

FINAL DECISION NOTICE

Management Plan and Conservation Strategies for Sage Grouse in Montana

Montana Fish, Wildlife & Parks

August 6, 2004

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Proposed Action

LEGISLATIVE ENVIRONMENTAL
POLICY OFFICE

The Proposed Action includes a series of 3 actions. They encompass habitat conservation, harvest management, and monitoring. The intent of these actions is to improve FWP's management of sage grouse in compliance with 87-1-201, MCA, by implementing programs that prevent the need for listing under state or federal endangered species acts. These actions would directly serve to increase FWP's effectiveness in conserving sage grouse.

With approximately half of UGBHEP funding, FWP would develop and implement the Montana Sagebrush Initiative. This program would use funds committed from UGBHEP and matching federal funds, totaling \$2.2 million, to purchase 30-year habitat protection agreements on approximately 183,000 acres of private land associated with sage grouse leks and wintering areas. Future funding could result in the purchase of more sagebrush habitat protection agreements. These voluntary, incentive-based agreements would protect sagebrush habitats from treatments designed to kill sagebrush such as herbicide spraying or prescribed burning, as well as protecting against conversion of sagebrush-grasslands to cropland. Should vegetation conditions warrant, or new information become available, these habitat protection agreements would allow for vegetation manipulation activities if they enhance sage grouse habitats and are agreeable between FWP and the cooperator. Priority areas for developing agreements are sagebrush-grasslands within 2 miles of leks as well as documented sage grouse wintering areas. These agreements would not affect grazing practices.

Past lek surveys have been used to monitor sage grouse abundance trends on a localized scale. These surveys do not provide an accurate measure as to statewide changes in sage grouse abundance. To address this need, FWP will develop and implement a lek survey protocol that will provide a measure of long-term changes in statewide abundance, density, and distribution. This protocol would involve annually surveying a stratified sample of leks that may differ between years. Most or all documented leks in Montana would periodically be surveyed as a part of this new protocol.

The third new action involves development of a refined sage grouse harvest regulation strategy. FWP would recommend an adaptive harvest management approach that would adjust prescribed sage grouse hunting regulations based on changes in male lek attendance. Specifically, during years of below-average lek counts, sage grouse daily bag limits would be 2 harvested birds per day with a 4-bird possession limit; this is known as the "conservative regulation." Alternatively, if lek counts during a particular

year were above the long-term average, a "standard regulation" would be adopted that allows harvest of 4 sage grouse daily and an 8-bird possession limit. If adopted, the Fish Wildlife & Parks Commission would select from either the "standard" or "conservative" sage grouse hunting regulation package based on the current year's lek survey results. A specific package would likely remain in place for a number of years (2-4) given observed growth rates in surveyed sage grouse populations.

The proposed action also provides a means for determining if a hunting season should be opened. If a threatening decline became apparent in one or more ecotype segments (as defined in Final Draft Plan, Section IV, Page 43-44), FWP would recommend against opening a sage grouse season in the appropriate segment(s). Based on lek data showing projected high and known low population variation, a threatening decline is defined as 3 or more consecutive years with average lek survey levels at 45% or more below the long-term average, determined using leks with 10 or more years of consecutive data (as per methods used in Final Draft Plan, Section I, Page 9). This mechanism would provide the ability for FWP to recommend not opening a season based on current year's lek-monitoring information.

Montana Environmental Policy Act

FWP assessed impacts of the proposed action and 2 additional alternatives to the human and physical environment. The Management Plan and Conservation Strategies for Sage Grouse in Montana FWP Environmental Assessment was released for public comment on March 25th, 2004 for a 33-day comment period. In response to some of the public comments and in compliance with Montana Environmental Policy Act (MEPA), a Revised EA was written and released for additional public comment on June 10th, 2004 for a 36-day comment period. News releases were provided to the statewide news media. During both comment periods, approximately 400 copies of each document were mailed out to the public and additional copies were available at local working group meetings in Dillon, Glasgow, and Miles City. In addition, both documents were posted on the FWP web page: <http://fwp.state.mt.us>.

Summary of Public Comment

A total of 22 public comments were received during both comment periods. Comments on the first Draft EA (10 total) were summarized in Appendix A of the Revised EA. The following is a summary of comments received on the Revised EA.

The Sage Grouse Revised EA (Revised EA) comment period ran from June 10 through July 16, 2004. A total of 12 comments were received during the Revised EA public comment period including 1 comment from a legislator, 4 comments from hunters, 1 comment for an off highway vehicle (OHV) organization (Capital Trail Vehicle Association), 1 comment from a sportsman group (Western Montana Fish and Game Association), 1 comment from a falconer's organization (Montana Falconer's Association), 1 comment from a livestock association (Montana Stockgrower's Association), 1 comment from the Montana Local Working Group Coordinator, and 2

comments from national organizations (National Wildlife Federation and the Defenders of Wildlife).

Public comment summary with italicized responses by FWP follows:

One comment supported the Proposed Action because they felt it minimized federal "interference" and provided the most hunting opportunity.

FWP acknowledges this comment.

Four comments expressed the value of sage grouse as an upland game bird. Two comments expressed a preference to reduce bag limits to a restricted area rather than eliminating a hunting season all together. Two comments felt sage grouse hunters have a very limited effect on sage grouse populations. Both felt it was important to keep hunters involved in sage grouse planning and management. Two expressed the importance of using sportsman dollars for supporting habitat conservation.

The Proposed Action sets up an adaptive harvest strategy that will adjust bag limits based on current year's lek count data. It further provides a mechanism for not opening a hunting season in one or more segments of the sage grouse's range in Montana. If, however, sage grouse become listed under federal Endangered Species Act, the season would not be opened statewide.

Two comments supported the effort for purchasing sagebrush leases. One suggested it needed to affect substantially more habitat to be more effective.

The Proposed Action allows for additional sagebrush lease accomplishments if interest and funding are available.

One commenter suggested livestock grazing be avoided in some areas as a part of sagebrush lease agreements. They further suggested FWP also get involved with habitat restoration for expanding habitat.

The objective of Montana Sagebrush Initiative is to help maintain basic habitat elements in areas that are currently functional habitats. That is, areas currently supporting higher densities of sage grouse. FWP disagrees that removing livestock grazing is a necessary part of conserving sage grouse habitat. Native vegetation and wildlife have adapted to grazing. We further support proper grazing management that provides sufficient rest for maintaining a healthy native shrub-grassland community. A grazing rotation that schedules sufficient rest while providing residual grass and forb cover will enhance vegetation and accommodate needs of sage grouse. Where appropriate, the Upland Game Bird Habitat Enhancement Program (UGBHEP) in partnership with other federal programs can assist landowners in developing grazing rotations that are well-suited for sage grouse while enhancing growth of native vegetation. This type of enhancement will continue to be available for private and public lands.

The highest priority of the state plan is to conserve functional native habitats. Unlike many parts of the sage grouse's range, Montana clearly supports viable sage grouse populations as a result of its intact large blocks of native sagebrush habitat. FWP believes it is more cost-effective to first conserve these functional habitats. Again, unlike many parts of their range, the sage grouse effort in Montana is primarily one of conservation, not restoration. The UGBHEP has, however, assisted with habitat restoration projects, both in the form of plantings and grazing management. As opportunities arise, these types of projects will also continue to be funded.

One commenter suggested publicizing results from wing collection data.

Currently, wing collection results are used to determine productivity and estimate hatching dates. FWP will take note of this suggestion and provide summary information to the public as a part of their public information releases.

Two comments relayed that if sage grouse populations are declining, it isn't rational to continue hunting them.

FWP has responded to similar comments in both the Final Draft Plan and initial EA. The following is an excerpt from Appendix A of the Revised EA: Hunting sage grouse is an important activity in Montana and, based on lek counts and hunter telephone surveys, harvest levels are less than 10% of the population (FDP, Section IX), which are within the recommended guidelines for managing sage grouse populations (FDP, Appendix A). Lek survey information dating back to the early-1960s has not revealed any long-term declines in sage grouse abundance (EA, Figure 2). Over the same period, hunter harvest has declined substantially (FDP, Figure III-2, Page 31). As a result, we have no biological reason for not opening a sage grouse hunting season. However, if a threatening decline became apparent in a portion of the sage grouse's range in Montana, FWP would be obligated by statute to not open a season.

One comment suggested moving the opening of sage grouse hunting season to September 15 to reduce harvest pressure on adult hens, which are still rearing broods in early September.

FWP agrees that moving the season opener back two weeks may reduce harvest of hens with broods. At this time, however, we have not determined a need for this type of change. The High-level Protection Alternative included moving the season opener to October 1. Lek survey data, however, suggests that sage grouse abundance in the surveyed areas remains relatively stable. Based on this information, we cannot justify a later opening.

One commenter felt FWP should not be proposing habitat management in a species management plan and further suggested FWP has broken the law by not sufficiently preventing the sage grouse from being considered for listing under the federal Endangered Species Act. The commenter suggested FWP should be focusing efforts on predation and hunting in place of habitat considerations. The commenter further

questioned how 183,000 acres of "additional" habitat will help when there is already 27 million acres of un-inventoried habitat in the state. The commenter further suggested that FWP should increase 10-fold the funding used for predator control.

FWP does not believe that the sage grouse in Montana meets the criteria for listing under the Endangered Species Act. The actions proposed are recommended in order to meet the department's obligation to keep species from declining to the point of becoming a listed species. Habitat is one of the criteria that will be considered by the U.S. Fish and Wildlife Service (FWS) when making a determination for listing sage grouse. FWP is proposing to work with willing private landowners to protect key habitat surrounding lek sites and documented wintering areas. If interest remains, FWP will explore additional funding opportunities to continue work with the private landowners in protecting key sage grouse habitat. The other state and federal agencies will be responsible for sagebrush land management in addition to the acreage identified by FWP. The FWS will consider all five factors to determine the status of sage grouse and will use the best available science as it relates to factors such as predation/hunting.

One commenter suggested that habitat objectives should be "no net loss" and efforts focused on restoring sagebrush on damaged habitats.

The objective at the broad scale is to maintain the distribution of sagebrush across the current range. There will be losses due to various causes however the intent is to result in no net loss.

One commenter questioned the process that FWP used in signing an MOU, which agreed to development of a statewide working group and planning process, without any public knowledge or process for commenting.

The agreement signed by the FWP Director was in essence a commitment to maintain sage grouse as required by statute. The use of working groups was a commitment to involve as many interest groups and individuals as possible. The meetings were advertised and no one was excluded from participating.

One commenter suggested that FWP actively identify sage grouse wintering areas during average and severe winter conditions.

Locating and documenting sage grouse wintering areas is a high priority for FWP. These current efforts are described in the Revised EA (Page 14).

One commenter felt the Revised EA affects more than FWP. That is, other agencies that participated in the state planning process have already "placed guidelines and stipulations of this plan in their respective draft management plans" resulting in cumulative and secondary effects to multiple-use on public lands.

The other agencies that were participants in the plan acknowledged that they have independent responsibilities and their commitment to the plan was at the goals and

objectives level. Although they recognize that the strategies outlined in some cases may be appropriate, they are under no obligation to include them as management actions until such time as they have completed their own process for establishing and using guidelines in their land management programs. Any new actions taken by state or federal agencies would require additional environmental analysis.

One commenter expressed concern about the 5 factors the USFWS considered when making a listing determination and the fact that the USFWS has stated that the decline of sage grouse is not fully understood and may be influenced by local conditions. The commenter suggested that FWP has not adequately assessed or researched these factors. The commenter further suggested the plan may save sagebrush but will not affect the factors causing a decline of sage grouse in Montana.

The FWS will utilize the best available science in assessing the five factors that are required to make a status determination under the Endangered Species Act. The volume of information available for sage grouse is significant from across the broad landscape that sage grouse inhabit. The state plan is only one piece of information that FWP will submit to the FWS in responding to their information request. FWP participated in providing materials for the Conservation Assessment of Greater Sage Grouse prepared by Western Association of Fish and Wildlife Agencies. This document was over 700 pages and was submitted to the FWS also as a part of the information request. The FWS review of the information will provide insight into the causative factors of sage grouse declines.

One comment expressed the need to keep all motorized roads and trails open. They felt that motorized recreation does not have a measurable impact on sage grouse. The comment further called for mitigation for the "excessive amount of motorized closures that have occurred." They expressed the need for data to support any closures that are proposed and asked that biased technical data not be used in environmental analyses. They further relayed that disturbance impacts associated with OHV use are temporary and need to be viewed in that context.

Road management issues will be dealt with by the land management agencies who have jurisdiction over the roads and trails. Disturbance factors relate both to season of use and intensity. FWP cannot legally commit to addressing the previous closures whether for wildlife or resource protection on lands other than those that it owns.

One commenter expressed concern over the High-level Protection Alternative in that it would result in closure of the spring falconry season. The commenter further suggested that falconry results in a very limited harvest and, compared to shotgun hunting, does not merit consideration for additional restrictions.

The High-level Protection Alternative is specifically designed to provide additional protection. While the falconry harvest is very limited it does occur at a time when most biologists consider the harvest to be additive to natural mortality. This alternative is the conservative approach for harvest, highest habitat protection efforts, and implementation of predator control.

One commenter expressed concern that FWP had not fully analyzed implementation of the Sage Grouse Management Plan but instead focused only on FWP actions. They further felt that FWP has violated M.C.A. 87-1-201(9) that requires FWP to prevent the need for state or federal listing of a wildlife species and SB392 regarding FWP management plans and the need for MEPA compliance.

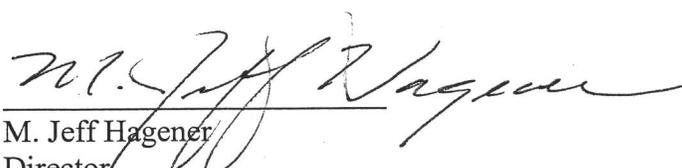
FWP did not analyze all actions within the plan since, as an agency, it can only be accountable for those actions it has authority to implement. The management plan was developed as the result of the Montana Sage Grouse Work Group, which was a collaborative effort that included more strategies than those FWP would have addressed if it had only been a department plan. FWP has addressed the requirements of SB392 in developing the EA on those actions which it has authority for. FWP does not consider the sage grouse population in need of listing as either a state or federal endangered species.

Additional comments were received that focused on habitat management, primarily involving responsibilities of land management agencies. These comments will be considered by the appropriate agencies when finalizing the state plan.

Decision

Based on the analysis in the Revised EA, analysis of public comment, and applicable laws, regulations, and policies, I have determined that FWP actions described in the Proposed Action will not have a significant effect on the natural or human environment. Therefore, an Environmental Impact Statement is not necessary.

Based on the information in the Revised EA and public comments received, it is my decision to proceed with the Proposed Action. This decision was concurred in by the FWP Commission on August 5, 2004.


M. Jeff Hagener
Director

Please direct any questions:

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