



Montana Fish, Wildlife & Parks

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To Whom It May Concern:

Montana Fish, Wildlife and Parks would like to submit the following comments per the solicitation request by the U.S. Fish and Wildlife Service in their Status Review for the Greater Sage grouse (hereafter "sage grouse") and a reconsideration of a potential listing under the Endangered Species Act. We appreciate the opportunity to provide a state perspective relative to the current status of sage grouse in Montana; to provide information relative to on-going conservation actions associated with the species and important sagebrush grassland habitats; and to briefly discuss factors that could threaten the future status of the species. MFWP continues to assert the value of maintaining state jurisdiction for a species that is well represented in Montana while acknowledging that emerging land use issues could compromise the status of the bird without adequate regulatory protection in place.

Montana supports approximately 27 million acres of occupied sage grouse habitat. In contrast to other western states, approximately half of this habitat is privately owned and managed. In spite of many habitat alterations, Montana still maintains sizeable and relatively intact blocks of productive sagebrush steppe habitat in the southwest and eastern portions of Montana. FWP has been monitoring and managing sage grouse populations since the 1950's and has collaborated with the Western Association of Fish and Wildlife Agencies in the development of the *Conservation Assessment of Greater Sage grouse and Sagebrush Habitats (2004)* and *Greater Sage grouse Comprehensive Conservation Strategy (2006)* to help guide future management efforts. The majority of the bird's range in Montana is represented with Management Zone 1 as defined by these documents with the exception of inter-mountain valleys of southwestern Montana. *The Management Plan and Conservation Strategies for Sage grouse in Montana* was completed and signed in 2004. In addition, *the Montana Comprehensive Fish and Wildlife Conservation Strategy (2005)* identified the sagebrush, mixed shrub community

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types and associated obligate sagebrush grassland species as Tier 1 Community and Species in greatest conservation need.

From a population assessment perspective, FWP and partners have continued to conduct extensive and intensive lek surveys. Those efforts have included monitoring known leks with established protocols as well as inventorying leks in large blocks of previously unsurveyed habitat in north central and southeastern Montana. We have inventoried 91 newly confirmed leks since 2004 (documented with at least 2 counts over 2 or more years). We have also identified 188 (new) potential leks (only 1 count of 2 or more displaying males) with 86% of those leks located in southeastern Montana. The current statewide estimate (2007) for total number of leks includes 782 confirmed active leks, 59 confirmed inactive leks, and 836 potential or unconfirmed leks requiring additional observations. Sage grouse numbers continue to fluctuate annually in relation to changes in environmental conditions, largely influenced by weather patterns. Current abundance, as measured from a subset of leks used for harvest management purposes, is down approximately 24% in 2008 from preceding years, and may represent the on-set of a periodic decline if drought conditions or other weather factors affecting production and survival persist (Figure 1). Current abundance is within the range of past variation. The past 20 years has not revealed a definitive trend in male counts for these leks, representing Montana's longest count data sets (Figure 1).

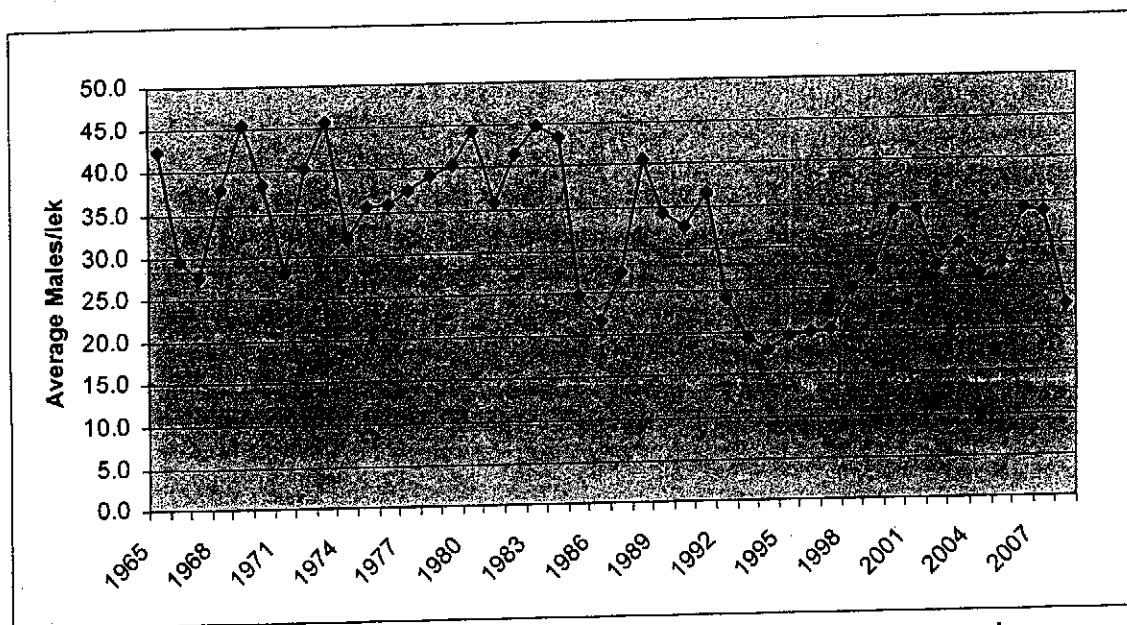


Figure 1. Average male count on sage grouse leks with 10 or more consecutive years of count data, Montana (sample range = 5 leks in 1965 to 88 leks in 2008, average of 24 years of count data per lek).

Montana has employed an Adaptive Harvest Management strategy for Sage grouse beginning with 2005. The strategy includes a Standard and Restrictive package and a

population threshold for decisions relative to changes in the optimum package. This recent experience with both 4-bird (Standard) and 2-bird (Restrictive) daily bag limits (under a consistent 60-day season length) has resulted in an estimated harvest of approximately 3,500 birds (2005-R), 4,900 birds (2006-S) and 2,800 birds (2007-R). The 2006 harvest estimate under the Standard package represented approximately 3.8% of the calculated average fall population (127,000 birds), well below WAFWA endorsed harvest guidelines. In 2007, the FWP Commission adopted a restrictive package even though population parameters allowed for a standard bag limit. Overall, sage grouse hunter numbers and hunter days have declined over the past 15 years with a corresponding decrease in total harvest as upland bird hunters have shifted their focus to other species.

Since 2004, habitat conservation efforts by FWP have focused primarily on implementing the Montana Sagebrush Initiative. This jointly funded federal/state effort (\$2.4 million) utilizing the Landowner Incentive Program will have protected approximately 200,000 acres of high priority, privately owned sage grouse habitat through 30-year leases by August 2008. Lease contracts protect sagebrush habitats from conversion to cropland, burning, herbicide application and other treatments designed to reduce or eliminate sagebrush and important herbaceous understory vegetation. Montana has also acquired perpetual conservation easements on approximately 45,000 acres of sage grouse habitat at the cost of \$2 million in the last seven years. These programs directly address many current land use threats.

Additional partner efforts include a jointly funded (BLM, NRSC, MFWP) Sage Grouse Coordinator position that works closely with Local Working Groups, grazing associations and conservation districts. A direct focus of this position is an emphasis on sustainable grazing management practices that incorporate sage grouse cover and forage needs via a series of workshops and a NRCS grazing initiative.

Work has also begun on mapping core sage grouse complexes and delineating crucial sage grouse habitats and linkage corridors designed to maintain sage grouse distribution and abundance. Identifying and conserving these areas will be critical to maintaining connectivity of core populations within Management Zone 1 including the Powder River Basin, and more broadly in maintaining necessary linkage between Management Zone 1 and 2. The concept of crucial areas and connectivity is central to recent actions endorsed by the Western Governor's Association in their *Wildlife Corridors Initiative* (2007).

Scientific investigations involving work in Montana, adjacent states (Wyoming, South Dakota, North Dakota) and provinces (Saskatchewan) completed since 2004 or currently underway, have included additional demographic studies in north central, central and southeastern Montana, assessment of seasonal habitat use and migratory/non-migratory patterns of use, fine scale vegetation assessment at nest, brood and winter locations, patterns of winter range use and winter forage nutritional values, assessment of the impacts of hunting on population trend, and impacts of West Nile virus and energy development to sage grouse populations. Publication of these studies in peer-reviewed

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journals and as M.S. and PhD theses continues to expand our knowledge of sage grouse biology and ecology, providing a scientific basis for management. Most importantly, recent work has underscored the need to manage sage grouse and cumulative impacts at a large landscape scale to effectively conserve this species.

FWP continues to strongly promote the need to adequately conserve effective sage grouse habitat as the basis for meaningful conservation. Management approaches to population monitoring, harvest management and habitat conservation on the part of the agency are described above and speak directly to FWP decisions and actions. However, the Status Review also solicits specific information relative to potential threats to the species and its habitats including changes in land use that may compromise habitat effectiveness, disease and predation, inadequacy of existing regulations and other natural and or manmade factors that affect the continued existence of the species. To that end, the following threat factors are identified.

Conversion of native rangeland to agricultural crop production can eliminate important seasonal habitats for sage grouse and further fragment remaining blocks of sagebrush steppe habitat. Documentation of acres converted on private land has not been readily available from NRCS or FSA in previous years nor has it been feasible to monitor such changes through satellite imagery, especially for sagebrush communities at canopy densities less than 20%. Given these data limitations, it is important to note that such conversions continue to occur at varying scales. FWP recently tracked the plowing of approximately 20,000 acres on a single ranch that was under consideration for a sagebrush lease agreement. While increased fuel and fertilizer costs may serve as a disincentive for such actions, current grain markets and global trends in commodity prices coupled with recent policy changes to the Federal Farm Bill are increasing the risk of additional conversion. The extent of that conversion is unknown at this time.

National demand for energy continues to increase and fossil fuels will likely remain the largest source to meet such demand in the foreseeable future. Expedited leasing and permitting processes on public lands were provisions of the 2005 amendments to the National Energy Policy and Conservation Act and in Montana, the Bureau of Land Management has the primary responsibility for administration of federal mineral estates. Mixed surface (land) and subsurface (mineral) ownership complicates both development scenarios and oversight of fish and wildlife resources impacted by development activities. Significant overlap can occur between subsurface oil and gas resources and occupied sage grouse habitat.

The BLM and Montana DNRC continue to issue leases for development activities on publicly administered lands. Federal lease stipulations are generally attached at the time of issuance and opportunities to modify those stipulations have been limited to date. Both agencies have deferred leasing of some individual parcels where sage grouse concerns have been identified. The Montana Board of Oil and Gas and the Montana Department of Environmental Quality have administrative oversight responsibilities relative to

authorized well densities and water quality standards, respectively. Management decisions by these organizations will influence the intensity of development impacts to sage grouse habitats. The number of producing wells has continued to expand since 2004 and is expected to further increase in the foreseeable future. The percentage of previously authorized leases that will be developed is unknown at this time.

FWP supports the need for responsible energy development but recognizes that full field development of energy resources can have significant negative effects on sage grouse populations under current lease stipulations. Recent investigations have documented this trend under conventional development scenarios for shallow gas, deep gas and oil extraction in three different geographic regions of Greater sage grouse range. Changes in survival rates, reproductive success and displacement from suitable seasonal habitats as sage grouse avoid oil and gas infrastructure and associated disturbance, argue for a different approach to development activities. Impacts are cumulative over time and across jurisdictions. Key components of a successful conservation strategy need to include identification and conservation of core areas with minimal development that meet yearlong habitat and connectivity needs; use of a geographically phased approach to development that could include unitization and clustering of development; modification of stipulations including no surface occupancy, controlled surface use, consolidation of infrastructure, removal of product water and remote monitoring to reduce the footprint of development; and functional restoration of effective sagebrush habitats. To date, the successful implementation of these conservation strategies has been limited, but discussions with regulatory agencies and the industry are continuing.

Current BLM planning processes including the development of the *Supplemental Oil and Gas Environmental Impact Statement and Amendment of the Powder River and Billings Resource Management Plans (Draft 2006)* and updating of *Resource Management Plans* for the Miles City, Malta and Lewistown Area Offices will play a major role in providing adequate regulatory protection to the sage grouse resource. To date, the final SEIS has not been released and RMP revisions are in process, therefore the extent to which resource protection has been improved beyond that currently offered under federal regulation is unknown. Commitments to implement more effective stipulations and the ability to monitor the effectiveness of modified stipulations will be integral to more effective conservation planning.

West Nile Virus should now be considered endemic across the Northern Great Plains portion of range of 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 product water ponds do provide a more consistent set of conditions favorable to the spread and persistence of WNV even in years of low natural precipitation and run-off. Mitigation, including re-injection of product water, needs to address the relationship between CBNG and resultant conditions that are favorable to WNV. Selected monitoring of core populations using telemetry can provide

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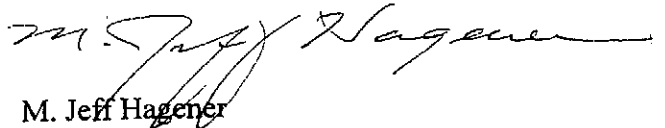
insights into mid to late summer mortality events associated with WNV. Lek monitoring will provide a non-parameterized tool for assessing overall trends in sage grouse numbers across years.

In summary, FWP believes that the current status of Greater sage grouse within occupied habitats in Montana represents a viable and self-sustaining population. Conservation actions and policies should be directed to maintain the current abundance and distribution of those birds across all landownership jurisdictions. Responsible management practices have helped to maintain populations of sage grouse in Montana and should be perpetuated and encouraged. Additional degradation and fragmentation of sagebrush habitats will reduce populations over time especially as core habitats are impacted. Land management decision processes need to account for cumulative impacts of anthropogenic changes over time and need to be implemented at scales appropriate for effective sage grouse conservation while recognizing the role that environmental conditions exert on year-to-year changes in sage grouse abundance.

It is FWP's position that a species or population of a species can be listed in states where it is not doing well and not listed in any state where it is doing well when that state has demonstrated that it has adequate regulatory mechanisms and conservation practices to continue to successfully manage the species. The USFWS endorsed this concept in its proposed rule to delist the Northern Rockies population of the gray wolf when it proposed to delist the wolf in Montana and Idaho if Wyoming did not meet the test of having adequate state regulatory mechanisms for management of the wolf. This is supported by a March 16, 2007, US Department of the Interior Solicitor's opinion. It is a very practical and logical approach to implementation of the Endangered Species Act and should be considered in the Service's deliberations regarding listing of sage grouse.

Again, FWP appreciates the opportunity to provide these comments and urges the Service to consider the status of sage grouse in Montana in your decision.

Sincerely,



M. Jeff Hagener
Director

cc: Jeff Herbert
Mike Valesky
Dane Galt
Ben Deeble