

OFFICE OF THE GOVERNOR  
STATE OF MONTANA

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July 29, 2015

Jamie Connell  
State Director  
Bureau of Land Management  
5001 Southgate Drive  
Billings, Montana 59101

Dear Director Connell:

Please consider these comments as the Governor's Consistency Review of the Bureau of Land Management's (BLM) five resource management plans that cover BLM lands in Montana (Montana RMPs), as they pertain to ongoing sage grouse conservation efforts. I appreciate the opportunity to comment and look forward to working with you to help identify and resolve plan inconsistencies for the purpose of conserving sage grouse and their habitat.

I appreciate the difficult task you have before you. Creating a comprehensive plan for the management of sage grouse and sage grouse habitat is a daunting challenge for both the BLM and the State of Montana. The depth and scope of the proposed sage grouse plans in the Montana RMPs reflect the tremendous effort your agency is devoting to our common efforts to avoid the need for listing of the sage grouse as an endangered species by the U.S. Fish and Wildlife Service (USFWS). I thank you for all the hard work you are doing on this difficult issue.

Given our recent cooperative efforts with BLM and the USFWS however, I am disappointed by the many proposed differences between BLM's Montana RMPs and the Montana Sage Grouse Habitat Conservation Program. Our Montana Program very closely tracks the Wyoming State Greater Sage Grouse Core Area Strategy, which was recommended to me by the BLM in January 2013. The differences between the Wyoming and Montana state plans and the Montana RMPs reflect inconsistencies that simply do not make sense when striving for a consistent approach to sage grouse conservation across significant and interconnected working landscapes.

## **Background**

As you know, the State of Montana has undertaken significant efforts to establish a comprehensive sage grouse conservation program. These efforts started with development and implementation of conservation strategies identified in the Management Plan and Conservation Strategies for Sage Grouse in Montana (2005). That plan was the result of work completed by the Montana Sage Grouse Working Group. Local sage grouse working groups were formed and have been operational in Glasgow, Winnett, Miles City and Dillon. Montana has a 10-year history of working on this important conservation issue.

In April 2013, I created a citizen-based sage grouse advisory council and asked them to formulate recommendations on policies and actions for a state-wide strategy to preclude listing of sage grouse under the Endangered Species Act. The BLM and USFWS attended most of the advisory council's meetings. Through these efforts the State of Montana devoted a great deal of effort in designing a management plan for the protection of sage grouse and their habitat. The result was Montana Executive Order No. 10-2014, which created the Montana Sage Grouse Oversight Team, the Montana Sage Grouse Habitat Conservation Program, and the accompanying management plan. To further emphasize Montana's progress and commitment to sage grouse conservation, we were successful in passing the Montana Sage Grouse Protection Act during the 2015 legislative session. This act ensures that critical funding and support are available for necessary sage grouse conservation efforts in the future. This commitment is more than words: in addition to funding for staff resources, there is also a revolving conservation fund with an initial balance of \$10 million from the State of Montana. Montana's Sage Grouse Conservation Program will be fully operational as a regulatory mechanism no later than January 1, 2016.

## **Governor's Consistency Review**

### **1. The BLM plans are inconsistent with the Governor's "working landscapes" approach to protecting Sage Grouse.**

The Montana Executive Order is intended to closely track the Wyoming State Greater Sage Grouse Core Area Strategy (Wyoming State Strategy). The Wyoming State Strategy and Montana Executive Order focus on working landscapes, where sage grouse and people coexist in a manner that not only protects sage grouse, but also protects the way of life for the people who live in sage grouse country. The success of sage grouse conservation is dependent upon implementation of conservation strategies on private and state land. In Montana private, state and federal lands exist in a checkerboard pattern where land use activities are dependent on access to all lands regardless of ownership. The Montana Executive Order is built specifically upon the premise that all lands would remain working lands sharing in common standards for sage grouse conservation. The Wyoming State Strategy has received interim approval from the

USFWS, and the BLM plans in Wyoming are generally “built upon” and “complementary to” the Wyoming Greater Sage Grouse Core Area Strategy (Wyoming GRSG Proposed LUPA/Final EIS, ES-12). It makes sense for Montana to model its program after the Wyoming State Strategy because: 1) the bulk of the Montana areas at issue are in the same management zone as critical areas in Wyoming (Management Zone 1); 2) the landscapes and threats are similar across those areas; and 3) both states maintain significant grouse populations within Management Zone 1.

The Montana Executive Order reflects and shares a common sage grouse strategy with the State of Wyoming and the Wyoming BLM. Yet the BLM in Montana has chosen a very different path. The Montana RMPs not only conflict with the Montana Executive Order and the Wyoming Strategy, but also conflict with the BLM plans just issued in Wyoming. The Montana RMPs, in certain aspects, are far more restrictive than the Montana Executive Order, and by extension, are more restrictive than the provisions contained in the Wyoming State Strategy and BLM plans.

In the Conservation Objectives Team Report (COT Report), cited by the BLM in the Montana RMPs as justification for its decisions, key Montana sage grouse populations at issue within Priority Conservation Areas (PAC) are described as being “at low risk” (Northern Montana PAC), “only potentially at risk” (Yellowstone Watershed PAC), or “at a low level of risk” (Southwest Montana PAC). Only the very small Montana area in the Powder River Basin (a shared area and population with Wyoming) and a very small population in the Belt Mountains are described as “at risk populations.” Given these predominantly low risk classifications, it makes no sense that the BLM would now assert that somehow the COT Report justifies additional restrictive measures beyond those contained in the Montana Executive Order.

**A. The RMP blanket No Surface Occupancy (NSO) requirement in Priority Habitat Management Areas (PHMAs) is inconsistent with the Montana Executive Order.**

The Montana Executive Order allows oil and gas development within core habitat, but only within specific density and disturbance limits (using the Wyoming DDCT project area evaluation). The Montana Executive Order is consistent with the Wyoming Strategy and BLM Plans. In contrast, the Montana RMPs apply the DDCT analysis to disturbances from some mineral activities, but impose a blanket NSO restriction on all new oil and gas leasing. The BLM NSO restriction in PHMAs does include a narrow exception for oil and gas leases, but the circumstances that would qualify for an exception are too narrow and as written, would rarely be used. While there is some inherent flexibility in locating surface infrastructure on most landscapes, some above-ground structures are a necessity for oil and gas exploration and production operations to take place. The Montana RMP’s NSO restriction is an unreasonable and unnecessary blanket prohibition on the leasing and development of oil and gas resources on federal lands in Montana PHMAs.

This restriction will create confusion and inefficiencies for operations conducted in Montana, and may have a major impact on the ability of the state to develop oil and gas

on its school trust lands. The federal government holds significant mineral ownership in the PHMAs in eastern Montana, and in many areas state and private ownership is interspersed with federal tracts. If oil and gas wells and infrastructure cannot be located on federal ownership in a PHMA, then in many areas, leasing and development of state and private oil and gas ownership may also not be possible, even if the proposed activity complies with the Montana Executive Order. Implementation of this restriction is in direct conflict with our stated objective to maintain a working Montana landscape and BLM's stated goal to balance conservation and development.

**Request:** *Remove NSO restrictions in Priority Habitat Management Areas as currently incorporated in the Draft Montana RMPs and adopt the requirements from the Montana Executive Order, which are consistent with those in Wyoming. Also include clear provisions for site-specific ground-truthing of habitat areas on a project-specific basis consistent with the Montana Executive Order, in order to allow for implementation of customized and adaptable measures at the project level to address local needs and site-specific conditions.*

**B. The Sagebrush Focal Area (SFA) is inconsistent with the Montana Executive Order.**

The Montana Executive Order uses habitat maps developed by Montana Department of Fish, Wildlife and Parks, and the BLM participated in their initial development. As a result, state Core Areas and BLM PHMAs largely encompass the same habitat areas. However, the SFA creates a new habitat classification, with acreage taken from what was PHMA habitat. The sagebrush focal area concept was apparently first introduced in a memo from the U.S. Fish and Wildlife Service calling for inclusion in the BLM Plans with little consideration or regard for consistency with the Montana Executive Order (Memo from Dan Ashe, Director USFWS, to Director, Bureau of Land Management and Chief, U.S. Forest Service, October 27, 2014). The current management for PHMAs and the SFA differs in two key respects: 1) the oil and gas blanket NSO is not subject to exceptions within the SFA, and 2) within the SFA the BLM proposes a blanket mineral withdrawal. The acreage placed in SFA status in Montana is substantial at approximately 980,400 acres. This represents 59% of the original 1,666,200-acre land area within PHMAs. The State and BLM's future efforts for management consistency within PHMA and Core Areas are compromised when the BLM removes 59% of a planning area PHMA and establishes a nearly 1-million-acre area with differing management requirements.

The proposed mineral withdrawal is perplexing, given that a similarly-proposed mineral withdrawal in Wyoming has been significantly scaled back because of the recognition that Wyoming has the authority to deny mining permits on federal land. Montana has the

same legal authority, but there is no recognition of this point, or associated reduction of the withdrawal, in the Montana RMPs.

The SFA classification also clouds the consideration of key landscapes with other important values and characteristics, both within and outside of the SFA. These areas include Lamere/Lambing, Phillips Black Coulee, Lower Grant Coulee, Caravan Marshhawk Hills, Gumbo Plateau, Dry Fork and Gary Coulee. Greater protections for these specific areas might be appropriate, and would best be provided by other more appropriate designations. But further consideration has been eclipsed by the breadth of the SFA designation.

**Request:** *Remove the SFA designation from the affected Montana RMPs and manage these lands as PHMAs. At a minimum, remove the NSO restriction from SFA-designated lands, remove or significantly scale back the mineral withdrawal, and adopt the applicable measures from the Montana Executive Order.*

*If the NSO is removed and replaced with the Montana Executive Order and the mineral withdrawal is scaled back as requested above, and key lands with Wilderness Characteristics are no longer subject to the SFA, consider strengthening protections for those landscapes, such as Lower Grant Coulee, Caravan Marshhawk Hills, Gumbo Plateau, Dry Fork and Gary Coulee through other, more appropriate designations. If the SFA is completely removed, consider strengthening protections for Lamere/Lambing and Phillips Black Coulee (while protecting existing oil and gas leases).*

**C. The application of disturbance buffers in BLM's Montana RMPs is inconsistent with the Montana Executive Order and the Wyoming State Strategy and BLM plans.**

In determining the boundaries for Core Areas, Montana used 6.2 mile buffers around the highest densities of displaying males based upon lek locations, with appropriate adjustments. Within the delineated Core Areas under the Montana Executive Order specific protections are provided for leks to protect lek activity, and key seasonal habitats to protect the critical features of these areas. When Montana's Density Disturbance Model is applied, the analysis area is determined by first employing a 4 mile buffer around the project, and then a 4 mile buffer to every lek within that area. Within this analysis area, surface disturbance is kept to 5% or less. Montana's Executive Order, and the specific requirements and restrictions contained therein, are very similar to the Wyoming State Strategy.

Referring to the USGS Report (USGS, Conservation Buffer Distance Estimates for Greater Sage Grouse – a Review, 2014) (2014 USGS Report), the Montana RMPs

reference lek buffers that are significantly and universally greater than those in the Montana Executive Order, relating to general activities, fluid minerals, power lines and communication towers, and roads. Key examples are provided below.

NSO: The Montana Executive Order establishes a 0.25 mile NSO buffer in general habitat, and a 0.6 mile NSO buffer in core habitat. This is consistent with both the Wyoming State Strategy and BLM Plans. The Montana RMPs contain a greater 0.6 mile NSO buffer in General Habitat Management Areas (GHMAs), and a blanket NSO in PHMAs. These are significant differences that will unnecessarily constrain activities in Montana.

Seasonal: The Montana Executive Order utilizes seasonal timing limitations on activities outside of lek buffers, during specific timeframes for breeding, nesting, brood rearing, and winter concentration areas. This is largely consistent with both the Wyoming State Strategy and BLM Plans. However, the Montana RMPs go beyond the timing limitation by applying a 2 mile “controlled surface use” (CSU) conservation buffer to PHMAs. This restriction prohibits surface occupancy and use year-round within 2 miles of a lek, unless the proponent prepares a plan approved by BLM to mitigate the impacts to sage grouse or their habitat.

Infrastructure: The Montana Executive Order and the Wyoming State Strategy and BLM Plans apply a 1.9/2.0 mile buffer for main roads, and 0.6 mile buffer for access roads in Core/PHMAs, and a 0.25 mile buffer within General/GHMAs (subject to a 2 mile seasonal timing limitation). However, the Montana RMPs propose a 3.1 mile buffer for roads, energy-related infrastructure and other surface disturbance, applicable in both PHMAs and GHMAs.

The proposed Montana RMP buffers are based on the 2014 USGS report. But that report offers a range of acceptable options, including 2 mile buffers. The Montana RMP buffer distances do not take into account the inherent uncertainty and limitations described in the 2014 USGS report. For example, the Montana RMPs would apply a 3.1 mile buffer to wells and roads. However, the source study for a 3.1 mile well buffer found a relationship only when more than 8 active wells occurred within 3.1 miles. Likewise, the bulk of research on road impacts is based on major roads. The Montana RMPs do include the ability for the BLM to increase or decrease the applicable buffer distance, but only if “justifiable departures” are determined to be appropriate.

**Request:** *Revise all buffer distances in the Montana RMPs to be consistent with the Montana Executive Order and the Wyoming State Strategy. Measures that allow flexibility in the field based on situational conditions should be adopted where possible in all sage grouse conservation plans. Clarify that the 2014 USGS report is advisory, use the Montana Executive*

*Order as a starting point, and clarify that the best determinations will be made in the field at the project level.*

**D. The application of the Density and Disturbance Calculation Tool (DDCT) in the Montana RMPs is inconsistent with the Montana Executive Order.**

The Montana Executive Order applies the DDCT consistently to all minerals. However, the Montana RMPs exclude oil and gas development and gravel mining from DDCT evaluation. Instead, the Montana RMPs significantly limit oil and gas development in PHMAs by imposing NSO stipulations, and new gravel mining in PHMAs is prohibited.

Where the Montana RMPs do purport to utilize the DDCT as set forth in the Montana Executive Order, there are certain inconsistencies that must be addressed. It is my understanding the Montana BLM fully intends to utilize the DDCT in a manner that is consistent with the Montana Executive Order. If that is the case, the following issues need to be addressed and clarified:

- The Montana Executive Order contains a 5% disturbance cap, consistent with both the Wyoming State Strategy and BLM Plans. The BLM proposes a 3% anthropogenic disturbance cap for Montana RMPs, and indicates that it may adopt a 5% disturbance cap in the future. Inconsistent disturbance cap percentages will result in confusion and inconsistent results. A project involving both state and federal lands might be approved by the state, but denied by the BLM. The BLM needs to be clear as to its intentions, and its timeframe for adopting the 5% cap. It is unclear why 5% is the appropriate level for federal lands in Wyoming, but not for federal lands in Montana.
- The Montana Executive Order bases the DDCT calculation on suitable habitat, which is consistent with both the Wyoming State Strategy and BLM Plans. However, the Montana RMPs appear to calculate DDCT disturbance based on total land area within a project area, which is a significant departure. A focus on suitable habitat encourages disturbances to be located in unsuitable habitat where possible. The Montana RMP methodology could lead the BLM to deny a project where the disturbance is below the cap for suitable habitat or where no suitable habitat is being disturbed.
- The Montana BLM method of calculating percent of disturbance may be inconsistent with the Montana Executive Order. The calculation methods in the Montana RMPs do not go into sufficient detail. The Wyoming Buffalo Field Office RMP does go into additional detail, and describes additional calculations that encompass parts of the project area, depending on whether leks are part of the project area. If applied in the Montana RMPs, BLM results have the potential to be inconsistent with the Montana DDCT calculations, and lead to inconsistent management decisions for projects involving private/state and federal lands.
- The Montana Executive Order and Wyoming State Strategy apply the DDCT disturbance cap analysis at the project area level. However, under the Montana RMPs it appears that disturbance calculations would be conducted over much larger areas defined as “biologically significant units” (BSU). If the area within a BSU is determined to have a cumulative disturbance level above 3%, no federal projects

subject to the DDCT analysis could be approved in the BSU, even if the project analysis area is below the disturbance cap. This inconsistency can create conflicts for projects involving private/state and federal lands.

**Request:** *Amend the final Montana RMPs to adopt the DDCT analysis process that is consistent with the Montana Executive Order. This includes adopting a 5% disturbance cap based on suitable habitat within a project-area-scale boundary instead of a 3% cap analyzed at a BSU scale. These changes are necessary to apply the DDCT as intended and to make on the ground management decisions at a meaningful project area scale. At a minimum these important changes must be put in place when the Montana Program becomes fully operational as a regulatory mechanism, which will be no later than January 1, 2016.*

**E. Measures pertaining to gravel mining in Montana RMPs are inconsistent with the Montana Executive Order.**

In the Montana RMPs, PHMAs are closed to new gravel mining (except for “free use” or county permits). Core Areas are open for new gravel projects under the Montana Executive Order, subject to the same disturbance and density cap limitations applied to other activities. While the accommodation for Montana counties is appreciated, it is unclear why gravel mining is not evaluated consistent with other activities, through a DDCT analysis. Impacts associated with gravel mining should be addressed through the analytical framework and disturbance threshold as required by the Montana Executive Order.

**Request:** *Amend the Montana RMPs to allow new gravel mining consistent with the Montana Executive Order, including the 5% DDCT analysis.*

**2. The Montana RMPs are inconsistent with the Governor’s “all lands all threats” approach to protecting Sage Grouse.**

Through the Montana Executive Order, I adopted an “all lands all threats” approach to provide strong protections for sage grouse by applying seamless measures across state and private lands. By applying measures in this manner and by emphasizing a conservation approach that applies the greatest protections to the most sensitive areas at the project level, considerable efficiencies and conservation benefits are realized. The Montana RMPs actually increase the possibility that activities would be permitted in less than optimal locations for sage grouse. It’s not clear why we would want to limit our flexibility to choose the very best location for an activity to occur.

The SFA designation is an example of a provision that will limit management flexibility on the ground, with potential negative consequences for sage grouse. While the eastern-most portion of the SFA contains several sizeable blocks of BLM land, the western half of the SFA is characterized by a significant amount of interspersed state and private lands, increasing the likelihood that, in applying the Montana Executive Order to state and private lands in the area,



the options for choosing the best location for an activity will be artificially constrained, forcing a “second best” location.

In the PHMAs, the NSO requirement for fluid minerals contains an exception, but the exception is confusing and too narrow to prevent the kind of artificial constraints that can also result in a “second best” location on the ground. The language from the Miles City Plan is as follows:

*“Exceptions to PHMA NSO may be granted where the action would not have direct, indirect or cumulative effects on the GRSG or its habitat or the action is proposed to be undertaken as an alternative to a similar action occurring on a nearby parcel and would provide a clear conservation gain. Exceptions based on conservation gain may only be considered in (a) PHMA of mixed ownership where federal minerals underlie less than 50% of the total surface, or (b) areas of the public lands where the proposed exceptions is an alternative to an action occurring on a nearby parcel subject to a valid federal fluid mineral lease existing of the date of the LUPA. Exceptions based on conservation gain must also include measures, such as enforceable institutional controls and buffers, sufficient to allow the BLM to conclude that such benefits will endure for the duration of the proposed action's impacts. Exceptions must be approved by AO with concurrence of State Director; AO may not grant exception without finding by state wildlife agency, USFWS and BLM find the criteria are met. (2-129, C-173).”*

The second exception (that the action is proposed to be undertaken as an alternative to a similar action occurring on a nearby parcel and would provide a clear conservation gain) is problematic in its application. There are two geographic areas where the second exception can be used:

- (a) PHMA of mixed ownership where federal minerals underlie less than 50% of the total surface, or
- (b) areas of the public lands where the proposed exception is an alternative to an action occurring on a nearby parcel subject to a valid federal fluid mineral lease existing as of the date of the Land Use Planning Area (LUPA).

Exception (a) is too narrow and it will not be applicable in several PHMAs, yet the chances for a conflict between the Montana Executive Order and the Montana RMPs are high across the PHMAs. This is because of the predominance of checkerboard and interspersed ownership between private/state and BLM lands in affected areas. The practical application of this exception is improved if it is changed to focus on the project analysis area, where an actual project is being reviewed for its impacts on sage grouse, which is the primary objective of this effort. Exception (a) should be amended as follows:

“(a) A project analysis area PHMA of mixed ownership where federal minerals underlie less than 50% of the total surface, or “

In addition to the “second best location” issue, the failure to adopt an “all lands” approach will cause other challenges for seamless administration between the state and BLM. For example, the Montana RMPs include the following (or similar) split-estate management language:

*“Where the federal government owns the surface, and the mineral estate is in non-federal ownership in PHMA and GHMA, apply appropriate surface use COAs, stipulations, and mineral RDFs through ROW grants or other surface management instruments, to the maximum extent permissible under existing authorities, in coordination with the mineral estate owner/lessee.”*  
(MSFO Table 2.5, Action 8, pg 2-76)

The intended application of this provision, even with a generic reference to “existing authorities,” exceeds the rights of a split-estate surface owner. [Western Energy Co. V. Genie Land Co., 195 Mont. 202, 208, 636 P.2d 1297, 1301 (1981)] The BLM does not have the authority to approve or disapprove a split-estate mineral owner’s actions. Where the mineral estate is state or private, state law and the Montana Executive Order are the governing authority.

If state school trust lands are encompassed by federal land, reasonable access must be granted to the state of Montana across the surrounding federal lands for all uses of that state land. For example, access would include ROWs or land use agreements for roads, pipelines and power lines, if needed for the state to develop and produce oil and gas from a surrounded state tract. Designation of sage grouse habitat for avoidance or NSO, if used to deny access and use of state school trust lands, would conflict with the BLM’s legal obligation to provide such access. The Montana RMPs should be revised to recognize the state’s right of access to landlocked state school trust land, including within avoidance and NSO areas.

**Request:** *Eliminate the NSO and replace it with provisions consistent with the Montana Executive Order. At a minimum, amend the exception language as suggested. Clarify split-estate authority and access to state trust lands as requested.*

**3. The grazing provisions in the Montana RMPs, while not inconsistent with the Montana Executive Order, are confusing and may be impractical to implement in the field.**

Clarification is needed in the tables in all Montana RMPs related to desired conditions for grass height. Of primary concern is how this suite of metrics will be used, as a weight-of-evidence decision making tool, or as independently applicable metrics. There needs to be clarification as to how perennial grass, stubble, and forb heights are addressed, and it needs to be clear that perennial grass height is not synonymous with stubble height in the pasture, or even with average residual grass height for the entire allotment. The literature currently does not support taking the

grass heights measured at successful sage grouse nest sites and extrapolating this to a grass height needed in a landscape scale management unit to provide ample sage grouse nesting habitat. Language similar to that in the Miles City and Billings/Pompeys Pillar National Monument RMPs would be appropriate: “Adequate nest cover based on ecological site potential and seasonal precipitation; 4.4-11.3 inches (11.4-29 cm)”. This is in line with current science and allows for conditions that may occur that are beyond the control of the land user.

**Request:** *Simplify methods for evaluating desired conditions and adopt measures consistent with those of the Montana Executive Order. Clarify language regarding perennial grass, stubble, and forb heights as requested.*

#### **4. The RMPs need to be clear on the meaning and significance of avoidance in regard to Right-of-Ways and collocation by underground pipelines.**

The Montana RMPs indicate that major Rights of Way “would avoid” GHMAs and both major and minor Rights of Way “would avoid” PHMAs. In the Montana Executive Order, collocation by pipelines with roads, transmission lines, and other linear features is recognized as a preferred approach in Core Areas, to minimize habitat fragmentation. The Montana RMPs should be amended to clarify that right of way collocation is appropriate as a preferred approach.

**Request:** *Clarify that in regard to underground pipelines, collocation with roads, transmission lines, and other linear features is recognized as a preferred approach in Core Areas, to minimize habitat fragmentation.*

#### **Conclusion**

The success of sage grouse conservation in Montana is critically dependent upon implementation of conservation strategies on federal, state and private lands in a manner that provides for working landscapes where people and sage grouse can coexist. Traditional land uses and the pattern of land ownership mandate this approach. Montana has made proactive attempts to maintain working landscapes while providing important protections to sage grouse through comprehensive measures contained in the Montana Executive Order. However, in the Montana RMPs BLM has unnecessarily raised the bar and clouded the effectiveness of our ongoing cooperative conservation efforts. Further, the Montana RMPs contain very little commitment to making on the ground determinations and practical application of important conservation measures.

The significant differences between the Montana RMPs and the Montana Executive Order all work against our “working landscapes” goal in Montana. Given these important considerations we ask that our requests pertaining to these differences as outlined in this letter all be addressed no later than January 1, 2016.

I appreciate the Montana BLM's stated commitment in the Montana RMPs to move to an "all lands" approach in the future, but believe it is too vague:

*"If the BLM finds that the State of Montana is implementing a GRSG Habitat Conservation Program that is effectively conserving the GRSG, the BLM will review the management goals and objectives to determine if they are being met and whether amendment of the BLM Proposed Plan is appropriate to achieve consistent and effective conservation and GRSG management across all lands regardless of ownership."*  
Executive Summary (ES-12).

The language lacks sufficient specificity as to the mechanisms and timing that would be necessary to ensure that appropriate amendments would occur. Given that:

- Montana has been undertaking active sage grouse conservation efforts during the last 10 years providing strong evidence for our commitment;
- almost all of the Montana areas at issue are in the same management zone as critical areas in Wyoming (Management Zone 1);
- the landscapes and threats are similar across those areas;
- the two states manage bird populations within Management Zone 1;
- the Montana Executive Order is virtually identical to the Wyoming Core Area Strategy;
- the Wyoming Strategy has received an interim approval from the U.S. Fish and Wildlife Service; and,
- the BLM plans in Wyoming have largely adopted the Wyoming Strategy.

There appears to be no logical reason that the BLM field offices in Montana should not move to adopt the Montana Executive Order. Again, this should be accomplished at a bare minimum when the Montana Program becomes fully operational as a regulatory mechanism, which will be no later than January 1, 2016.

I would again like to express my appreciation for the tremendous effort your agency is devoting to our common efforts to avoid the need for a sage grouse listing by the USFWS. I very much appreciate the opportunity to comment and I look forward to working with you in the future to resolve plan inconsistencies for the purpose of conserving sage grouse and their habitat in Montana. Thank you for your thoughtful consideration.

Sincerely,



STEVE BULLOCK  
Governor