

Public Correspondence

**Public correspondence received
as of April 7, 2011**



Oregon Solar Energy Industries Association

Marla Rae
Chair, Oregon Fish and Wildlife Commission
3406 Cherry Avenue, NE
Salem, Oregon 97303

Dear Chair Rae and Members of the Commission:

Thank you for allowing us the opportunity to comment on the Oregon Department of Fish and Wildlife (ODFW) "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" (Draft Conservation Plan). Since 1981, Oregon Solar Energy Industries Association (OSEIA) has represented the state's solar industry. With over 70 organizations that include manufacturers, installers, utilities, professional service firms, educational institutions, non-profits, and others, our members range in size from sole proprietorships to multi-national corporations. OSEIA's mission is to promote solar energy, specifically, and renewable energy in broader terms as a means to support sustainable economic development in Oregon.

Solar energy is an abundant renewable resource that helps meet both electricity and thermal heating demands in Oregon. Even our temperate climate enjoys a more plentiful supply than places like Germany, the world's leader in solar installation capacity. Moreover, the eastern, southern and central regions of Oregon outshine the rest of the state with regard to their solar energy potential.

This tremendous potential, coupled with favorable incentives and Oregon's supportive regulatory environment, has given rise to hundreds of millions of private sector dollars invested in our state in just three short years. These investments have created new "green collar jobs" in the manufacturing, electrical and plumbing trades to name a few; and while most sectors of Oregon's economy have contracted, the solar industry has expanded, shedding light on the potential for public-private partnerships to derive greater economic, environmental and community benefits by way of a more sustainable energy path.

The release of the Draft Conservation Plan creates serious concern on the part of our members who are pursuing, or intend to pursue, renewable energy projects in the eastern and southern regions of Oregon where the solar resource is of the highest intensity. We are mindful that these projects have an impact on the land and its inhabitants, such as the Greater Sage-Grouse, and we respect the need to account for their effects on the environment and local communities. However, the Draft Conservation Plan casts a dark shadow over any opportunity for renewable energy development in the aforementioned areas. Moreover, it does little to recognize the potential benefits that such projects provide, such as climate change mitigation and rural job creation, both of which can support the plan's broader conservation goals. Lastly, the plan's narrow focus on habitat protection is also in conflict with state and federal directives to promote renewable energy development, particularly in rural parts of the country.

At the August 26th public meeting held by ODFW, the presenter gave a comprehensive overview of the elements of the study which led to the agency's recommendations contained in the plan.

Oregon Solar Energy Industries Association
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When asked why climate change and economic development were not addressed in this plan, the reply was that it represents a biological assessment, and those issues were outside of the scope. It is reasonable to conclude that the recommendations of the plan are, in turn, one-sided and fundamentally flawed. As an example, to ignore climate change implies that it poses no threat to land and wildlife in Oregon - a serious omission by any science-based standard. Similarly, to disregard the lost economic development potential, especially in chronically distressed rural communities, denigrates the value of the human species and *its* struggle to survive. Renewable energy development addresses both of these considerations, yet it is effectively eliminated as a viable option, if the recommendations of the Draft Conservation Plan are implemented in their current form. In short, we need a plan that involves all stakeholders, embodies a balanced perspective, and implements a conservation strategy that complements, rather than conflicts with, broader sustainability goals.

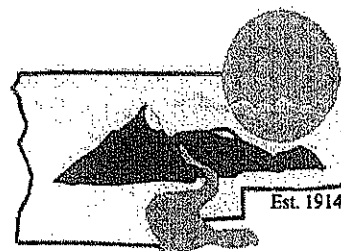
OSEIA is eager to collaborate with your commission, ODFW, and all stakeholders who seek a conservation plan that exemplifies Oregon's commitment to sustainability by optimizing the benefits of economic, environmental and social capital. OSEIA appreciates your thoughtful consideration of its concerns, and we look forward to your response.

Respectfully submitted,

Glenn Montgomery
Executive Director

JEFFERSON COUNTY

COMMUNITY DEVELOPMENT DEPARTMENT



85 S..E. "D" St., Suite A • Madras, Oregon 97741 • Ph: (541) 475-4462 • FAX: (541) 325-5004

September 14, 2010

Marla Rae, Chair
Oregon Fish and Wildlife Commission
3406 Cherry Avenue, NE
Salem, Oregon 97303

Subject: Greater Sage-Grouse Conservation Assessment and Strategy for Oregon.


Dear Chair Rae and Members of the Commission,

Thank you for this opportunity to submit comments on the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (Conservation Strategy). As you well know, Oregon has taken steps to emerge as a renewable energy leader through legislation such as the Business Energy Tax Credit (BETC) and the Renewable Portfolio Standard (RPS). These initiatives have assisted Oregon in becoming a leader in manufacturing of solar panels, attracting renewable energy firms and the development of renewable energy facilities providing clean energy for consumption by our residents.

Jefferson County is working diligently to encourage utility scale solar energy development projects in appropriate places throughout the County. We have gathered numerous stakeholders in an effort to review and update specific land use laws that limit the acreage upon which solar facilities can be developed. Through this process we have worked with the Department of Land Conservation and Development whose Commission will choose a rules-advisory committee to work through the minutia of such a task. We are very appreciative of the Department's efforts and its chosen route of gathering the necessary parties to work together in a collaborative effort to review the state law. By carefully selecting the working group, the Department is confident that the necessary stakeholders will be present to assure the new rules protect vital resources while permitting solar farm facilities in appropriate areas.

Similarly, we would encourage the Oregon Department of Fish and Wildlife to engage in a robust process to assure balanced input to the Conservation Strategy by the necessary stakeholders prior to adoption. We are concerned with the focus on the renewable energy development industry. As stated in the draft plan, "Currently there is a lack of specific information about the effects of renewable energy development on sage grouse ecology." Prior to implementing a statewide strategy to protect sage grouse habitat, the potential impacts of specific land uses must be understood. Once understood, a plan can be developed with the appropriate parties that would protect the sage grouse habitat in a manner that avoids or mitigates potential impacts.

Thank you once again for this opportunity to comment on this very important matter. Jefferson County is supportive of habitat conservation efforts to protect the sage grouse and sage grouse habitat. We are also supportive of renewable energy projects being developed in appropriate places. A balanced approach to the conservation plan created by the various stakeholders involved will assure protection without sacrificing economic development opportunities for the counties in Central and Southeastern Oregon.


Jon Skidmore, AICP
Planning Director


Wayne Pearson
Manager, EDCO Jefferson County



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September 14, 2010

VIA EMAIL

Oregon Department of Fish & Wildlife
3406 Cherry Avenue N.E.
Salem, OR 97303
sage.grouse@state.or.us

Re: *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat*

Dear Oregon Department of Fish & Wildlife:

Thank you for the opportunity to comment on the Oregon Sage Grouse Plan. 1000 Friends of Oregon is a statewide membership nonprofit organization that works with Oregonians to create livable urban and rural communities, protect family farms and forests, and conserve natural and scenic areas. We are concerned that if the Sage Grouse is listed on the federal Endangered Species list that it could have a profound and negative impact on agricultural activities, and rural communities in eastern Oregon. We hope that ODFW will do everything in its power to improve the viability of the species across its range in Oregon.

The possibility the Sage Grouse being federally listed as an Endangered Species has the potential to have as great an impact on our ranching communities as the listing of the Spotted Owl had on our forest communities. If the Sage Grouse is listed, ranchers and farmers with Sage Grouse on their property could possibly lose substantial control and flexibility over how they manage their operations. In today's fragile economic times, when rural communities are already struggling, this could spell the end of too many family farms and ranches. Fortunately, we have the benefit of the lessons learned from the listing of the Spotted Owl.

1000 Friends supports a proactive plan to protect Sage Grouse habitat, aimed at keeping the species healthy, and thus off the Endangered Species List. However, we also recognize the importance of viable agriculture and ranching in eastern Oregon and the role those communities can play in conservation. Renewable energy facility siting has recently become an important part of rural economic development and maintaining viable communities. The benefits renewable energy and agriculture can bring to conservation projects must be addressed alongside detrimental impacts to accomplish an accurate balance.

As a result, 1000 Friends would like to see the science and analysis that will be of the most help in providing Counties, land owners and legislators in developing creative solutions to improve sage grouse habitat. The Plan already goes a long way toward accomplishing this goal, and we commend the authors for such a complete and honest look at the actual science available. Our suggestions primarily request additional analysis.



First, we believe it would be helpful if the plan could more clearly explain the likely impact of a federal listing. For example, what areas are likely to be listed as critical habitat, and what kinds of restrictions typically result from an area getting such a listing? A better understanding of the potential impact may help people find a motivation for improving habitat before it is lost.

Second, we would like to see a clear explanation of the science on what activities are compatible with sage grouse habitat. It appears that grazing is generally compatible, but are there certain kinds of grazing that are helpful or harmful? For example, is there any science showing that post-breeding season grazing, or other timed grazing changes impact? If such science is not available, we would like to see a plan for pursuing opportunities to develop the science.

Third we would like to see the plan outlining proposed efforts to gain the cooperation of federal agencies in the management of their land for sage grouse habitat. For example, much of the federally owned sage grouse habitat is likely within grazing allotments. If there is science on how to make grazing compatible with sage grouse habitat, we would like to see a plan for enlisting the cooperation of the federal government in amending grazing permits to encourage conservation of sage grouse habitat.

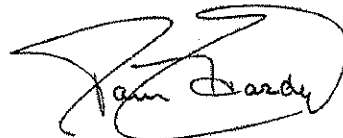
Fourth, 1000 Friends is interested in exploring solutions that would create incentives for private land owners to improve sage grouse habitat on their lands. Science showing how currently unused, but potentially appropriate habitat can be reclaimed and improved for sage grouse would be helpful. Again, if such science is currently unavailable, we would like to see a plan for obtaining the science so that restoration activities can be prioritized and implemented as quickly as possible.

Complementary to the above proposal, we recommend that ODFW develop a plan to aggressively disperse information on ways to use land compatibly with sage grouse. Although ODFW has little authority to enforce non-development recommendations, they should be providing every opportunity possible for those land owners who wish to do the right thing, to understand what the right thing is to do. It is clearly within ODFW's jurisdiction to develop a robust plan for educating the public in sage grouse habitat about the implications of listing, and what can be done to live compatibly with sage grouse.

Finally, we recommend that ODFW develop proposed land use code change language so that counties that wish to contribute to sage grouse conservation can quickly adopt proposed language without a significant expenditure of local funds. 1000 Friends would be happy to help consult on such a project.

Thank you for your consideration. Please place me on the mailing list to receive the next update to the Oregon Sage Grouse Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Pam Hardy", enclosed within a large, loopy, handwritten flourish that loops back around the signature.

Pam Hardy
1000 Friends of Oregon

David Budeau

From: Sage Grouse
Sent: Wednesday, September 15, 2010 3:42 PM
To: David Budeau
Cc: Christian Hagen
Subject: FW: Proposed Greater-Sage Grouse Plan Has Major Flaws

From: Sharp Ranches [mailto:SharpRanches@aol.com]
Sent: Wednesday, September 15, 2010 8:51 AM
To: sage.grouse@state.or.us
Cc: 'Steve Grasty'; dannichols@wildblue.net; cbentz@yurrirose.com; 'Chris Crowley'; Kenny_McDaniel@blm.gov; fredotley@hotmail.com; 'Kay Teisl'; jdwelshco@msn.com
Subject: Proposed Greater-Sage Grouse Plan Has Major Flaws

Oregon Fish & Wildlife Commission Members:

I attended the ODFW public meeting concerning the proposed 2010 Greater-sage Grouse Management Plan in Burns, Oregon on September 14, 2010 and request to register for publication inclusion to the Commission the following comments:

- The "Core Area" management strategy of this plan which defines "Category 1" and "Category 2" management areas of excluded development or limited land use purpose constitutes ***catastrophic*** negative economic and future economic development impacts to livestock producers and the opportunity for renewable energy development within Harney County of the Burns BLM District. This "Core Area Management Plan" designates over 40% of Harney County's land area as either Category 1 or Category 2 management areas encompassing some of the most critically needed private and public land livestock grazing areas and wind energy development areas of the county.
- Environmental-activist organizations or other individuals in opposition to livestock grazing or renewable energy development will (and already have) use the "recommendations" of this proposed Core Area Management Plan as citations within their legal challenges to stop livestock grazing and renewable energy development within Harney County. Livestock production is itself an "industry" and requires development activities such as fencing, containment corrals, access trails, loading areas, wells, water lines, ponds, and watering troughs that will be argued by opposition groups as constituting "industrial development" and will be used in their challenges to alter or stop livestock grazing practices upon ***both*** public and private rangeland areas.
- The Core Area Management Plan as proposed seeks to improve wildlife habitat areas beneficial to the Greater-sage Grouse, but it provides no incentive for the private landowner to cooperate in such wildlife habitat improvement projects (such as juniper thinning, riparian area development, native grass/forbs restoration, or grazing management practices) which could be beneficial to maintain or enhance the numbers of Greater-sage Grouse. The proposed Core Area Management Plan has in fact created a "Catch-22" with negative incentive for livestock producers fearing that if they participate in such wildlife habitat improvement projects, and are successful, then the bird numbers will flourish and thus create yet another Category 1 management area with ***excluded*** development and land use opportunity.
- The proposed circular 3 and 4 mile radius geographic designation of the Categorical management areas of the Core Area Management Plan Map is grossly over simplified and seriously flawed. Lek and brooding areas of actual use are arguably not always circular shaped in their encompassed area. As example, the Core Area Map's designation of Category 1 and Category 2 management areas in the Steens and Northern Steens areas of Harney County do not accurately account for the rock, boulder, and barren high ridge cliff drop-off areas of this terrain and topology that in fact alter the actual usage

areas of the Greater sage-grouse. Again, the proposed Core Area Management Plan and Maps designating Category 1 and Category 2 management areas constitute negative impacts to livestock producers and renewable energy site development within Harney County.

- The action recommendations as proposed within the Core Area Management Plan which exclude development and land use activities within Category 1 and Category 2 management areas is punitive, backwards, and will have catastrophic negative economic and future economic development impacts to livestock producers and the opportunity for renewable energy development within Harney County. My request is that this plan be changed **to not exclude** these activities, but rather to identify core areas of management attention that could benefit from **cooperative** mitigation projects of habitat improvement (such as juniper thinning, riparian area development, native grass/forbs restoration, or grazing management practices) beneficial to the Greater-sage Grouse, the landowner, and the agency which serve to enable development and continued land use activities beneficial to all parties concerned.
- In summary, **I request the Commission not adopt the Core Area Management Plan & Maps as proposed.** This plan has major flaws, catastrophic negative impacts, and recommendations that will be utilized in legal challenges by opposition groups seeking to stop or severely alter permitted land use practices within Harney County and the Burns BLM District.

Sincerely,

Tom Sharp

Sharp Ranches, LLC

P.O. Box 85

71965 Prather Creek Road

Burns, Oregon 97720

tel: 541-589-3317

e-mail: SharpRanches@aol.com

Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303-4924

Following are our comments concerning the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon:

- 1) The Department's use of protective categories and core areas are misapplied towards what they do not know with the result of not achieving the basic goal and objective of an assessment and strategy to better manage Sage Grouse. A number of Category 1 and 2 nesting, breeding and winter use areas are guesses at best with many long term negative impacts and credibility issues for ODFW. As an example, a large part of our private land has been designated Category 1 and most of our land has no sage grouse any time of the year.
- 2) The Department needs to be directed towards what they know with certainty. Private landowners, grazing permittees, commercial uses, and local communities are penalized for going the extra mile for sage-grouse habitat and enhancement of populations.
- 3) Even if the designations in the Strategy are accurate and ground truthed, which they are not, the definitions and designations are wrong because the reality of ODFW's approach is regulatory in purpose and use by governmental agencies and third parties wanting to limit all commercial activities.
- 4) Category 1 and 2 need to be restructured and defined differently. Category 1 Best of the Best should be areas where populations and habitat and other activities are working for the species and landowners and other uses within the boundaries need to be rewarded for being a part of what's going on. Allowing activities to go forward, providing safe harbor agreements and recommending different incentives should be put forth. Additional emphasis and commitment by the Department to work with all parties to document what is working for the species, such as agricultural uses, predator control, habitat conditions etc. should be the framework of Cat 1 BOB.
- 5) A second Category 1 which could be called Cat 1 INFO should be where professional judgements and modeling indicate priority and important habitat and populations most likely exist but the land use, habitat, populations and other activities are just not well understood and documented. With this category ODFW would be recommending allowing development activities to go forward but appropriate inventories, population attributes, seasonal use determinations and other mitigation ecological and biological documentation should be implemented. Cat 1 INFO would be beneficial during the budget process, stimulate private-public partnerships to find more about sage grouse or habitat, and work with local groups in proactive collaborative planning and projects.

6) A third Category 1 which could be called Cat 1 Project could be similar to Cat 1 BOB except that a limiting factor exists and is being dealt with collaboratively.

7) Category 2 could be broken out similarly or differently depending of what objectives are determined to be important, but should still serve ODFW being able to help the species and habitat.

In summary, our comments will be followed with more information later but we wanted the Commission to understand that there are better ways for ODFW to structure the Sage Grouse Strategy and Assessments. We encourage you not accept the Draft Assessment this year in order to give local interests out on the land, other interested parties, and ODFW (and the Commission) a better way to go forward and a better way to establish local partnerships to help sage grouse and other species.

Sincerely,
Fred I. Otley
Otley Brothers Inc.
40926 S Diamond LN
Diamond, OR 97722
(541) 493-2702
fredotley@hotmail.com

David Budeau

From: Sage Grouse
Sent: Wednesday, September 15, 2010 3:43 PM
To: David Budeau
Cc: Christian Hagen
Subject: FW: Greater Sage-Grouse Plan

From: Barbara [mailto:hcranch@centurytel.net]
Sent: Wednesday, September 15, 2010 1:07 PM
To: sage.grouse@state.or.us
Subject: Greater Sage-Grouse Plan

September 15, 2010

ODFW Commission,

These comments are in regard to the ODFW presentation on September 14, 2010, regarding the Greater Sage-Grouse Plan.

Like other local members of the audience, I found the basic premise of the analysis flawed. As in so much of our governmental planning, the argument was presented in a way to support a predetermined program goal rather than science leading to any dramatic need for action.

1) The assumption is made that our environment is static! The initial map depicted sage grouse territory from Nordic times. Anyone with any reference to even the last two hundred years knows that our environment is not static. And, yes, humans have had a negative impact in a lot of areas (i.e. dust bowl, military bi-products, over consumption etc.). But numerous accounts from wagon trains and early homesteaders report tall grasses where sage brush now dominates. And forests, left alone, evolve. Logically, species change with that evolution.

2) The chart used for population numbers corresponds directly with drought. Thus far, an uncontrollable element! When asked, Christian freely admitted the same. But added that, regardless, ODFW was looking for habitat improvement.

3) Predator/prey relationships are ignored. Locally, our jack rabbit population revolves in a ten year cycle. It peaks when the disease tularama (sp) spreads thru the population. The coyote population grows with the rabbits, switching to birds and rodents when rabbits decline. Also, our cougar, raven and crow populations are out of control.

4) LOSS of sage brush?! Anyone who flies over the western United States can vividly see that we have an over abundance of sage brush.

Suggestion: Create programs for predator control. Quit messing with peoples lives. Give hunters something to hunt while decreasing pressure on the prey species.

9/16/2010

If you have bothered to read this far, thank you.

Barbara Cannady

hcranch@centurytel.net



September 13, 2010

Marla Rae
 Chair, Oregon Fish and Wildlife Commission
 3406 Cherry Avenue, NE
 Salem, Oregon 97303

Dear Chair Rae and Members of the Commission,

Thank you for the opportunity to share our comments regarding the *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon* (Draft Plan Revision). We share the Oregon Department of Fish and Wildlife's (ODFW) concern for the health of the greater sage-grouse and its habitat, and hope to work with the Agency to enhance species and habitat protection. Based on information reported in the Draft Plan Revision, it appears that the State's 2005 Plan is having a positive impact on the species and its habitat. But while we support efforts to enhance species protection and habitat restoration, due to the following factors we cannot support the proposed changes to the State's current sage-grouse protection plan:

- **The Draft Plan Revision Does Not Include Climate Change as an Important Threat to Wildlife and Habitat Throughout Oregon:** Oregon Department of Fish and Wildlife has embraced climate change as a critical challenge to wildlife and wild places. We are puzzled why this critical issue was not included in the list of potential threats to sage-grouse and sage-grouse habitat.
- **Narrow interpretation of ODFW's Wildlife Policy Increases the Chances for Constituent Disagreement:** By not factoring all of the objectives of the *Oregon Wildlife Policy*, in our view the Agency is proposing a conservation plan without regard to the serious repercussions for landowners, the communities in which they live, and the economic development opportunities they need to sustain rural lifestyles.
- **Unbalanced input into the Draft Plan Revision Process:** We were told by ODFW staff that the Draft Plan Revisions contributors and editors were selected based largely on the group responsible for developing the 2005 Oregon Sage Grouse Conservation Plan. In our view, the failure to include other perspectives into the Draft Plan Revision's drafting, results in a number of serious flaws.
- **Uncertain Program Funding Makes Implementation Improbable:** While the Draft Revision Plan does not include program implementation estimates, increasing conservation measures across such a large landscape inevitably costs money. Unfortunately, both state and federal habitat protection plans are suffering from the malaise of the lingering economic recession. The Draft Revision Plan suggests no revenue sources to pay for the costs associated with program implementation.

We support ODFW's efforts to enhance sage-grouse and sage-grouse habitat protection. We are committed to collaborative, multi-stakeholder, problem-solving oriented dialogue. We respectfully request that the Commissioners consider other approaches to reaching consensus on how to improve SGSB habitat, including the following:

- **BLM/OR process:** The State of Oregon and the Bureau of Land Management are engaged in a dialogue designed to better coordinate state and federal efforts to protect sage-grouse/sage-grouse habitat in Oregon, and to facilitate renewable energy siting on federal lands. Because this process involves a wider group of stakeholders, we would support using this venue to discuss the ODFW Draft Plan Revision.
- **Candidate Conservation Agreements:** Should Oregon counties consider negotiating CCAA, it would enable federal and state fish and wildlife officials to tailor landscape-scale approaches to responsible management of all threats to SGSB – not solely singling out renewable energy projects.
- **Direct Dialogue with ODFW:** Working together, we believe we can find better solutions to SGSB habitat protection efforts than proposed in the Draft Plan Revision. To make such a discussion successful, we recommend ODFW add representatives from the Oregon Association of Counties, members of Oregon's environment and conservation community, and renewable energy companies, their biologists, and associations.
- **Federal Advisory Committee (FAC) guidelines:** These guidelines emphasize wind energy development using the best available science, landscape scale planning, and a decision making framework that uses "tiers" to identify levels of potential harm to sensitive species or habitats. We would like to explore with ODFW whether or not this approach offers landowners and community leaders a greater role in developing enhanced sage-grouse conservation plans that better reflect the individual nature of each affected community.

We respectfully request the opportunity to work with you and Agency officials to develop and implement stronger, more effective measures to enhance the sage-grouse and its habitat.

Respectfully,



Lisa Adatto, Oregon Director
Climate Solutions



September 13, 2010

Marla Rae
 Chair, Oregon Fish and Wildlife Commission
 3406 Cherry Avenue, NE
 Salem, Oregon 97303

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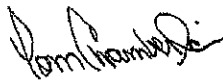
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- **BLM/OR process:** The State of Oregon and the Bureau of Land Management are engaged in a dialogue designed to better coordinate state and federal efforts to protect sage-grouse/sage-grouse habitat in Oregon, and to facilitate renewable energy siting on federal lands. Because this process involves a wider group of stakeholders, we would support using this venue to discuss the ODFW Draft Plan Revision.
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We respectfully request the opportunity to work with you and Agency officials to develop and implement stronger, more effective measures to enhance the sage-grouse and its habitat.

Respectfully,



Tom Chamberlain, President
Oregon AFL-CIO



September 13, 2010

Marla Rae
Chair, Oregon Fish and Wildlife Commission
3406 Cherry Avenue, NE
Salem, Oregon 97303

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malaise of the lingering economic recession. The Draft Revision Plan suggests no revenue sources to pay for the costs associated with program implementation.

We support ODFW's efforts to enhance sage-grouse and sage-grouse habitat protection. We are committed to collaborative, multi-stakeholder, problem-solving oriented dialogue. We respectfully request that the Commissioners consider other approaches to reaching consensus on how to improve SGSB habitat, including the following:

- **BLM/OR process:** The State of Oregon and the Bureau of Land Management are engaged in a dialogue designed to better coordinate state and federal efforts to protect sage-grouse/sage-grouse habitat in Oregon, and to facilitate renewable energy siting on federal lands. Because this process involves a wider group of stakeholders, we would support using this venue to discuss the ODFW Draft Plan Revision.
- **Candidate Conservation Agreements:** Should Oregon counties consider negotiating CCAA, it would enable federal and state fish and wildlife officials to tailor landscape-scale approaches to responsible management of all threats to SGSB – not solely singling out renewable energy projects.
- **Direct Dialogue with ODFW:** Working together, we believe we can find better solutions to SGSB habitat protection efforts than proposed in the Draft Plan Revision. To make such a discussion successful, we recommend ODFW add representatives from the Oregon Association of Counties, members of Oregon's environment and conservation community, and renewable energy companies, their biologists, and associations.
- **Federal Advisory Committee (FAC) guidelines:** These guidelines emphasize wind energy development using the best available science, landscape scale planning, and a decision making framework that uses "tiers" to identify levels of potential harm to sensitive species or habitats. We would like to explore with ODFW whether or not this approach offers landowners and community leaders a greater role in developing enhanced sage-grouse conservation plans that better reflect the individual nature of each affected community.

We respectfully request the opportunity to work with you and Agency officials to develop and implement stronger, more effective measures to enhance the sage-grouse and its habitat.

Respectfully,



Ryan Deckert, President
Oregon Business Association

Michelle Tate

Subject: FW: Protect Greater Sage-Grouse

From: stuart phillips [<mailto:stulips@hotmail.com>]

Sent: Tuesday, October 12, 2010 8:56 PM

To: sage.grouse@state.or.us

Subject: Protect Greater Sage-Grouse

Please Protect with utmost safety and stringent relevant rules the greater sage-grouse! Now! Primary threats to the sage-grouse across its range are: habitat loss and fragmentation (including wildfire); invasive plants; energy development; urbanization and agricultural conversion and grazing. stuart philips, eugene, oregon

Michelle Tate

Subject: FW: Greater-sage grouse

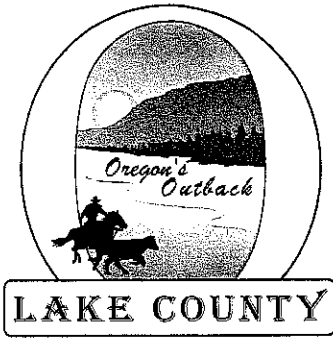
From: almagi22 [<mailto:almagi22@gmail.com>]

Sent: Tuesday, October 12, 2010 5:39 PM

To: sage.grouse@state.or.us

Subject: Greater-sage grouse

We can do little about wildfire aftermaths and their affects on wildlife population. We can however put limits on cattle grazing and building development. That we can control. There are enough foreclosures going on across the country. It sure wouldn't hurt to put building on the back burner for a few years, giving the grouse time to repopulate



Lake County Board of Commissioners

513 Center Street
Lakeview, Oregon 97630
(541) 947-6003
Fax: (541) 947-5775

Ken Kestner, Chairman
Dan Shoun, Vice-Chairman
Bradley J. Winters, Commissioner

October 6, 2010

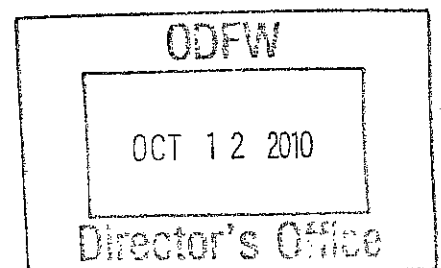
The Oregon Dept. of Fish & Wildlife Commission
3406 Cherry Avenue N.E.
Salem, OR 97303

RE: 'Greater Sage-Grouse Conservation Assessment and Strategy for Oregon'

Dear Ladies and Gentlemen;

In agreement with the Association of Oregon Counties, Lake County Board of Commissioners respectfully request postponement of your Commission's approval of the 'Assessment and Strategy' until a more open, public process can be conducted for the plan.

Ken Kestner, Chair



**BEFORE THE BOARD OF COMMISSIONERS
FOR
LAKE COUNTY, OREGON**

**In the Matter of Requesting Postponement of)
The Oregon Department of Fish & Wildlife's) RESOLUTION # 10-10-05
Greater Sage-Grouse Conservation Assessment)
And Strategy for Oregon)**

WHEREAS, ORS 496.166 states the need for citizen involvement through partnerships between the Oregon Department of Fish and Wildlife and landowners to manage wildlife on private lands; and

WHEREAS, ORS 496.012 Wildlife Policy (7) obligates the Commission to “make decisions that affect wildlife resources of the state for the benefit of the wildlife resource and to make decisions that allow for the best social, economic, and recreational utilization of wildlife resources by all user groups”; and

WHEREAS, ORS 496.164 states that ODFW “may advise, consult and cooperate with other political subdivisions and private landowners with respect to fish and wildlife management.” ; and

WHEREAS, Lake County supports an open stakeholder involvement process for reviewing the “Greater Sage-Grouse Conservation Assessment and Strategy for Oregon”; and

WHEREAS, renewable energy projects in eastern Oregon are needed to meet the State of Oregon’s Renewable Portfolio Standard of 25% renewable energy by 2025; and;

WHEREAS, Lake County also supports other ecologically sound and sustainable projects, including but not limited to, the livestock industry which is a key component of the County’s economy and lifestyle heritage.

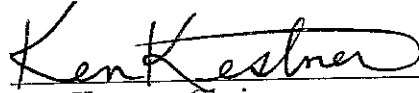
WHEREAS, Lake County is a member of the Association of Oregon Counties;

THEREFORE, BE IT RESOLVED that the Lake County Board of Commissioners support the postponement of the Oregon Department of Fish and Wildlife Commission’s approval of the Oregon Department of Fish and Wildlife’s 2010 draft version of the “Greater Sage-Grouse Conservation Assessment and Strategy for Oregon” until 2011 to allow thorough stakeholder review; and

THEREFORE, BE IT FURTHER RESOLVED that the Lake County Board of Commissioners supports the letter dated September 13, 2010 from the Association of Oregon Counties to the Oregon Department of Fish and Wildlife Commission that

addresses counties concerns on the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon".

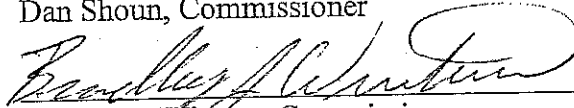
PASSED AND ADOPTED by the Board of Lake County Commissioners on this 6th day of October, 2010.



Ken Kestner, Chairman



Dan Shoun, Commissioner



Bradley J. Winters, Commissioner



**Association of
Oregon Counties**

September 13, 2010

Oregon Department of Fish and Wildlife Commission
3406 Cherry Ave. NE
Salem, OR 97303

RE: Request to Postpone Approval of the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon until 2011

To the ODFW Commission:

The Association of Oregon Counties appreciates the opportunity to comment on the ODFW Greater Sage-Grouse Conservation Assessment and Strategy. We understand that this is a draft update of the Strategy. However, new language in the plan, including the core area maps, will have significant impacts on renewable energy and economic development in eastern Oregon. Additionally, the updates include conservation guidelines that may require counties to amend their Comprehensive Land Use Plans. This could be a significant undertaking with a fiscal impact to counties.

During the month of August, at the request of AOC and Harney County, ODFW contacted some eastern Oregon counties to gather feedback. While we appreciate this outreach, counties would like the Department to further recognize ORS 496.166 which states the need for citizen involvement through partnerships between ODFW and landowners to manage wildlife on private lands. Stakeholder groups or task forces could be formed to facilitate discussion.

Counties continue to have many concerns about the Strategy, in particular the lack of public process. We describe this concern and others below:

1. Lack of transparency and public involvement during the revision of the Strategy. Because the implications of the Strategy are extremely complex and will impact multiple stakeholders representing a wide variety of interests, we support postponing the adoption of the Strategy until after a thorough public process where stakeholders have enough time to assess impacts and express them to the Department. Furthermore, Governor Kulongoski's Natural Resource Office has convened the "Renewable Energy and Eastern Oregon Landscape Conservation Partnership" (an Oregon Solutions Project) to address this complex issue. One of the outcomes of this group will be a workshop held in mid-November, 2010 to allow all stakeholders opportunity to discuss and provide feedback on the Strategy and its integration with renewable energy projects in Oregon. Counties see this as a great opportunity for the Commission to gather feedback. We encourage the

Commission to review the comments before making a decision on approving the Strategy and postponing the approval date until early 2011.

2. ORS 496.012 Wildlife Policy (7) obligates the Commission to “make decisions that affect wildlife resources of the state for the benefit of the wildlife resource and to make decisions that allow for the best social, economic, and recreational utilization of wildlife resources by all user groups”.

Again, we strongly support slowing down the public comment timeframe so that all stakeholders have time to assess the potential economic and social impacts the Strategy may have, particularly in regions where sage-grouse habitat has been identified. We ask the Commission to consider the local and statewide social, economic, and recreational consequences of excluding areas of eastern Oregon from development.

3. Oregon has a renewable portfolio standard (RPS) that requires utilities in Oregon to provide 25 percent of their retail sales of electricity from newer, clean, renewable sources of energy by 2025.

The Strategy designates much of Eastern Oregon as core sage-grouse habitat which essentially rules out renewable energy development. With a considerable amount of renewable energy available in Eastern Oregon, we need to understand how the state will meet the RPS with these recommendations in place. This discussion should also include an ODFW proposal for mitigation requirements; which has not been developed.

4. Counties understand that the Strategy includes the best known peer-reviewed research on the greater sage-grouse. However this does not mean we know all there is to know about the sage-grouse. We realize and support the need to protect the species and prevent listing under state and federal Endangered Species Act's. Along these lines, caution should be used while updating the Strategy so that it does not become so onerous that the effect of implementation could be similar to a listing.

Counties support a local approach that could be used in conjunction with the Strategy to evaluate impacts to local populations. Extensive biological assessments are conducted by third parties as a part of the planning process prior to renewable energy projects being put on the ground. The data that is collected on the local sage-grouse population is the most accurate available. The Strategy could recognize these studies as a means for evaluating ecological impacts, developing mitigation, and determining how the project is developed instead of making assumptions based on the core area maps.

Furthermore, other states in the Western Association of Fish and Wildlife Agencies have seen an increase in sage-grouse numbers as a result of successful state strategies; the State of Utah is an example. We ask that ODFW discuss other strategies with stakeholders (in a task force setting) to assess other recommendations that may work in Oregon.

Counties appreciate the Commission's consideration of our concerns. We do understand the mission of the Department and want to assist and continue partnerships in any way possible. AOC and counties also continue to work with the Energy Facility Siting Council to maintain consistency on the approval process for all projects. If the plan is approved, the recommendation for including the Strategy in the land use review process will be incorporated into the AOC Wind Task Force Report. Additionally, if funding can be secured, AOC would recommend that counties update their land use plans (which requires a thorough public process) to incorporate the guidelines in the Strategy.

Section 5 of the Strategy states that implementation of the conservation guidelines will be conducted at the local level. In order for this to be successful, the Department needs local input and to keep in mind ORS 496.164 which states that ODFW "may advise, consult and cooperate with other political subdivisions and private landowners with respect to fish and wildlife management." This relationship should be reciprocal so that ODFW is a participant while local governments are making land use decisions.

Much has changed in Oregon over the last five years. Enough to require a thorough public process to update the Sage-Grouse Conservation Strategy and consider the impacts it may have on a growing number of stakeholders. The Association of Oregon Counties maintains our request for a more open, public process for reviewing the plan. We believe that a decision by the Commission in December does not provide adequate time for stakeholders and a new administration to appropriately evaluate and provide feedback on the Departments recommendations.

Thank you again for your consideration,



Steven E. Grasty, Harney County Judge
President, Association of Oregon Counties

Cc: Ron Elicker, Director, ODFW
Mike McArthur, Director, AOC



October 21, 2010

Dave Budeau
Upland Gamebird Coordinator
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303

Dear Mr. Budeau:

We appreciate the opportunity to provide comments to the Oregon Department of Fish and Wildlife (ODFW) regarding the proposed revisions to the *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon*. PacifiCorp is responsible for delivering electricity safely and reliably to 1.7 million customers in Oregon, Washington and California. The company works to balance growing energy demand with its environmental impact by developing renewable energy and regional transmission projects in a responsible manner.

PacifiCorp currently operates and maintains transmission lines in both the proposed Category 1 and Category 2 habitats (core areas). PacifiCorp requests ODFW and the Oregon Fish and Wildlife Commission (Commission) provide additional information regarding the science behind its proposed recommendations and clarify the impact the recommendations will have on transmission development.

Regarding the science behind the proposed recommendations, there are a few key points of information that are not currently readily available to the public. For example, the statement that "*in Washington 95% (19 of 20) leks documented <4.7 miles of 500 kV transmission are now unoccupied, while the unoccupied rate for leks >4.7 miles is 59% (22 of 37)*" is from an unpublished and therefore not peer-reviewed document. It is difficult for the public to comment or speak to unpublished materials. The use of unpublished documents speaks to the lack of available scientific studies from which to generate management decisions, specifically as they pertain to transmission development. Additionally, using information obtained from other industries studies, such as oil and gas, and applying them to the electric industry may not be valid or appropriate in all cases for developing appropriate management actions. Research is needed to identify how sage-grouse interact with tall structures, specifically transmission. The company suggests ODFW and the Commission consider partnering with industry to fund research specific to transmission development and its impact on sage grouse populations prior to revising its sage grouse strategy.

Second, the ODFW has recommended that no development take place in Category 1 habitat unless sited within existing right-of-way. PacifiCorp asks for clarification in this regard as there are existing Federal Energy Regulatory Commission requirements pertaining to power line separation that must be adhered to and considered that seemingly conflict with ODFW's



recommendation. Maintaining appropriate transmission line separation is a critical component of ensuring a reliable electrical system to meet customer needs. PacifiCorp requests that ODFW and the Commission consider and accept the siting and routing of new transmission lines parallel to existing transmission, while satisfying Federal Energy Regulatory Commission line separation criteria, as being consistent with this category habitat restriction. We believe this is an important policy clarification and urge your consideration.

PacifiCorp looks forward to working with you through this process to responsibly manage our state's natural resources. We would like to take the opportunity to meet with you prior to the December 3, 2010 Commission meeting to further discuss our concerns and will follow up to determine your availability.

Thank you for your time and attention to our comments. Please contact me at brian.king@pacificorp.com or 801-220-4831 for any additional information or clarification.

Sincerely,

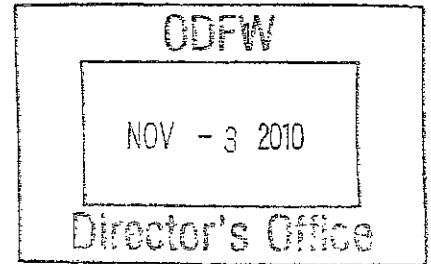
A handwritten signature in black ink that reads "Brian King". The signature is written in a cursive style with a large, looped "K".

Brian King
Environmental Analyst

November 1, 2010

To: Oregon Department of Fish and Wildlife

Re: Comments on Greater Sage-Grouse Conservation Assessment and Strategy for Oregon



Dear Director Elicker:

I have to give the Department credit; this document doesn't hide the fact that the reason ODF developed this species plan is to stop energy development. The Plan makes no excuse for the fact that the proposed actions will be "*implemented in an experimental context*". The Department admits they really don't know much about sage grouse, but would like to shut down sage grouse habitat and potential habitat areas from any development while they take their time to do more studies. The State of Oregon is broke, but ODF intends to continue helicopter monitoring of leks, at great expense to Oregon's tax payers, even though this program was supposed to have ended in 2006 (page 120).

ARM, or leaning while doing, will pretty well shut down development in Baker and Malheur Counties, when there actually is no problem with greater sage grouse populations in this area (page 6 states that the population is "secure"). Add to this, the fact that the bird is neither threatened nor endangered, there is still a hunting season for sage grouse, and what you have is a nice-to-do agenda from ODF that will cause extreme economic harm to our rural communities. The target level of birds is 2,000 for the Baker Resource Area, and the actual population is 2,000 birds.

PECE, or USF&WL Service *Policy for Evaluating Conservation Efforts* states that it establishes two basic criteria (1) the certainty that conservation efforts will be implemented and (2) the certainty that the efforts will be effective. If this Plan actually targeted "*conservation efforts*" such as elimination of predators (85% of non-hunting mortality and 79% of nest failures) and elimination of hunting, (about 13% of mortalities) I am certain the "*efforts would be effective*", and PECE would be achieved. The remaining 2% of mortalities from wires, and fences would be considered insignificant. As it stands now, BLM will certainly follow the Grouse Plan, and stall any mining plans of operation, stop any new power lines or wind farms and will happily eliminate grazing if the Department tells them to. I strongly believe the Department should be concentrating on controlling hunting and predation of sage grouse, and improving habitat, rather than looking for ways to bankrupt rural Oregonians.

The major cause of decline in the sage grouse population in this area was in 2006 when West Nile virus decreased the bird population. Until the birds develop a resistance to West Nile, their numbers may not increase, no matter what kind of a Plan ODF puts in place. But even with the birds' evident susceptibility to West Nile virus, page 12 states, "*population indices over the last decade suggest stable or increasing populations*". Also, on page 31, the Plan states, population size is "*within the range of natural variation*".

Page 41 of the proposed plan talks about the fact that moderate grazing (30% of this year's forage) benefits sage grouse, as compared to areas with no grazing or areas that are "overgrazed". There are many studies quoted in the Plan, and many more studies available that indicate that sage grouse and cattle are compatible. However, even though this Plan may not be aimed at eliminating grazing on public land, that will surely be the end result.

The Virtue Flat area in Baker County has been taken over by noxious weeds (mainly white top) and it is not the cattle, but rather the noxious weeds that are compromising this habitat. Use of herbicides on rangeland can be expensive, however, a product like Plateau, will not harm sagebrush, and will eliminate both white top and cheat grass at a cost of \$12/acre, when used in the fall. Following this treatment, these areas can be seeded with crested wheatgrass and natives, which will make a huge difference in the amount of forage available to both cattle and sage grouse.

ODF is directed (page 49) "to evaluate the risks and opportunities for habitat conservation in Oregon". They are not directed to shut down the economies of eastern Oregon. There are opportunities to control noxious weeds, control fire, control encroaching junipers, to enhance sagebrush habitat, and to control predation and eliminate hunting to increase the bird population. But stopping mineral and energy development and grazing on public lands represents an unacceptable "risk" to the economies of rural Oregonians. Stopping mineral/energy development and grazing should only be considered if management of the habitat is unsuccessful and bird populations begin to decline. The bird populations have been increasing during the past decade, thus, there is no justification for this Plan.

Currently BLM administers 31% of sage grouse habitat and 68% is in private hands (page 54). However, many private land owners graze cattle on public land grazing allotments. Page 72 of the Plan assures the reader that "these objectives are meant to be advisory for private land holdings". Then the Plan goes on to state, "as willing landowners become involved in the sage grouse conservation the addition of their land to the 70/30 objective will allow for greater flexibility for public land management" (i.e. enroll in the program or BLM will cut numbers).

Under *Management Objectives for Sage Grouse Habitat* (page 70) the Plan fails to describe all the pertinent State policy objectives. First of all, the policy only applies to State lands. It is a shame that BLM will follow this plan, not because it is a good plan, but because ODF says they should. Sections 497.102 to 497.134 of Oregon's State Wildlife Policy directs the commission "to achieve wildlife management objectives including, but not limited to habitat management (control noxious weeds, junipers and wildfire, seed areas of bare soil), predator control (reduce numbers of ravens, raptors, coyotes and foxes) supplemental wildlife feeding, (develop water sources, plant high protein species such as alfalfa near nest sites) protecting game mammals and birds with characteristics of high reproductive potential (control predators and bird watchers during breeding and nesting), enforcing closings necessitated by herd or population depletion" (stop hunting).

Some of the *Sage Grouse Conservation Guidelines* have merit. I agree that the guidelines about controlling wildfires and seeding after a fire are good conservation measures, just as controlling the recreating public, controlling noxious weeds, controlling invading junipers, and use of crested wheatgrass rather than only natives when seeding will be beneficial. However, I find the guidelines on predator control almost laughable. These state that ODF must consider predator management programs "*when identified as a limiting factor*", but the Department does not seem to want to admit that predation is a limiting factor. If 85% of non-hunting mortality and 79% of nest failures is a result of predation, I would have to say that it is pretty obvious that predation is a limiting factor on sage grouse populations.

I do not agree about the guidelines restricting grazing until mid-summer. Cattle and sage grouse have co-existed for over 100 years. In the last decade, the sage grouse population has increased, and this part of Oregon is at its target level for birds. Page 104 of the document states, "*modeling the removal of early-spring grazing from public lands indicated substantial economic impacts for ranches in Oregon, Idaho and Nevada*". This is an understatement. Putting Baker and Malheur Counties' ranchers out of business should not be an ODF guideline.

I also do not agree about the guidelines restricting energy and minerals development. Mining and energy development are a public benefit. These activities must take place where the wind blows or where the minerals are located. Mitigation measures can be added to the plans for these types of development, but stopping these activities will cause undue economic harm to Baker and Malheur Counties.

I appreciate the opportunity to comment on this proposal. I urge you to reconsider the proposal based on the adverse effects to our rural communities. Sage grouse habitat can be managed effectively in so many other ways.

Sincerely,



Jan Alexander
P.O. Box 153
Unity, OR 97884
446-3413



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Oregon Dept of Fish & Wildlife
 3406 Cherry Ave NE
 Salem, OR 97303 r
 Attn: Div Roy Elder*

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
X

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number
(Transfer from service label)
 7009 2820 0000 6415 5890

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Julie A Hansen

From: David Budeau
Sent: Monday, November 15, 2010 9:26 AM
To: Julie A Hansen
Subject: FW:

Dave Budeau
Upland Game Bird Coordinator
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303
Ph: 503-947-6323
email: david.a.budeau@state.or.us

From: Sage Grouse
Sent: Monday, November 08, 2010 9:49 AM
To: Christian Hagen; David Budeau
Subject: FW:

From: Pam Slaughter [mailto:pamelaslaughter@hotmail.com]
Sent: Sunday, November 07, 2010 8:52 AM
To: sage.grouse@state.or.us
Subject:

To Whom it May Concern:

My name is Pamela Slaughter, and I offer my support in your efforts to safe the sage grouse from extinction. Please protect this bird from extinction.

Sincerely,

Pamela Slaughter

Julie A Hansen

From: David Budeau
Sent: Monday, November 15, 2010 9:26 AM
To: Julie A Hansen
Subject: FW: Greater sage-grouse Conservation Assesment and Strategy for Oregon

Dave Budeau
Upland Game Bird Coordinator
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303
Ph: 503-947-6323
email: david.a.budeau@state.or.us

From: Sage Grouse
Sent: Monday, November 08, 2010 9:49 AM
To: David Budeau; Christian Hagen
Subject: FW: Greater sage-grouse Conservation Assesment and Strategy for Oregon

From: onda@onda.org [mailto:onda@onda.org]
Sent: Tuesday, November 02, 2010 3:09 PM
To: sage.grouse@state.or.us
Subject: Greater sage-grouse Conservation Assesment and Strategy for Oregon

Your E-Mail Address

bborden@teleport.com

Name

Borden Beck

City

Portland

State

OR

Subject

Greater sage-grouse Conservation Assesment and Strategy for Oregon

Comments on the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon

To Whom it May Concern: Thank you for this opportunity to comment on the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Though the USFWS determined that Greater sage-grouse should remain unlisted for now, there are still a number of threats facing Greater sage-grouse and sagebrush habitat in Oregon. Without science-based management practices and common sense policies geared to protect Greater sage-grouse we may continue to see their range and numbers decrease. The most pressing threats to sage-grouse include degradation of habitat through development, livestock grazing and agriculture, and energy development coupled with accompanying roads and power lines. However, with policies like mitigation requirements and restrictions in core sage-grouse habitat, the State of Oregon can help facilitate responsible renewable energy development in Oregon while protecting this important landscape and iconic species. The current plan makes assumptions that the amount and quality of

sagebrush habitat will be constant for the next 50 years. Nowhere does the plan take into account the potential for sagebrush range contraction due to the action of drought and increased fire intensity as a result of climate change. ODFW needs to use the best available science to model the potential impacts of climate change on sage-grouse and sagebrush habitat in Oregon. ODFW must also address the increase in applications for renewable energy projects within sage-grouse range by creating standards and guidelines for energy development. Currently, 44% of the most important remaining habitat for sage-grouse shares a landscape with future energy development. Now, more than ever sage grouse need a balanced approach to protection. I hope that ODFW will also address the following deficiencies in the final Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: 1. Create a plan to address research gaps that exist related to lek data, nesting habitat, climate change, and energy development. 2. Make changes to the core habitat map by filling in "doughnut holes" and joining together core areas that are in close proximity for more fluid management. 3. Improve guidelines related to man-made water features, such as guzzlers and livestock ponds to reduce the threat of West Nile virus. 3. Create a plan to educate landowners about threats to sage-grouse and how they can help improve sagebrush habitat and reduce impacts to sage-grouse on private lands. 4. Create a plan to work with County officials to incorporate recommendations into county planning and governance. The importance of creating a proactive and authoritative plan to protect Greater sage-grouse and the sagebrush habitats of Oregon cannot be overstated. We need to protect this declining species so that Oregonians today and in the future will have an opportunity to experience and enjoy one of the high deserts most enigmatic creatures. By protecting Greater sage-grouse and the sagebrush habitat they rely on, hundreds of species stand to gain. Currently there are over 20 sensitive or threatened species associated with sagebrush, including Oregon's state bird, the Western Meadowlark. Thank you for considering my comments and this opportunity to take part in this process. Sincerely, Borden Beck

From: Sage Grouse
Sent: Friday, November 19, 2010 4:13 PM
To: David Budeau; Christian Hagen
Subject: FW: SAVE THE SAGE GROUSE

From: Carol D AHO [mailto:carol.d.aho@state.or.us]
Sent: Tuesday, November 09, 2010 9:29 AM
To: Sage Grouse
Subject: SAVE THE SAGE GROUSE

THESE ARE BEAUTIFUL CREATURES. I WANT MY CHILDREN
TO BE ABLE TO SEE THEM. PLEASE LEAVE ROOM ON THE
PLANET TO INCLUDE THEM IN THE SYMPHONY OF LIFE.

SINCERELY,

DIANE AHO

61931 Cottonwood Rd.
La Grande, OR 97850

44487 Duby Rd
Baker City OR 97814

November 12, 2010

ODFW Commission
3406 Cherry Avenue N.E
Salem, OR 97303

Dear Commissioners:

The attached comments explain areas of the Sage Grouse Conservation Assessment that we would like to be included in a revision of the document.

Some parts of the document need to be moved or referenced in order to get topics tied together better. There are many federal land plans that should be discussed throughout the document to indicate that where they contribute to the current management of sage grouse.

There are statements in the document that indicate a "bias" about livestock grazing and whether intentional or not, the strategy is a roadmap and it should be written in as objective a way as possible.

The impact of predation is not described in much detail. This issue should be discussed and lengthened. West Nile virus was explained with current understanding, but are there other diseases that should be considered. Is there a natural mortality rate that can be expected?

We appreciate having an opportunity to review the document and identify areas we think can be improved. We look forward to the revised version and want to emphasize our interest in avoiding another ESA listing in Oregon for any species.

Sincerely,

Pat Larson
61931 Cottonwood Rd.
La Grande, OR 97850

Mike Hutton
44487 Duby Rd
Baker City OR 97814

Comments

We have reviewed the Greater Sage Grouse Conservation Assessment and submit these comments for consideration in making changes to the document.

The strategy used by Oregon should reflect continuity with other state plans. The knowledge and understanding about sage grouse is very limited and it will be

important for Oregon to be engaged in discussions with other states to recognize successful management versus failed or static management activities.

We especially think the population monitoring should be strengthened on public lands. There are vast areas of BLM land with sage grouse habitat and continuing to refine the observation methods that are objective will likely add to current knowledge about their requirements. (Page 18-26, Distribution and Monitoring).

The baseline for population studies should include years prior to 1980. Private landowners in Oregon can attest to habitat and sage grouse numbers observed through years prior to 1980, which has not been given enough weight in this document. While a "reasonable sample" was obtained in the 1980s, full consideration should be documented regarding the various land uses and what changes have occurred. This document only looks at one side of this issue.

There is evidence that livestock grazing, agriculture activities and sage grouse are compatible. In the past, more use and higher grouse populations and/or habitat uses may improve knowledge about how to manage in the future. The document should reflect a willingness to look at "more" rather than "less" use by humans and how hunting management has contributed rather than detracted from the current population status.

On Page 31 the Population assessment summary should be edited. The document states the grouse numbers have declined over the years 1957 to 2009 and were stable between 1980-2009. If the reliable data being used is 1980-2009 then further explanation should be provided to explain why the decline is being viewed from 1957. Is there a basis for this?

Page 32 action item 1.4 is unclear. What is the decline for populations considered normal or acceptable? The second part of the sentence is not clear where a decline of less than 7% for 5 or more consecutive years would cause management actions to reverse the decline. Any decline over 5 years could be sustaining the population and until research knows more about the population structure it seems a stretch to accept that declines less than 7% is an adequate trigger for management changes.

Page 33 discusses Regional Populations but it is unclear why the 2003 spring breeding population levels are targeted. This appears to be an arbitrary decision and the strategy to use the 2003 figures should be explained.

Page 38 states the conversion of land from sagebrush to agriculture production resulted in a loss of habitat for sage grouse. It would be more objective to just state that the habitat was converted, because no one knows to any degree of certainty how many of those acres were occupied and are no longer used in anyway by the bird. Private landowners have many reports about sage grouse use in their fields with developed water. Until better information is obtained, it is more reasonable to temper the narrative and avoid theories that are subjective. It is unlikely that

private land will be converted to sagebrush again and it is likely an undesirable outcome since humans survive with the products from those lands.

Page 40 reference to B Kindschy, BLM communications is correct for the sagebrush re-colonization of crested wheatgrass seedings. The problem is no one has investigated the number of acres where this is taking place. The public lands are intended for multiple uses and finding a balance between wildlife and human use of lands must be adaptive. If this document is intended to be a road map and sage grouse management is going to proceed then the strategy should emphasize ways to conduct meaningful studies that can help answer the numerous questions regarding sage grouse.

A summary of the public (federal and state) land management plans should be included in the document in way that shows the many activities that are currently in place that already address the sage grouse concerns. Some of the plans have been in place for many years and the idea that another plan is needed to implement other management actions aside from what is already on the table will create redundant and wasteful time and resources. The Oregon strategies should be tied to the federal actions and vice versa in way that creates progress and not repeated efforts. The document is not clear in providing how all of these plans and ideas are steps forward. A good summary of the acres under management and the indication of how those plans are working is needed.

Page 41 should be lengthened with a more complete description of the historic grazing practices in this country. There were periods of time when laws were not formulated in a way that caused grazing to be managed. There was a period of serious drought that impacted much of the western lands and after several attempts to develop good management practices over time tremendous improvements have taken place. Do justice to the topic and contribute a complete picture rather than relying on a short cut. The same can be stated for the narrative about the grass species and their phenology. Research efforts that address the effects of livestock grazing on sage grouse demography will certainly take place once the research on the sage grouse itself improves. There is ample information available about livestock use on different plant communities but the requirements for sage grouse remains very uncertain with the limited studies.

Page 42, Riparian Areas/Wetlands should be rewritten. The subjectivity of the narrative is unacceptable. Historically management of riparian and wetlands areas was limited. With the ESA salmon listings protective measures have been put in place and research is being conducted to identify and describe the ecological conditions and functions of the channels and riparian areas. The nutritional quality of the riparian vegetation may be sufficient for sage grouse during the late season. The document narrative should expand to include the number of riparian miles that do not provide adequate high quality forage in Oregon and if that information is unavailable then this paragraph will need to be rewritten to reflect facts.

Recreation should be expanded and not focus on a single type of recreation. How big of an impact is this anyway? The take away message is that people who pay for the management cannot see or watch sage grouse. If volunteers who observe leks do not disturb the grouse, then how hard is to create training for the public who want to visit these sites too? Also, following that section land use impacts needs expanded due to the state policy and emphasis on renewable energy sources. There are numerous considerations that should be discussed in these areas. Reference page 106.

The Defining Habitat Use appears to be confounded with a debate about the scale at which assessments can take place in a meaningful way. Based on the limited research about the sage grouse life history it would seem prudent to use modeling to guide on the ground verification to test the accuracy of the assumptions presented.

Page 53 should identify that sage grouse habitat is grazed annually by wildlife and livestock. Wildlife includes deer, elk, pronghorn, rabbits, wild horses etc. Livestock grazing is managed under effective planning systems designed through environmental assessments and impact statements. The narrative in this document regarding livestock grazing fails to identify the difference between managed systems and unmanaged systems. Wildlife grazing is unmanaged and the quality and condition of the resources from their use is dependent on their population control.

Page 71 the Statewide Habitat Baseline 2005 is a new time period regarding the document strategies. How does the 2005 information link to the 2003 breeding population information and 1980 sage grouse population baseline.

Page 72, Action 1.1 should include the words "advise, consult, and cooperate" with public land management agencies.

Page 73, Action 1.4 should identify a maximum sagebrush objective if 70% is not the limit. It would seem reasonable to know the maximum to achieve a stable population while taking into account natural population fluctuation.

We disagree with Page 73 Monitoring 1.5 Rangeland Health Standard #5 as an appropriate monitoring technique for the sage grouse habitat issues. These assessments are somewhat subjective, are performed with little or limited training, and have limited quantitative information about the numerous sites on a district. A different type of long term monitoring should be developed that will result in a higher accuracy and reliable data set. Data needs to be repeatable over long periods of time and the SRH methods do not appear to be reflective of this important principle. Some are done well and others are not. Continuity is missing in the process.

Some idea of the cost to implement this plan as well as the ODFW budgeting for sage grouse conservation should be included. The Socio-economic factors that included recognition of the economics involved in the livestock industry is noted and needs to be considered as well as the value of the agriculture production lands.

Invasive weeds have not been identified in the document and the narrative is unclear whether management or eradication is intended for sage grouse management. Invasions can occur due to any disturbance. Controlling is different than eradicating. This items should be clarified and ideas for treatment should be discussed. Is juniper encroachment considered a weed invasion?

How can regulatory mechanisms improve the current 70/30 ratio of sagebrush habitat to disturbed areas? On page 73 monitoring, 1.8 intends to determine the ecological relevance of the 70/30 objective. If that is not known then further regulation at any government level would be meaningless.

There are inconsistencies in the document that need to be reviewed and edited in a way that ties things together better.

To Oregon Fish and Wildlife

Nov. 11, 2010

As a child in the early 1960's, I remember visiting Fort Rock one spring and wandering out early in the morning with my father to watch the sage grouse perform just a few hundred yards east of the monolith. It was a stunning and vivid experience that has lasted a lifetime, but alas, I suspect the grouse are no longer there as the whole area is now dominated by giant pivot irrigated fields of alfalfa. I have seen the strutting behavior elsewhere on a few occasions, but none are as ingrained in my memory of the first time and it saddens me that the Fort Rock lek population may just have disappeared.

I would like to commend the ODFW for their efforts to craft a management plan to protect the sage grouse. In the absence of meaningful federal protection coming forth from the warranted but precluded listing as an endangered species, I am glad that Oregon is apparently going forth to develop a plan that if successful may help the species recover here. For the most part I think your plan recognizes the threat to the species, diminished and altered habitat, and makes some efforts to address this issue.

One of the major concerns I have is the ongoing push by the wind energy community to place turbines in core sage grouse habitat. In my conversations with representatives about such siting I remain stunned by their advocacy for almost no setbacks, a quarter mile has even been suggested, or the notion that turbines will have negligible effect on leks, nesting, or their range used for brooding. This seems entirely untested and counter intuitive, and in fact concentrated energy developments elsewhere would seem to bode otherwise. Fidelity to leks and the nearby nesting areas will require protection from "tall" structures and activity if the ability of the species to reproduce is to be enhanced. The setback from core habitats such as leks and nesting areas needs to be strictly enforced and 3-5 miles still seems reasonable to me. Siting of wind turbines in other habitats will also have an effect if it causes birds to abandon their use of such areas as well. As loss of habitat is usually stated to be the main reason for decline, continued incremental loss of even rearing habitat is problematic. I believe ODFW should be involved with all energy siting near leks and core habitat, whether the project is large or small, even if it is small enough not to trigger the Energy Facility Siting Council requirements for review. Without such oversight, energy projects will just multiply as numerous small ones to avoid ODFW guidelines and more habitat will be lost.

A second concern in the plan is to allow continued hunting of sage grouse. Given the listing as warranted for endangered species status, it seems incongruent to continuing killing the birds legally and intentionally. While I understand that the 5 % taking of the species is intended to be from areas where the population is more robust as to perhaps support such hunting, doing so still suppresses the ability of the species to recover. As I understand it, males, females and young can all be hunted during the season and I do not understand how reducing the healthiest local populations can help the species. If the carrying capacity of the land is reached for a local population, I would expect individuals to gradually disperse into other habitats (assuming these other degraded habitats can be made to be more functional and attractive to grouse). To suppress the healthy populations only makes it that much more difficult to recover the species region wide. If hunting is to

continue, strategies must be employed to insure that fewer females and young are killed in the process. If this is impractical, then I would suggest hunting be temporarily halted while intentional efforts to recover the species go forth. There is plenty of other game for hunters to go after in the interim.

Third, I recognize that grazing remains a landscape wide impact on sage grouse habitat, and anything you can do to work with the BLM or private landowners to encourage or demand that they manage grazing and agriculture better to help recover habitat for sage grouse is imperative.

My biggest fear is that despite your efforts, different interest groups will advocate for continued developments on the assumption that their particular development will only have minimal impacts. It is this kind of advocacy that has taken sage grouse populations to the brink of their demise as each incremental development adds up to an unsustainable total.

I hope that ODFW will also address the following deficiencies in the final Greater Sage-Grouse Conservation Assessment and Strategy for Oregon:

1. Create a plan to address research gaps that exist related to lek data, nesting habitat, climate change, and energy development.
2. Make changes to the core habitat map by filling in "doughnut holes" and joining together core areas that are in close proximity for more fluid management.
3. Improve guidelines related to man-made water features, such as guzzlers and livestock ponds to reduce the threat of West Nile virus.
3. Create a plan to educate landowners about threats to sage-grouse and how they can help improve sagebrush habitat and reduce impacts to sage-grouse on private lands.
4. Create a plan to work with County officials to incorporate recommendations into county planning and governance.

In my wildest dreams, I would one day be able to go back to the Fort Rock Valley and wander out into the sagebrush to hear the thumping drum beat of the sage grouse in spring again.

Thank you for considering my comments.

Sincerely,

Borden Beck
1812 SE 33rd
Portland, OR 97214

Julie A Hansen

From: David Budeau
Sent: Monday, November 22, 2010 8:45 AM
To: Julie A Hansen
Subject: FW: Comments to the Greater Sage Grouse Conservation Assesment and Strategy Document

Attachments: SOUTHEAST OREGON letter to the ODFW.docx



SOUTHEAST
REGON letter to the

Dave Budeau
Upland Game Bird Coordinator
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303
Ph: 503-947-6323
email: david.a.budeau@state.or.us

-----Original Message-----

From: Sage Grouse
Sent: Friday, November 19, 2010 4:14 PM
To: David Budeau; Christian Hagen
Subject: FW: Comments to the Greater Sage Grouse Conservation Assesment and Strategy Document

-----Original Message-----

From: Mark Wilkeningi@blm.gov [mailto:Mark_Wilkeningi@blm.gov]
Sent: Monday, November 15, 2010 2:10 PM
To: sage.grouse@state.or.us
Subject: Comments to the Greater Sage Grouse Conservation Assesment and Strategy Document

Please find attached the comments from the Southeast Oregon Resource Advisory Committee, William Renwick Chair. This is an Federal Advisory Board with a variety of representation from members of the public. They have reviewed the document and would like the attached document incorporated into the meeting materials for the commission meeting on December 3rd. Questions please contact me at the number below. Thank you.

(See attached file: SOUTHEAST OREGON letter to the ODFW.docx)

**SOUTHEAST OREGON
RESOURCE ADVISORY COUNCIL**
A Federal Advisory Committee

25 October 2010

Wildlife Division
Oregon Department of Fish and Wildlife
3406 Cherry Ave NE
Salem, OR 97303

Re: Southeast Oregon Resource Advisory Council comments on the 2009 Draft Greater Sage Grouse Assessment.

Dear Sir or Madame,

The purpose of this letter is to provide comments on the Oregon Department of Fish and Wildlife's (Department) 2009 Draft Greater Sage Grouse Assessment, v. 20100706 following review by members of the Southeast Oregon Resource Advisory Council (SEORAC).

We appreciate the Departments effort to maintain and enhance sage grouse populations in Oregon through development and implementation of the Assessment. In general we found the Assessment well written and presented, and believe implementation of the document will meet the stated objectives.

We are aware that one of the major comments received during the public meetings was the concern that the Assessment suggested avoiding any form of development in Category 1 habitats. We realize that an effort was made to differentiate between industrial energy development and development for ranching or other forms of historic use that occurs in sage grouse habitats. Throughout the Assessment extra effort should be made to clarify the types of development that have potential to substantially, negatively effect sage grouse use of their habitats (e.g. wind energy development), and those types of development that pose little or no risk. Furthermore, we do not believe the current mapping scale is detailed enough to categorically restrict all development within core habitat. The plan should identify the opportunity to consider industrial developments within category one habitat on a case by case basis provided the following conditions apply: 1.) The actual site being impacted is not sage grouse habitat; 2.) The development would not significantly increase habitat fragmentation, or cause a behavioral impact on local sage grouse populations.

Also, we are aware that county governments in the major sage grouse counties had concerns with this revision. We know that there is no representative from county government on the state sage

grouse team but are unsure if at inception they were invited to be represented. Because county governments have regulatory authority over sage grouse habitat through the land use planning process, we suggest that a representative be invited to sit on the state sage grouse team as well as each local working group.

Following are specific comments we present to improve understanding and implementation of the Assessment.

Page 14: Historical Conditions. Opening paragraph indicates that sage grouse populations in Oregon have declined since the early 20th century but the level of decline cannot be quantified. This leaves the reader confused as to whether the Department accepts that populations did decline during the period referenced. In various spots on pages 31-33 the historical data are referenced to indicate a decline in fact did occur. If the Department accepts that there was a decline in population size then that should be stated in the opening paragraph on page 14. If not, then using the suggestion of a population decline to support the arguments on pages 31-33 is not defensible.

Page 14: Historical Conditions, Animal Damage Control (ADC) records are used to define the amount of predator control occurring in sage grouse counties during the 1940's and 1950's. In addition to these data there are numerous anecdotal accounts published in newspapers and historical journals indicating that the level of predator control occurring during the period was substantially higher than ADC data would indicate. We suggest adding a sentence that indicates ADC records identify the minimum amount of predator control occurring during the period.

Page 37, Prineville BLM. Sentence referencing Baker County doesn't make sense in this section

Page 38, paragraph 1, lines 8-10. In the late 1980's researchers in the Double-0 unit commonly saw sage grouse broods using seasonally flooded meadows. We would suggest you re-write this sentence (also the similar sentence on page 55) to read "...except portions of the refuge provide brood habitat."

Page 40: Paragraph 1. The presentation appears to demean the publications referenced and suggests that the use of Tebuthiron is unacceptable to enhance sage grouse habitat. Both papers were published in peer reviewed journals and stress that the goal of the herbicide application was to reduce canopy cover of sagebrush without eradicating it in the treatment area. We suggest that this paragraph be re-written to identify that herbicide applications may be appropriate to enhance sage grouse habitat if the treatment emphasizes reduction of sagebrush cover without total eradication; as suggested by the authors referenced.

Page 40, 3rd paragraph. Mike Gregg's reference to sage grouse using wind swept low sagebrush for winter habitat should be included.

Pages 40, 55 and 70 – 71. The general argument throughout the document is that all fire is detrimental to sage grouse habitat. We do not accept this argument as it has been shown that burned areas that occur in small patches within otherwise intact sage grouse habitat are selected during the early brood rearing period. Also, we suggest that downgrading all areas burned into

potential habitat (page 55) may not be appropriate. Patchy fires resulting in native herbaceous vegetation response which do not have cheat grass invasion should be considered viable habitat. Our concern is that the “fire is bad” argument indicates a one size fits all management scenario. Fire can be catastrophic if it creates conversion of big sagebrush to cheatgrass, but lack of fire can be just as detrimental considering the effects of juniper encroachment on sage grouse habitats. Current vegetation monitoring techniques may not be specific enough to delineate areas where the occurrence of fire will result in native herbaceous vegetation response or cheat grass invasion; however the reference to fire on these pages and others throughout the Assessment should be reviewed to more accurately discuss the affects of fire on sage grouse habitat.

Page 51. You should define the size of the area downgraded to potential or non-habitat due to the type of disturbance in the disturbance model (e.g. how many feet, meters or acres either side of a power line were down graded?).

Page 62, Table 18 right hand column. Fourth number up from the bottom should be 876,341 not -1,546,942

Page 73, Partnerships, section 1.11. Should Department of State Lands be included in this list?

Page 92 through the Conservation Guidelines. One of the biggest issues in re-habilitating lower elevation plant communities is that most tools available to us today have not proven effective. It is important to determine the ecological root of the problem before assigning a management action (e.g. desired seed availability, availability of a site where seed will germinate or perform). Frameworks for thinking about these issues exist and we would suggest you recommend using Ecologically-Based Invasive Plant Management (<http://www.ebipm.org>) as a tool to guide management in low elevation sagebrush habitats.

Point 1b and 1c state that Wyoming big sagebrush (ARTRw) will be reseeded. Unfortunately seeding ARTRw is rarely successful. We suggest you change “will be” to “should be” and also recommend planting ARTRw.

Point 4 suggests native plant seed should be given priority. This is may not be appropriate in ARTRw habitats. In these environs crested wheatgrass performance is superior to natives and may be necessary in some cases to suppress annual grass invasion. We propose that you at least suggest the use of crested wheatgrass in ARTRw habitats with conditions where native plants are not expected to be successful, and the decision to use natives should be left to the onsite manager.

Point 4a. Diversification of crested wheatgrass monocultures is desirable but no one has figured out how to do it at anything but the smallest scale with exceptional effort and cost. If this point is retained then at least indicate that at this time there is a low probability of success.

Page 94, paragraph 1. Text indicates that quality nesting habitat is comprised of healthy sagebrush with a native perennial grass/forb understory. Is there any data to indicate that the herbaceous understory must be native vs. non-native for sage grouse? Recent work from

Zumwalt Prairie suggests that habitat structure may be more important to grassland avifauna than whether the structure is comprised of natives or non-natives.

Page 96. Include text to address the issue of standing dead juniper following fire. Is there data that indicate its presence is detrimental to sage grouse use of an area (i.e. raptor perches)? If there are no data, then that should be stated in this section.

Page 98-99. Invasive plant section is well presented; however we suggest you recommend an adaptive management framework for designing treatments (e.g. EBIPM suggested above). There is more to invasive plant management than just spraying herbicides.

Page 109, 1st issue. The need for regulatory protection of sage grouse habitat is well stated in the opening paragraph. However, as presented this issue puts all the responsibility for developing regulations on the county. Because this is the Departments' Assessment shouldn't this be restated that the Department should work with counties to develop appropriate land use planning language for protection of appropriate areas of sage grouse habitat from industrial development? Stating it this way would suggest that the Department would assist in development and defend the decisions made by a county. Such an arrangement would help to foster a state/county relationship that will be critical to the successful implementation of the Assessment.

Page 109. We suggest including a third issue in the Regulatory Mechanisms table. Through the PECE process a landowner has the possibility to develop Candidate Conservation Agreements (CCA) or Candidate Conservation Agreements with Assurances (CCAA) with USFWS. Although this option is available, we believe it has rarely been implemented in Oregon. It seems appropriate that this be included in the table and suggest the following language:

Issue: CCA and/or CCAA process is under-utilized to protect sage grouse habitat.

Conservation Guidelines: Advocate a proactive, cooperative approach to protecting sage grouse habitat by using the CCA or CCAA process to provide safe harbor for participating landowners and incentives for maintaining and improving habitat and populations.

Finally, as with any draft document this size there are minor editorial errors throughout. We would suggest that you select one Department person who was not instrumental in development of the Assessment, but is very familiar with sage grouse and their habitat needs, to read through the document for simple editorial mistakes.

Sincerely

William Renwick
Chair

The following text is intended to serve as comments on the current (July 2010) draft Greater Sage-grouse Conservation Assessment and Strategy for Oregon (Strategy).

Ormat supports the core area concept with Category 2 mitigatable habitats, but have the following suggestions for more accurately identifying effective core areas:

- 1) Our overview comment is that the core areas include many land uses (e.g., roads, overhead transmission lines) that are correlated with lesser sage-grouse presence, and in an effort to identify larger, more contiguous (unfragmented) areas that are more important for grouse conservation, the core areas should have excluded from them the areas that are known to be problematic for grouse.
- 2) Since grouse are known to reduce time spent near transmission lines (Johnson and Holloran 2010), all transmission lines and a ¼-mile buffer around transmission lines should be eliminated from the mapped core areas. The Strategy recognizes that existing rights-of-way and utility corridors are suitable locations for co-location of additional transmission, and removal of transmission line corridors from the core areas will encourage developers to focus efforts along existing utility rights-of way.
- 3) Because grouse limit use near paved roads (Holloran 2005), the core areas should not include paved roads or areas within a 100 meter buffer. While 100 meters is not associated with a specific biological threshold, this distance includes direct noise and visual effects on grouse that would largely displace individuals. Since these areas are likely to support only very limited use by grouse, their exclusion from the core areas would assist planners in focusing development along existing roadways. This approach has been successfully taken by the US Fish and Wildlife Service for lesser prairie-chicken in Oklahoma to identify areas with known disturbance.
- 4) The modeling effort to develop core areas is based in part on field data, but since the entire core area has not been field verified, the core area boundary should be subject to re-evaluation when field data can support appropriate changes. The review should be available for any projects subject to NEPA review where credible field data has been

collected. For example, recreational use, transmission lines, paved roads, commercial or industrial activities, topography, and vegetative community types not associated with preferred grouse habitat should be considered as factors which support reclassification. These land use types are currently included in the core area Habitat Category 1 and 2 maps.

- 5) Given the projection for long-term climatological change associated with greenhouse gas emissions from traditional energy sources, responsible development of renewable energy sources should be encouraged because short-term local impacts to grouse habitat are offset with long-term grouse habitat benefits associated with lower greenhouse gas emissions (*See Miller et al. in press*). Data that point to immediate support for renewable energy include USFWS 2008, which cited large reduction of sagebrush habitats as early as 2030 from climate change, as well as overwhelming habitat loss in 100 to 200 years. For this reason, Ormat supports mitigation for lost habitat in Category 1 areas after avoidance and minimization efforts have been completed. We request that the Strategy consider different and more favorable standards for siting renewable (vs. traditional) energy projects where local impacts may include some overlap with core areas if adequate avoidance, minimization, and mitigation measures are developed in consultation with ODFW.
- 6) In the absence of published scientific research addressing impacts to sage grouse from geothermal development, both the US Fish and Wildlife Service and ODFW have assumed that basic similarities in the way that both forms of energy are developed (e.g., well drilling) would mean that impacts from geothermal developments are similar to impacts from oil and gas developments. However, geothermal development has a substantially lower footprint of surface disturbance than that caused by oil and gas development. Additionally, full development of geothermal reservoirs (typically 15 to 45 megawatts) in the basin and range geologic province (i.e., in or near sage grouse habitat) would produce well numbers, densities, and associated infrastructure below threshold levels thus far demonstrated in the scientific literature (in the context of oil and gas

development) to have impacts to sage grouse wintering habitat use and lek attendance. Many studies (Naugle *et al.* in press; Johnson *et al.* in press) show oil and gas wellfields have wellpad densities of 5 to 16 wells/section or 8 pads/1.6mi², while basin and range geothermal development would typically result in 0.2 to 0.5 wells/section or 1 pad/3 mi². If all wells in such a geothermal development were within 5km of a lek or leks, any level of geothermal development would be well below Doherty *et al.* (2008)'s threshold of 2 wells/section for causing reduction in use of winter habitat and well below Naugle *et al.* (in press)'s threshold of 1 pad/1.6mi² for causing impacts to breeding populations. We do not assert that geothermal development would necessarily have no significant impacts on sage grouse, only that geothermal development is likely distinguishable from oil and gas development with regard to sage grouse impacts and until such time as there exists a body of scientific literature evaluating impacts of geothermal development on sage grouse, geothermal development should not be equated with oil and gas development for regulatory or planning purposes. For these reasons, we request that geothermal resource development be specifically categorized in the Energy Development and Transmission Appendix.

We suggest that ODFW adopt the following text for the Energy Development Appendix.

Issue	Conservation Guidelines
Geothermal Development	1) Central facilities for geothermal development must be located more than 3km (>=1.8 mi) from occupied leks, and will use topographic and/or artificial features to shield the lek from facility noise. Facilities will be constructed to blend into the existing environment and will not exceed 30' height.
	2) Wellpads that cannot be located outside of core areas must have a density of less than or equal to 10 wellpads located within

	5 km (3.0 mi) of any occupied lek, and existing topographic features will be used to shield the lek from direct line-of-sight and noise transmission of the wellpads. Noise barriers will be constructed if noise monitoring indicates activities at a wellpad are causing levels above background at a lek.
	3) The access road to the central facility will be located more than 3km (≥ 1.8 mi) from any occupied leks, and will be topographically shielded from any occupied leks.

References

Holloran, M.J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. Ph.D thesis. University of Wyoming, Laramie, WY. 215 pp.

Johnson, DH, MJ Holloran, JW Connely, SE Hanser, CL Amundson, & ST Knick. In Press (2010). Influences of Environmental and anthropogenic features on greater sage-grouse populations, 1997-2007. In: Ecology and Conservation of Greater Sage-grouse: A Landscape Species and its Habitats. Studies in Avian Biology, Cooper Ornithological Society. CD Marti, Ed.

Johnson, G, & M Holloran. 2010. Greater sage-grouse & wind energy development: A review of the issues. Report commissioned by Renewable Northwest Project. April 14.

Miller, RF, ST Knick, DA Pyke, CW Meinke, SE Hanser, MJ Wisdom, & AL Hild. Characteristics of sagebrush habitats and limitations to long-term conservation. In: Ecology and Conservation of Greater Sage-grouse: A Landscape Species and its Habitats. Studies in Avian Biology, Cooper Ornithological Society. CD Marti, Ed.

Naugle, DE, KE Doherty, BL Walker, MJ Holloran, and HE Copeland. In press (2010). Energy development and greater sage-grouse. In: Ecology and Conservation of Greater Sage-grouse: A Landscape Species and its Habitats. Studies in Avian Biology, Cooper Ornithological Society. CD Marti, Ed.

Department of the Interior, US Fish and Wildlife Service. 2008. Greater sage-grouse interim status update. Mountain-Prairie Region, Wyoming Ecological Services Office. October 31.

Doherty, K.E. (2008). Sage-grouse and energy development: integrating science with conservation planning to reduce impacts. Ph.D. dissertation, University of Montana, Missoula, MT.

Julie A Hansen

From: Michelle Tate
Sent: Tuesday, December 07, 2010 11:31 AM
To: Christian Hagen; David Budeau
Cc: Julie A Hansen
Subject: FW: Sage Grouse Management Plan
Follow Up Flag: Follow up
Flag Status: Red

From: ODFW Commission
Sent: Tuesday, December 07, 2010 10:15 AM
To: Michelle Tate
Subject: FW: Sage Grouse Management Plan

For Commission packet. – Teri Kucera

From: amy miller dowell [mailto:amillerdowell@mac.com]
Sent: Saturday, December 04, 2010 5:08 AM
To: odfw.commission@state.or.us
Subject: Sage Grouse Management Plan

Dear ODFW,

I encourage you to adopt the Sage Grouse Management Plan. Although I hope the final plan is more protective and has measures in place to recover the population, I strongly support the use of science to create the plan. I also support the designation of category one habitat in places that are most important to nesting, breeding, and connectivity for the Sage Grouse. With an expanding renewable energy market in our high desert, this policy creates common sense limits on development so that renewable energy in Oregon is truly green.

Thank you,
Amy Miller Dowell
4140 SW Primrose St.
Portland, OR. 97219

Julie A Hansen

From: David Budeau
Sent: Monday, January 10, 2011 1:38 PM
To: Julie A Hansen
Subject: FW: deadline for comments/decision on adoption

Julie,
Please include in the sage-grouse plan correspondence file/folder.

Thanks,

Dave Budeau
Upland Game Bird Coordinator
Oregon Department of Fish and Wildlife
3406 Cherry Avenue NE
Salem, OR 97303
Ph: 503-947-6323
email: david.a.budeau@state.or.us

From: Sage Grouse
Sent: Monday, January 10, 2011 1:15 PM
To: David Budeau
Subject: FW: deadline for comments/decision on adoption

From: Elizabeth E. Howard [mailto:EHoward@dunncarney.com]
Sent: Wednesday, December 01, 2010 6:44 PM
To: sage.grouse@state.or.us
Subject: deadline for comments/decision on adoption

Good evening. I understand that there has been a decision by the Commission to delay a decision on whether to adopt the Assessment so as to allow for further public review and comment. Your website does not reflect this decision. Can you please email me the new deadline for comments and meeting at which the Commission will take this matter up? I presume it will be after the first of the year. Thanks, Elizabeth Howard

Julie A Hansen

From: David Budeau
Sent: Monday, January 10, 2011 1:40 PM
To: Julie A Hansen
Subject: FW: NEDC's Comments on the Draft Oregon Sage-Grouse Plan
Attachments: Comments of NEDC on the Oregon Sage-Grouse Draft Plan.pdf

Julie,
Attached please find more correspondence for the sage-grouse plan folder.

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From: Sage Grouse
Sent: Monday, January 10, 2011 1:15 PM
To: David Budeau
Subject: FW: NEDC's Comments on the Draft Oregon Sage-Grouse Plan

From: Miles Johnson [mailto:miles.b.johnson@gmail.com]
Sent: Friday, December 03, 2010 1:22 PM
To: sage.grouse@state.or.us
Subject: NEDC's Comments on the Draft Oregon Sage-Grouse Plan

To whom it may concern,

Attached please find comments of the Northwest Environmental Defence Center on ODFW's Draft Oregon Sage-Grouse Plan.

Thank you for your consideration.

Miles Johnson, NEDC Lands and Wildlife Project



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RE: Comments on the *Draft* Greater Sage-Grouse Conservation Assessment and Strategy for Oregon

December 3, 2010

To Whom It May Concern:

The Northwest Environmental Defense Center (“NEDC”) respectfully submits comments regarding Oregon Department of Fish and Wildlife’s (“ODFW”) draft Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (“Draft Plan”). NEDC supports ODFW’s recognition that a formal framework is necessary to guide the conservation of Greater Sage-Grouse (“Sage-Grouse”) in Oregon. However, NEDC is concerned that the conservation measures proposed by ODFW will be insufficient to effectively conserve and restore this iconic western species.

NEDC is a non-profit, public interest organization dedicated to preserving, protecting, and improving the natural environment in the Pacific Northwest. NEDC is based in Portland, Oregon, and has been working since 1969 to protect the environment and natural resources of the Pacific Northwest by providing legal support to individuals and grassroots organizations with environmental concerns, and engaging in litigation independently or in conjunction with other environmental groups. NEDC’s membership consists of a Board of practicing attorneys and law students along with local citizens interested in the shared goal of protecting the environment through legal means. The members of NEDC derive educational, scientific, aesthetic, recreational, spiritual, and other benefits from the protection of Oregon’s biodiversity.

NEDC is concerned that ODFW’s ‘Conservation Guidelines’ are not sufficiently protective to realize Oregon’s codified objectives for sage-grouse conservation. Oregon’s statewide population objective for sage-grouse is to “maintain or enhance sage-grouse numbers and distribution at the 2003 spring breeding population level . . . until 2055.”¹ Furthermore, Oregon’s regional habitat objectives for sage-grouse require ODFW to maintain 100% of the existing sagebrush habitats and enhance potential habitats that have been disturbed throughout

¹ O.A.R. 635-140-0005.

the Baker Resource Area and the Vale, Burns, Lakeview, Prineville Districts.² Based on a careful review of the scientific literature and the recommendations of the Service, ODFW's 'Conservation Guidelines' will not ensure the 'maintenance or enhancement' of sage-grouse numbers or preserve 100% of existing sagebrush habitats. In order to live up to the legal requirements of the O.A.R.s, ODFW's final Plan must be significantly more protective of sage-grouse than the Draft Plan.

Maintaining current Sage-Grouse population levels and habitats (as proposed in the Draft Plan³) is insufficient in light of the U.S. Fish and Wildlife Service's ("Service") finding that Sage-Grouse are 'Warranted but Precluded' from listing under the Endangered Species Act ("ESA").⁴ The Service's 'Warranted but Precluded' finding means that, *currently*, Sage-Grouse populations and habitats are so impacted that this species qualifies for protection under the ESA.⁵ If the status of Sage-Grouse does not improve, this species will be listed once the Service completes other high-priority listing actions. Maintaining the status quo will not help Sage-Grouse recover, nor will it help Oregon avoid federal management of Sage-Grouse. The goals and requirements of the Draft Plan and the 'Conservation Guidelines' should be changed to focus on *recovery* rather than maintaining current populations and habitats.

These comments focus on the sufficiency of the 'Conservation Guidelines' to conserve and recover Sage-Grouse and meet Oregon's requirements of no decline in Sage-Grouse or sagebrush habitat.⁶ Generally, the best available science shows that these objectives require ODFW to limit disturbance within 4 miles of leks, and restrict wind turbines within 5 miles of leks.

I. ENERGY DEVELOPMENT

Wind Turbines

The 'Conservation Guidelines' should mandate 5-mile buffers between leks and wind turbines. The Service advised ODFW to take this "precautionary approach" to Sage-Grouse conservation in its policy document: *Prairie Grouse Leks and Wind Turbines: U.S. Fish and Wildlife Service Justification for a 5-Mile Buffer from Leks*. The Service's reasoning is based on the best available science and has been adopted by Wyoming and Idaho in those states' Sage-Grouse conservation plans.⁷ Accordingly, the final Plan should adopt to the 5-mile buffer rather than the 3-mile buffer proposed in the Draft Plan. The Draft Plan requires ODFW's management

² O.A.R. 635-140-0010.

³ Hagen, C., *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft), ODFW, July 6th 2010, pg. 89.

⁴ 75 Fed. Reg. 13,910 (March 23, 2010).

⁵ 16 U.S.C §§ 1532(6),(20); 16 U.S.C. § 1533(b)(3)(B)(iii).

⁶ O.A.R. 635-140-0010; O.A.R. 635-140-0005.

⁷ See *Wind Power in Wyoming: Doing it Smart from the Start*, pg. 24; *Conservation Plan for the Greater Sage-grouse in Idaho*, pg. 4-44.

to “err on the side of the birds’ biology.”⁸ Given that not “all critical winter range and leks . . . in Oregon”⁹ have been identified, and “there is a lack of specific information”¹⁰ about the effects of wind turbines on Sage-Grouse, ODFW should defer to the findings of the Service and require a 5-mile buffer for wind turbines. Failure to do so will only exacerbate the ‘inadequacy of state regulatory mechanisms’ that led the Service to determine that ‘listing’ was ‘warranted.’¹¹

Beyond the visual and auditory impacts of wind turbines on Sage-Grouse, the construction of wind farms and their associated infrastructure (including roads) can have a large footprint on the landscape. These facilities have the potential to destroy and fragment sagebrush habitat. Unless these impacts are carefully avoided, wind farm development in Eastern Oregon will run afoul of O.A.R. 635-140-0010’s directive to preserve “100%” of existing sagebrush habitat.

Though the Draft Plan states that “there is a lack of specific information” about the effects of wind turbines on Sage-Grouse¹², ODFW proposes no specific strategies for monitoring the impacts of wind energy development. Where wind energy development within Sage-Grouse habitat is unavoidable, ODFW should monitor Sage-Grouse populations for at least 3 years before project construction, during construction, and for at least 3 years after construction is completed and operation has begun. See *Conservation Plan for the Greater Sage-grouse in Idaho*, pg. 4-45. These research efforts will complement the existing knowledge of the impacts of wind energy development on Sage-Grouse and to help to inform future conservation measures.

Fossil Fuels and Minerals Development

Fossil fuels and mineral exploration and extraction sites should avoid surface occupancy within 4 miles of leks. The Draft Plan cites studies determining that “80% of nests are located within a four mile radius of a lek site,”¹³ and that oil and gas developments within “2-4 miles of leks and/or nesting areas had deleterious effects” on sage grouse populations.¹⁴ Furthermore, the Draft Plan used a 4-mile radius when mapping *core* sage grouse habitat in Oregon.¹⁵ Based on the best available science, exploration and extraction sites avoiding surface occupancy within *four* miles of a lek would better ensure the welfare of that lek than the 3-mile buffer proposed in the Draft Plan.

⁸ Christian Hagen, et al, *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft) 104, http://www.dfw.state.or.us/wildlife/sagegrouse/20100706_GRSGStrategy_final.pdf (July 6, 2010).

⁸ O.A.R. 635-140-0010; O.A.R. 635-140-0005.

⁹ Id. at 79.

¹⁰ Id. at 104.

¹¹ 75 Fed. Reg. 13,910 (March 23, 2010).

¹² Id. at 104.

¹³ Id. at 75.

¹⁴ Id. at 104.

¹⁵ Id. at 75.

Fossil fuels and mineral developments fragment and destroy sagebrush habitat. The very existence of these extractive uses in sagebrush habitat frustrates the Draft Plan's "overarching objective ... to promote intact and functioning sagebrush landscapes."¹⁶ Additionally, the loss of sagebrush habitat—from drilling pads, excavations, and road-building—directly contradicts O.A.R. 635-140-0010's protect of "100 %" of the remaining sagebrush habitat in Oregon.

Transmission Lines

The 'Conservation Guidelines' should emphasize installation of transmission lines within existing corridors to the maximum extent possible. Failing that, power lines should not be constructed within 4 miles of leks or breeding, nesting, and brood-rearing habitats. *See supra* (Discussion of the appropriateness of a 4-mile buffer.)

Where negative impacts to Sage-Grouse are foreseeable, transmission lines should be buried or anti-perching measures should be used to mitigate predation by raptors and ravens. The 'Conservation Guidelines' contain no discussion of anti-perching equipment. The *Conservation Plan for the Greater Sage-grouse in Idaho* explains that "raptor perch deterrents on power poles and other structures, such as telephone poles, should be considered" when predation by "raptors or ravens is likely or is a documented problem."¹⁷ The final Plan should assess the usefulness of perching deterrents and set out requirements for their implementation.

Meteorological Towers

The Draft Plan's 2-mile buffer between leks and meteorological towers is inadequate. As explained above, the recognized sensitivity of Sage-Grouse to vertical structures requires at least a 4-mile buffer between leks and meteorological towers. Wyoming has seen fit to go even farther, by "avoiding the erection of anemometer stations within 5 miles of active sage grouse leks." *See Wind Power in Wyoming: Doing it Smart from the Start*, pg. 24.

II. RECREATIONAL ACTIVITIES

NEDC applauds the Draft Plan's objective of minimizing the impact of recreation activities on Sage-Grouse. However, NEDC disagrees that "ensuring continued enjoyment" of sagebrush habitat should be the Plan's overriding objective.¹⁸ Recreational activities are ephemeral when compared to the permanence of biodiversity loss and the difficulties inherent in restoring species' numbers and range. Furthermore, the policy directives contained in O.A.R. 635-140-0005 and O.A.R. 635-140-0010 require that the conservation of sagebrush habitat and Sage-Grouse populations take precedence over recreation. The final Plan should ensure the protection

¹⁶ Id at 2.

¹⁷ *Conservation Plan for the Greater Sage-grouse in Idaho* (pg. 4-42)

¹⁸ Christian Hagen, et al, *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft) 106, (July 6, 2010).

and restoration of Sage-Grouse and their habitat, while allowing continued enjoyment of the sagebrush habitat to the extent that it does not decrease Sage-Grouse populations or the availability or quality of sagebrush habitat.

Viewing

Viewing animals, while typically far more benign than other human-wildlife interactions, can negatively impact birds and wildlife. NEDC is broadly supportive of protecting Sage-Grouse from the stress of human disturbance. However, NEDC also wants to emphasize that the opportunity to view and appreciate a species often enhances public knowledge and support for that species' protection. Unfortunately, the "Conservation Guidelines" may be too general to ensure that viewing activities will not adversely impact Sage-Grouse.

The final Plan should include the following measures, which are based on the scientific literature and the Idaho Sage-Grouse Conservation Plan.¹⁹

- Designating specific locations for public viewing of lek activity.
- Viewing blinds should be created at these locations to prevent birds from seeing humans or being disturbed by human activity.
- Any viewing of leks shown to disturb or harass birds should be prohibited.

With the inclusion of these more specific protections, NEDC supports the measures set forth in the 'Conservation Guidelines.' Though viewing opportunities are important for the enjoyment and appreciation of Sage-Grouse, they must—until Sage-Grouse recover—be prioritized second to conservation.

Off-Highway Vehicles

NEDC supports ODFW's recognition that ATVs, dirt-bikes, four-wheel drive vehicles, dune-buggies, snow mobiles and other off-highway vehicles (collectively, OHVs) pose serious threats to sagebrush habitat and Sage-Grouse themselves. OHVs have become increasingly popular in recent years, and this form of recreation has become a cultural point of contention between conservation advocates and OHV users. NEDC appreciates the difficulties of striking an appropriate balance between conservation and recreation, and the challenges of regulating OHV use on private land. Nevertheless, OHV recreation remains just that – recreation. As such, it should be prioritized below the survival of native species, below the health of native ecosystems,

¹⁹ Idaho Sage-grouse Advisory Committee, *Conservation Plan for the Greater Sage-grouse in Idaho* 4-71, [http://fishandgame.idaho.gov/cms/hunt/grouse/conservation_plan//stack/Sage Grouse/Idaho Plan.pdf](http://fishandgame.idaho.gov/cms/hunt/grouse/conservation_plan//stack/Sage%20Grouse/Idaho%20Plan.pdf) (July 2006); John W. Connolly, et al. *Guidelines to manage sage grouse populations and their habitats* Wildlife Society Bulletin 28(4) 976 (2000).

below habitat protection, wildlife conservation, and even essential economic activities, especially on federal and state lands.

The Draft Plan identifies negative correlations between Sage-Grouse populations and increased human activity, including OHV use.²³ The Draft Plan clearly describes why recreational OHV use is incompatible with Sage-Grouse conservation:

[OHV] use may be detrimental to sage-grouse breeding or nesting activity if the timing and intensity of such use is inappropriate. Intensive off-trail OHV use may cause nest abandonment, if laying or incubating females are flushed from nesting locations. Previous work on sage-grouse indicates that it is one of the most sensitive species with respect to abandoning a nest once disturbed.²⁴

Many studies have examined the broader affects of OHV use on public lands, noting particularly detrimental impacts to soil, streams and wildlife.²⁵ In summary, the scientific literature unambiguously indicates that OHVs negatively impact landscapes and the species that depend on those landscapes.

The Draft Plan's 'Conservation Guidelines' are not sufficient to protect Sage-Grouse from the negative impacts of OHVs. Given the deleterious and long-lasting effects of ATV use on public lands, the 'Conservation Guidelines' should include the following prescriptions:

All off-trail sage-brush habitat should be closed to OHVs (including snowmobiles) unless posted 'open.' The essence of this approach is that decisions about OHV use should be made deliberately and only after well-documented determinations that OHV use at a particular time and place would not impact Sage-Grouse. This policy was adopted by the Idaho Sage-Grouse Conservation plan.²⁸ Currently, ODFW's Draft Plan adopts an "open unless posted closed" approach that does not protect Sage-Grouse as a default position, but only includes protection measures where they are proven *necessary*. In order to err on the side of protecting Sage-Grouse (as is appropriate with a species deserving ESA protection), OHV use should only be allowed where protective measures have been proven *unnecessary*.

OHV restrictions should be consistent throughout the year. The Draft Plan recommends that OHV use be restricted during the breeding season, and "restricted to on-road or on-trail use during the nesting season in areas known to be occupied by sage-grouse". These shifting

²³ Christian Hagen, et al, *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft) 106, (July 6, 2010), quoting Connelly, et al. 2004.

²⁴ Id at 42.

²⁵ Patricia Sotoski & Christopher LaPoint, *Environmental and Social Effects of ATVs and ORVs: An Annotated Bibliography and Research Assessment* 4, <http://www.americantrails.org/resources/wildlife/docs/ohvbibliogVT00.pdf> (November 20, 2000).

²⁸ Idaho Sage-grouse Advisory Committee, *Conservation Plan for the Greater Sage-grouse in Idaho* 4-70, (July 2006).

restrictions will make it difficult to follow or enforce the regulation governing OHV use. Moreover, seasonal restrictions make little sense in light of the fact that Sage-Grouse use the areas around leks on a year-round basis. It makes sense for both conservation and efficient regulation to have consistency throughout the year.

A four-mile area around all identified leks, delineated migration corridors, and identified winter habitat is the minimum restriction necessary to protect Sage-Grouse. The '2-mile rule' proposed in the 'Conservation Guidelines' is insufficient to protect the majority of the breeding population that utilizes identified leks.²⁹ The Draft Plan offers no explanation why the '2-mile rule' is acceptable in light of data showing that 80% of Sage-Grouse nest within 4 miles of their lek.³⁰ The basis for the '2-mile rule' is flawed or non-existent. In order to actually protect, maintain and enhance populations of Sage-Grouse in accordance with O.A.R. 635-140-0005, OHV use should be banned within 4 miles of leks, delineated migration corridors, and identified winter habitat. As ODFW and its partners undertake habitat studies and lek counts, OHV use areas should be re-delineated to reflect the most current understanding of Sage-Grouse habitat and lek areas.

OHV management should also focus on decreasing road and trail density in sagebrush habitat. Near leks and in other areas where OHVs are not permitted, ODFW should begin actively removing OHV trails and roadways. All studies reviewed for this comment agreed that the habitat loss and fragmentation caused by trails and roadways negatively impacts Sage-Grouse.³¹ In areas where OHV use is permitted, the creation of new OHV trails (by design or by repetitive off-trail use) should be discouraged even. This restriction will maintain a level of habitat availability and function should in these areas later be found to be important for Sage-Grouse. Creating new OHV trails and roads necessarily removes some sagebrush habitat, directly violating O.A.R. 635-140-0010's directive to retain 100% of existing sagebrush habitat.

In conclusion, the 'Conservation Guidelines'' entire strategy for protecting sage-grouse from OHV impacts should be revised to limit OHV use year-round until there is a conclusive showing that Sage-Grouse or their key habitat areas will not be impacted. OHV-friendly areas could be

²⁹ Non-migratory populations typically merit strong habitat protection to a distance of >5 kilometers around leks. For migratory populations, this minimum buffer is more properly >18 kilometers. John W. Connolly, et al. *Guidelines to manage sage grouse populations and their habitats* Wildlife Society Bulletin 28(4) 978 (2000).

³⁰ Note also that females breeding at a given lek have been found up to 12 miles away. Christian Hagen, et al, *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft) 7.

³¹ John W. Connolly, et al. *Guidelines to manage sage grouse populations and their habitats* Wildlife Society Bulletin 28(4) 978 (2000); Christian Hagen, et al, *Greater Sage Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Draft) 7; Idaho Sage-grouse Advisory Committee, *Conservation Plan for the Greater Sage-grouse in Idaho* 4-71, (July 2006); Patricia Sotoski & Christopher LaPoint, *Environmental and Social Effects of ATVs and ORVs: An Annotated Bibliography and Research Assessment* 4, <http://www.americantrails.org/resources/wildlife/docs/ohvbibliogVT00.pdf> (November 20, 2000).

evaluated using GIS data already gathered in the preparation of the Draft Plan. Identified habitat areas—including seasonal ranges—should be placed off-limits from OHV use; other areas could be studied as potential OHV zones.

Recreation Sites

NEDC generally supports the intent of the ‘Conservation Guidelines’ to prevent negative impacts from recreation sites on Sage-Grouse and Sage-Grouse habitat. However, NEDC recommends that detailed habitat surveys be completed prior to the installation or construction of any new recreation sites. Without these surveys, ODFW will not be able to properly assess the impacts of these sites on Sage-Grouse and their habitat. Additionally, new recreation sites should not be located within 4 miles of identified or potential leks (as opposed to the rather than a 2-mile rule adopted by the ‘Conservation Guidelines’). Please refer to the above discussion of the necessity of a ‘4-mile rule.’ Finally, the location and construction of new recreational facilities must comport with the objectives of O.A.R. 635-140-0010: retain 100% of the existing sagebrush habitat in Oregon.

Hunting

NEDC does not support hunting any threatened or endangered species. Though Oregon’s Sage-Grouse are not technically protected under the Endangered Species Act, the Service has concluded that the Grouse’s population status merits such protection.³² Even if some studies suggest that harvest rates below 5% of the projected fall population *might* not impact overall population levels, continuing to hunt a species that warrants listing under the ESA is simply obtuse. Additionally, the assertion that hunting does not have an overall effect at the population level is hard to credit given how poorly we seem to understand Sage-Grouse population dynamics or how many birds actually exist in the wild. ODFW should seek to minimize all stressors to Sage-Grouse to the maximum extent practicable. There are plenty of other high-quality bird-hunting opportunities in Eastern Oregon focusing on non-native or healthy native species.

III. WEST NILE VIRUS

The effect of West Nile virus on Sage-Grouse is rapid and highly lethal.³³ Recent research showed that captive Sage-Grouse invariably died within six days of infection—presumably this

³² ESA protection for the Columbia Basin Distinct Population Segment is “warranted but precluded.” Patricia Sotoski & Christopher LaPoint, *Environmental and Social Effects of ATVs and ORVs: An Annotated Bibliography and Research Assessment* 3-4, <http://www.americantrails.org/resources/wildlife/docs/ohvbibliogVT00.pdf> (November 20, 2000).

³³ Clark, L., Hall, J., McLean, R., Dunbar, M., Klenk, K., Bowen, R. and Smeraski, C.A. 2006. Susceptibility of greater sage-grouse to experimental infection with West Nile virus. *Journal of Wildlife Diseases* 42:14-22.

time would be shorter in the wild.³⁴ Administering a vaccination against the virus increased survival rates only marginally.³⁵

Even though Oregon's Sage-Grouse population is not yet significantly affected by West Nile, ODFW should pay attention to the threat this virus poses, given its rapid spread across western North America and its extreme lethality.³⁶ To better understand how West Nile virus may be impacting Oregon's Sage-Grouse, and to minimize those effects on this imperiled species, ODFW's 'Conservation Guidelines' should address three major issues.

First, ODFW should increase the frequency and intensity of its sampling efforts for West Nile in Oregon's Sage-Grouse population. The current sampling scheme—where blood samples are collected from hunters—may not be sufficient to track the actual rate of infection in the population on an ongoing basis, especially considering the speed at which West Nile virus can kill and spread through the population.³⁷ For a more accurate survey, a more active and regular sampling strategy is required (e.g. once a week). Also, the blood sample can be obtained in a non-destructive way such as mist-netting.

Second, research has shown that showed that Sage-Grouse populations at lower elevation are more vulnerable to West Nile virus than populations in higher elevations.³⁸ NEDC appreciates that ODFW has limited resources to devote to monitoring West Nile. Therefore, it may be appropriate to monitor West Nile in low-elevation Sage Grouse populations more frequently than in high-elevation populations.

Finally, ODFW should minimize anthropogenic sources of standing water within 4 miles of Sage-Grouse leks. By minimizing standing water in these areas, ODFW can minimize the breeding habitat for mosquitoes (the vector of West Nile) in the locations most heavily used by Sage-Grouse, thereby reducing the possibility that West Nile-bearing mosquitoes and Sage-Grouse will come into contact. For instance, livestock watering tanks and dirt roads (containing puddles and potholes) can create breeding habitat for mosquitoes. These and other facilities with similar potential to trap standing water should not be sited (and where they exist, should be removed) within 4 miles of Sage-Grouse leks.

³⁴ Id.

³⁵ Id.

³⁶ Walker, B.L., Naugle, D.E., Doherty, K.E., and Cornish, T.E. 2007. West Nile virus and greater sage-grouse: estimating infection rate in a wild bird population. *Avian Disease* 51:691-696.

³⁷ Clark et al., 2006

³⁸ Walker, B.L., Naugle, D.E., Doherty, K.E., and Cornish, T.E. 2004. Outbreak of West Nile virus in Greater sage-grouse and guidelines for monitoring, handling, and submitting dead birds. *Wildlife Society Bulletin* 32:1000-1006.

IV. HABITAT

The Service's determination that Sage-Grouse is "warranted but precluded" from listing under the Endangered Species Act identified habitat loss and degradation and loss of the significant threats to range-wide persistence of sage-grouse. The following comments pertain to conservation measures proposed in the 'Conservation Guidelines' that fail to sufficiently minimize or alleviate those risks.

Wildfire

The 'Conservation Guidelines' suggest areas be re-vegetated after wildfire to avoid spread of cheatgrass, and that if native plant and sagebrush seed is unavailable crested wheatgrass be planted instead. In NEDC's view, the use of crested wheatgrass should be avoided to the maximum extent possible. The quality of habitat is lower in areas of crested wheatgrass than in those vegetated by native species. Proper foresight and planning on the part of ODFW—including native seed collection and propagation programs—will ensure there is an ample supply of propagules available for restoration. Maintaining native plant diversity will ensure availability of high quality habitat for sage-grouse and will make the sagebrush ecosystem more resilient to climate change.

Prescribed Fire

Re-seeding after prescribed fire presents the same problems described above. Additionally, prescribed fire can also have a variety of impacts on Sage-Grouse and their habitat, depending on species of sagebrush, altitude, geographic location, etc.³⁹ Given the potential for negative long-term impacts to sage-grouse from prescribed fire, the 'Conservation Guidelines' should provide additional criteria for determining when and where prescribed fire is appropriate. The 'Conservation Guidelines' should also include methods to ensure prescribed fire does not enhance spread of invasive exotic plants. While the guidelines do address spread of cheatgrass in low-elevation areas, fire can also promote the spread of other invasive plants, the risks of which should be addressed here along with preventative measures.

Invasive Species

Prevention, Early Detection and Rapid Response

The 'Conservation Guidelines' identify modeling and planning areas but lack specific measures to prevent new introductions. The 'Conservation Guidelines' should include management prescriptions to ensure the early detection of and rapid response (EDRR) to new weed populations. The modeling activity identified in this section should help managers to

³⁹ Nelle, P. J., K. P. Reese, and J. W. Connelly. 2000. Long-term effects of fire on sage grouse habitat. *Journal of Range Management* 53:586-591.

target areas with high probability of infestation but EDRR methods of existing Weed Management Areas and noxious weed control programs should be incorporated into the guidelines. The guidelines should also explain what a Weed Prevention Area is and how their implementation will help achieve the goal of preventing new weed populations from establishing.

NEDC agrees that adhering to the protocols provided in The Invasive Plant Prevention Guidelines will help reduce potential for spread of invasive exotic plants.

Pesticides

When and where invasive plant control is necessary, treatment methods should be determined case-by-case basis and should incorporate integrated weed management methods. The guidelines suggest the most effective tools for eradication are herbicides and bio-controls without providing information about other equally effective tools. The 'Conservation Guidelines' should not exclude any available tools and should instead provide guidance on how and when certain tools may be effective and what the costs and benefits of those tools are. Factors that should be considered include environmental risk, cost, effectiveness, etc. Before concluding that the herbicide injunction "limits land managers ability" to treat infested areas, the final Plan should provide further discussion of the risks associated with using herbicides in Sage-Grouse habitat. More explicit guidelines on the use of herbicides, if and when they are approved, should be included in the 'Conservation Guidelines' because herbicides can negatively effect on Sage-Grouse habitat (e.g. increased habitat fragmentation, decreased sagebrush cover and frequency, and lek abandonment; Braun and Beck 1977). Before pesticides are promoted as a conservation measure, more guidelines need to be provided to ensure the net effect is not a negative one.

Vegetation Treatments

NEDC approves of the 'Conservation Guidelines'' emphasis on avoiding negative impacts to Sage-Grouse by not 'treating' winter habitat or conducting treatment during nesting and brood rearing. ODFW should also refrain from conducting treatments while Sage-Grouse are on their leks and susceptible to disturbance. Overall, however, the vegetation treatment guidelines suffer from a lack of specificity. The 'Conservation Guidelines' fail to fully describe which "other appropriate treatments" would be used besides "brush beating." The Conservation Guidelines also fail to specify how ODFW would determine what 'other treatments' would be appropriate or how what criteria ODFW should use to know when and what kind of 'treatment' is needed. Given the long history of 'vegetation treatments' in sagebrush country that are nothing more than a removal of sagebrush to satisfy grazing interests, NEDC is concerned that the lack of specificity in the 'Conservation Guidelines' will invite the 'treatment' of sagebrush where none is needed.

Additionally, the ‘Conservation Guidelines’ call for ‘aggressive treatment’ of nonnative plant infestation but does not describe what these treatments would be nor how they would affect the sage-grouse population and habitat.

The Draft Plan should, but does not, seek to minimize the application of crested wheatgrass. Because crested wheatgrass “may be detrimental to sage grouse habitat use” (Draft Plan, p.40) it should be used extremely sparingly. ODFW’s justification for using crested wheatgrass (that the “market” for native seed is “[not] fully realized” (Draft Plan, p.100)) is without merit: if ODFW doesn’t have enough native seed to reseed after a vegetation treatment, the vegetation treatment should be postponed until ODFW has enough native seed to re-plant the treatment area.

While the use of tebuthiuron may have desirable effects on plant composition in some cases, the Draft Plan only presents only one study documenting benefits to Sage-Grouse. There should be either more studies done before allowing its widespread use, or it should be phased in slowly. Guideline 6(a) does provide some safe guards, but with only one study, it will be hard to accurately gauge the possible effects to Sage-Grouse and sagebrush habitat.

V. LIVESTOCK GRAZING

The Service’s determination that Sage-Grouse was “warranted” for ESA listing noted that grazing can “seriously degrade” Sage-Grouse habitat and exacerbate many of the most significant threats to sage-grouse.⁴⁰ For example, grazing can degrade nesting and brood-rearing habitat by removing vegetation.⁴¹ Cattle compact soils, consume native plants, increase soil erosion, and increase the proliferation of exotic plant species including cheatgrass, a rapidly spreading non-native grass that is replacing sagebrush.⁴² Beyond grazing’s direct effects, the infrastructure necessary to manage large herds of cattle also degrades the arid shrub steppe ecosystem. For example, “[m]assive systems of fencing constructed to manage domestic livestock can cause direct mortality to sage-grouse in addition to degrading and fragmenting habitats.”⁴³ Fencing is a mortality threat for Sage-Grouse because the low-flying birds collide with barbed-wire fences, leading to injury or death.⁴⁴ Fences also provide artificial perches for predators like raptors and ravens.⁴⁵ Sage-Grouse avoid habitat adjacent to fences even if the actual habitat is not yet removed.⁴⁶

⁴⁰ 75 Fed. Reg. 13,910, 13,942.

⁴¹ *Id.*

⁴² *Id.* at 13,939–40, 13,942.

⁴³ *Id.* at 13,942.

⁴⁴ *Id.* at 13,929.

⁴⁵ *Id.*

⁴⁶ *Id.*

NEDC is concerned that the 'Conservation Guidelines' will do little to reduce the impacts of livestock grazing on Sage-Grouse in Oregon. The 'Conservation Guidelines' repeatedly mention limiting the disturbance from grazing within .6 miles of leks. However, the Guidelines provide no reassurance that this '.6-mile buffer' is based on any scientific justification. How is the .6-mile distance derived? Are Sage-Grouse leks adequately protected by this buffer? Why do the 'Conservation Guidelines' only consider the effects of livestock disturbance on leks—why not other areas of Sage-Grouse habitat like nesting, brood-rearing, and wintering habitat?

Broadly, the final Plan should limit the deleterious impacts of livestock grazing on Sage-Grouse and sagebrush habitat—from turnout locations, winter feeding locations, fences, corrals, water sources, mineral placements, etc.—within 4 miles of leks. Per the discussion of the '4-mile buffer' above, this limitation would significantly reduce the impact of grazing on leks and nesting and brood-rearing habitats. Moreover, the final Plan should address many issues left unanswered in the Draft Plan, including: Who will determine which technique is to be implemented where livestock grazing has reduced habitat quality? What criteria will be evaluated in making this determination? How will progress be measured? What is the effect of livestock concentration at Sage-Grouse leks during the non-breeding season? Does such concentration affect Sage-Grouse breeding and nesting success or behavior during the breeding season?

CONCLUSION

NEDC is seriously concerned that the Draft Plan and its 'Conservation Guidelines' are not sufficient to meet the stated goal of 'maintenance or recovery' for Oregon's Sage-Grouse or satisfy Oregon's requirements for Sage-Grouse conservation outlined at O.A.R. 635-140-0010 and O.A.R. 635-140-0005. Moreover, the Draft Plan's goal of 'maintaining' the status quo will only perpetuate the current conservation crisis that faces Sage-Grouse in Oregon and across the West. Simply 'maintaining' current population levels and habitat protections will not help the species recover or help Oregon avoid an ESA listing. The current population levels and the existing conditions—in terms of habitat and management—are the cause of the Service's 'warranted' finding, not the solution to it. The final Plan should include more specific management prescriptions—including a 4-mile buffer around existing leks—and focus on recovering Sage-Grouse populations and sagebrush habitats throughout Oregon.

Thank you for your consideration,

Miles Johnson, NEDC Lands and Wildlife Project

April 22, 2010

Interior Secretary Ken Salazar
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Dear Secretary Salazar,

Western Counties Alliance is a coalition of rural western counties that focuses on the impact of federal land management policies on public lands counties and residents. Like other stakeholders, we are very concerned about declining sage grouse numbers that have led to its recent designation as a candidate species for listing under the Endangered Species Act. We are particularly concerned about the impact this action would have on multiple use management of the public lands and resources.

We commend you for emphasizing cooperation with a number of entities, including livestock producers, in your efforts to recover sage grouse populations. By looking for "smart ways to protect habitat" we think you have the right objective in mind. Unfortunately, we think that it has very little chance of success unless there is a significant shift in the current federal approach to trying to recover the sage grouse on the public lands.

There is ample evidence to support our assessment. The logical first step in recovering the sage grouse is to determine what has caused its comparatively rapid decline over much of its range. The second is to take action to remove or mitigate those causes. This must be done while keeping in mind the recent history of sage grouse populations. As recently as fifty years ago sage grouse were "as common as Jackrabbits" across much of the West, as one account colorfully put it. Yet, over the intervening years their numbers have steadily declined to the point of imminent listing today. The reasons commonly cited for this decline, such as excessive livestock grazing, oil and gas and other natural resource development activities, conversion of sagebrush steppe habitat to housing and other uses all no doubt explain some of the decline in a few local areas. However, even a cursory review of what is happening on the ground over most of its range quickly reveals such explanations as too simplistic. For example, they do not explain why the bird is declining over vast areas of its range where none of these supposed causes of its decline are present. They also ignore an important element in the historical record.

At the same time when sage grouse were far more abundant historic stocking rates of livestock on sagebrush steppe grazing allotments were considerably higher than they are today. This would logically lead to the conclusion that livestock grazing is not a significant factor in the species decline--if it is a factor at all--at least at these historic stocking rates. Other disturbances, such as oil and gas development were also occurring during this time of abundance and with comparatively less environmental regulation. Fire policies then were very different, much less integrated and the resources for fire fighting were less available than they are today, to cite another example of an important difference.

However, probably the most important historic factor to recognize is that back at the time of greater abundance federal land management policy and philosophy were very different than today. At that time they emphasized appropriate water availability and implementation of scientific allotment management plans to control overgrazing and improve grazing resources for wildlife and livestock. It is different today. In contrast, current policy focuses primarily on simply reducing livestock numbers, largely for ideological rather than valid scientific reasons. It largely ignores plant community dynamics, such as over mature, fire prone sagebrush stands which have out competed grasses and forbs and progressively destroy sage grouse habitat values.

This logically leads to asking the question whether this change in federal grazing and land management policies could be at least partly responsible for the species decline. That question is all the more pertinent because the decline in sage grouse numbers on public lands can be closely correlated with this change in federal management philosophy and the resulting impact on sagebrush steppe habitat have become more pronounced.

It is our contention that, in fact, current federal grazing and land management policies are the major cause of the decline in sage grouse populations. We recognize that this is a strong indictment but, again, there is strong evidence to prove it.

The strongest evidence is that sage grouse are still flourishing in some parts of their range. Deseret Ranch is a good example. This is a very profitable commercial cattle ranch located in Rich County, Utah. The county is approximately 50% federally-managed land and it is one of the places where Sage Grouse were abundant fifty years ago. In the years since, sage grouse numbers have declined precipitously but not uniformly in the county. Deseret Ranch is one of the exceptions. In size, it represents about 1% of the current and potential Sage Grouse habitat in Utah (depending on how that is defined) but at least 20% of all sage grouse in the state of Utah live on this one ranch. Repeated surveys have shown that there are approximately 10 sage grouse on Deseret Ranch for every one found in a comparable area of the adjacent BLM-managed lands. Nor is Deseret Ranch an isolated example. Similar results are found on other scientifically-managed private rangelands across the West. Any successful federal effort to recover the sage grouse must determine why that is the case and make whatever adjustments are necessary to replicate it on the public land.

Aside from the obvious fact that the habitat for sage grouse on these private land holdings is not subject to current federal management policies, these private rangelands share a number of other common characteristics. Not surprisingly, one is that on a broad range of other environmental indicators they are in far better condition than the federal lands on the other side of the fence lines. These privately managed lands have greater biodiversity, more wildlife and better wildlife habitat, less soil erosion, healthier watersheds, better water retention and utilization efficiency, greater drought tolerance, higher forage production and others. They are in much better condition than the adjacent federal lands because they are being managed based on sound science and in a way that requires producing a range of measurable benefits.

Obviously, the sage grouse are benefiting from this management approach. They have larger brood sizes and higher survival rates. In contrast, because the adjacent federal land is being managed in a way that is largely unsupportable by sound science and largely ideologically-driven, it is obviously not producing conditions conducive to sage grouse survival.

The real key to understanding the difference is to recognize that it is the use of livestock grazing as a tool of habitat management on these private rangelands that is generating these beneficial conditions. Grazing on these private lands is conducted to improve forage quality and quantity and in the process it optimizes habitat values and wildlife survival rates, including for sage grouse. This management approach is in stark contrast to the management regime on the adjacent federal lands that is primarily focused on merely limiting disturbance by livestock.

Sage grouse are thriving under this grazing management system because they are a "disturbance-dependent species." They are dependent on certain types of disturbances of their habitat to flourish, including the maintenance of an optimum range of overstory cover, proper forbs and insects available for successful nesting and brood rearing and so on. Properly managed livestock grazing obviously can provide these while generating substantial revenue at the same time. Not only can livestock impacts provide these benefits more effectively than other methods but also more cheaply than any of the alternative approaches often suggested, including many of those that are incorporated in government recovery plans. Livestock also produce more of the associated environmental benefits found on these privately managed ranges than these other approaches which ignore the ecosystem services only animals can provide.

This history and the reality of the disparity in sage grouse numbers raises an obvious question. If the objective is to recover sage grouse, why does the federal government not employ on federal rangelands the simple, cost effective and widely beneficial management techniques that are proven so successful on adjacent private rangelands? In view of the requirements of the Endangered Species Act for use of the best information available, the American people who own these lands and resources can legitimately ask this question of you as their current steward. We think that you owe them a clear answer.

Since there is extensive livestock grazing occurring on federal lands, it obviously is not the absence of grazing that accounts for this disparity in sage grouse numbers. Rather, as we have stressed, it is the ideological focus of federal grazing management policies, and to a very significant extent other policies related to rangeland fire, predator control and noxious weed control that are the problem. It also is important to understand that innovative grazing demonstration projects have been done on federal lands within federal policy and legal constraints. The necessary flexibility clearly exists if there is the commitment and the will to accomplish beneficial goals.

It is this last component, the mindset of too many federal land managers that is the real problem. For many livestock grazing is primarily an ideological issue. They "know" that domestic livestock are "unnatural and bad for the land" and are therefore hostile to livestock grazing even though it is provided for in law and regulation. Other federal managers have understandably but unwittingly been misled by research that, because of its narrow focus is, to put it bluntly, simply wrong or not applicable in the real world. It is not necessary here to examine the reasons for this situation, merely to note that it exists. Again, one need look no further for proof of this conclusion than the dramatic fence-line contrasts that demonstrate even to untrained individuals the difference between current federal management policies and those on adjacent private land.

Our objective is not to focus on the causes of the problem except as it is necessary to understand them to correct it. We are proposing a simple way to cut through any such debate and clearly demonstrate the validity of our contention that federal management policy is largely responsible for the decline of the sage grouse (as well as creating many other problems in the West). That is, simply, to apply these range management and grazing techniques that have been clearly shown to be so successful on privately managed rangeland in a number of landscape scale demonstration projects on federal rangelands and honestly evaluate the results. We think this could be done at little or no additional cost to the taxpayer, since these demonstrations would be on existing grazing allotments where the essential input, livestock grazing, is already available. And, while some of the techniques are not commonly being practiced under current federal grazing and other management policies and philosophy, they clearly are not harmful to the range. To reassure any possible skeptics that this is in fact the case, we propose that an independent monitoring team be organized for each demonstration project that would augment the agency personnel who already monitor grazing on that allotment.

We propose that these demonstrations be run for a minimum of five years and preferably ten. At the end of that time, if we are able to use the techniques already demonstrated to be successful on private rangeland, we can assure you that there will be clear positive sage grouse population trend indicators and there will be measurable benefits in a number of related areas as well.

One of those additional benefits from conducting these demonstrations would be the opportunity to simultaneously evaluate the use of public rangelands for atmospheric carbon sequestration. Several weeks ago we copied you on a letter we sent to President Obama suggesting that incorporating new research expanding our understanding of how

carbon is sequestered in grassland soils with the same kind of range management techniques that would be employed on these sage grouse recovery demonstration projects, could also demonstrate that they are the best, cheapest and most immediately available "carbon sink" available for atmospheric carbon sequestration. For your convenience, I am attaching another copy of that letter to the president. The proposed sage grouse recovery demonstration projects we are suggesting could simultaneously provide an ideal opportunity to evaluate the potential of this strategy in a number of different locations and conditions.

We would like to discuss this with you personally or with any one you would designate to follow up on setting up demonstration projects to recover the sage grouse on public land.

We look forward to hearing from you.

Sincerely,

Mark O. Walsh
Executive Director

Attachment



**Association of
Oregon Counties**

April 1, 2011

Roy Elicker
Oregon Fish and Wildlife Department
3406 Cherry Ave. NE
Salem, OR 97303

RE: Sage Grouse Draft Rules, Fiscal Impact, and Plan

Dear Director Elicker:

The Association of Oregon Counties appreciates the efforts by the Department of Fish and Wildlife to develop the Oregon Sage-Grouse Strategy. We hope the Strategy will not only conserve the sage grouse but also minimize the economic impacts and avoid a federal Endangered Species Act listing.

ODFW has recently made significant revisions to the plan and the accompanying rule which was posted on their website earlier this month. Given the complexity of the proposed administrative rule and referenced Strategy, we believe the Commission should allow for additional time for adequate review and deliberation by stakeholders. We note that an advisory committee of stakeholders for the rule and accompanying fiscal impact has not been formed; therefore, having a process to seek public input to the maximum extent possible prior to final action by the Commission is important so stakeholders fully understand changes made to the draft administrative rule and strategy and can offer constructive comments. Please include AOC on your listserve for notices of future rulemaking, fiscal impacts, and circulation of draft rules dealing with the sage grouse and other sensitive species.

We have been working closely for a number of months with the Renewable Energy and Eastern Oregon Landscape Conservation Partnership, an Oregon Solutions Project. This Partnership was formed at the request of federal agencies and the Governor's Office to focus on renewable energy development and environmental and wildlife issues. The Partnership includes state, federal, local government, and private sector representatives. Have the Commission and ODFW determined how the Partnership's recommendations will be considered and possibly adopted into the Strategy and rulemaking? Perhaps this should also be a focus of discussions between stakeholders and the Department.

Counties strongly believe that working closely together in partnership to develop a conservation strategy is important to its viability and overall impacts on citizens and the

conservation of the species. We look forward to understanding the proposed rule and referenced strategy in greater depth and providing comments to the Commission and the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike McArthur". The signature is fluid and cursive, with the first name "Mike" being more prominent than the last name "McArthur".

Mike McArthur
Director

Cc: Marla Rae, Chair, Oregon Fish and Wildlife Commission
Ron Anglin, Wildlife Division Administrator
Richard Whitman, Governor's Natural Resource Policy Advisor
Steve Grasty, Harney County

April 6, 2011

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ODFW Headquarters
Attn: ODFW Commission
3406 Cherry Avenue NE
Salem, OR 97303

Re: Comments on Revised Greater Sage-Grouse Conservation
Assessment and Strategy for Oregon
Our File No. OTL1-1

To Whom it May Concern:

Please accept the following comments submitted on behalf of Otley Brothers, Inc. ("Otley Brothers") regarding the Oregon Department of Fish and Wildlife's ("ODFW") revised draft Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, issued March 1, 2010 ("Sage Grouse Plan").

Otley Brothers is a corporation located in the State of Oregon that owns land in Harney County, Oregon. Otley Brothers is very concerned that the habitat designations delineated in the Sage Grouse Plan, as well as the conservation guidelines, are based on insufficient scientific data and flawed assumptions and analyses and that they will unduly and severely hinder Otley Brothers' ability to make profitable use of its lands—including the potential siting of wind energy projects. In light of these concerns, Otley Brothers urges the ODFW Commission to reject the Sage Grouse Plan and that the Commission direct staff to reevaluate their habitat designations and conservation guidelines and propose a new plan that is both scientifically defensible and flexible enough to allow affected private landowners, such as Otley Brothers, to make economic use of their lands.

As noted, of particular concern to Otley Brothers is the Sage Grouse Plan's habitat categorization and conservation recommendations. See Sage Grouse Plan at 79-97. ODFW staff purports to have made these determinations in accordance with ODFW's Fish and Wildlife Mitigation Policy ("Mitigation Policy") at OAR 635-415-0000. However, the staff's analysis and determinations do not comport with the Mitigation Policy regulations. Moreover, the analysis itself is flawed, not based on substantial evidence and it otherwise inadequately

explained. Based on these problems, the Commission should decline to adopt the Sage Grouse Plan.

A. The Sage Grouse Plan Is Inconsistent With The Mitigation Policy

The Mitigation Policy regulations identify—and define—six categories of habitat, each of which corresponds to a specific “mitigation goal.” The categories range from Category 1, “irreplaceable, essential habitat ... and is limited on either a physiographic province or site-specific basis...” to Category 6, “habitat that has low potential to become essential or important habitat for fish and wildlife.” OAR 635-415-0015(1), (6). Category 1 habitat carries with it a mitigation goal of “no loss of either habitat quantity or quality,” and provides that the ODFW will act to protect that habitat by “recommending or requiring “avoidance of impacts through alternatives to the proposed development action; or no authorization of the proposed development action if impacts cannot be avoided.” OAR 635-415-0015(1)(b). By comparison, Category 6 habitat carries with it a mitigation goal of “minimiz[ing] impacts” and provides that ODFW will act to achieve that goal by “recommending or requiring actions that minimize direct habitat loss and avoid impacts to off-site habitat.” OAR 635-415-0015(6)(b). In other words, the higher the categorization (with Category 1 being the highest), the less flexibility agencies and applicants have for proposing, and being permitted to carry out development actions. See OAR 635-415-0005(2) (definition of “Development Action”).

Yet, while the regulations provide a wide range of habitat categories and corresponding mitigation “goals” or recommendations, the Sage Grouse Plan arbitrarily lumps all potential sage grouse habitat into Category 1 and Category 2, or “essential” habitat for a wildlife species.¹ This means anyone owning lands that fall within the habitat categorized in the Sage Grouse Plan, including Otley Brothers, will have a very difficult, if not impossible, time obtaining state approval of a development action on their lands. For the Otley Brothers this is especially significant because they have invested significantly in efforts to locate a wind development on their lands. This development would be completely excluded by ODFW’s imprecise habitat categorization.

The Sage Grouse Plan provides no rational basis for making these categorizations. By the Sage Grouse Plan’s own explanation of its categorizations, many of the identified habitats should have been categorized as a either Category 4 or Category 5 habitats, habitat which is either “important” to wildlife species or habitat having a “high potential” to become either essential or important habitat. OAR 635-415-0025(4), (5). For instance, the Sage Grouse

¹ The only difference between the two is that Category 1 must be both “irreplaceable” and “essential” for a wildlife species, while Category 2 need only be “essential” for a wildlife species. See OAR 635-415-0025(2).

Plan appears to delineate areas where low density strata overlaps with “high connectivity” layers as Category 1 habitat. See Sage Grouse Plan at 83. Yet, the explanation states only that “low density breeding bird areas *may be important* for connectivity between populations.” *Id.* (emphasis added). Habitat which “may be important” for a species does not meet the regulatory definition of Category 1 habitat; it meets the definition of Category 5 habitat, at best.

Similarly, in categorizing all sagebrush habitats and vegetation communities that occur within a low density strata or connectivity corridor as Category 2 habitat, the Sage Grouse Plan states that they are “important to sage grouse.” *Id.* Again, at best, this description supports a Category 3 habitat determination. The explanation also makes the contradictory statement that this kind of habitat is “essential and limited” but nowhere in the categorization section is that statement substantiated with any evidence. Under the Mitigation Policy regulations, there is a big difference between habitat that is “important” and habitat that is “essential.” Development actions may be approved if impacts are mitigated under a Category 3 determination, but no development action is allowed under a Category 1 determination and mitigation is only allowed under a Category 2 determination if there is a “net benefit of habitat quantity or quality.” That is an onerous requirement on private landowners. Especially landowners like Otley Brothers, who have already made significant contributions toward improving and preserving fish and wildlife habitat on their private lands. ODFW’s approach to the categorization of habitat is a disincentive for the Otley Brothers to continue to improve habitat on their land or to maintain their relationship with ODFW.

Because of the significant consequences of habitat categorization on private landowners like Otley Brothers, ODFW must provide a rational basis for making its habitat categorizations that is based on both substantial evidence and the standards prescribed in the regulations. Both are absent here.

B. The Sage Grouse Plan Is Not Based On Substantial Evidence Nor a Reasonable Scientific Analysis

There are numerous problems with the analysis and explanation of the analysis that underlies the habitat categorizations.

First, lek data staff utilized appears to be largely outdated information. The Sage Grouse Plan states that leks surveyed prior to 2003—which go back as far as 1980—were included in the list of leks used to develop the core area mapping, if those leks had males present on the date that they were last surveyed. See Sage Grouse Plan at 80. The Sage Grouse Plan provides no rational basis for assuming that a lek surveyed 10, 20 or more years ago still exist today—much

less that it still exists at the location last surveyed.² Without confirming that those leks continue to exist, at the same location, staff had no rational basis for including them in the habitat categorization modeling.

Second, the Sage Grouse Plan contains an inadequate explanation of the scientific basis, data, assumptions, equations, and analysis that went into staff's core habitat modeling and mapping. (Although Otley Bothers requested this information, it does not appear to have been included in the response to their public records request.) The Sage Grouse Plan explains that its analysis of density strata is based, to some extent, on Doherty et al. (in press). However, it is not clear whether, or how, Doherty et al was utilized in the connectivity modeling. The Sage Grouse Plan explains that staff utilized a kernel density function to delineate connectivity corridors. See Sage Grouse Plan at 81-82. However, the Sage Grouse Plan does not explain what kernel function it used nor what data or assumptions went into it. For instance staff does not mention whether it used a radically symmetric function or spatial anisotropy function. The same is true with respect to staff's modeling of the density strata. See Sage Grouse Plan at 80-81. For instance, staff states that it modified the "smoothing bandwidth" but it does not explain how it adjusted it, or what it adjusted it from.

Third, with respect to the connectivity modeling, staff appears to have had inadequate data to use 16 km as the maximum extent of connectivity between breeding and surrounding use areas. See Sage Grouse Plan at 81. Staff cites very little evidence in support of using this figure, and it also fails to explain why it is the appropriate figure to use in all cases.

Fourth, staff had little to no scientific basis for categorizing connectivity habitat in the first place. As admitted in the Sage Grouse Plan, "the migratory status of many of Oregon's populations is unknown." Sage Grouse Plan at 81. Staff chose to model and map areas of potential connectivity to account for this uncertainty but it provided no rational basis for the extent of connectivity habitat it determined to be "essential" habitat other than an abundance of caution. See Sage Grouse Plan at 81. In exercising caution, staff should have recognized the limitations of available data and scientific understanding of sage grouse habits and categorized as "essential" only that habitat which available data and science could support. Instead, staff, in effect, categorized all habitat as essential because it *might* be important for the species. That is not a fair, nor scientifically defensible, approach.

The cautious approach would be to allow current and future monitoring and research efforts to continue so that informed decisions can be made about

² Indeed, it seems at least plausible that leks surveyed in the 1980's could have been "recounted" if they moved to a different area, thus leading to an overestimation of "occupied" leks. Further, there is no way of determining from the Sage Grouse Plan whether staff accounted for this, or other, factors because of the terseness of the analysis.

ODFW Headquarters
April 6, 2011
Page 5

how to protect sage grouse on a site-specific basis—not impose a de facto moratorium on future development throughout much of southeastern Oregon. At bottom, the Sage Grouse Plan takes an all or nothing approach to sage grouse management and will have a significant economic impact despite a serious lack of data to support the decisions being made. The Commission should demand more and require staff to revise the Sage Grouse Plan accordingly.

At its core, the Sage Grouse Plan simply does not strike a fair or reasonable balance between the public interest in protecting sensitive wildlife resources and the public interest in seeing economic prosperity occur in rural communities, such as those poised to be affected by the plan. The Commission serves to represent the public interest as a whole and is charged with providing for the “productive and sustainable utilization of wildlife resources for *all* groups of users.” See ORS 496.090 (emphasis added). Similarly, Oregon’s Conservation Strategy provides that conservation actions, such as the Sage Grouse Plan, be “tailored to the unique needs of the fish, wildlife *and human communities* that coexist throughout Oregon” (emphasis added). The impact of the Sage Grouse Plan on human communities warrants heightened attention given the current state of rural economies throughout southeastern Oregon and in light of the fact that the plan is based on very limited data and understanding of the particular populations of species the plan seeks to protect. The Commission owes it to the people of Oregon to come up with a plan that takes into account these important concerns. In its current form, the Sage Grouse Plan falls short

Very truly yours,



Elizabeth E. Howard

EEH:smy

cc: Otley Brothers, Inc.
Ron Anglin, Administrator, ODFW, Wildlife Division ✓
Steven E. Gratsky, Harney County Judge
Kay Teisl, Executive Director, Oregon Cattlemen’s Association
William Hoyt, President, Oregon Cattlemen’s Association
Senator Doug Whitsett