprint will be considered the disturbance areas.
  - b. Sage-grouse monitoring results will be reported in the mine permit annual report. This document will be given to FWP and the regulating body. Pre-disturbance surveys will be conducted as required by the appropriate regulatory agency.
  - c. The number of active mining development areas (e.g., operating equipment and significant human activity) is not to exceed an average of one project per square mile (640 acres).
  - d. Surface disturbance and surface occupancy stipulations will be waived within the Core Area when implementing underground mining practices that are necessary to protect the health, welfare, and safety of miners, mine employees, contractors and the general public. The mining practices include but are not limited to bore holes or shafts necessary to: 1) provide adequate oxygen to an underground mine; 2) supply inert gases or other substances to prevent, treat, or suppress combustion or mine fires; 3) inject mine roof stabilizing substances; and 4) remove methane from mining areas. Any surface disturbance or surface occupancy necessary to access the sites to implement these mining practices will also be exempt from any stipulation.
  - e. Mining permits will include requirements for mitigation that enhances or promotes genetic diversity, critical habitat, connectivity, and population viability.
11. **Wind Energy:** New wind energy facilities are not recommended within 4.0 miles of the perimeter of active sage-grouse leks. Work cooperatively with agencies, utilities, and landowners to use topography, vegetative cover, site distance, etc. to effectively protect identified sage-grouse habitat. Wind energy projects in sage-grouse habitat will adhere to the *U.S. Fish and Wildlife Service Land-Based Wind Energy Guidelines*.
  12. **Vegetation Removal:** Vegetation removal as part of permitted activities will be limited to the minimum disturbance required by the project.
  13. **Sagebrush Treatments:** Sagebrush eradication and treatment programs aimed at reducing or eliminating sagebrush will be prohibited on state lands, and discouraged on private lands unless those treatments are approved by MSGOT and can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat. The MSGOT should develop specification as to how case-by-case exceptions will be determined, including how a risk assessment will be conducted. The Advisory Council also requests federal agencies prohibit sagebrush eradication and treatment programs aimed at reducing or eliminating sagebrush on lands that they control surface rights. Sagebrush canopy cover should be maintained at optimum levels, as described above. Treatments to enhance sagebrush-grassland will be evaluated based upon the existing habitat quality and the functional level post-

treatment. Restored sagebrush grassland habitats that provide effective cover and food for sage-grouse should be recognized as part of the habitat base; this provision serves as an incentive for restoring and protecting converted habitats.

For government agencies managing sagebrush in General Habitat where conifer encroachment is an issue near leks, land managers should ensure that encroaching conifers are removed within at least 0.6 miles (1,000 meters) of leks. Conifer removal in sage-grouse General Habitat should be done manually, unless other methods can be shown to remove conifers without significantly impacting sagebrush.

14. **Conversion to Agricultural Cropland:** The sage-grouse Advisory Council recommends that the Montana Board of Land Commissioners enact a prohibition of conversion of suitable sage-grouse native range to cropland on state lands, while providing for approved waivers. The State will develop criteria describing when it is appropriate to break unsuitable sage-grouse native range in General Habitat. The Advisory Council also requests that federal agencies prohibit the conversion of native range to cropland on land where they hold surface rights. State and federal agencies are encouraged to work cooperatively with Tribal governments to adopt policies that prevent conversion of sage-grouse habitat to agricultural cropland.
15. **Range Management:** Rangelands on state lands will be managed in accordance with the recommendations in Section X.a, whenever possible, taking into consideration the existing management practices of the lessee on surrounding non-state lands. State agencies are encouraged to collaborate with federal agencies and private landowners to craft grazing management plans that adhere to the concepts included in this document.
16. **Reclamation:** Reclamation should re-establish native grasses, forbs, and shrubs during interim and final reclamation. The goal of reclamation is to achieve cover, species composition, and life form diversity commensurate with the surrounding plant community or desired ecological condition to benefit sage-grouse and replace or enhance sage-grouse habitat to the degree that environmental conditions allow. Seed mixes should include at least two native forbs and two native grasses with at least one native bunchgrass species. Where sagebrush establishment is prescribed, establishment is defined as meeting the standard prescribed in the individual reclamation plan. Landowners should be consulted on the desired plant mix on private lands. The operator is required to control noxious and invasive plant species, including cheatgrass (*Bromus tectorum*) and Japanese brome (*Bromus japonicus*).
17. **Wildfire and Prescribed Burns:** Immediate suppression of wildfire in General Habitat will be prioritized by all fire-fighting units under the jurisdiction of the state. Federal agencies are also strongly encouraged to comply. Prescribed burns should be prohibited in General Habitat unless those prescribed burns are approved by MSGOT and can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat. Burnouts, backfires, and all other public safety measures are appropriate for fighting wildfires.

#### d) Connectivity Area Stipulations

Connectivity habitat includes those areas that provide important linkages among populations of sage-grouse, particularly between Core Areas or priority populations in adjacent states and across international borders. Within the context of this report, only one sage-grouse connectivity area has been scientifically identified and mapped (see Sage-grouse Conservation Areas map, Section IV). This Montana-Saskatchewan Connectivity Area represents the largest known Greater Sage-Grouse annual migration and is an historic pathway for this important international population of sage-grouse, as well as an important link between two critical sage-grouse Core Areas.

Research continues, based on genetics work, to help better define the composition of priority Connectivity Areas. Connectivity Areas will be identified and additional stipulations may be established by the MSGOT when more informed science becomes available. A public review process on proposed stipulations for Connectivity Areas is required before the stipulations can be adopted by the State. The goal of conserving Connectivity Areas is to maintain those areas that are critical for facilitating movement and genetic exchange among individuals and populations.

Stipulations within this section of the *Montana Strategy* for the Montana-Saskatchewan Connectivity Area, as indicated on the Conservation Area map (Section IV), shall be identical to Core Area stipulations contained within this document. The connectivity stipulations within this strategy apply only to the Montana-Saskatchewan Connectivity Area and future stipulations for additional Connectivity Areas will be determined on a case-by-case basis by MSGOT with technical assistance from FWP.

## VII. PERMITTING PROCESS

During the application process to any state agency, project proponents (proponents) must provide a thorough description of their project as it relates to sage-grouse (details such as draft project area, habitat maps, and any other information will help to expedite the project). FWP has a role of consultation, recommendation, and facilitation.

**Maximum Density and Surface Disturbance Process:** All activities will be evaluated within the context of maximum allowable density (e.g., location and number of well pads) and surface disturbance (disturbance percentages). The maximum density and surface disturbance allowed (see Section VI.A – VI.C) will be analyzed via a standardized mapping tool process conducted by the land management agency on federal land and the project proponent on non-federal (private, state) land. The MSGOT will oversee the implementation of a standardized density and disturbance analysis that follows Wyoming’s Density and Disturbance Calculation Tool (DDCT; Appendix E).

**Process Deviation:** Master development plans proposing alternatives to the Core Area, Connectivity Area, and General Habitat stipulations and corresponding plans for offset mitigation should be evaluated by the MSGOT and approving agency on a case-by-case basis. Development that is not covered by these stipulations may be considered depending on site-specific circumstances. Any proposals for deviations from these stipulations or undefined activities must reasonably demonstrate that the proposed activities will not cause declines in sage-grouse populations in Core Areas.

**Exempt Activities:** A list of land uses and landowner activities that do not require state agency review or federal oversight is provided in Section VIII.

## VIII. EXEMPT ACTIVITIES

The following existing land uses and landowner activities are exempt from compliance with this strategy:

- A. Existing animal husbandry practices (including branding, docking, herding, trailing, etc.).
- B. Existing farming practices (excluding conversion of sagebrush/grassland to cropland agriculture).

- C. Existing grazing operations that meet rangeland health standards or utilize recognized rangeland management practices (for example, allotment management plans, Natural Resource and Conservation Service (NRCS) grazing plans, prescribed grazing plans, etc.).
- D. Construction of agricultural reservoirs and **aquatic** habitat improvements less than 10 surface acres and drilling of agriculture and residential water wells (including installation of tanks, water windmills, and solar water pumps) more than 1.0 mile from the perimeter of a lek in Core and Connectivity Areas and more than 0.25 miles from a lek in General Habitat. Within 1.0 mile of a lek in Core and Connectivity Areas and within 0.25 miles of a lek in General Habitat, no review is required if construction does not occur March 15 – July 15 and construction does not occur on the lek. All water tanks shall have bird escape ramps.
- E. Agricultural and residential electrical distribution lines more than 1.0 mile from leks in Core and Connectivity Areas and 0.25 miles from leks in General Habitat. Within 1.0 mile of a lek in Core and Connectivity Areas and within 0.25 miles of a lek in General Habitat, no review is required if construction does not occur between March 15 – July 15 and construction does not occur on the lek. Raptor perching deterrents shall be installed on all poles within 1.0 or 0.25 miles, respectively, from leks, if they are proven to be effective according to Avian Power Line Interaction Committee guidance. Other management practices, such as vegetation screening and anti-collision measures, should be applied to the extent possible. Routine maintenance of existing power lines conducted between July 16 – March 14 is also an exempt activity.
- F. Pole fences. Wire fences if fitted with visibility markers where high potential for sage-grouse collisions has been documented.
- G. Irrigation (excluding the conversion of sagebrush/grassland to new irrigated lands). Tribal lands under existing and future state water compacts.
- H. Spring development if the spring is protected with fencing and enough water remains at the site to provide mesic (wet) vegetation.
- I. Herbicide and pesticide use except for in the control of sagebrush and associated native forbs. Grasshopper/Mormon cricket control following Reduced Agent-Area Treatments (RAATS) protocol.
- J. Existing county road maintenance.
- K. Production and maintenance activities associated with existing oil, gas, communication towers, and power line facilities in compliance with approved authorizations.
- L. Cultural resource pedestrian surveys.
- M. Emergency response.

## IX. MITIGATION FRAMEWORK

In Core Areas and General Habitat, the Service’s hierarchy shall be adopted as the mitigation framework for implementation of this strategy. In General Habitat, reclamation and off-set mitigation (steps 3 and 4 below) will only be required under specified circumstances. The MSGOT or designated working group will define a mitigation strategy for adoption under this strategy and will reference the forthcoming Service’s Compensatory Mitigation Guidance, BLM Mitigation Guidance, and other viable approaches, such as Oregon’s Mitigation Framework, the Lesser Prairie Chicken Business Plan, or Habitat Exchanges (see Appendix D). Elements of the framework will include (in order):

1. **Avoid:** Avoid new disturbance to habitat (e.g., exclude wind development from Core Areas).
2. **Minimize:** If avoidance is not possible, minimize the extent of the disturbance to reduce or eliminate negative impacts to sage-grouse and their habitat (e.g., surface disturbance limits, timing stipulations, lek buffers, etc.).
3. **Reclamation:** Reclaim, restore and enhance habitat that is disturbed (e.g., reclamation after mining activities or pipeline construction). Typically, on-site reclamation is implemented by the entity responsible for the impact.
4. **Off-set mitigation:** When temporary or permanent impacts will occur, protect, restore, and enhance important sage-grouse habitat within a defined service area. Off-set mitigation can be used to reduce the existing human footprint that will allow for additional development activities in the future, especially in those areas already heavily impacted by development. Mitigation ratios will be developed by the MSGOT; those ratios will differ depending on the nature and location of a disturbance. A variety of tools may be used for off-set mitigation such as conservation banks, habitat exchanges, and approved conservation plans. Mitigation will occur prior to the impacts that are being mitigated. The standards that successful mitigation must meet (functionality demonstrated by sage-grouse use) will be defined by the MSGOT. Off-set mitigation would be implemented within a service area and prioritized as:
  - a. Within impacted Core Area;
  - b. Within Core Areas predicted to be at high risk of conversion from grazing to farming or non-native grasses or forbs;
  - c. Within Connectivity Areas; then
  - d. Within Core Areas or General Habitat adjacent to Core Areas with good restoration potential.

## **X. MANAGEMENT RECOMMENDATIONS (non-development activities)**

The following recommendations outline voluntary management practices designed on private lands and regulatory practices on state lands to maintain or enhance sage-grouse populations and habitats for non-development activities. Some of these practices may be required as part of a conservation plan and/or serve as mitigation tools. Whenever possible, adherence to these recommendations is encouraged.

The Advisory Council encourages the Governor to direct the Montana Department of Natural Resources and Conservation to develop additional lease evaluation criteria to be used for school trust grazing lands in Core Areas and the Montana-Saskatchewan Connectivity Area. The criteria should establish rangeland characteristics that should be considered and evaluated, with a goal of ensuring responsible grazing management practices that are consistent with maintaining and improving habitat for sage-grouse, while still providing for working rangelands.

### **a) Range Management**

Livestock grazing is the most widespread type of land use across the sagebrush biome. Although improper livestock management, as determined by local ecological conditions, may have negative impacts on sage-grouse seasonal habitats, proper livestock management is a critical tool for providing and maintaining high quality sage-grouse habitat. Range management structures and fences necessary for proper grazing management can also be placed or designed to be neutral or beneficial to sage-grouse. The following recommendations are intended to support grazing management as a tool for providing quality sage-grouse habitat.

- a. Grazing management: The State of Montana will collaborate with relevant federal agencies on appropriate site-based action to achieve sage-grouse conservation objectives outlined herein.
  - i. On private lands, landowners in sage-grouse Core, General and Connectivity Areas are encouraged to adopt the Sage-Grouse Initiative grazing practices and range management recommendations, including:
    - 1. Rotating livestock to different pastures, while resting others to establish a diversity of habitat types.
    - 2. Changing seasons of use within pastures to ensure all plants have the ability to reproduce.
    - 3. Leaving residual cover (grass from the past season) to increase hiding and nesting cover for sage-grouse.
    - 4. Managing the frequency and intensity of grazing to sustain native grasses, wildflowers, and shrubs.
    - 5. Managing livestock access to water to ensure healthy livestock and healthy watersheds.
  - ii. The State of Montana will collaborate with appropriate federal agencies in defining a framework for evaluating situations to determine if a causal relationship exists between improper grazing (by wildlife or livestock) and Greater Sage-Grouse conservation objectives where conservation objectives are not being achieved on federal land.
  - iii. On state lands, the Advisory Council recommends that DNRC work cooperatively with lessees to maintain healthy sagebrush shrub, native grass, and forb communities on state grazing lands in Core and Connectivity Areas. For leases that fail to meet DNRC standards, staff should consider corrective alternatives such as: development and implementation of grazing or weed management plans; adjustment or rotating season of use; requiring annual reporting of livestock numbers and period of use; or shorter lease terms. Follow-up monitoring should be conducted as determined necessary and as workloads allow. If a lessee fails to implement or follow required corrective actions, lease non-renewal or cancellation should be considered.
  - iv. Given limited agency resources, priority should be given to Core Areas and then sage-grouse habitats adjacent to Core Areas.
- b. Range structures:
  - i. Range management structures should be designed and placed to be neutral or beneficial to sage-grouse.
  - ii. Structures that are currently contributing to negative impacts to either sage-grouse or their habitats should be removed or modified to remove the threat.
- c. Fences:
  - i. Mark fences that are in high risk areas for collision with permanent flagging or other suitable device to reduce sage-grouse collisions.
  - ii. Identify and remove unnecessary fences.
  - iii. Placement of new fences and livestock management facilities (including corrals, loading facilities, water tanks, and windmills) should consider their impact on sage-grouse and, to the extent practicable, be placed at least 0.6 miles from active leks.

## **b) Wildfire Response**

Wildfire temporarily or permanently eradicates sagebrush habitat. Fire, both lightning-caused and human-caused, is a primary risk to sage-grouse, not only by deteriorating and often eliminating habitat, but also by

increasing future fire frequencies through the promotion of fire-prone vegetation, especially invasive grasses. The replacement of native perennial bunchgrass communities by invasive annuals is a primary contributing factor to increasing fire frequencies in the sagebrush ecosystem. The following recommendations are designed to reduce the potential for fire in sagebrush systems, suppress fires that do ignite, and (re)establish sagebrush and native species in areas that do burn. State agencies should be directed to adopt these recommendations to the maximum extent possible:

- a. Prevention (Pre-fire):
  - i. Broaden DNRC, Volunteer Fire Departments, and all fire-fighting unit awareness by providing maps of sage-grouse habitat and copies of the *Montana Strategy*.
  - ii. Place sage-grouse habitat maps in every county fire-fighting office.
  - iii. Prioritize eradication of cheatgrass and Japanese brome and/or address management practices, acquire funding for appropriate herbicide treatments, and explore biological controls.
  - iv. Examine feasibility of establishing fire breaks outside Core Areas if possible.
  - v. During high-risk fire seasons, reduce risk of human caused fires as authorized in 7-33-2212 MCA, 77-1-804 MCA and other applicable statutes.
- b. Suppression (Fire):
  - i. Prioritize initial attack with the goal of immediate suppression in Core Areas, and secondarily in Connectivity Areas and General Habitat, including use of fire retardants and other appropriate tools.
    1. Improve coordination between state agencies (e.g., DNRC) and Montana Association of Counties on all fire suppression activities.
    2. Request federal partners mirror the initial attack program of DNRC.
  - ii. Prioritize outreach from DNRC to private operators regarding initial attack in sagebrush areas.
  - iii. Review liability of Good Samaritan role of private operators/private landowners.
  - iv. Carefully consider the use of backfires within Core and Connectivity Areas and General Habitat to minimize the potential for escape and further damage to sage-grouse and sagebrush habitats (tactical decision).
  - v. Identify and establish defensible fire lines in areas where: (i) effectiveness is high, (ii) fire risk is likely, and (iii) negative impacts from these efforts (e.g., fragmentation) are minimized. Avoid use of any vegetative stripping in healthy, unfragmented habitats, unless fire conditions and local ecological conditions so warrant.
- c. Rehabilitation (Post-fire):
  - i. The State of Montana will request cooperation and collaboration from federal agencies on rehabilitation projects after wildfire.
  - ii. Use available tools to prevent (re)establishment of cheatgrass and Japanese brome, as necessary.
  - iii. Ensure most successful restoration strategies are being implemented that (re)establish native sage-grouse habitat; develop handbook of methods for most appropriate restoration strategies.
  - iv. Identify funding options for restoration implementation.
  - v. Use locally available seeds where it is most likely to be effective and in areas of high need.
  - vi. Prioritize Core Areas over sagebrush areas outside of Core Areas for restoration efforts.

- vii. Verify that all seeding in Core Areas is certified by an independent contractor as weed-free and free of cheatgrass and Japanese brome.
- viii. Establish a seed bank managed by state, if viability of seeds can be maintained; evaluate use of local seed sources (i.e., seed orchards).
- ix. Ensure post-fire monitoring for successful reestablishment of sagebrush communities.

### c) Invasive Plant Species

Exotic annual grasses and other invasive plants alter habitat suitability for sage-grouse by reducing or eliminating native forbs and grasses essential for food and cover. Non-native annual grasses also facilitate an increase in mean fire frequency. The following management recommendations are designed to control the spread of invasive species and reduce or eliminate established non-natives to provide better quality habitat for sage-grouse. State agencies should be directed to adopt these recommendations to the maximum extent possible.

- a. Retain all remaining large intact sagebrush patches, particularly at low elevations.
- b. Reduce or eliminate disturbances that promote the spread of invasive plant species, such as reducing fires to a “normal range” of fire activity for the local ecosystem, employing grazing management that maintains the perennial native grass and shrub community appropriate to the local site, reducing impacts from any source that allows for the invasion by these species into undisturbed sagebrush habitats, and precluding the use of treatments intended to remove sagebrush.
- c. Restore altered ecosystems by reducing non-native invasive plants to levels that do not put the area at risk of conversion if a catastrophic event were to occur.
- d. Recommend to Montana Department of Agriculture that Japanese brome (*Bromus japonicus*) be listed as a regulated species (priority #3) in Montana.
- e. Prioritize eradication of cheatgrass and Japanese brome and/or address management practices, acquire funding for Plateau treatments, and explore biological controls.

### d) Predators

The Advisory Council believes predators can be a threat to sage-grouse conservation. Although predation is one of five specific ESA listing criteria, the Service did not identify predation as a significant threat to sage-grouse populations in their 2010 decision to list the species as warranted for protection under the Endangered Species Act, but precluded by higher priorities. Predators are part of the ecosystem and they have always preyed upon sage-grouse. Habitat fragmentation, infrastructure, weather, urban development, and improper grazing can increase predation pressure on sage-grouse. The Advisory Council believes anthropogenic actions have, in places, altered the historic predator-prey relationship with sage-grouse and that this alteration is at least partially responsible for diminishment of some local sage-grouse populations. The Advisory Council also believes good quality and quantity of habitat reduces predation pressure and that quality habitat is essential for sage-grouse population stability. While predator control may not be a long-term solution to a general range-wide decline in populations of sage-grouse, it can be an effective tool to gain increased survival of specific populations. Predator management can provide important and beneficial short-term relief to localized decreases in sage-grouse populations. While federal laws, such as the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act, restrict options for managing avian predators, the Advisory Council recommends predator control be managed cooperatively by Animal and Plant Health Inspection Service (U.S. Department of Agriculture) Wildlife Service, FWP, and the Service.

Actions the Advisory Council believes should be taken within this strategy include:

- a. Eliminate or minimize external food sources for ravens and small mammals, particularly dumps, landfills, waste transfer facilities, and road kill.
- b. Remove abandoned farmhouses, barns, building debris piles, and other structures that harbor mammalian predators.
- c. Provide adequate buffers (4.0 miles from leks) between placement of new tall structures and nesting and brood-rearing habitat to minimize influence of predators. Bury power lines, when feasible.
- d. Remove abandoned tall structures, such as fence posts, power line poles, and cell towers that can serve as perching structures for aerial predators.
- e. Apply habitat management practices (e.g., grazing management and vegetation treatments) that improve sage-grouse nesting habitat thus decreasing the effectiveness of predators.
- f. Develop strategies for specific, selective, and if needed, assertive short-term predator control based on biological assessments appropriate to local conditions, especially in instances where a sage-grouse population has declined from exotic conditions, such as West Nile Virus.
- g. Request the State use localized predator control when permanent anthropogenic features are documented to contribute to unnatural numbers of predators that are reducing local sage-grouse populations, and where the impacts from these permanent features will not be eliminated or minimized enough to stabilize the local sage-grouse population.
- h. Research and monitor the effects of predator control to determine causal connections with Greater Sage-Grouse survival; modify control strategies accordingly.
- i. When research on sage-grouse population dynamics confirms that a local sage-grouse population is declining and predators may be a cause for the decline, undertake a public-private cooperative research project, under the direction of FWP and MSGOT. This research project should measure the level of predation and its impact on local sage-grouse population stability and include a public outreach/involvement component to landowners, hunters, bird recreationists, local government, and other interested parties. The research should examine sage-grouse population dynamics, anthropogenic changes, conifer encroachment and predator populations and impacts, and determine if creation of and implementation of a predator plan would assist in long-term stability of specific and localized sage-grouse populations.
- j. Encourage local government to help with small mammal predator control during sage-grouse breeding, nesting, and brood-rearing season.

### **e) Disease (West Nile virus)**

West Nile virus was a new source of mortality for sage-grouse, particularly in low and mid-elevation populations, from 2003 – 2007. Elimination of anthropogenic-created habitat for the mosquito vectors of West Nile virus is an important conservation measure for sage-grouse.

- a. Construct ponds to reduce prevalence of mosquitoes that transmit West Nile virus per BLM guidance (Appendix F).
- b. Manage ponds to reduce prevalence of mosquitoes that transmit West Nile virus.
- c. Other management actions to reduce prevalence of mosquitoes that transmit West Nile virus include erection of bat houses, and managing containers, wood piles, and tire storage facilities that harbor breeding or overwintering mosquitoes and/or larvae.

- d. If there is a West Nile virus outbreak that significantly reduces sage-grouse populations, the MSGOT should look at a local site-specific strategy for enhancing the sage-grouse population.

## f) Hunting

Hunting sage-grouse in Montana is a regulated activity that involves scientific population monitoring and the ability to adjust seasons as appropriate, including season dates, season length, bag limit, and area restrictions.

- a. Hunting will continue to be managed by FWP through the Montana Fish and Wildlife Commission.
- b. A framework of hunting bag limits and area closures was originally outlined in the *Management Plan and Conservation Strategies for the Greater Sage-Grouse in Montana – Final*. FWP will continue to annually monitor sage-grouse population fluctuations and work with the Commission to adopt appropriate hunting season regulations.
- c. FWP will re-evaluate and further adapt this season-setting approach including re-examining closure (and opening) criteria, hunting districts, season length, and season dates. Establishment of hunting districts/zones will be considered during the annual season setting process.

## XI. IMPLEMENTATION

- a) **Authority of Executive Order:** It is the Advisory Council’s recommendation that the Governor of the State of Montana issue an Executive Order that requires full compliance with this strategy by all state agencies. This includes actions conducted by the Montana Department of Environmental Quality, Montana Department of Transportation, Department of Natural Resource and Conservation and associated governing boards, Montana Fish, Wildlife and Parks, and other state agencies. The Advisory Council’s goal is this strategy can be coordinated with federal land managers.
- b) **Existing Regulatory Mechanisms:** The stipulations in this strategy apply to all activities within sage-grouse habitat that require a state permit or lease. Permits affected might include, but are not limited to, those issued under the Major Facilities Siting Act, Board of Oil and Gas Conservation, Water Quality Discharge Permits, and State Trust Land leases. All new development projects in Core Areas will be required to work through the standardized disturbance analysis process that will be developed by the MSGOT.
- c) **Non-regulated activities:** State agencies shall adhere to the stipulations and management recommendations outlined in this strategy when providing consultation, technical, financial, or other assistance for non-regulated activities (e.g., livestock grazing, wind development).
- d) **Montana Sage-grouse Oversight Team (MSGOT):** A Montana Sage-grouse Oversight Team (MSGOT) shall be appointed by Governor Bullock within 60 days of issuance of an Executive Order. The MSGOT will be responsible for providing oversight for the implementation of the *Montana Strategy*. MSGOT duties will include, but are not limited to, developing the surface disturbance analysis process and overseeing its implementation, identifying additional connectivity areas based on emerging science, approving deviations from this strategy, addressing policy questions that arise from implementation, identifying adequate mitigation strategies, and integrating new science and other information into the strategy. MSGOT shall consist, at a minimum, of executive level representatives from state and federal agencies, tribes, conservation groups, and local government; and from the oil and gas, coal mining, mining (non-coal), electrical distribution and transmission, and agriculture industries. The Advisory Council recommends that the MSGOT meet at least on a quarterly basis. The MSGOT shall provide all

permit-related recommendations to agencies and issue all permit-related decisions within 120 days of receiving completed applications.

- e) **Compliance Monitoring and Reporting:** State agencies issuing permits or leases shall be responsible for ensuring compliance with the stipulations in this strategy. The MSGOT will establish a compliance monitoring framework to track projects. This framework will allow for annual reporting to the Service and will correspond with their forthcoming conservation metrics database.
- f) **Staffing Required for Implementation:** The State of Montana shall commit to providing funding to support at least 6 new Full-Time Equivalent (FTE) positions as outlined below. These positions will be located in a state agency or academic institution, to be determined. The State of Montana shall also commit to fund travel and other related expenses incurred by representatives to the MSGOT.
  - i) Mapping application development – 0.5 FTE (new, temporary).
  - ii) Database development and analysis tool; database administration – 2 FTE (new, permanent).
  - iii) Disturbance calculation and compliance; project review – 2.5 FTE (new, permanent). Capacity needs may vary depending on the number and complexity of projects proposed.
  - iv) MSGOT and Policy Review; supervision of project reviews – 1 FTE (new, permanent) to serve as MSCOT coordinator.
  - v) Compliance Monitoring and Reporting – fulfilled by MSGOT coordinator.
- g) **Population Monitoring and Additional Science Needs:** The Council recognizes that the MSGOT may identify additional monitoring and research projects necessary for the conservation of sage-grouse and ongoing implementation of this strategy. Staff and funding required for newly identified needs will likely exceed existing staff capacity and will require additional funding support from the State of Montana. This support will be in addition to the 6 FTE request in Section XI.f.

## APPENDIX A: Governor Bullock's Executive Order 2-2013

STATE OF MONTANA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER No. 2-2013

Establishing a Greater Sage-grouse Habitat Conservation Advisory Council

WHEREAS, the Greater Sage-grouse (*Centrocercus urophasianus*) is an iconic species that inhabits much of the sagebrush-grassland habitats in Montana;

WHEREAS, the State of Montana currently enjoys viable and widespread populations of the species, the second largest abundance of Greater Sage-grouse among western states;

WHEREAS, the United States Fish and Wildlife Service (USFWS) has determined that the Greater Sage-grouse species is warranted for listing as a threatened or endangered species under the Endangered Species Act (ESA), but is precluded by other higher priority species;

WHEREAS, the United States District Court for the District of Idaho ruled on February 2, 2012 that the USFWS must re-evaluate the status of the Greater Sage-grouse by September 30, 2015;

WHEREAS, the United States Secretary of the Interior has invited Montana and other western states impacted by the potential listing of the Greater Sage-grouse to develop state-specific regulatory mechanisms to conserve the species and preclude the need to list under the ESA;

WHEREAS, the development of a state-specific strategy in Montana will be critical in demonstrating to the USFWS that the species does not warrant federal protection under the ESA;

WHEREAS, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) are currently implementing national Instruction Memoranda to guide interim management of public lands and to develop Greater Sage-grouse conservation measures for incorporation into the agencies' respective land use plans;

WHEREAS, the development of a state-specific strategy will enable the BLM and USFS to incorporate relevant elements from the strategy into their land use plans and environmental analyses;

WHEREAS, approximately half of Greater Sage-grouse habitat in Montana involves private property, and maintaining the species will require effective conservation strategies across property ownerships;

WHEREAS, the State of Montana has management authority over Greater Sage-grouse populations in Montana;

WHEREAS, the State of Montana in collaboration with stakeholders developed and adopted a state Greater Sage-grouse plan in 2004, pertaining to sage-grouse population responses to large-scale changes in habitat;

WHEREAS, the State of Montana has identified and will update, as appropriate, Greater Sage-grouse Core Areas, which include priority habitats for conservation;

WHEREAS, it is in the interest of this State to bring stakeholders and experts together to recommend a course of action that will provide for conservation measures sufficient to preclude the need to list the Greater Sage-grouse;

WHEREAS, the listing of the Greater Sage-grouse could have a significant adverse effect on the economy of the State of Montana; and

WHEREAS, it is appropriate and beneficial to establish the Governor's Greater Sage-grouse Habitat Conservation Advisory Council ("Council").

#### PURPOSE

1. The purpose of the Council is to gather information, furnish advice, and provide to the Governor recommendations on policies and actions for a state-wide strategy to preclude the need to list the Greater Sage-grouse under the ESA, by no later than January 31, 2014.

#### DUTIES

2. In preparing its recommendations, the Council shall review the 2004 Montana Sage-grouse Conservation Plan, BLM Interim Memorandum Guidance, National Technical Team Report, relevant scientific information, and other existing strategies and information.
3. The recommendations of the Council must be based on the following objectives and/or criteria:
  - a. Conserve the species and its habitat based on the most current scientific information, with input from a variety of stakeholders, and maintaining public trust management of Greater Sage-grouse and predictable and multiple uses of private, state, and public lands;
  - b. Tailor the management recommendations to the importance of the habitat, considering the interests of the State;
  - c. Address the following primary threats to the species as identified by the USFWS:
    - i. Habitat fragmentation caused by energy development and mineral extraction;
    - ii. Conversion of habitat for agriculture and urbanization; and
    - iii. Lack of effective regulatory mechanisms to conserve Greater Sage-grouse habitats.

- d. Address the secondary threats to the species as identified by the USFWS, as appropriate:
    - i. Disease/West Nile virus;
    - ii. Management issues related to livestock grazing;
    - iii. Collisions with fences and power lines;
    - iv. Prescribed fire and range treatments; and
    - v. Conifer expansion.
  - e. Identify opportunities for pro-active Greater Sage-grouse habitat conservation projects;
  - f. Recognize, encourage, and incentivize land use practices that are actively maintaining or improving Greater Sage-grouse habitat as evidenced by improvements in habitat quality and quantity, and monitoring which indicates stable/increasing populations of the species; and
  - g. Identify a long-term adaptive management structure that engages landowners and local working groups, and ensures the effective implementation of these recommendations.
4. The duties of the Council are solely advisory.
  5. The Council will provide its recommendations to the Governor no later than January 31, 2014.

#### COMPOSITION AND ORGANIZATION

6. The Council members shall be appointed by and serve at the pleasure of the Governor until January 31, 2014.
7. The Council shall be comprised of 8-12 members, representing the various geographic areas, non-governmental organizations, and industries of the State within the range of the species.
8. The Office of the Governor will assist in staffing this Council. My office may rely on the services of other Governors or any member of my Cabinet in staffing this Committee.
9. The Council members shall be appointed from the following categories:
  - a. Agriculture and Ranching;
  - b. Conservation and Sportsmen;
  - c. Energy, Mining, and Power Transmission;
  - d. Tribal;
  - e. Local Government; and

f. Legislature.

10. The Council may establish procedural bylaws to aid it in the performance of its duties.
11. The Council may establish subcommittees comprised of members of the Committee to aid it in the performance of its duties.
12. The Council is attached to the Department of Fish, Wildlife and Parks for administrative purposes. The Director of the Montana Department of Fish, Wildlife and Parks shall retain an independent contractor to provide assistance to the Council.
13. Local Greater Sage-grouse working groups are encouraged to continue in their efforts to conserve the sage-grouse in the State of Montana and are advised to participate in the development of the recommendations here ordered.

#### OTHER

14. The Council may request consultation, information, and technical expertise from Directors or their designees of state agencies, including but not limited to, the members of the Montana Legislature, the Montana Department of Fish, Wildlife, and Parks, the Montana Department of Natural Resources and Conservation, the Montana Department of Agriculture, the Montana Department of Environmental Quality, and the Montana Board of Oil and Gas, regarding: the biological needs of the species; activities on state, federal and private lands potentially impacted by the status of the species; and, requirements of the ESA and other relevant statutory requirements.
15. The Council may request comments, information, and technical expertise from such other sources as it deems necessary, including the university system, federal agencies, and members of the public including members of existing local sage-grouse working groups.

#### COMPENSATION

16. Council members eligible for compensation under section 2-15-122(5) MCA, shall be compensated in an amount to be determined by the Director of the Department of Fish, Wildlife and Parks, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of Council duties. All Council members shall be reimbursed for travel expenses pursuant to section 2-15-122(5), MCA.

#### DURATION

17. The Council shall cease to exist on January 31, 2014.

NOW, THEREFORE, I, STEVE BULLOCK, Governor of the State of Montana, by the authority vested in me by under the laws and Constitution of the State of Montana, do hereby establish the Governor's Greater Sage-grouse Habitat Conservation Advisory Council.

This Order is effective immediately.

Given under my hand and the Great Seal of the State of Montana, this 20<sup>th</sup> day of February, 2013.



STEVE BULLOCK, Governor

ATTESTED:



LINDA McCULLOCH, Secretary of State



AN ACT PROVIDING AN APPROPRIATION FOR THE GREATER SAGE-GROUSE HABITAT CONSERVATION ADVISORY COUNCIL ESTABLISHED BY THE GOVERNOR; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, the greater sage-grouse (*Centrocercus urophasianus*) is an iconic species that inhabits much of the sagebrush-grassland habitats in Montana; and

WHEREAS, the State of Montana currently enjoys viable and widespread populations of the species, the second largest abundance of greater sage-grouse among western states; and

WHEREAS, the United States Fish and Wildlife Service (USFWS) has determined that the greater sage-grouse species is warranted for listing as a threatened or endangered species under the Endangered Species Act (ESA) but is precluded by other higher priority species; and

WHEREAS, the United States District Court for the District of Idaho ruled on February 2, 2012, that the USFWS must reevaluate the status of the greater sage-grouse by September 30, 2015; and

WHEREAS, the United States Secretary of the Interior has invited Montana and other western states impacted by the potential listing of the greater sage-grouse to develop state-specific regulatory mechanisms to conserve the species and preclude the need to list it under the ESA; and

WHEREAS, the development of a state-specific strategy in Montana will be critical in demonstrating to the USFWS that the species does not warrant federal protection under the ESA; and

WHEREAS, the United States Bureau of Land Management (BLM) and the United States Forest Service (USFS) are currently implementing national instruction memoranda to guide interim management of public lands and to develop greater sage-grouse conservation measures for incorporation into the agencies' respective land use plans; and

WHEREAS, the development of a state-specific strategy will enable the BLM and USFS to incorporate relevant elements from the strategy into their land use plans and environmental analyses; and

WHEREAS, approximately half of greater sage-grouse habitat in Montana involves private property, and maintaining the species will require effective conservation strategies across property ownerships; and



WHEREAS, the State of Montana has management authority over greater sage-grouse populations in Montana; and

WHEREAS, the State of Montana in collaboration with stakeholders developed and adopted a state greater sage-grouse plan in 2004, pertaining to sage-grouse population responses to large scale changes in habitat; and

WHEREAS, the State of Montana has identified and will update, as appropriate, greater sage-grouse core areas, which include priority habitats for conservation; and

WHEREAS, it is in the interest of this state to bring stakeholders and experts together to recommend a course of action that will provide for conservation measures sufficient to preclude the need to list the greater sage-grouse; and

WHEREAS, the listing of the greater sage-grouse could have a significant adverse effect on the economy of the state of Montana; and

WHEREAS, it is appropriate and beneficial to fund the Greater Sage-Grouse Habitat Conservation Advisory Council established by Governor Steve Bullock in Executive Order No. 2-2013.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1. Appropriation.** (1) There is appropriated a total of \$75,000 from the state special revenue fund oil and gas ERA account to the governor's office for the bienniums beginning July 1, 2011, and July 1, 2013, for the purpose of funding the greater sage-grouse habitat conservation advisory council established by the governor in Executive Order No. 2-2013.

(2) The legislature recommends that the greater sage-grouse habitat conservation advisory council develop its proposed recommendations on policies and actions for a statewide strategy to preclude the need to list the greater sage-grouse under the Endangered Species Act of 1973 by October 31, 2013, so that the public may review and comment on the proposed recommendations and the council may make any necessary changes prior to the recommendations being delivered to the governor by the established deadline of January 31, 2014.

**Section 2. Effective date.** [This act] is effective on passage and approval.

- END -



- 2 -

Authorized Print Version - HB 580

## APPENDIX C: Sage-grouse Habitat Advisory Council representatives

Name	Street/PO Box	City	Zip	Email
<b>Mr. Paul Callahan</b>	3015 Martinwood	Missoula	59802	<a href="mailto:pcallahan@swca.com">pcallahan@swca.com</a>
<b>Rep. Pat Connell</b>	567 Tiffany Lane	Hamilton	59840	<a href="mailto:connell4HD87@yahoo.com">connell4HD87@yahoo.com</a>
<b>Ms. Janet Ellis</b>	703 Breckenridge St	Helena	59601	<a href="mailto:jellis@mtaudubon.org">jellis@mtaudubon.org</a>
<b>Mr. Gary Forrester</b>	2527 Gardiner	Billings	59101	<a href="mailto:Gary.forrester@mduresources.com">Gary.forrester@mduresources.com</a>
<b>Mr. Jay Gore</b>	127 Crestview	Missoula	59803	<a href="mailto:tealdux@hotmail.com">tealdux@hotmail.com</a>
<b>Sen. Brad Hamlett</b>	PO Box 49	Cascade	59421	<a href="mailto:senatorhamlett@gmail.com">senatorhamlett@gmail.com</a>
<b>Mr. Robert Lee</b>	P O Box 1123	Forsyth	59327	<a href="mailto:rlee@rosebudcountymt.com">rlee@rosebudcountymt.com</a>
<b>Mr. Glenn Marx</b>	P O Box 892	Helena	59624	<a href="mailto:montanamalt@g.com">montanamalt@g.com</a>
<b>Rep. Bill McChesney</b>	316 Missouri Ave	Miles City	59301	<a href="mailto:macwilly66@hotmail.com">macwilly66@hotmail.com</a>
<b>Curtis Monteau, Jr.</b>	5627 Lower Box Elder Rd	Box Elder	59521	<a href="mailto:curtismonteau@yahoo.com">curtismonteau@yahoo.com</a>
<b>Rep. Ray Shaw</b>	251 Bivens Creek Road	Sheridan	59749	<a href="mailto:shaw@3rivers.net">shaw@3rivers.net</a>
<b>Mr. Carl Wambolt</b>	3300 Graf #86	Bozeman	59715	<a href="mailto:cwambolt@montana.edu">cwambolt@montana.edu</a>

## APPENDIX D: Definitions

Suitable Habitat – is within the mapped occupied range of sage-grouse, and:

- 1) Generally has 5% or greater canopy cover of sagebrush, where “sagebrush” includes all species and sub-species of the genus *Artemisia*. This excludes mat-forming sub-shrub species such as *A. frigida* (fringed sagewort) and *A. pedatifida* (birdfoot sage). Sagebrush canopy cover may be less than 5% when complimented by other shrubs suitable for sage-grouse cover requirements; OR
- 2) Is moist meadow containing forbs suitable for brood-rearing within 300 yards of suitable sagebrush cover (as defined above). Introduced species such as alfalfa may be very important on these sites where native forbs are not available.

Vegetation monitoring to determine habitat suitability will follow the Habitat Assessment Framework, available at

[http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/sage-grouse\\_planning/documents.Par.23916.File.dat/SG\\_HABITATASESSMENT0000669.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/sage-grouse_planning/documents.Par.23916.File.dat/SG_HABITATASESSMENT0000669.pdf)

Unsuitable Habitat – is land within the historic range of sage-grouse that did not, does not, nor will not provide sage-grouse habitat due to natural ecological conditions such as badlands or canyons.

Surface Disturbance – includes any conversion of formerly suitable habitat to grasslands, croplands, mining, well pads, roads, or other physical disturbance that renders the habitat unusable for sage-grouse.

Lek Status -

- Active - Data supports existence of lek. Supporting data defined as 1 year with 2 or more males lekking on site followed by evidence of lekking within 10 years of that observation.
- Inactive - A confirmed active lek with no evidence of lekking for the last 10 years. Requires a minimum of 3 survey years with no evidence of lekking during a 10 year period.
- Extirpated - Habitat changes have caused birds to permanently abandon a lek as determined by the biologists monitoring the lek.
- Unconfirmed - Possible lek. Sage-grouse activity documented. Data insufficient to classify as active status.

Valid Existing Right(s) – legal “rights” or interest that are associated with land or mineral estate and that cannot be divested from the estate until that interest expires, is relinquished, or acquired.

Habitat Exchange - an efficient, effective approach to wildlife conservation in America, developed in partnership by private landowners, industry, environmental groups, academics and government. In a Habitat Exchange, landowners and industry are given financial incentives to conserve wildlife habitat. Landowners benefit by earning revenue from credit sales and developers benefit by meeting conservation objectives or regulatory requirements with less red tape.

## APPENDIX E: Wyoming's Density and Disturbance Calculation Tool Process

The Montana Sage-grouse Oversight Team will oversee the implementation of a standardized disturbance analysis in Montana that follows Wyoming's Density and Disturbance Calculation Tool (described below).

All activities will be evaluated within the context of maximum allowable disturbance (disturbance percentages, location and number of disturbances) of suitable sage-grouse habitat within the area affected by the project. The maximum disturbance allowed will be analyzed via a Density/Disturbance Calculation Tool (DDCT) process conducted by the Federal Land Management Agency on federal Land and the project proponent on non-federal (private, state) land. Unsuitable habitat occurring within the project area will not be included in the disturbance cap calculations.

1. Density/Disturbance Calculation Tool (DDCT): Determine all occupied leks within a core population area that may be affected by the project by placing a 4 mile boundary around the project boundary (as defined by the proposed area of disturbance related to the project). All occupied leks located within the 4 mile boundary and within a core population area will be considered affected by the project.

A four-mile boundary will then be placed around the perimeter of each affected lek. The core population area within the boundary of affected leks and the 4 mile boundary around the project boundary creates the DDCT for each individual project. Disturbance will be analyzed for the DDCT as a whole and for each individual affected lek within the DDCT. Any portion of the DDCT occurring outside of Core Area will be removed from the analysis.

If there are no affected leks within the 4 mile boundary around the project boundary, the DDCT area will be that portion of the 4 mile project boundary within the core population area.

2. Disturbance analysis: Total disturbance acres within the DDCT will be determined through an evaluation of:
  - i. Existing disturbance (sage-grouse habitat that is disturbed due to existing anthropogenic activity and wildfire).
  - ii. Approved permits (that have approval for on the ground activity) not yet implemented.
3. Habitat Assessment:
  - a. A habitat assessment is not needed for the initial DDCT area provided that the entire DDCT area is considered suitable.
  - b. A habitat assessment should be conducted when the initial DDCT indicates proposed project will cause density/disturbance thresholds to be exceeded, to see whether siting opportunities exist within unsuitable or disturbed areas that would reduce density/disturbance effects.
  - c. When a habitat assessment is conducted it should create a baseline survey identifying:
    - i. Suitable and unsuitable habitat within the DDCT area
    - ii. Disturbed habitat within the DDCT area
    - iii. Sage-grouse use of suitable habitat (seasonal, densities, etc.)
    - iv. Priority restoration areas (which could reduce the 5% cap)
      - A. Areas where plug and abandon activities will eliminate disturbance
      - B. Areas where old reclamation has not produced suitable habitat
    - v. Areas of invasive species
    - vi. Other assurances in place (CCAA, easements, habitat, contracts, etc.)
4. Determination of existing and allowable suitable habitat disturbance: Acres of disturbance within suitable habitat divided by the total suitable habitat within the DDCT area times 100 equals the percent of disturbed suitable habitat within the DDCT area. Subtracting the percentage of existing disturbed suitable habitat from 5% equals new allowable suitable habitat disturbance until plant regeneration or reclamation reduces acres of disturbed habitat within the DDCT area.

## APPENDIX F: BLM guidance for pond construction

The following guidance is copied from A Report on National Sage-grouse Conservation Measures, Appendix C: BMPs for how to make a pond that won't produce mosquitoes that transmit West Nile virus (from Doherty (2007)). The entire report is available at <http://sagemap.wr.usgs.gov/docs/rs/GrSG%20Tech%20Team%20Report.pdf>.

The following are seven distinct site modifications that if adhered to, would minimize exploitation of Coal Bed Natural Gas ponds by *Culex tarsalis*:

1. Increase the size of ponds to accommodate a greater volume of water than is discharged. This will result in un-vegetated and muddy shorelines that breeding *Cx. tarsalis* avoid (De Szalay and Resh 2000). This modification may reduce *Cx. tarsalis* habitat but could create larval habitat for *Culicoides sonorensis*, a vector of blue tongue disease, and should be used sparingly (Schmidtman et al. 2000). Steep shorelines should be used in combination with this technique whenever possible (Knight et al. 2003).
2. Build steep shorelines to reduce shallow water (>60 cm) and aquatic vegetation around the perimeter of impoundments (Knight et al. 2003). Construction of steep shorelines also will create more permanent ponds that are a deterrent to colonizing mosquito species like *Cx. tarsalis* which prefer newly flooded sites with high primary productivity (Knight et al. 2003).
3. Maintain the water level below that of rooted vegetation for a muddy shoreline that is unfavorable habitat for mosquito larvae. Rooted vegetation includes both aquatic and upland vegetative types. Avoid flooding terrestrial vegetation in flat terrain or low lying areas. Aquatic habitats with a vegetated inflow and outflow separated by open water produce 5-10 fold fewer *Culex* mosquitoes than completely vegetated wetlands (Walton and Workman 1998). Wetlands with open water also had significantly fewer stage III and IV instars which may be attributed to increased predator abundances in open water habitats (Walton and Workman 1998).
4. Construct dams or impoundments that restrict down slope seepage or overflow by digging ponds in flat areas rather than damming natural draws for effluent water storage, or lining constructed ponds in areas where seepage is anticipated (Knight et al. 2003).
5. Line the channel where discharge water flows into the pond with crushed rock, or use a horizontal pipe to discharge inflow directly into existing open water, thus precluding shallow surface inflow and accumulation of sediment that promotes aquatic vegetation.
6. Line the overflow spillway with crushed rock, and construct the spillway with steep sides to preclude the accumulation of shallow water and vegetation.
7. Fence pond site to restrict access by livestock and other wild ungulates that trample and disturb shorelines, enrich sediments with manure and create hoof print pockets of water that are attractive to breeding mosquitoes.

### Literature Cited:

- De Szalay, F.A. and V.H. Resh. 2000. Factors influencing macroinvertebrate colonization of seasonal wetlands: responses to emergent plant cover. *Freshwater Biology*. 45: 295-308.
- Doherty, M.K. 2007. Mosquito populations in the Powder River Basin, Wyoming: a comparison of natural, agricultural and effluent coal bed natural gas aquatic habitats. M.S. Thesis. Montana State University, Bozeman, U.S.A.
- Knight, R.L., W.E. Walton, G.F. Meara, W.K. Riesen and R. Wass. 2003. Strategies for effective mosquito control in constructed treatment wetlands. *Ecological Engineering*. 21: 211-232.
- Schmidtman, E.T., R.J. Bobian, R.P. Beldin. 2000. Soil chemistries define aquatic habitats with immature populations of the *Culicoides variipennis* complex (Diptera: *Ceratopogonidae*). *Journal of Medical Entomology*. 37: 38-64.
- Walton, W.E., and P.D. Workman. 1998. Effect of marsh design on the abundance of mosquitoes in experimental constructed wetlands in Southern California. *Journal of the American mosquito control Association* 14:95-107.

## APPENDIX G: Summary of Relevant Science Considered by Council

The following summary briefly details the published literature that was presented to and considered by the Sage-grouse Advisory Council during the crafting of this Strategy. It is not an exhaustive list of sage-grouse related research. Specific presentations and handouts provided to Council throughout the process are available for download at <http://fwp.mt.gov/fishAndWildlife/management/sageGrouse/habitatConservation/>

### ***Sage-grouse General Ecology and Habitat Use***

Connelly et al. 2011 – sage-grouse population characteristics, range-wide summary

- General dependence on big and silver sagebrush species; can use other shrub species at times but they are not critical for sage-grouse persistence
- Three seasonal habitats – breeding, summer, winter
- Male displaying grounds (leks) are usually traditional locations but temporary satellite leks can form in years of relatively high abundance
- Average nest distance from lek is 3.2 – 5 km (2 – 3.1 miles)
- Nestlings fed primarily invertebrates; juveniles change to eating forbs in late summer; sagebrush dominates diet in winter
- Highest mortality for juveniles is probably hatching to brood break up
- Adult survival tends to be relatively high over winter
- Some populations migratory (move >10 km [6.2 miles] among 2 or more seasons); other populations non-migratory
- Birds disperse ~4 – 5.5 miles from place of hatch to place of breeding
- Large, interconnected expanses of sagebrush are required by sage-grouse;
- Range-wide habitat loss and degradation is threatening populations

Taylor et al. 2012 – vital rates of sage-grouse

- Three rates were important for population growth, in order: female survival, chick survival and nest success.

Sika 2006 – central Montana

- 97% of nests were within 3 miles of an active lek

Holloran and Anderson 2005, Holloran 2005 - western WY:

- Sage-grouse nest locations are spatially related to lek locations and a 5 km (3.1 mi.) buffer included 64% of known nests. Moynahan's (2004) work in north central MT supports this finding.
- The substantial number of females nesting > 5 km (3.1 mi.) from a lek could be important for population viability.
- Observed lek to nest distances was not related to lek size.
- Successful nests were generally located further from leks than destroyed nests.
- Nests located  $\leq 1$  km (0.6 mi.) from another known nest tended to have lower success probabilities.

Tack 2009 – northern Valley County and southern Saskatchewan

- Average distance from lek of capture to nest site was 5.3 km (3.3 mi.). Seventy-five and 95% of nests were within 6.8 and 12.3 km (4.3 and 7.7 mi.) of lek of capture, respectively.
- All radio-collared individuals moved >20km in consecutive years to winter habitat

Smith 2013 – long-distance migration in sage-grouse

- Sage-grouse moved as far as 240-km (149 mi.) from breeding habitat in north-central Montana/southern Saskatchewan to winter habitat north of the Missouri River.
- Grouse migrated through gently rolling sagebrush flats (<5% slope), using native sagebrush rangeland in proportion to its availability, and avoiding cropland and badlands where food was scarce.

Montana Sage Grouse Working Group 2005 – state management plan

- Sage-grouse populations demonstrate annual and cyclic fluctuations
- Montana populations appear to cycle over approximately a 10-year period under existing habitat conditions and the current combination of weather and predators.

Table 1. Range-wide and Montana-specific vital rates for sage-grouse compiled by Fish, Wildlife and Parks.

Vital Rate	Range-wide rates <sup>1</sup>	Montana rates	Years of MT study	Location	Reference
Nest success	15 – 86%	64%	1969 - 1972	Petroleum Co.	Wallestad and Pyrah 1974
		28 - 43%	2004 - 2005	Musselshell and Golden Valley Co.	Sika 2006
		35 – 61%	2001 - 2003	S. Phillips Co.	Moynahan et al. 2007
		53 – 61%	2007 - 2008	Milk River Basin	Tack 2009
		59%	2011 - 2012	Musselshell and Golden Valley Co.	Berkeley, unpubl. data <sup>2</sup>
Chick survival	12 – 50%	33 – 38%	2007 - 2008	Milk River Basin	Tack 2009
		12%	2011 - 2012	Musselshell and Golden Valley Co.	Berkeley, unpubl. data <sup>2</sup>
Hen survival	37 – 78%	25 – 96% <sup>3</sup>	2001 – 2003	S. Phillips Co, Montana	Moynahan et al. 2006
		94% (nesting season) 84 – 93% (late summer)	2004 - 2005	Musselshell and Golden Valley Co.	Sika 2006
		55 – 91% (spring/summer) 84 – 92% (over winter)	2007 - 2008	Milk River Basin	Tack 2009
		59%	2011 - 2012	Musselshell and Golden Valley Co.	Berkeley, unpubl. data

<sup>1</sup>Range-wide estimates from Connelly et al. 2011.

<sup>2</sup>Spring and early summer weather during 2011 and 2012 were subject to historic extremes of high precipitation in 2011 and severe drought in 2012, which likely affected nest and chick survival rates.

<sup>3</sup>25% annual survival in 2003 was attributed to a WNV outbreak and severe winter conditions; annual survival in 2001-2002 averaged 96%.

Coates et al. 2013 – Seasonal Space Use, Bi-state population (California & Nevada border)

- 5% of sage-grouse seasonal use area encompassed within a 0.25 mile buffer around leks
- 28% of sage-grouse seasonal use area encompassed within a 0.60 mile buffer around leks
- 90% of sage-grouse seasonal use area encompassed within a 3 mile buffer around leks
- Buffers up to 7.5 km (4.7 miles) around leks will encompass most seasonal space use; managers should consider buffers between 5.0 and 7.5 km (3.1 – 4.7 miles)

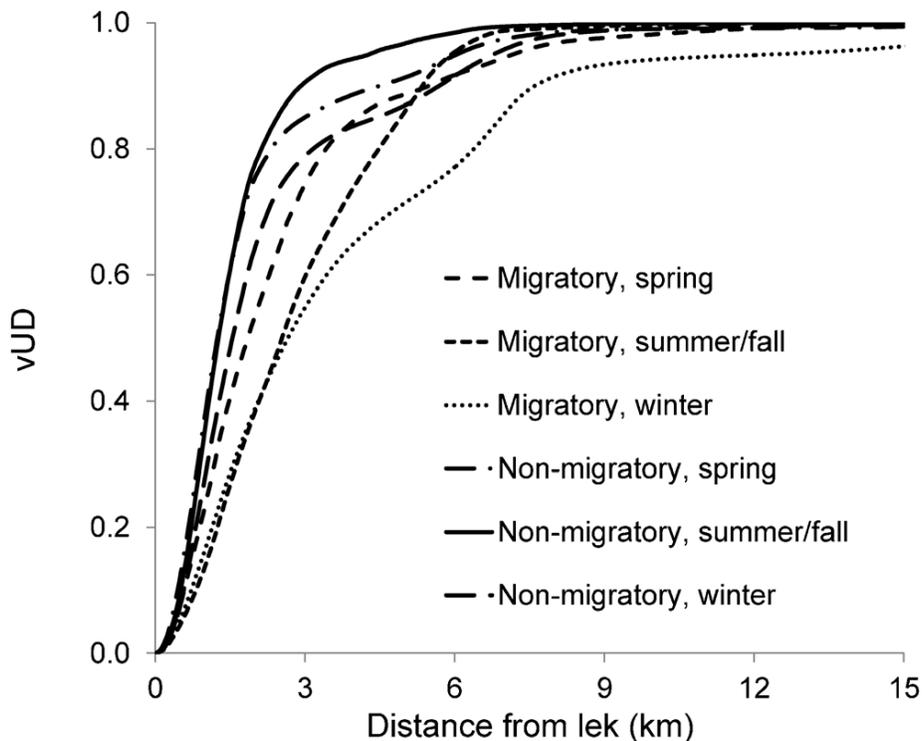


Figure 1. Response curves of volume of utilization distribution (vUD) for sage-grouse grouped by migratory status and season as a function of distance to leks. We collected these data in the Bi-State Distinct Population Segment in Mono County, California, during 2002–2009. *Copied directly from Coates et al. (2013).*

**FWP note:** This graphical representation from the Coates et al. research shows the percentage of estimated animal use area (vUD) encompassed by increasing distances from the lek. The vUD can be loosely interpreted as the total area used by sage-grouse in this population. The authors report that at 0.25, 0.60, and 3 mile distances from the lek, approximately 5%, 28%, and 90%, of the total area used by sage-grouse was encompassed, respectively. The graph suggests that at 1 mile (1.6 km) from the lek, approximately 50-60% of the total area used by sage-grouse was encompassed.

**Summary:** On a range wide scale, occurrence of sage-grouse is largely defined by sagebrush distribution. Sage-grouse require a landscape that meets different habitat requirements for breeding, brood-rearing, and winter seasons. A 5 mile buffer around active leks will typically capture most seasonal habitat with the exception of winter habitat for migratory populations. The three vital rates that tend to drive sage-grouse population dynamics are nest success, chick survival, and hen survival. In Montana, these vital rates appear to be within range-wide estimates suggesting Montana populations are relatively secure overall (Table 1). Recent declines in male lek attendance documented by Fish, Wildlife and Parks are likely representative of natural fluctuations that are influenced, in part, by weather.

### ***Importance of Sagebrush Habitats to Sage-grouse***

Johnson et al. 2011 - evaluation of anthropogenic and landscape feature influence on lek trends

- Lek trends increased modestly but steadily with the cover of all sagebrush at both 5-km and 18-km radius around leks.

Wisdom et al. 2011 – factors associated with sage-grouse extirpations

- Compared historical locations in occupied (n=239) vs extirpated (n=136) range for sage-grouse

- Historical locations in occupied range contained almost twice as much area in sagebrush as those in extirpated range (46% vs. 24% area).
- Mean patch size of sagebrush was >9 times larger, and mean core area >11 times larger, in occupied versus extirpated range. Sagebrush patches also were substantially closer to one another in occupied range.

Knick et al. 2013 – ecological similarities in sage-grouse lek characteristics

- Lek locations had approximately twice the average large-scale sagebrush cover for the study area and three times that of historic locations. 79% of area within 5km of lek was in sagebrush cover at active leks, 28% at historic but no longer occupied leks, and 35% for the study area.
- Active leks were surrounded by >40% landscape cover of sagebrush on average.

Martin 1970. Sagebrush control related to habitat and sage grouse occurrence.

- Only 4% of 415 sage grouse observations were made on sprayed strips. Sprayed strips were ~9x the area of unsprayed habitat.
- Study area in southwest Montana

Wallestad and Pyrah. 1974. Movement and nesting of sage grouse hens in central Montana

- Radio-collared 31 sage-grouse hens and located 22 nests in central Montana.
- All nests occurred in sagebrush stands with a canopy coverage that exceeded 15% and sagebrush formed the nesting cover over all of the 41 nests located.
- Successful nests had significantly greater sagebrush cover within 24 inches of nest, within a 100 ft<sup>2</sup> plot around nest and were located in stands of sagebrush with a higher average canopy coverage than those of unsuccessful nests.
- Wintering and nesting areas are dominated by dense stands of sagebrush and should be considered together as a wintering-nesting complex. No sagebrush control should be considered on these wintering–nesting complexes.

Baker et al. 1976. Conservation Committee report on effects of alteration of sagebrush communities on the associated avifauna.

- “...control of sagebrush in large blocks (larger than 16 ha) appears to be detrimental [to sage-grouse].”

Braun et al. 1977. Guidelines for maintenance of sage grouse habitats.

- “[Patterson] affirmed that sage grouse have not adjusted, and doubtlessly will not adjust their life processes to fit a pattern of land use that eliminates or seriously disturbs large tracts of the sagebrush-grassland types on any of their seasonal ranges.”
- The authors summarized research documenting the dependence of sage-grouse on sagebrush ecosystems.
- Recommended control of vegetation be avoided on all lands within a 3km radius of occupied leks and any areas known to have supported important wintering concentrations of sage grouse within the past 10 years.

Wambolt and Sherwood. 1999. Sagebrush response to ungulate browsing in Yellowstone.

- “Ultimately, many organisms are sacrificed with the loss of quality big sagebrush habitat.”

Wambolt et al. 2001. Recovery of sagebrush after burning, south-western Montana

- Big sagebrush canopy cover, density and production of winter forage were significantly greater in unburned than burned portions of a paired comparison.
- Total perennial grass cover did not differ between burned and unburned areas.
- “Managers considering prescribed burning of big sagebrush communities should be aware that herbaceous plant responses may be minimal while shrub values will likely be lost for many years.”

Sowell et al. 2011. Northern, central and southern Montana and northern Wyoming

- There was little association (1% of the variation) between herbaceous vegetation cover and Wyoming big sagebrush cover
- “Removing Wyoming big sagebrush cover to increase herbaceous vegetation for any purpose, including enhancing sage-grouse brood survival, does not appear to be biologically sound.”

**Summary:** Sage-grouse are dependent on large, intact landscapes of good quality sagebrush habitat. Removal or degradation of sagebrush is clearly detrimental to sage-grouse lek persistence and trends, nesting success, and over-winter survival.

**Impacts of cropland agriculture on sage-grouse populations**

Swenson et al. 1987. Decrease of sage grouse *Centrocercus urophasianus* after ploughing of sagebrush steppe.

- Number of males on leks declined by 73% in Shields River Valley (Park Co.) between 1973 and 1984. 16% of the winter habitat area was plowed by 1984. No similar trend in nearby area where plowing did not occur.
- With 84% of total area in sagebrush steppe, the population index for sage grouse declined from 241 to 65 males on leks. This equated to halving the population every seven years.
- Sagebrush loss was on a relatively small area but a relatively large portion of winter habitat (30%).

Tack 2009. Sage-grouse and the human footprint

- Large leks are 4.5 times less likely to occur than small leks when agricultural tillage fragments 21% of land within 1.0km of breeding sites.

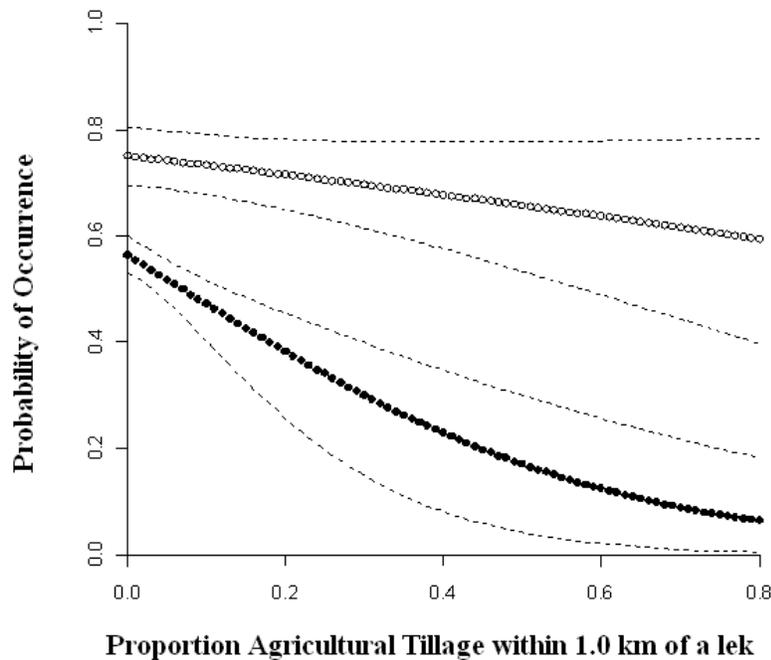


Figure 2. Probability of active lek occurrence of leks with < 25 males (open circles), and leks >25 males (closed circles) and agricultural tillage within 1.0km of a lek, values predicted for leks in big sagebrush habitat. Copied from Tack 2009

Knick et al. 2011. Ecological influence and pathways of land use in sagebrush.

- Agriculture, mostly mapped croplands, currently covers >230,000 km<sup>2</sup> (11%) of sage-grouse habitat.
- In the Great Plains (MZI), agriculture covers 18.7% and area influenced by agriculture ranges from 68.1 to 90.7% of the landscape.

Knick et al. 2013. – ecological similarities in sage-grouse lek characteristics

- <2% of leks were in areas surrounded by >25% agriculture within a 5-km radius
- 93% of leks were in areas surrounded by <10% agriculture within a 5-km radius.

Copeland et al. 2013. Measuring the effectiveness of the WY strategy

- “Targeted easements [\$250 mil] averted an additional 9-11% of expected declines compared to that of the core area policy alone.” In Wyoming.
- “...random placement of easements within core areas has much lower potential for benefiting sage-grouse populations.”

**Summary:** Conversion of native range to cropland effectively removes sage-grouse habitat from the landscape. Even relatively low levels of tillage, 21-25% of the landscape, can lead to lek abandonment, especially by larger leks.

### ***Predators and Sage-grouse***

Howe et al. 2014. Nesting habitat selection by common ravens in sagebrush habitats

- “ravens were most likely to nest near edges of adjoining big sagebrush (*Artemisia tridentata*) and land cover types that were associated with direct human disturbance or fire.”
- Odds of raven nesting declined by 31% for every 1km (0.6 mi) increase in distance away from a transmission line.
- For every 100-m increase in distance from the edge of big sagebrush habitat with another cover type, the odds of a raven nest decreased by 20%
- “An increase in the amount of edge by 1 km [0.6 mi] within an area of 102.1 ha [252 ac] across the study area increased the odds of nesting by 49%”

Hagen 2011 – range-wide summary

- Sage-grouse are adapted to predation and in unaltered systems will persist indefinitely with predation pressure
- Predators in altered systems can lead to decreased annual recruitment of sage-grouse
- Predators of sage-grouse tend to be generalists that take prey opportunistically
- Common predators are coyote, red fox, American Badger, bobcat, golden eagles and other raptors. Common ravens and black-billed magpies will depredate nests.
- Anthropogenic, landscape level changes have increased abundance of some predators, notably red fox and common raven, within the sage-grouse range
- Predator control programs can have localized, short-term effects, but the sustainability of predator control as a long-term management tool has not been demonstrated.

Taylor et al. 2012 – sage-grouse vital rates

- The influence of predation on sage-grouse population dynamics typically only becomes problematic when vital rates, especially nest, chick and hen survival, are consistently reduced below naturally-occurring levels. (See Table 1 for FWP’s compilation of sage-grouse vital rates range-wide and in Montana).
- Recommend increasing survival and nest success rates by restoring large, intact sagebrush-steppe landscapes, reducing human-caused mortality, and eliminating anthropogenic habitat features that subsidize predators.

Baxter et al. 2007 – Strawberry Valley, Utah

- Low sage-grouse survival was attributed to unusually high density of red fox that were attracted to the area by anthropogenic activity
- Adult survival appeared to increase with fox removal; however, demographic rates were concomitantly increasing across the region during the study period, limiting inference on the success of the fox removal program.

#### Holloran 2005 – western Wyoming

- Increased nest predation rates were attributed to high corvid abundance; corvid abundance was influenced by anthropogenic structures associated with natural gas development

#### Bui 2009, Bui et al. 2010 – ravens in western Wyoming

- Ravens used road networks, fences, power lines, and other infrastructure associated with development.
- Found a negative association between raven presence and sage-grouse nest and brood fate.
- Predation was attributed primarily to territorial pairs, not groups of juveniles, sub-adults, or non-breeding birds.

#### Coates 2007 – nest predation in northeastern Nevada

- Raven removal resulted in short-term reductions in raven populations; however, other individuals re-populated the vacated habitat within a year
- Badger predation may have compensated somewhat for decreases in raven populations

#### Slater 2003 – coyote control in southwestern Wyoming

- Coyote control had no effect on nest success or chick survival

#### Mezquida et al. 2006 – implications of coyote control

- Removal of coyotes can lead to a release of otherwise suppressed medium-sized predators, such as red fox, which tend to be more effective predators of sage-grouse nests and individuals

**Summary:** Populations of some predators have increased, in large part because of anthropogenic subsidies. The ability of sage-grouse to withstand increased predation pressure is enhanced in unaltered landscapes, especially those that have been managed to provide good quality habitat for sage-grouse. Reported vital rates for sage-grouse in Montana are within range-wide estimates, suggesting Montana's populations overall are not experiencing excessive predation. However, predators could be suppressing sage-grouse populations in localized areas. Reducing the human footprint and associated anthropogenic subsidies that support predator populations, such as landfills, tall structures, abandoned buildings and other infrastructure, and road networks can help control predator populations (Leu and Hanser 2011). Predator control through lethal means is difficult to sustain, e.g., ravens re-populate vacated territories quickly after removal, and can have unintended consequences, e.g., coyote control can release numbers of medium-sized predators. Predator control options need to be evaluated on a case-by-case basis and at a local, not statewide, scale.

#### ***Sage-Grouse Breeding Activities Related to Development***

##### Holloran 2005 – western WY radio-marking study.

- Male lek attendance declined as distance from leks to drilling rigs, producing wells and haul roads decreased and as densities of those infrastructure facilities increased. Effects were detectable out to various distances (3.0 – 6.2 km; 1.9-3.9 mi.) depending on the disturbance variable. These observations were similar to that reported for sage-grouse associated with energy development in Alberta (Aldridge and Brigham 2003) and Colorado (Remington and Braun 1991).
- Well densities exceeding 1 producing well every 283 ha (1 well/699 acres) appeared to negatively influence male lek attendance.
- Main haul roads within 3 km (1.9 mi.) of leks negatively influenced male lek attendance largely through increased traffic volume. Investigators reported a prominent drop in lek attendance when daily traffic exceeded 50 axles per day.
- Male attendance decreased with traffic volume of < 12 vehicles per day and leks became inactive when volume exceeded 75 vehicles per day.
- To maintain continued nesting for future sage-grouse generations the author recommended, at a minimum, all potential nesting habitat within 5km (3.1 miles) of an active lek be protected from development.

Walker et al. 2007a - northeast WY and southeast MT radio-marking study.

- From 2001-2005, the number of males counted on leks in coal bed natural gas (CBNG) fields declined more quickly than counts on leks outside of CBNG fields.
- By 2005, active leks within CBNG had 46% fewer males than leks outside of CBNG fields. Leks with energy development within 6.2 km experienced decreased male attendance.
- Of those leks considered active in 1997, only 38% remained active within CBNG fields by 2004-2005, compared to 84% of leks outside CBNG fields.
- CBNG development as distant as 6.4 km from a lek had a detectable impact on lek persistence.
- From 2000-2005, leks in CBNG fields had 11-55% fewer males per active lek than leks outside CBNG development. All known remaining leks with  $\geq 25$  males occurred outside CBNG fields in 2005.
- Findings showed that CBNG development is having negative effects on lek persistence over and above other habitat effects including power lines, preexisting roads, West Nile Virus mortality, or tillage agriculture, even after controlling for availability of sagebrush habitat.
- Research findings show a lag effect, with leks predicted to disappear, on average, within 4 years of CBNG development.
- Leks typically remained active when well spacing was  $\geq 500$  acres (1.3 wells per section), whereas leks typically were lost when spacing exceeded 4.2 wells per section.

Tack 2009 – lek analysis within eastern Montana, southwest North Dakota, northwest South Dakota, southwest Saskatchewan, and southeast Alberta.

- Showed steep decline in probability of occurrence of larger leks ( $> 25$  males) associated with oil or gas development, even at levels of less than 1 well/640 acres within a 12.3 km (7.8 mile) radius of leks.
- Showed probability of occurrence of leks with  $>25$  males dropped off as density of roads within 3.2 km of a lek increased.

Doherty et al. 2010 – Wyoming statewide lek survival and male attendance retrospective analysis relative to oil and gas development.

- Developed research-based matrix revealing how increases in well density within 3.2 km (2 mi) of a lek affects lek attendance and lek survival.
- The authors did not detect any impacts to male counts or lek survival with well densities of up to 1 well/640 acres.
- For Management Zone I, Well densities spanning 1.03-3.1 wells/640 acres experienced an 11.5% decline in the number of active leks and a 31.4% decline in number of males on remaining leks.
- For Management Zone II, well densities spanning 1.03-3.1 wells/640 acres experienced a 12.1% decline in the number of active leks and a 55.5% decline in number of males on remaining leks.

Harju et al. 2010 – Seven study areas in different parts of Wyoming involving a retrospective lek attendance and oil and gas development analysis.

- Leks with at least one well within a 0.4 km (0.25-mile) radius had 35-91% fewer attending males compared to leks that lacked any wells within that radius.
- In two of five project areas, negative effects of well surface occupancy was detectable out to 4.8 km (3 miles), which was the largest buffer tested.
- Analysis showed a general trend of declining male numbers with an increase in well pad densities.
- Negative impacts on male counts were first detectable at well pad densities as low as 2/640 acres on one project area, 1 /640 acres on one project area, and 0 to 1 well pad/640 acres on two project areas.
- Well pad densities of 4 /640 acres experienced male attendance that was 13-74% lower than leks that lacked well pads within 8.5 km. For those areas with a well pad density of 8/640 acres, male attendance at leks was 74-79% lower than leks that lacked well pads within 8.5 km (5.3 mi.).
- A time lag effect between the time of development and when it was detectable via male counts on leks ranged from 2-10 years.

Holloran et al. 2010 – Southwest Wyoming, investigated behavior of yearling male and female sage-grouse associated with natural gas development.

- Found leks that recruited more than the expected number of males were 2.1-2.9 times further from drilling rigs, producing wells, and main haul roads compared with leks that recruited fewer males than expected.
- Radiomarked males were 4.6 times more likely to establish on leks outside of developed areas.
- Treatment yearling males (with natal brooding areas—a radius of 1.65 km of nest site of origin—that had greater than 1 producing well pad or greater than 1 km of main haul road) were 50% less likely to establish a breeding territory compared to control yearling males.
- Annual survival of treatment yearling males associated with development areas (54%) was significantly lower than survival of yearling males that were reared outside of development (100%). In similar fashion, annual survival of treatment yearling females associated with development areas (69.4%) was significantly lower than survival of yearling females that were reared outside of development (100%).
- Concluded that yearling dispersal distances suggest the need to “manage landscapes where sagebrush-dominated regions within those landscapes remain undeveloped for sage-grouse.”

Johnson et al 2011 – range-wide analysis of leks associated with a variety of anthropogenic features.

- Measured lek trends at 3 scales and found that trends of leks within 5 km (3.1 mi.) of a producing oil or natural gas well were depressed. Trends were also lower on leks with more than 10 producing wells within 5 km (3.1 mi) or more than 160 wells within 18 km (11.2 mi.) of the lek.
- Found that a density of more than one producing well/6.4 km<sup>2</sup> (1 well/2.5mi<sup>2</sup>) within 18 km (11.2 mi) of leks negatively influences lek count trends.
- Declines in lek trends occurred across a Management Zones if the median human footprint score >3 regardless of the activities that contributed to the score.
- Found length of pipeline within 5-km of lek negatively influences lek count trends
- Effect of power lines on lek trends not detected

Knick et al. 2013 – minimum requirements for distribution of greater sage-grouse leks

- Found that sagebrush land cover within 5 km of the lek averaged 79% at currently occupied leks, 28% at historic but no longer occupied leks, and 35% throughout study area
- Found <2% of the leks were in areas surrounded by >25% agriculture within a 5-km radius, and 93% by <10% agriculture.
- 99% of active leks were in landscapes with <3% developed; all lands surround leks were <14% developed.
- 93% of active leks fell below 0.01 km/km<sup>2</sup> densities of interstate highways
- Highest habitat suitability had pipeline densities <0.01 km/km<sup>2</sup> and power line densities <0.06 km/km<sup>2</sup>
- Leks were absent from areas where power lines densities exceeded 0.20km/km<sup>2</sup>, pipeline densities exceeded 0.47 km/km<sup>2</sup> or communication towers exceeded 0.08 km/km<sup>2</sup>.

Copeland et al. 2013 – measuring efficacy of sage-grouse conservation in Wyoming

- Predict WY’s core area strategy plus \$250 mil in targeted conservation easements reduces sage-grouse population declines from 14-29% (no conservation measures) to 9-15% (with conservation measures). This cuts anticipated losses by roughly 1/2 statewide and nearly 2/3 within sage-grouse core breeding areas.

LeBeau 2012 – wind energy in Wyoming

- Nest and brood survival negatively affected within 3 miles of wind turbines
- No effect of wind energy on female survival
- Sage-grouse selected brood habitat closer to wind facilities

Hagen et al. 2011 – lesser prairie chickens, southwestern Kansas

- Avoided power lines up to 0.45 miles
- Documented prairie chicken collisions with power lines

Ellis 1985

- Power lines influenced increased predation and sage-grouse dispersal to 0.75 miles

**Summary:** Impacts of anthropogenic activities on sage-grouse can vary depending on activity and local habitat conditions but cumulative impacts of multiple activities can have significant, negative impacts on sage-grouse populations. Oil and gas well densities commonly permitted in Montana and Wyoming can severely impact sage-grouse breeding populations (Naugle et al. 2011). A number of studies involving both radio-equipped birds and regional and range-wide lek analyses report declining trends of male counts where leks are associated with oil and gas developments. These associations varied by density and nearness of lek. Densities as low as 1 well/6.4 km<sup>2</sup> (1 well/2.5 mi.<sup>2</sup>) showed negative impacts on male counts. Four studies reported declines in lek male counts associated with oil and gas development that were detectable at development distances of more than 6 km (3.8 mi.) from the lek. As development densities increase and encroach closer to leks, the impact in population trends is more severe. Drilling rigs, haul roads, and producing wells were all found to have impacts on male attendance and lek persistence. Lag times between onset of development and population response averaged 4 years but extended out to 10 years. This lag time is explained in large part by annually returning adult males (as long as they survive) but yearling males associated with gas development experienced lower survival and moved to leks outside of development areas to establish a breeding territory. Yearling females raised in the vicinity of producing wells or main haul roads also showed significantly lower survival, directly affecting annual population recruitment and trends. Current well pad placement restrictions that allow development as close as 0.4 km (0.25 mi.) of a lek are wholly inadequate for effectively conserving sage-grouse. Landscape scale set asides or incremental development that leaves large habitat expanses undeveloped may be most appropriate for assuring long term sage-grouse viability.

### ***Sage-Grouse Nesting and Brood Rearing***

Holloran and Anderson 2005, Holloran 2005 - western WY:

- Sage-grouse nest locations are spatially related to lek locations and a 5 km (3.1 mi.) buffer included 64% of known nests. Moynahan's (2004) work in north central MT supports this finding.
- The substantial number of females nesting > 5 km (3.1 mi.) from a lek could be important for population viability.
- Observed lek to nest distances was not related to lek size.
- Successful nests were generally located further from leks than destroyed nests.
- Nests located  $\leq 1$  km (0.6 mi.) from another known nest tended to have lower success probabilities.
- Nesting females strongly avoided areas with high well densities but adult females can exhibit strong nest site fidelity. Mean annual survival rates for females suggest that 5 to 9 years may be required to realize ultimate nesting population response to development activities.
- Nest and brood survival probabilities were found to be higher within developed areas but those benefits were overridden by lower hen survival rates within developed areas.
- Sage-grouse population decline in developed areas were best explained when comparing nest success and hen survival pre and post-development, which revealed lower nest survival and lower annual survival of female sage-grouse post-development.

Lyon and Anderson 2003 – western WY

- Female sage-grouse disturbed by natural gas development during the breeding season had lower nest initiation rates.

Schroeder and Robb 2003 – north central WA

- Nest distribution patterns may change as a result of habitat alteration and fragmentation and the 5 km (3.1 mi.) buffer should be considered relevant only for contiguous sagebrush habitats.

Aldridge and Boyce 2007 - southeast AB

- Sage-grouse chick survival decreased as well densities increased within 1 km (0.6 mi.) of brooding locations. These brood-rearing areas acted as habitat sinks where recruitment was poor.
- Low nest success (39%) and low brood survival (12%) characterized sage-grouse vital rates in habitat fragmented by energy development in southern Alberta.

Tack 2009 – northern Valley County and southern Saskatchewan

- Average distance from lek of capture to nest site was 5.3 km. Seventy-five and 95% of nests were within 6.8 and 12.3 km (4.3 and 7.7 mi.) of lek of capture, respectively.

Holloran et al. 2010 – Southwest Wyoming, investigated behavior of yearling male and female sage-grouse associated with natural gas development.

- Yearling females avoided nesting within 950m (0.6 mi.) of infrastructure, regardless of whether they were reared in the vicinity of development or not.

**Summary:** Female sage-grouse are spatially grouped around a lek or lek complex during the nesting season. Females tend to move away from leks in selecting nest locations and to an extent, those movements appear to improve their rates of nest success. However, females in developed habitat moved twice as far as females in undisturbed habitat and exhibited lower rates of nest initiation. Females also select nest locations that segregate their nests from those of adjacent hens and the probability of successfully hatching those nests increases when that distance is  $\geq 1$  km. When females have suitable and contiguous nesting habitat to select from, slightly over 60% of nests occur within 5 km (3.1 mi.) of the lek. This strategy of mutual avoidance reduces nest densities and therefore reduces probability of detection by nest predators. However, land use practices that fragment sagebrush habitat and reduce the amount of suitable nesting cover may lead to increased densities of nesting birds and lower rates of nest success. Even if 5 km (3.1 mi.) buffers are employed around existing leks, increased development and production activity in the zone beyond that buffer will impact the remaining 40% of nesting hens and potentially compromise the success of those birds nesting within that 5 km buffer based on the density dependent factors noted above. Population declines associated with development are attributable to lower hen survival. Seasonal surface use restrictions within 2 miles (3.2 km) of an active lek during the breeding and nesting period (1 March – 15 June) are inadequate to maintain sage-grouse populations within developed habitat.

### ***Sage-Grouse Winter Habitat Use***

Doherty et al. 2008 – Powder River Basin (PRB) in Montana and Wyoming

- Researchers established a predictive winter habitat use model based on key habitat features that was strongly correlated with observed sage-grouse locations ( $R^2 = 0.984$ ).
- Sage-grouse select for large intact and relatively flat expanses of sagebrush as winter habitat and avoid more rugged terrain and conifer habitat. Given that severe winter conditions (deep snow, low temperatures) could force birds into more rugged terrain, topographic variables should be considered in regions outside the PRB.
- After controlling for vegetation and topography, the addition of a variable quantifying the extent of energy development showed that sage-grouse avoid energy development in otherwise suitable habitat. Probabilities of use decrease by  $\approx 30\%$  at a 32 ha well spacing (80 acre spacing). Sage-grouse were 1.3 times more likely to use winter habitat if CBNG development were not present.
- The model classified only 13% of study area as high quality winter habitat (D.E. Naugle, University of Montana, unpublished data).
- Authors concluded that breeding season timing restrictions and quarter mile no surface development around leks are insufficient for preventing infrastructure and ongoing human activity associated with producing wells from displacing sage-grouse in winter.

Tack 2009 – northern Valley County and southern Saskatchewan

- All radio-collared individuals moved  $>20$ km in consecutive years to winter habitat

Smith 2013 – long-distance migration in sage-grouse

- Sage-grouse moved 240-km from breeding habitat in north-central Montana/southern Saskatchewan to winter habitat north of the Missouri River.
- Grouse migrated through gently rolling sagebrush flats (<5% slope), using native sagebrush rangeland in proportion to its availability, and avoiding cropland and badlands where food was scarce.

**Summary:** Sage-grouse use connected patches of relatively flat sagebrush for migration and winter habitat. Sage-grouse are sensitive to energy development associated with winter habitat. Recent advances in modeling efficiencies provide a tool to assess important winter habitat and the spatial relationship between known leks and potential winter habitat. Sage-grouse in this region can be nonmigratory when suitable seasonal habitats occur in reasonable juxtaposition while other population segments do migrate to more distant winter habitat. In some cases, these dissimilar distribution patterns may involve birds using the same lek complex or a shared winter range. Winter habitat should be conserved at an appropriate scale and with some knowledge of sage-grouse distribution patterns. Seasonal restrictions will not be effective at mitigating infrastructure development if the level of development is moderate to intense and overlays important winter habitat.

### **West Nile Virus**

Zou et al. 2006; Walker et al. 2007b; Walker and Naugle 2011; Doherty 2007

- West Nile Virus (WNV) was documented as an important new source of mortality in lower and mid elevation populations across the range of sage-grouse from 2003-2007, affecting all sex and age classes.
- Local and regional population declines have been attributed to WNV outbreaks.
- Research shows that CBNG ponds pose a threat to sage-grouse because they provide habitat for mosquitoes that spread WNV. Larval *Cx. tarsalis*, the species of mosquito that spreads the disease, were produced at similar rates in CBNG and natural sites, whereas CBNG ponds produced *Cx. tarsalis* over a longer time period compared to both agricultural and natural sites.
- CBNG ponds resulted in a 75% increase in potential breeding habitat for *Cx. tarsalis*.

**Summary:** West Nile Virus should be considered endemic across the northern Great Plains portion of the range of greater sage-grouse. The presence of this disease has added another stressor to sage-grouse population dynamics. The prevalence of the disease and associated level of mortality in sage-grouse appears to vary considerably from year to year based on environmental conditions. However, CBNG ponds do provide a much more consistent set of conditions favorable to the spread of WNV even in years of low natural precipitation. Conservation actions need to consider the relationship between CBNG and WNV and attempt to mitigate those conditions favorable to WNV.

### **SYNTHESIS**

- Recent research using different techniques across many representative parts of the eastern range of sage-grouse has reached similar conclusions about the sensitivity of sage-grouse to anthropogenic disturbances, including conversion to cropland agriculture and oil and gas development. Sage-grouse avoid energy development during both breeding and wintering seasons and do so at scales that render current protective stipulations (e.g., 0.25 mile no surface occupancy buffers) ineffective. A new conservation strategy will be necessary to balance effective sage-grouse conservation with anthropogenic stressors.
- A conservation strategy that focuses on maintaining and enhancing existing sagebrush habitat and minimizing new disturbance will likely be the most effective for sage-grouse.
- A common theme among recent research is the level of impact to sage-grouse relative to placement of developments, density of developments, extent of developments, and level of activity associated with developments.
- Research on wind energy is currently inconclusive. The recent development of wind energy in sage-grouse habitats and lag effect of possible population responses may mask longer term population impacts (Knick et al 2011).

However, human activity, roads, traffic, power lines, visual obstruction, noises, and other factors may result in responses by sage-grouse similar to that found with oil and gas developments.

- Effective sage-grouse habitat conservation must be implemented in a landscape context (Doherty et al. 2011).
- Naugle et al. (2011) characterized different approaches for achieving conservation and energy development based on biological and energy values. Those areas of high biological value but low energy value should be immediately conserved. Those areas of high biological value and high energy value will need to reform policies to reduce threats. And, those areas of lower biological value but high energy potential can emphasize development as the higher priority over conservation.
- Significant fragmentation of habitat and associated loss of populations within the Powder River Basin and other areas in Management Zones 1 and 2, could have status implications to the species within the Great Plains portion of the species' range.
- Implementation of Wyoming's Core Area policy and targeted conservation easements are predicted to reduce sage-grouse population losses but are not expected not to stop population declines completely (Copeland et al. 2013).

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## APPENDIX H: Minority Committee Reports

### Minority Committee Report for MITIGATION STANDARD Greater Sage-Grouse Habitat Conservation Strategy

This Minority Committee Report on the Mitigation Standards found in the *Montana Greater Sage-Grouse Habitat Conservation Strategy (Montana Strategy)* was written because the final standard adopted was adopted “on the fly,” and it may have unintended consequences for sage-grouse conservation.

As background, on December 18, 2013, the Council established a subcommittee to address how disturbances to sage-grouse habitat should be handled in terms of avoidance, minimization, and mitigation issues. The subcommittee was asked to review related public comments on the Draft *Montana Strategy*, including extensive comments by the U.S. Fish and Wildlife Service (Service), and make recommendations to the Governor’s Greater Sage-Grouse Habitat Advisory Council (Council) on how these provisions should be modified. This subcommittee presented its recommendations to the Council on January 14, 2014, one of the last days the Council met. In discussions regarding the subcommittee recommendations, the Council revised the mitigation provisions. After further review of this section, it appears that the Council may have weakened the mitigation provisions, perhaps unintentionally.

A recommended change to the Mitigation Standard, with justification, is provided below.

**APPROVED LANGUAGE.** The Council included the following recommendation for mitigation in the *Montana Strategy*:

General Provisions, Page 9, Item 7:

New development or land uses requiring a permit or other authorizations within sage-grouse Core Areas should be authorized or conducted only when it can be reasonably demonstrated that the activity (factoring in mitigation) will not cause declines in Greater Sage-Grouse populations. Activities that exceed recommended stipulations may require compensatory mitigation (Section VIII).

Core Areas, Page 15, Item 1.c.:

Compensation for Impacts. If project impacts are unavoidable and core area stipulations cannot be met, mitigation measures shall be required, following the Mitigation Framework outlined in Section IX. Mitigation can include enhanced reclamation.

General Habitat, Page 33, Item 1.c.:

Compensation for Impacts. If project impacts are unavoidable and general stipulations cannot be met, mitigation measures may be required, following the Mitigation Framework outlined in Section IX.

**RECOMMENDED CHANGE.** A minority of the Council recommends the following changes to the *Montana Strategy*’s mitigation standard:

General Provisions, Page 9, Item 7:

New development or land uses requiring a permit or other authorizations within sage-grouse Core Areas should be authorized or conducted only when it can be reasonably demonstrated that the activity (factoring in mitigation) will not cause declines in Greater Sage-Grouse populations. Activities **in Core Areas** that **exceed do not meet** recommended stipulations **may shall** require compensatory mitigation (Section VIII).

Core Areas, Page 15, Item 1.c.:

Compensation for Impacts. If project impacts are unavoidable and core area stipulations cannot be met, mitigation measures shall be required, following the Mitigation Framework outlined in Section IX. **In addition, if project impacts are unavoidable, their size has been minimized, Core Area stipulations have been followed, and**

project impacts remain after reclamation, mitigation shall also be required following the Mitigation Framework outlined in Section IX. Mitigation can include enhanced reclamation.

General Habitat, Page 33, Item 1.c.:

Compensation for Impacts. If project impacts are unavoidable and general stipulations cannot be met, mitigation measures may be required, following the Mitigation Framework outlined in Section IX. In addition, if project impacts are unavoidable and their size has been minimized, mitigation may also be required following the Mitigation Framework outlined in Section IX.

#### **RATIONALE FOR RECOMMENDED CHANGE:**

**1. Based on comments on the Draft *Montana Strategy*, it was made clear that the Service wanted to see changes to the mitigation standard. They also specifically recommended that mitigation be required after avoidance, minimization, and reclamation. The Minority Committee’s recommended change to the mitigation standard specifically addresses these issues. The Service made their request in December 9, 2013 comments on the Draft *Montana Strategy*:**

**Page 3:** “The Strategy provides a mitigation section, but currently does not provide clear direction as to when compensatory mitigation for proposed surface disturbance activities would be required. We recommend that compensatory mitigation be required for all such projects that would result in direct, indirect, temporary, and permanent impacts to GSG [Greater Sage-Grouse] that would remain following application of avoidance, minimization, and reclamation / rectification such that neutral or positive GSG population trends and habitats would be maintained; particularly in core areas.” (Service 2013b, page 3)

**Page C4:** “19). VI. Stipulations for Development, a) Core Area Stipulations, ii. Core Area – Specific Stipulations, p. 15: We recommend that the following overall concepts should apply to subsections 1-7:

1) Clear statement / enactment of an “avoidance first” approach to proposed surface disturbance activities to GSG habitat in core areas. The COT Report [Service 2013a] conservation objective for infrastructure, a widespread threat to most Montana GSG populations, is to avoid development of infrastructure within PACS (core areas). We recommend that such an “avoidance first” approach be enacted, and rationale be required by authorizing agencies as to why a given proposed surface disturbance to GSG habitat in core habitat is unavoidable. Clear, mandatory direction to adhere to (and document adherence to) the mitigation sequence in Section IX (avoid, minimize, reclaim, offset) should be provided.

2) Clear direction as to when compensatory mitigation for proposed surface disturbance activities would be required. We recommend that compensatory mitigation be required for all such projects that would result in direct, indirect, temporary, and permanent impacts to GSG that would remain following application of avoidance, minimization, and reclamation / rectification such that neutral or positive GSG population trends and habitats would be maintained. In the absence of a project-level effects analysis, approved projects that do not comply with Strategy stipulations should be subject to compensatory mitigation. We generally recommend mitigation implementation in advance of impacts; advance (functionality demonstrated by GSG use) compensatory mitigation to offset any approved proposed disturbance to suitable habitat in core areas that would exceed the 5% disturbance threshold should be required in all cases. All proposed compensatory mitigation should be subject to MSGOT review. Please also see Comments 55 and 56 regarding mitigation.” (Service 2013b, page C4)

**2. The Service specifically recommended no mitigation requirement when Core Area/ general habitat stipulations were not being met; instead, the Service recommended that permits should be denied when stipulations are not met. Subsequently, changes made on January 14, 2014 to the *Montana Strategy* appear to run contrary to the Service recommendation. Because the Council did not specifically discuss this issue while they were making conceptual amendments to the document on January 14, this result may have been done unintentionally. That said, the intentions of the Service were clear in their letter on the Draft *Montana Strategy*:**

The Service commented about the stipulation found in Item #7, page 8 of the Draft *Montana Strategy* that stated, “Activities that exceed recommended stipulations may require compensatory mitigation.” The Service wrote about this stipulation: “This implies that proposed activities are not necessarily required to comply with the stipulations, and in that case compensatory mitigation only “may” be required. The Strategy should clearly convey that activities proposing to exceed the stipulations should, in the normal course of business, first be modified such that they meet the stipulations, or disallowed. Compensatory mitigation should be required for impacts remaining following application of avoidance, minimization, and rectification/reclamation measures. For projects that may be allowed to exceed stipulations on a case-by-case, site-specific basis, compensatory mitigation commensurate with the impacts should be required and subject to review by the MSGOT.” (Service 2013b, page C2)

**3. If mitigation is only required when Core Area/ general habitat stipulations are not met, then project sponsors may be able to develop mitigation projects that allow them to build whatever they want, wherever they want to build it, even in critical sage-grouse habitat. The stipulations found in the *Montana Strategy* were designed to minimize habitat fragmentation. If these stipulations can be avoided, as the current mitigation standard suggests, sage-grouse habitat is more likely to become fragmented. Once lost, sage-grouse habitat is difficult—if not impossible—to recover: The following studies and professional opinions support this statement:**

- “...Braun (1998) reported recovery of populations in Montana, Wyoming, and Colorado may occur after initial development and subsequent reclamation of mine sites, *although populations do not recover to pre-development sizes* [emphasis added]. Additionally, population re-establishment may take as long as 30 years (Braun, 1998).” (Manier et al. 2013)
- “Sage-grouse populations can be significantly reduced, and in some cases locally extirpated, by non-renewable energy development activities, even when mitigative measures are implemented (Walker et al. 2007).” (Service 2013a)
- “Success is not guaranteed when conducting Greater Sage-Grouse habitat restoration projects in semiarid environments. The only guarantee is that annual weather conditions can vary widely and these often dictate success of restoration projects” (Pyke 2011, p. 544).
- “Grasses and forbs may respond within 1 to 3 years if soils and seed sources permit recovery or restoration, but return to a shrub-dominated community often requires > 20–30 years, and landscape restoration may require centuries or longer (Hemstrom et al. 2002). Even longer periods may be required for sage-grouse to use recovered or restored landscapes.” (Knick et al. 2011, p. 251)
- “Due to the long period of time (years to decades) required to restore sagebrush habitat upon which sage-grouse depend and because of the uncertainty involved in the successful in-kind mitigation for any loss of sage-grouse habitat within Core Areas, both in quantity and quality, sage-grouse habitat within Core Areas with few exceptions will be considered irreplaceable (per ODFW Mitigation Policy.” (Oregon Department of Fish and Wildlife 2012)

**4. Sage-grouse exhibit high site fidelity, using the same leks and general breeding areas year-after-year. Colonization rates of new areas, even if suitable habitat exists, are relatively low. Therefore, it is more important to conserve existing sage-grouse habitat than to attempt to replace losses elsewhere through off-set mitigation. A strategy that allowed for off-site mitigation without first maximizing conservation on-site would not conserve sage-grouse populations adequately. The following studies and professional opinions support this statement: “Sage-grouse exhibit strong site fidelity (loyalty to a particular area) to seasonal habitats (i.e., breeding, nesting, brood rearing, and wintering areas) (Connelly et al. 2004; Connelly et al. 2011a). Adult sage-grouse rarely switch from these habitats once they have been selected, limiting their ability to respond to changes in their local environments (Schroeder et al. 1999).” (Service 2013a)**

- “Importantly, sage-grouse have demonstrated strong site fidelity suggesting resistance of individuals to adjust to changing habitat conditions (Berry and Eng, 1985; Fischer and others, 1993; Schroeder and Robb, 2003; Holloran and Anderson, 2005; Moynahan and others, 2007; Baxter and others, 2008; Doherty and others, 2010a; Holloran and others, 2010).” (Manier et al. 2013)
- “High site fidelity but low survival of adult sage-grouse combined with lek avoidance by yearlings [11] resulted in a time-lag of 3–4 years between the onset of energy development and lek loss [30]. The time-lag observed by Holloran [30] in conventional gas fields in southwest Wyoming matched that for leks that became inactive 3–4 years following coal-bed natural gas development in northeast Wyoming [19].” (Doherty et al. 2010)
- “Maintaining a local population of birds may increase the chance for a successful restoration because strong site fidelity hinders re-colonization from more distant sites and past precedence shows that translocations, while problematic, are more apt to succeed in areas with resident populations (Reese and Connelly 1997, Baxter et al. 2008).” (Taylor et al. 2012)

**5. And finally, because the Montana Strategy has a 5% cap on anthropogenic disturbances within Core Areas, development projects should utilize the tools of avoidance, minimization, restoration, and mitigation to keep disturbances below this threshold. If this process is successfully done, economic development projects and sage-grouse conservation should be able to co-exist for the long-term.**

**MINORITY REPORT SUBMITTED BY:**

Janet Ellis, Jay Gore, and Carl Wambolt

**DATE:** 1-24-2014

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**Minority Committee Report for  
NOISE STANDARD  
Greater Sage-Grouse Habitat Conservation Strategy**

This Minority Committee Report on the Noise Standard found in the *Montana Greater Sage-Grouse Habitat Conservation Strategy (Montana Strategy)* for Core Areas and General Habitat was written because the final standard adopted is not science-based.

As background, between August 2013 and January 14, 2014, the noise standard found in the Draft *Montana Strategy* was similar to that found in other states (10 decibels above ambient noise), including Wyoming (State of Wyoming 2012). However, after learning that Wyoming is currently re-examining its noise standard because they have had problems implementing their current standard, and in response to some public comment, a majority of the Governor's Greater Sage-Grouse Habitat Council (Council) voted on January 15, 2014 to change the Montana standard to one that is not based in science—and is likely detrimental to this species. Because the objective of the *Montana Strategy* is to show the U.S. Fish & Wildlife Service (Service) that Montana has a science-based plan that will lead to sage-grouse conservation, several committee members believe that it is important for the Governor to change this standard.

A recommended change to the Noise Standard, with justification, is provided below.

**APPROVED LANGUAGE.** The Council included the following recommendation for managing noise in the *Montana Strategy*:

Core Area Basic Stipulations, Page 16, Item 5:

Noise: New noise levels, at the perimeter of a lek, should not exceed 40 dBA above ambient noise (existing activity included) from 6:00 pm to 8:00 am during the breeding season (March 15 – July 15) with the exception of those sites identified under Special Management Core Areas. Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise. The MSGOT should follow Wyoming's review and litigation discussion of this stipulation and amend the strategy accordingly.

General Habitat Stipulations, Page 34, Item 5:

Noise: New noise levels, at the perimeter of a lek, should not exceed 40 dBA above ambient noise (existing activity included) from 6:00 pm to 8:00 am during the breeding season (March 15 – July 15). Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise. The MSGOT should follow Wyoming's review and litigation discussion of this stipulation and amend the strategy accordingly.

**RECOMMENDED CHANGE.** A minority of the Council recommends the following changes to the *Montana Strategy's* noise standard, which has a basis in science:

Core Area Basic Stipulations, Page 16, Item 5:

Noise: New noise levels, at the perimeter of a lek, should not exceed 40 dBA ~~above ambient noise~~ (existing activity included) from 6:00 pm to 8:00 am during the breeding season (March 15 – July 15) with the exception of those sites identified under Special Management Core Areas. ~~Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise.~~ The MSGOT should follow Wyoming's review and litigation discussion of this stipulation and amend the strategy accordingly.

General Habitat Stipulations, Page 34, Item 5:

Noise: New noise levels, at the perimeter of a lek, should not exceed 40 dBA ~~above ambient noise~~ (existing activity included) from 6:00 pm to 8:00 am during the breeding season (March 15 – July 15). ~~Ambient noise levels should be determined by measurements taken at the perimeter of a lek at sunrise.~~ The MSGOT should follow Wyoming's review and litigation discussion of this stipulation and amend the strategy accordingly.

## **RATIONALE FOR RECOMMENDED CHANGE:**

**1. It is recommended that the reference to ambient noise be removed. This portion of the standard is difficult and expensive to measure. It also appears to be problematic for agencies trying to base their management on this measurement.** The following professional opinions support these statements:

- “In addition, collecting measurements of ambient noise levels in quiet areas is extremely challenging and requires expensive, specialized equipment; this makes the requirement to collect ambient values at each lek difficult to implement. Unfortunately, non-ideal weather (especially wind, even at low levels) and almost all errors by the person deploying the noise meter (e.g. poor placement of the meter for long-term deployment, rustling from clothing, crunching leaves underfoot and even breathing close to the meter when handheld) will inflate ambient measures.” (Patricelli et al. 2012)
- ‘...[W]e suggest that it is not feasible or practical to establish baseline noise levels by having agency personnel or consultants with little specialized training measure ambient at each lek prior to development.’ (Patricelli et al. 2012)

**2. The noise standard currently found in the *Montana Strategy* is 60 (+) decibels (dBA). This number is estimated based on ambient noise levels predicted to be approximately 20 - 22 dBA in rural sagebrush habitats, and the *Montana Strategy*'s recommendation of “40 dBA above ambient noise” (40 dBA + 20 dBA for ambient noise = 60 (+) dBA). This standard is not scientifically defensible.** The following studies and professional opinions support these statements:

- “Based on our review of reports and empirical measurements collected in Wyoming, we estimate that true ambient values pre-development in nights and calm morning in sagebrush habitat are closer to 20-22 dBA...” (Patricelli et al, 2012)
- “Indeed, results from our experiments indicate that 49 dBA is too loud to avoid significant impacts on sage-grouse [*emphasis added*]. Our noise-playback leks (described above, Blickley et al. 2012) experienced levels that were in compliance these recommendations, i.e. less than 49 dBA across most of the lek area, except the area within ~20 meters of the speakers. Yet we found large declines in attendance, increases in stress levels and altered display behaviors across the lek (Blickley et al. in review, in prep).” (Patricelli et al, 2012)
- “Male attendance at leks would be expected to be reduced when subjected to the current standard noise limitation of 50 decibels at the lek site. Despite the protective measures used to prevent impacts from projects in sage-grouse habitat, there would be no restrictions on the total amount of habitat that could be disturbed and declines in abundance and lek losses would be expected.” (BLM 2013)
- Even the State of Montana’s 2005 *Management Plan and Conservation Strategies for Sage Grouse in Montana* recommended not exceeding 49 dBA:  
“Noise can disrupt breeding rituals and cause abandonment of leks.  
1) Restrict noise levels from production facilities to 49 decibels (10 dba above background noise at the lek)<sup>1</sup>  
2) Restrict use of heavy equipment that exceeds 49 decibels<sup>1</sup> within 2 miles of a lek from 4 a.m.-8 a.m. and 7 p.m. - 10 p.m. during March 1-June 15...” (Montana Sage Grouse Working Group 2005)

<sup>1</sup>When the 2005 Montana Plan was written, ambient noise levels were estimated to be 39 dBA; studies done recently show that ambient noise in rural sagebrush habitat is 20 – 22 dBA.

**2. Although the science is changing, 40 decibel (dBA) can be defended by at least some scientific studies.** The following studies and professional opinions support these statements:

- “However, there is recent science that demonstrates the effects of noise on sage-grouse breeding behavior (Crompton and Dean 2005, Holloran 2005, Blickley and Patricelli *in press*). In brief, sound levels >40 decibels (dbA) reduced breeding activity and increased stress levels (as measured by hormone levels) in sage-grouse (Blickley and Patricelli *in press*).” (Oregon Department of Fish and Wildlife 2012)

**4. It is important to change this standard and make it science-based because it has been well established that Greater Sage-Grouse are negatively impacted by noise, avoiding areas where anthropogenic noise from roads, oil and gas development and infrastructure, compressor stations, and more, exist on the landscape. Noise, therefore, is considered a type of habitat fragmentation for these birds.** The following studies and professional opinions support these statements:

- “Functional habitat loss also contributes to habitat fragmentation, as greater sage-grouse avoid areas due to human activities, including noise, even though sagebrush remains intact (Blickley et al. 2012).” (Service 2013)
- “...[C]hanges in the number of males occupying leks situated downwind of drilling rigs were more negative than those witnessed on leks upwind of drilling rigs, supporting evidence that increased noise intensity negatively influences male lek attendance (Holloran, 2005).” (Manier et al. 2013)
- “Noise can disrupt breeding rituals and cause abandonment of leks.” (Montana Sage Grouse Working Group 2005)
- “Our results suggest that males and possibly females avoid leks exposed to anthropogenic noise.” (Blickley et al. 2012a)
- “Taken together, results from Blickley et al. [43] and this study suggest that noise alone can cause greater sage-grouse to avoid otherwise suitable habitat and increase the stress responses of birds that remain in noisy areas. Thus, noise mitigation may be a fruitful conservation measure for this species of concern.” (Blickley et al. 2012b)

**MINORITY REPORT SUBMITTED BY:**

Janet Ellis, Jay Gore, and Carl Wambolt

**DATE: 1-24-2014**

**REFERENCES:**

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**Minority Committee Report for  
BENTONITE, PEAT, SOCRIA, AND SAND & GRAVEL STANDARD  
Greater Sage-Grouse Habitat Conservation Strategy**

This Minority Committee Report on the Bentonite, Peat, Scoria, and Sand & Gravel Standard found in the *Montana Greater Sage-Grouse Habitat Conservation Strategy (Montana Strategy)* was written because the Governor's Greater Sage-Grouse Habitat Advisory Council (Council) adopted this 2-1/2 page standard—all new material that the Council had not reviewed—late on its last meeting day. This new standard was developed and promoted by industry, with no ability for Council members to ask questions of regulators to confirm statements being made. The specifics of the standard may add conservation protection to sage-grouse habitat—or it may just solidify “business as usual,” with no new requirements being placed on these industries. Because of the last minute and expedited way this standard was adopted, the Council members writing this Minority Committee Report were not able to ascertain the ramifications of the standard. Therefore, we decided to write this Minority Committee Report to the Governor, essentially “flagging” this item for increased scrutiny.

As background, on December 18, 2013, the Council established a coal subcommittee to review coal-related public comments on the Draft *Montana Strategy* and make recommendations to the Council on how these standards could be improved. This subcommittee worked hard with industry representatives and agency personnel to determine what provisions of state and federal law relating to coal should be added to the *Montana Strategy*. After a thorough review of the coal standards within the *Montana Strategy*, including a presentation by the Montana Department of Environmental Quality overseeing this program, the Council adopted the new coal standards found in the plan. Then, on the last day of our Council's meetings, late in the afternoon, the Council received a new proposal from the bentonite industry, which also applied to peat, scoria, and sand & gravel mining. This proposal closely paralleled the coal provisions already adopted, applying similar standards to these other mining sectors.

**APPROVED LANGUAGE:** The Bentonite, Scoria, Peat, Sand and Gravel Mining standards can be found in the *Montana Strategy* in the following locations:

- For Core Areas: pages 23 – 26, Item 6
- For General Habitat: pages 38 – 42, Item 10

**RATIONALE FOR ADDITIONAL SCRUTINY OF THIS STANDARD:**

Although the Council was assured that the regulatory framework that applies to the coal industry was nearly identical to the regulatory framework for the bentonite, peat, scoria, and sand & gravel industries, there were no agency personnel available to confirm this statement. In addition, one fundamental difference exists between the regulatory framework for coal and the framework for these other mining industries: coal has a significant federal law, the Surface Mining Control and Reclamation Act (SMCRA), that sets minimum standards that the state's Montana Strip and Underground Mine Reclamation Act (MSUMRA) cannot go below. There is no federal minimum standard set for bentonite, peat, scoria, and sand & gravel. Therefore, there is less assurance that strong standards that are in rule and statute today will be there long-term.

Although the *Montana Strategy's* stipulations for bentonite, peat, scoria, and sand & gravel might be acceptable, we have no way to confirm that. Therefore, we wanted to request that the Governor's office review this new section and make sure that it adequately protects sage-grouse.

This request is not made lightly. At least for the bentonite and sand & gravel sectors, agencies are aware of their potential impacts to sage-grouse:

“Other forms of mining (for example, bentonite, gravel, potash, and trona) can also influence sage-grouse habitats. The magnitude of the impacts of mining activities on sage-grouse and sagebrush habitats is largely unknown (Braun, 1998), but mining of various Federal mineral resources (locatable and saleable) currently affects approximately 3.6 percent of potential sage-grouse habitat directly (across all MZs [Management Zones]) with indirect effects potentially affecting large portions (5–32 percent) of some MZs (table 17A). In addition, existing leases for

development of non-energy, leasable minerals represent a relatively small threat (spatially) but may ultimately be developed to their full, spatial extent based on existing agreements (table 17B).

Development of surface mines and associated infrastructure (such as, roads and power lines), noise, and human activity may negatively impact sage-grouse numbers in the short term (Braun, 1998), and a variety of mineral claims could result in industrial activities that would disrupt the habitat and life-cycle of sage-grouse (fig. 24). The number of displaying sage-grouse on 2 leks within 2 km (1.25 mi) of active mines in northern Colorado declined by approximately 94 percent during a 5-year period following an increase in mining activity (Remington and Braun, 1991). However, Braun (1998) reported recovery of populations in Montana, Wyoming, and Colorado may occur after initial development and subsequent reclamation of mine sites, **although populations do not recover to pre-development sizes** [emphasis added]. Additionally, population re-establishment may take as long as 30 years (Braun, 1998).” (Manier et al. 2013)

**MINORITY REPORT SUBMITTED BY:**

Janet Ellis, Jay Gore and Carl Wambolt

**DATE: 1-24-2014**

**REFERENCE:**

Manier, D.J., Wood, D.J.A., Bowen, Z.H., Donovan, R.M., Holloran, M.J., Juliusson, L.M., Mayne, K.S., Oyler- McCance, S.J., Quamen, F.R., Saher, D.J., and Titolo, A.J., 2013, Summary of science, activities, programs, and policies that influence the rangewide conservation of Greater Sage-Grouse (*Centrocercus urophasianus*): U.S. Geological Survey Open-File Report 2013–1098, 170 pp., <http://pubs.usgs.gov/of/2013/1098/>.

**Minority Committee Report for  
NO SURFACE OCCUPANCY STANDARD IN GENERAL HABITAT  
Greater Sage-Grouse Habitat Conservation Strategy**

This Minority Committee Report on the general habitat No Surface Occupancy (NSO) standard found in the *Montana Greater Sage-Grouse Habitat Conservation Strategy (Montana Strategy)* was written because the final standard adopted is not science-based.

As background, the U.S. Fish & Wildlife Service (Service) first pointed out the inadequacies of the general habitat NSO standard in informal comments submitted to the Governor's Greater Sage-Grouse Habitat Advisory Council (Council) on September 24, 2013. Previous to that, Montana Fish, Wildlife & Parks (FWP) had given the Council a handout summarizing the scientific literature behind various standards, including the NSO, dated July 29, 2013; that handout specifically concluded that, "development[s] as close as 0.4 km (0.25 mi.) of a lek are wholly inadequate for effectively conserving sage-grouse" (FWP 2013). Despite this information, the Council voted to retain the 0.25-mile standard at its January 15, 2014 meeting.

It is particularly important to change the general habitat NSO standard found in the Draft *Montana Strategy* because of the differences between the sage-grouse strategies in Montana and Wyoming. The 0.25-mile standard is nearly identical to that found in Wyoming (State of Wyoming 2012). However, Wyoming has the ability to deliver more conservation protections to sage-grouse from its Core Area stipulations (relying less on general habitat) for the reasons described below. In contrast, the *Montana Strategy* must depend more significantly on general habitat for conservation of sage-grouse populations.

Because the objective of the *Montana Strategy* is to show the U.S. Fish & Wildlife Service (SERVICE) that Montana has a science-based plan that will lead to sage-grouse conservation, several committee members believe that it is important for the Governor to change this standard.

A recommended change to the general habitat NSO Standard, with justification, is provided below.

**APPROVED LANGUAGE.** The Council included the following recommendation for managing NSO in the *Montana Strategy*:

General Habitat Stipulations, Page 32, Item 2:

Surface Occupancy: Within 0.25 miles of the perimeter of an active sage-grouse lek there will be no surface occupancy (NSO).

**RECOMMENDED CHANGE.** A minority of the Council recommends the following changes to the *Montana Strategy's* NSO standard, which has a basis in science:

General Habitat Stipulations, Page 32, Item 2:

Surface Occupancy: Within **0.25 1.0** miles of the perimeter of an active sage-grouse lek there will be no surface occupancy (NSO).

**RATIONALE FOR RECOMMENDED CHANGE:**

**1. The general habitat No Surface Occupancy (NSO) standard for Greater Sage-Grouse (GSG) leks currently found in the *Montana Strategy* is 0.25 miles. This standard is not scientifically defensible.** The following studies and professional opinions support these statements:

- "Current well pad placement restrictions that allow development as close as 0.4 km (0.25 mi.) of a lek are wholly inadequate for effectively conserving sage-grouse. (FWP 2013)

- “In the context of this [Montana] Strategy, the proposed 0.25-mile NSO from active GSG leks in general habitat is inadequate to achieve GSG lek protection. This measure was decreased from the originally proposed 0.6 mile NSO in the pre-draft Strategy. Studies demonstrating the inadequacy of this measure include Holloran (2005), who found that development stipulations including a 0.25-mile NSO were inadequate to maintain GSG breeding populations in natural gas fields. Walker et al. (2007) found that lease stipulations that prohibit development within 0.4 km (0.25 mi) of GSG leks on federal lands were inadequate to ensure lek persistence and may result in impacts to breeding populations over larger areas. Harju et al. (2010) found that leks with  $\geq 1$  oil or gas well within a 0.4-km (0.25-mile) radius encircling the lek had 35–91% fewer attending males than leks with no well within this radius.” (SERVICE 2013b, page C10)
- “Government imposed stipulations often restricted surface occupancy within 0.4 km (0.25 mi) of a lek during the time most studies were conducted, and leks that had  $\geq 1$  pad within this radius had 35 to 92 percent fewer attending males than did leks with zero wells within this distance (Harju and others, 2010; Naugle and others, 2011).” (Manier et al. 2013)
- “Surface occupancy of oil or gas wells adjacent to leks was negatively associated with male lek attendance in 5 of 7 study areas. For example, leks that had  $\geq 1$  oil or gas well within a 0.4-km (0.25-mile) radius encircling the lek had 35–91% fewer attending males than leks with no well within this radius.” (Harju et al. 2010)

**2. Although the science indicates a 4.0-mile NSO would have little to no impact on sage-grouse, an NSO of 1.0 mile for general habitat can be defended by at least some research.** The following studies and professional opinions support this statement:

- “As we conveyed in our September 24, 2013 informal written comments, numerous recent studies (please again refer to the July 29, 2013 technical literature summary handout provided to the Council by FWP) document a large percent of nesting, as well as adverse effects of development, out to approximately 4 miles from leks. We recommend that the general habitat NSO be increased from 0.25 mile to the extent possible to minimize potential impacts to nesting habitat and breeding activities in general habitat and add conservation benefit to the Strategy. We recommend that the general habitat NSO match the core habitat NSO of 1 mile, but at a minimum extend to 0.6 mile in order to have any discernible effect. The increased NSO should apply consistently throughout the plan where referenced.” (SERVICE 2013b, page C10)
- “...Coates et al. [2013] research shows the percentage of estimated animal use area (vUD) encompassed by increasing distances from the lek. The vUD can be loosely interpreted as the total area used by sage-grouse in this population. The authors report that at 0.25, 0.60, and 3 mile distances from lek, approximately 5%, 28%, and 90%, of the total area used by sage-grouse is encompassed, respectively. The graph suggests that at 1 mile from the lek, approximately 50-60% of the total area used by sage-grouse is encompassed.” (MFWP 2014)

**3. It is important to change this standard and make it science-based because it has been well established that sage-grouse are significantly impacted by disturbances.** The following professional opinion supports this statement:

- “The loss and fragmentation of sagebrush habitats is a primary cause of the decline of sage-grouse populations (Patterson 1952; Connelly and Braun 1997; Braun 1998; Johnson and Braun 1999; Connelly et al. 2000; Miller and Eddleman 2000; Schroeder and Baydack 2001; Johnsgard 2002; Aldridge and Brigham 2003; Beck et al. 2003; Pedersen et al. 2003; Connelly et al. 2004; Schroeder et al. 2004; Leu and Hanser 2011; 75 FR 13910). Habitat fragmentation, largely a result of human activities, can result in reductions in lek persistence, lek attendance, population recruitment, yearling and adult annual survival, female nest site selection, nest initiation, and complete loss of leks and winter habitat (Holloran 2005; Aldridge and Boyce 2007; Walker et al. 2007; Doherty et al. 2008). Functional habitat loss also contributes to habitat fragmentation, as greater sage-grouse avoid areas due to human activities, including noise, even though sagebrush remains intact (Blickley et al. 2012).” (SERVICE 2013a)

**4. This standard should be changed because in Montana general habitat plays a larger role in sage-grouse conservation than in Wyoming because of the proportion of sage-grouse population occurring in Core Areas.** The

following information in support of this statement was obtained from presentations given to the Governor's Greater Sage-Grouse Habitat Advisory Council:

- In Montana, Core Areas only contain approximately 76% of the state's sage-grouse population; while Core Areas in Wyoming protect 84% of the sage-grouse population. Because Core Area stipulations are much more protective of sage-grouse than general habitat stipulations, Wyoming protects a higher percentage of its sage-grouse population through Core Area stipulations than Montana.
- In Montana, approximately 9.6 million acres are designated as Cores Areas and 24 million acres are designated as general habitat (34 million acres total). In Wyoming, about 15 million acres are designated as Core Areas, with 28 million acres designated as general habitat (43 million acres total). Again, because Core Area stipulations are much more protective of sage-grouse than general habitat stipulations, Wyoming protects significantly more sage-grouse habitat with Core Area stipulations than Montana.
- In Montana, public lands (state and federal) make up approximately 29% of the Core Areas and private lands make up 64% of the Core Areas. In Wyoming, this scenario is almost reversed: public ownership makes up about 61% of Core Areas, and private land is about 37% of Core Areas. It is more effective for government agencies to protect sage-grouse on public land, than on private land, because of the limited regulations that can be applied to private land. Consequently, because of land ownership patterns, Wyoming is able to ensure that more sage-grouse habitat is protected than Montana.
- The *Montana Strategy* allows up to 3% of Core Areas to become Special Management Core Areas (SMCA) (about 290,000 acres total). These SMCAs are areas identified within Core Areas where stipulations can be relaxed in the short-term, economic development opportunities can be realized in the near-term, and conservation benefits will hopefully be realized in the long-term. In Wyoming, there is no ability to designate SMCAs. Because SMCAs can be designated in Montana, and these areas may or may not produce long-term conservation benefits to sage-grouse, the *Montana Strategy* has set up a state-specific stipulation that may be a barrier in achieving sage-grouse conservation goals. In addition to delivering long-term rather than short-term conservation, concerns have been raised about Montana's SMCAs causing significant fragmentation of large sagebrush landscapes (see SERVICE 2013b, page C9).
- Given the above-outlined factors, the conservation measures in Core Areas in Montana need to be bolstered by more substantial conservation stipulations in general habitat in order for Montana to potentially reach the overall protections in the current Wyoming strategy. A 1.0-mile NSO in general habitat would qualify as a substantial conservation stipulation for sage-grouse. This statement is backed up by the following comment from the SERVICE on the *Montana Strategy*:

"We [the SERVICE] agree that the health of general habitat areas is a critical element in the effort to maintain the abundance and distribution of GSG in Montana. Again, discussion on Page 2 of our comment letter provides support for the currently larger proposed NSOs in core habitat and highlights the importance of and requirement for general habitat protection, including NSOs, in the Montana Strategy." (SERVICE 2013b, page C10)

**5. And finally, it makes sense to change the general habitat NSO stipulation to a standard that is supported by scientific studies, because it is a stand-alone stipulation: unlike Core Area stipulations, there are no associated density standards or disturbance caps that accompany the general habitat NSO. Therefore, it is important that the general habitat NSO provides defensible conservation protection to sage-grouse as a stand-alone stipulation.**

**MINORITY REPORT SUBMITTED BY:**

Janet Ellis, Jay Gore and Carl Wambolt

**DATE: 1-24-2014**

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