

LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor
Deborah F. Butler, Legal Counsel



Deputy Legislative Auditors:
Cindy Jorgenson
William Soller

MEMORANDUM

TO: Angus Maciver, Legislative Auditor
FROM: James Sutcliffe, Senior Management & Program Analyst
DATE: December 4, 2020
RE: Initial response to performance audit request of Montana Sage Grouse Habitat Conservation Program

Purpose of Memo

In 2019, the Legislative Audit Committee voted to prioritize a potential performance audit of the Montana Sage Grouse Habitat Conservation Program. The letter requested the following specific, independently verified information on the program's expenditures and activities:

- Accounting of the original \$10 million stewardship account funding appropriated for sage grouse habitat conservation.
- Any additional appropriations for the creation and administration of the program.
- How House Bill (HB) 228 in the 2017 Legislative Session impacted both the program funding and the Sage Grouse Stewardship Account in the State Special Revenue Fund.
- The total amount of funds by year transferred from accounts under the Board of Oil and Gas to fund the program.
- A complete accounting of grant disbursements by recipient.
- A complete accounting and status of grants that have been approved, but funding not yet disbursed.
- A complete accounting and status of compensatory payments to the state by project proponent, with assurance that all compensatory mitigation payments were deposited into the Stewardship Account.

Because of considerable interest in the program, this memo serves to promptly address these specific concerns. The remainder of this memo contains: background information on the species and the program; a tabulation of all revenues and expenditures into and out of the Sage Grouse Stewardship Fund, including a comprehensive list of all grants awarded and their disbursement dates, all mitigation contributions required and their reception dates, and all projects for which a mitigation contribution is outstanding; tabulation of all program expenses funded by oil and gas revenue; and a breakdown of program administrative and total expenses.

Species Background

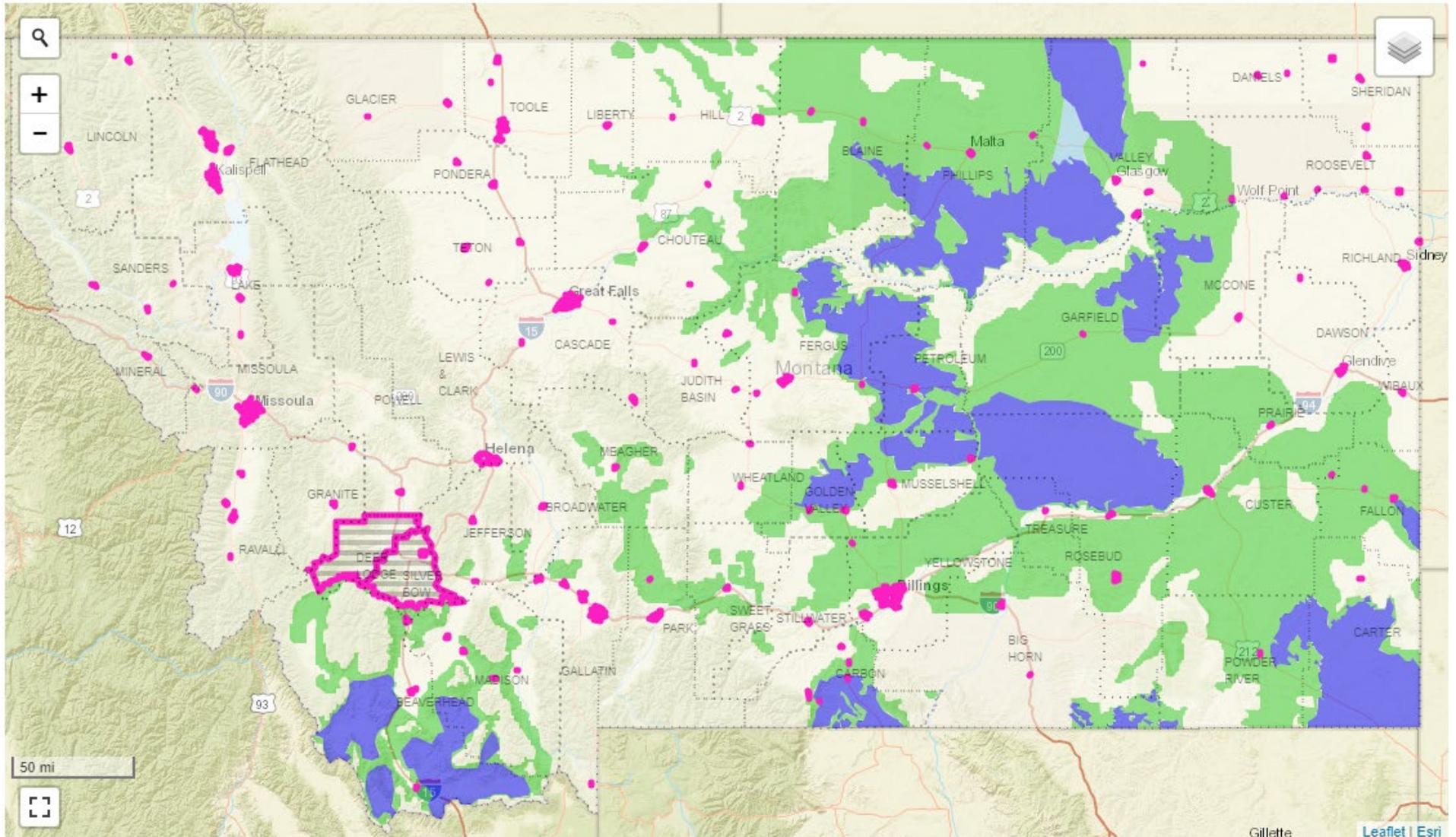
The greater sage grouse (*Centrocercus urophasianus*), the largest grouse in North America, is a bird native to Montana and ten other western states. Sage grouse are almost completely dependent on sagebrush for every phase of their life history: breeding in specific areas called leks, nesting, and rearing their offspring. Because they are so dependent on sagebrush, sage grouse are very sensitive to surface disturbance and loss of sagebrush habitat and are slow to adapt to changing habitat conditions. Once lost, sagebrush is not easily restored. Accordingly, intact, native sagebrush rangeland at a landscape-scale is imperative to the species'

success. Science has shown that sage grouse are particularly sensitive to habitat loss and fragmentation, conversion of native sagebrush range to cultivation, invasive species, and development. In Montana, disturbance related to energy development and infrastructure is the primary threat to greater sage grouse. Other threats include conifer encroachment, drought and fire, conversion of rangeland to cropland, and predator introduction.

The species is extant in only 11 western states and 2 Canadian provinces. After Wyoming, Montana, with 20 percent of the species' occupied range, has the second-most sage grouse habitat of any state. About 33 million acres of Montana's total 94 million acres (35 percent) are considered habitable by sage grouse. The state's population of sage grouse also plays an important ecological role connecting struggling populations in Canada and the Dakotas.

There are three types of designated habitat for sage grouse: core areas, connectivity areas, and general habitat. These areas are displayed on the map on the following page. Green shading represents general habitat, purple shading represents core habitat, and light blue shading represents connectivity habitat. Exempt municipalities are outlined in pink.

Figure 1
Map of Sage Grouse Habitat in Montana



Source: Sage Grouse Habitat Conservation Program website. See <https://sagegrouse.mt.gov/ProgramMap> for an interactive version of this map.

Core areas are determined by a high density of leks (breeding grounds) and displaying male sage grouse and are of the most value to the success of the species. Connectivity areas are important because they are corridors that connect otherwise independent parts of the species' range, enabling dispersion, often to other states or provinces. General habitat, while less valuable than core areas, is still critical to maintain the abundance and distribution of sage grouse in Montana and includes leks and nesting areas, but at a lower density than in core areas. An important aspect of the species' range in Montana is that it exists over a patchwork of ownership. Montana is unique in this regard, as its sage grouse habitat is more patchwork and privately owned than that of other states. Over 60 percent of sage grouse habitat in the state is on private land. A considerable amount of habitat also exists on federal – U.S. Forest Service (USFS) and Bureau of Land Management (BLM) – and state land. This means that the conservation of the species is reliant both on land management by private landowners and on coordination with various federal and state parties.

History of Sage Grouse Conservation in Montana

The Montana Sage Grouse Habitat Conservation Program exists because of the federal Endangered Species Act (ESA). By 2005, the United States Fish and Wildlife Service (USFWS), which determines which species should be listed as threatened or endangered, had received eight petitions to protect the sage grouse under the ESA. Government and industry groups alike preferred that the species not require a listing, as such a listing not only indicates that the species is at risk of extinction, but also imposes major regulatory limitations on the activities that can be carried out in the species' habitat. Because the species' habitat is widespread across much of the state, this poses a serious economic risk for Montana. If the species were listed by the USFWS, it would severely impact industry and development in much of the state, especially the energy industry in the eastern side of the state.

Leading up to the species' listing decision in 2015, USFWS worked with many western states to preclude a listing. The agency required that states develop active conservation management strategies for the species. In Montana, an advisory team was convened to develop a strategy to manage the species at the state level. Resultingly, in 2014, the Governor issued an executive order to develop state management with an oversight team. In the following legislative session, the 2015 Legislature passed the Montana Greater Sage Grouse Stewardship Act, which established the Montana Sage Grouse Oversight Team (MSGOT) in law and laid out tenets of the program's operation. Subsequently, the Governor issued two more executive orders in 2015 to acknowledge the passage of the act and amend the original executive order. The program's and team's mission is to conserve sage grouse habitat and preclude an endangered species listing by managing development such that there is no net loss (and preferably net gain) of sage grouse habitat. The Montana Sage Grouse Habitat Conservation Program is administratively attached to the Conservation and Resource Development Division of the Department of Natural Resources and Conservation (DNRC). Because of the proactive species management actions of Montana and other states, USFWS determined that a threatened or endangered listing was not warranted in 2015 and cited Montana's efforts as exemplary for other states.

Duties and Composition of Oversight Team

Though the program is administratively attached to DNRC, its oversight team, MSGOT, is administratively attached to the Governor's Office. The oversight team has rulemaking authority, holds quarterly public meetings that include program staff and numerous stakeholders, and votes on awarding grants to credit-project applicants. It can also issue debit waivers to entities like rural electric co-ops who do not have the financial means to make contributions. It oversees the program's activities and responds to stakeholder complaints about program operation. There are two legislators assigned to the oversight team, along with: the directors of the Departments of Environmental Quality; Fish, Wildlife & Parks; Natural Resources and Conservation; and Transportation; the administrator of the division of oil and gas conservation within DNRC; one member of the rangeland resources committee; and a designated representative of the governor.

Program Operations

The Montana Sage Grouse Habitat Conservation Program works to sustain viable sage grouse populations and conserve habitat by using market forces. Impacts to sage grouse habitat from development in one area

can be offset by conservation and restoration activities in other areas. To do so, the program engages in the following activities:

GIS Tool Used to Assess Habitat Value

The program uses a Geographic Information System (GIS)-based Habitat Quantification Tool (HQT) to determine the conservation value or development cost of any proposed activity on sage grouse habitat. The HQT has many inputs, such as sagebrush coverage and pre-existing human-made disturbances, like roads or energy developments. The HQT is used to objectively determine the relative value to sage grouse conservation of any given land area. The ultimate output of the HQT is a score representing functional acres of habitat lost or gained by a project, which is then converted into credits awarded by a conservation or restoration project, or debits incurred by a development project.

State-Permitted Activities in Sage Grouse Habitat Require Program Consultation

The program is involved in all state permits for activities that would result in changes to sage grouse habitat. Prior to applying for a permit with the permitting agency, a permit applicant must consult with the program by submitting its project plans through the program's website. The program then runs the proposed project through the HQT and works with the developer to avoid, minimize, rehabilitate, and/or mitigate the impacts of the project. Once the project has been vetted by the program, the program provides the developer with a letter that authorizes the permit to go forward. If the project requires mitigation (compensation for damages to habitat), the developer can do so in multiple ways: by contributing to the Sage Grouse Conservation Stewardship Fund, by funding its own credit-generating project with privately found partners, or by purchasing credits from another entity. The program requires payment prior to the commencement of the project.

Program Keeps Track of Debits and Credits

The program is responsible for the establishment and record-keeping of habitat credits and debits. Credits and debits are equivalent units of habitat conservation and disturbance, respectively. The value of a credit was determined through conservation easement land appraisals and was initially set at \$13 per credit. For example, a project that incurs 1,000 debits would result in the project proponent, if choosing to contribute to the fund to offset the debits, having to pay \$13,000 in mitigation contributions to be used on future grants to conservation projects. The program must keep track of functional acres lost and gained, as well as credits on hand versus debits generated through development in a registry.

MSGOT Awards Grants to Conservation Projects After Program Review

The program and MSGOT conduct a grantmaking process to fund sage grouse conservation efforts. Money in the Sage Grouse Stewardship Account used to make these grants comes primarily from two sources: legislative appropriation and mitigation contributions from developers. When the funds in the account are enough to award multiple large grants, the program initiates a cycle of grant funding. Developers of projects that will result in the generation of credits can apply to the program for grants to help fund their project. These projects may be status quo (e.g. conservation easement), restorative (e.g. conifer removal), or both. The program vets, scores, and subjects these grant applications to independent biological peer review before providing them to the MSGOT, who votes on whether to award grant funding to each project applicant.

Since its inception, the program has conducted two cycles of grant awarding in 2016 and 2019, has developed the HQT to assess habitat values, and has vetted permitted development in sage grouse habitat. In 2019, administrative rules were passed to guide the workings of the mitigation system and credit registry. After passage of the administrative rules, comprehensive policy guidance and technical manuals were developed to guide the program's activities. Program staff indicate that certain processes and procedures, such as those for debit-project appeals of HQT data, known in policy as third-level assessments, are still in the process of being developed after the passage of rule and finalization of rule and policy in 2019.

Program Uses “Adaptive Management” Process

Because the science surrounding sage grouse is subject to advancement and the program is novel, the program’s administrative rules require the use of a common strategy in science-based resource management called “adaptive management.” This is a structured, iterative process of decision-making in the face of uncertainty, with an aim to reducing uncertainty over time via system monitoring. In this case, this means that the program and MSGOT will regularly review its own performance and recommend changes to the entire system to improve it. Changes can include modifications to policy, data updates in the HQT, and the inclusion of new scientific findings to better tailor the program’s operation toward its mission. This process is to occur annually, and the first round was supposed to occur in 2020. Program staff report they are still aiming to commence these activities in 2020, but will not complete the first round until sometime in 2021, in part due to COVID-19-related delays. Every fifth year, a more comprehensive round of adaptive management must take place.

Program Revenues and Expenditures

The request for a performance audit voted on by the Legislative Audit Committee included specific requests for information regarding program revenues and expenditures. The tables in this section provide comprehensive information regarding program/MSGOT funding sources and expenditures, including grant awards, since its inception.

Montana Sage Grouse Stewardship Account

The Montana Sage Grouse Stewardship Act created a fund, called the Montana Sage Grouse Stewardship Fund, used to receive payments of habitat debits and make contributions to generate habitat credits. Money from this account can also be used to fund program administrative expenses. In 2017, HB 228 amended statutory language to allow for the account to fund program administrative costs, but limited the total amount of these expenditures to \$400,000 annually. This limit has been reached but not exceeded in subsequent years. In the 2015 and subsequent sessions, the legislature appropriated a total of \$10 million of General Fund money to this account to both fund some of the program’s operations, and, principally, to generate an initial pool of money from which to award grants to credit-generating habitat conservation projects. In addition to General Fund appropriations, the account receives revenue from two other sources: investment earnings on the existing money in the account, and mitigation contributions from developers whose projects in sage grouse habitat incur debits (that is, damage or destroy habitat). Table 1 on the following page shows this account’s revenue and expenditures from its inception in fiscal year 2017 through October 20, 2020.

Table 1
Sage Grouse Stewardship Fund Revenues and Expenditures
Fiscal Years 2017-2021

Sage Grouse Stewardship Account Revenues by Fiscal Year						
	2017	2018	2019	2020	2021*	Grand Total
530000 Investment Earnings		\$7,203	\$70,286	\$73,542	\$2,572	\$153,603
570000 Mitigation Contributions			\$304,683	\$1,076,831	\$417,787	\$1,799,301
580000 General Fund Appropriations	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$10,000,000
Grand Total	\$2,000,000	\$2,007,203	\$2,374,969	\$3,150,373	\$2,420,360	\$11,952,904
Sage Grouse Stewardship Account Expenditures by Fiscal Year						
	2017	2018	2019	2020	2021*	Grand Total
Program Administration Expenses		\$201,264	\$400,000	\$400,000	\$92,185	\$1,093,449
61000 Personal Services		\$186,655	\$359,207	\$364,630	\$91,822	\$1,002,315
61100 Salaries		\$136,824	\$260,778	\$262,775	\$64,876	\$725,253
61400 Employee Benefits		\$49,831	\$98,430	\$101,855	\$26,946	\$277,061
62000 Operating Expenses		\$14,608	\$40,793	\$35,370	\$364	\$91,134
62100 Other Services		\$49	\$9,744	\$31,255		\$41,048
62200 Supplies & Materials		\$3,482	\$6,344	\$2,457	\$112	\$12,395
62300 Communications		\$104	\$5,739		\$66	\$5,909
62400 Travel		\$1,708	\$10,461	\$1,628	\$186	\$13,983
62500 Rent		\$4,265	\$1,528	\$30		\$5,823
62800 Other Expenses		\$5,000	\$6,977			\$11,977
66000 Grants	\$1,500,000		\$1,377,500	\$2,802,411		\$5,679,911
Grand Total	\$1,500,000	\$201,264	\$1,777,500	\$3,202,411	\$92,185	\$6,773,360
Fund Balance	\$500,000	\$2,305,939	\$2,903,408	\$2,851,370	\$5,179,544	

Source: Compiled by Legislative Audit Division from SABHRS Financials data.

*FY 2021 information through October 20, 2020.

As displayed in Table 1, the program has received \$10 million of General Fund appropriations since its inception. It has received nearly \$1.8 million in mitigation contributions in that same timeframe. Meanwhile, the bulk of expenditures from the fund, nearly \$5.7 million, have been in the form of grants awarded to conservation and restoration projects that will improve or conserve sage grouse habitat, resulting in the generation of credits to offset development. Meanwhile, around \$1.1 million in fund monies have been expended on program administration, mostly to cover personal services. This leaves a significant fund balance of over \$5 million, as of October 2020. The program and MSGOT are currently engaged in a third round of grant awards. Past grant award cycles have resulted in total award amounts in excess of \$3 million, so the fund balance can be expected to decrease significantly as these new grants are awarded in 2020 and disbursed over the coming years.

Mitigation Contributions

One of the program's responsibilities is assessing all state-permitted activities in sage grouse habitat. Development activities, such as building roads or renewable or fossil fuel energy infrastructure, impact sage grouse habitat in negative ways. The program reviews these projects prior to their being permitted. This review entails putting the projects through the HQT to determine the severity of the development's impacts relative to the quality of the habitat on which it takes place. Projects can then be amended to have lesser impact. Ultimately, if a project will incur a nonzero number of debits, the project developer must offset these debits by making an equivalent contribution to the Sage Grouse Stewardship Fund or by pursuing its own mitigation project(s). This section contains three tables including information on: projects for which no contribution to the stewardship account was necessary; projects for which a contribution to the account has already been made; and projects for which an outstanding balance due must be paid prior to the project going forward. There is no determined timeframe for donations for these latter projects; proponents must make their contributions prior to the project's construction, which can sometimes take years to occur.

Table 2 on the following pages shows all debit-incurring projects reviewed by the program through October 31, 2020 that required no contribution to the account.

Table 2
Debit-Incurring Projects that Resulted in No Contribution to Sage Grouse Stewardship Fund

Project ID Number	Project Name	Date Review Finalized	Debits Incurred	Mitigation Type
2508	Denbury Cedar Creek Anticline Pipeline Project - Carter Core Area Segment	9/26/2018	15,935.0	Permittee-Responsible
2509	Denbury Cedar Creek Anticline Pipeline Project-Cedar Creek Anticline Core Area Segment	9/26/2018	1,375.1	Permittee-Responsible
2953	NorVal Electric Cooperative Black Coulee Transmission Line.	12/18/2018	37,410.6	Permittee-Responsible
3182	115 kV Transmission Line for KXL PS13	1/2/2019	3,016.9	No Mitigation Required*
3380	Pennel 33-12H - Temporarily Abandon	3/7/2019	14.2	Permittee-Responsible
3381	Cabin Creek 24X-7 - Convert to Injection (SWD)	3/7/2019	13.9	Permittee-Responsible
3426	Pennel 11XX-14 - Temporarily Abandon	3/7/2019	9.0	Permittee-Responsible
3448	Cabin Creek 32-36H - Cement Repairs	3/21/2019	10.3	Permittee-Responsible
3518	South Pine 24X-23AH - Mandatory Mechanical Integrity Repair	5/1/2019	14.4	Permittee-Responsible
3519	BCU 33-20 - Fracture Stimulate	5/1/2019	7.0	Permittee-Responsible
3520	BCU 35-03 - Fracture Stimulate	5/1/2019	6.2	Permittee-Responsible
3521	BCU 35-10 - Fracture Stimulate	5/1/2019	4.2	Permittee-Responsible
3522	BCU 35-15 - Fracture Stimulate	5/1/2019	7.5	Permittee-Responsible
3536	Cabin Creek 24X - 17A - Repair Mechanical Integrity	5/13/2019	8.7	Permittee-Responsible
3542	Mystery Creek 31 - 11 - Cement Squeeze	5/13/2019	10.1	Permittee-Responsible
3544	Mystery Creek 34 - 11 - Cement Squeeze	5/13/2019	12.8	Permittee-Responsible
3548	BCU 34 - 11 - Perforating	5/13/2019	15.1	Permittee-Responsible
3510	Denbury Cabin Creek 43X-08 Temporary Madison Well Test	5/20/2019	19.0	Permittee-Responsible
3553	Denbury South Pine MC44-22NH New Well Pad, Road, Flowline and Electric Line	5/21/2019	3,199.0	Permittee-Responsible
3541	Mystery Creek 14 - 02 - Temporarily Abandon	5/23/2019	9.8	Permittee-Responsible
3484	Cabin Creek 13X-17 - Mechanical Integrity Repair	5/28/2019	9.7	Permittee-Responsible
3486	Denbury Cabin Creek MC41-04SH & CH41-04SH Well Pad with Access Road, Overhead Electric, & Flowline	5/28/2019	3,211.8	Permittee-Responsible
3505	Coral Creek 22-10CCH Restore Mechanical Integrity	5/28/2019	876.1	Permittee-Responsible
3461	Denbury Coral Creek MC31-16NH & SH Proposed New Dual Oil Well Pad Site with Access Road	5/31/2019	17,787.9	Permittee-Responsible
3568	Denbury Cabin Creek CH31-17SH Sidetrack Horizontal Re-Entry	6/11/2019	12.9	Permittee-Responsible

3585	South Pine 11 - 26A - Temporarily Abandon	6/17/2019	17.0	Permittee-Responsible
3587	South Pine 12 - 30E - Temporarily Abandon	6/17/2019	15.2	Permittee-Responsible
3588	South Pine 12X-03AH Temporarily Abandon	6/17/2019	2.5	Permittee-Responsible
3609	South Pine 43-22AR - Perforate	6/28/2019	12.6	Permittee-Responsible
3610	Cabin Creek 33-28 - Perforate	6/28/2019	9.2	Permittee-Responsible
3613	Cabin Creek 41-20 - Perforate	6/28/2019	13.1	Permittee-Responsible
3614	Cabin Creek 22X-6R - Perforate	6/28/2019	8.2	Permittee-Responsible
3617	Cabin Creek 12-8 - Convert to Injection	7/16/2019	8.3	Permittee-Responsible
3618	Cabin Creek 11X-8R	7/16/2019	10.6	Permittee-Responsible
3627	Coral Creek 44-04CCH Restore Mechanical Integrity	7/16/2019	11.6	Permittee-Responsible
3602	2019 Bell Creek 3-D Seismic Test	7/23/2019	135.5	Permittee-Responsible
3628	ELOB 34-30NH Restore Mechanical Integrity	7/23/2019	0.6	Permittee-Responsible
3652	South Pine 42X-11AH - Temporarily Abandon	7/24/2019	15.1	Permittee-Responsible
3656	Cabin Creek M24-28 - Temporarily Abandon	7/25/2019	8.7	Permittee-Responsible
3632	Cabin Creek 43-17H - Perforate	7/26/2019	9.8	Permittee-Responsible
3666	Coral Creek 43X-11CCH Repair Casing Leak	8/6/2019	6.9	Permittee-Responsible
3681	Coral Creek 12-33CCH Casing Repair	8/13/2019	10.0	Permittee-Responsible
3653	East Lookout Butte Field, 43-31SH WI. Restore Mechanical Integrity	8/15/2019	8.5	Permittee-Responsible
3662	Denbury Cabin Creek CH21-17NEH Proposed New Well Pad	8/15/2019	2,575.5	Permittee-Responsible
3677	South Pine 12-25AH Squeeze Leaking Perfs	8/15/2019	10.4	Permittee-Responsible
3686	Little Beaver East 11-08 Restore Mechanical Integrity	8/27/2019	16.3	Permittee-Responsible
3689	Little Beaver 33X-18 Restore Mechanical Integrity	8/28/2019	19.9	Permittee-Responsible
3691	South Pine 43X-19H Restore Mechanical Integrity	8/28/2019	16.2	Permittee-Responsible
3692	ELOB 42-34EHR Water Injection Well Restore Mechanical Integrity	8/28/2019	31.2	Permittee-Responsible
3697	Denbury Bell Creek Unit 35-15R Expanded Well Pad and Improved Access Road	9/17/2019	166.6	Permittee-Responsible
3710	Denbury Bell Creek Unit 15-09R Expanded Well Pad	9/17/2019	115.6	Permittee-Responsible
3769	Denbury Monarch 41-35H New Flowline Route	10/21/2019	50.4	Permittee-Responsible
3779	Denbury Mystery Creek 41-31H New Flowline Route	10/29/2019	75.2	Permittee-Responsible
3797	Denbury Bell Creek 08-11 Proposed New Well Pad, Flowline, OH Service, Access Ramp, and Road	12/17/2019	2,345.2	Permittee-Responsible
3855	Antelope Creek Dozer Line	1/21/2020	312.7	No Mitigation Required**
3866	South Pine Transfer Line	2/5/2020	45.7	Permittee-Responsible

3869	Coral Creek North Disposal Line	2/5/2020	53.0	Permittee-Responsible
3871	Coral Creek South Disposal Line	2/5/2020	24.8	Permittee-Responsible
3494	Denbury Little Beaver East MC11-08NH Well Pad and Access Road	3/10/2020	18,898.7	Permittee-Responsible
3988	Roundup Airport Pavement Rehabilitation	6/22/2020	144.3	No Mitigation Required***
		Total	108,202.2	

Source: Legislative Audit Division compilation of Department of Natural Resources and Conservation records.

* MSGOT waived mitigation obligation for nonprofit electric cooperative's project in a developed but unincorporated municipality (incorporated municipalities are exempt by law).

** Part of a larger project that includes restoration; no mitigation applied. The BLM is expected to update the program with information regarding restoration activity and possible credit projects.

*** The airport predates the executive orders, and this was new activity within an existing development boundary; no mitigation applied.

Table 2 shows all debit-incurring projects that either did not require mitigation or that pursued “permittee-responsible” mitigation projects external to the Stewardship Fund. Permittee-responsible projects are conservation and restoration projects that generate credits by improving or conserving sage grouse habitat but that are developed and funded independently of MSGOT grant awards and the stewardship account. The Montana Sage Grouse Stewardship Act explicitly provides this option to developers, who can choose which method (or a combination thereof) to use. The program verifies these projects and calculates the credits generated using the HQT in the same way it assesses projects that receive grant awards. In addition to the projects listed in this table for which no contribution was necessary, the program also reviewed projects that ultimately resulted in zero debits incurred. If no debits are generated, mitigation is not required, as no functional habitat would be adversely impacted. Those projects are not listed here.

On the following pages, Table 3 displays all projects that the program has reviewed as of October 31, 2020, that incurred debits to habitat, and for which the program has received payment of a contribution to the Stewardship Fund.

Table 3
Debit-Incurring Projects That Resulted in Sage Grouse Stewardship Fund Mitigation Contributions

Project ID	Project Name	Date Review Finalized	Debits Incurred	Stewardship Contribution Amount Paid	Date Payment Received
1057	Keystone XL Pipeline	3/22/2017	N/A*	\$761,519	2/27/2020
2822	Elk Creek Pipeline Project	9/26/2018	15,035.8	\$195,505	5/18/2020
46	Amendment 5 to Opencut Permit 8	12/18/2018	3,184.1	\$25,281	8/25/2020
3382	Clint Worman Construction Butte Creek #6	2/27/2019	23.6	\$173	3/8/2019
3438	Baseline No. 1	3/7/2019	92.9	\$964	5/16/2019
3399	Line Section 22 Project	3/29/2019	21.9	\$283	4/26/2019
3405	Sanderson Stewart - Sarah Plath	3/29/2019	24.9	\$323	4/2/2019
3393	Belfrey Compressor Station	4/1/2019	683.2	\$6,398	4/22/2019
3476	Tabby Gravel Pit Site 2	4/11/2019	0.8	\$8	4/18/2019
3455	Red Lodge Forestry Service	4/11/2019	1.7	\$22	9/23/2019
3473	Tabby Gravel Pit Site 1	4/11/2019	20.2	\$225	4/18/2019
3453	Lewis and Clark Hut	4/11/2019	81.8	\$760	5/6/2019
3457	Hwy 310 Fiber Build 2019	4/11/2019	107.6	\$1,398	5/3/2019
3464	Nashua South	4/11/2019	225.2	\$2,928	9/30/2019
3446	Big Timber	4/17/2019	18.8	\$245	4/22/2019
3443	Rapelje FTTH Ph 2	4/17/2019	235.0	\$3,054	4/23/2019
3445	Turner FTTH	4/18/2019	529.3	\$6,881	4/23/2019
3367	Phillips (KXL Workforce Camp Project)	5/2/2019	0.3	\$4	8/28/2019
3496	WIM Prepass Equipment Upgrades EB and WB Rte 212 SE of Broadus, MT	5/7/2019	84.0	\$1,092	9/17/2019
3535	Mark Carlstrom dba MGC Consultants Ltd	5/8/2019	8.7	\$81	5/20/2019
3458	D18128-MT / Nemont / Valley County	5/13/2019	2,890.6	\$26,613	5/25/2019
3440	Wukong Phase 1	5/13/2019	6,606.0	\$85,878	5/16/2019
3549	Hammond School Fiber	5/15/2019	3.8	\$49	6/6/2019
3526	Shweigert Pit II	5/15/2019	45.8	\$518	6/10/2019
3409	Montana Frontier Sandstone	5/17/2019	11.6	\$56	8/12/2019

3561	Dry Creek 2 - 13	5/20/2019	21.9	\$285	7/11/2019
3736	Blaine County 12 Section 3D Project	5/20/2019	272.4	\$3,541	10/28/2019
3497	Sweeney Creek Telecommunications Fiber Placement	5/20/2019	497.8	\$6,471	6/6/2019
3507	Shawmut Divide	5/23/2019	95.4	\$738	9/23/2019
3092	Roundup Pump Tap - Electric Transmission Line Rebuild	5/31/2019	244.8	\$3,182	6/24/2019
3590	Madison Mineral Exploration Project	6/18/2019	86.8	\$1,128	7/1/2019
3506	Larson Fee #1 Columbia Petroleum New Well	6/24/2019	3.6	\$47	7/29/2019
3583	Bridger Hwy 212 (2)	6/26/2019	10.6	\$137	8/29/2019
3582	Bridger Hwy 212	6/26/2019	23.3	\$301	8/29/2019
3571	Snow Monkey - 1H	6/28/2019	2,517.0	\$22,856	7/18/2019
3528	Flying Monkey-1H	7/2/2019	5,143.4	\$46,704	7/19/2019
3630	Baker Municipal Airport	7/10/2019	28.8	\$200	8/23/2019
3612	Biddle East - MT DOT 544 (1)	7/11/2019	5.6	\$34	7/15/2019
3621	Grasshopper	7/22/2019	683.6	\$8,496	8/12/2019
3625	Galt 1-3-9-35 Gas Well	7/22/2019	1,346.0	\$13,252	8/19/2019
3425	MDU Baker to Glendive 60kV Upgrade Project	7/22/2019	1,366.0	\$17,499	7/29/2019
3605	N.469986 BB CAF2 site	7/26/2019	122.0	\$1,585	10/10/2019
3665	Deer Creek Unit Phase 1 Monitoring Wells	7/30/2019	961.8	\$10,904	8/5/2019
3638	NorVal Electric Cooperative	8/8/2019	7.8	\$100	8/26/2019
3671	MDT Jct Sec 462 - East & West Test Drill Project	8/9/2019	76.4	\$993	8/15/2019
3650	Adam Johnson	8/20/2019	2.2	\$29	11/12/2019
3408	2019 Roundup Rural Exchange Add On (Golf Course Road)	8/22/2019	78.5	\$1,020	9/26/2019
3622	12788 US Highway 12	9/12/2019	0.2	\$2	10/8/2019
3726	East Rabbit Hills 10-8	9/12/2019	15.3	\$184	9/23/2019
3560	Mike Kennedy	9/12/2019	14.7	\$192	9/30/2019
3724	Firemoon 12-9	9/12/2019	21.3	\$265	9/23/2019
3709	APR Antelope Creek Campground Septic System	9/20/2019	72.2	\$938	1/27/2020
3700	TR-009-BH Circle B LLC	9/23/2019	17.4	\$226	9/23/2019
3672	Mathew Lothspeich	9/23/2019	89.9	\$890	9/30/2019
3716	Pryor Mountain Wind Project	9/30/2019	3,979,354.6	\$100,000**	11/19/2019
3752	MT Range Telephone Cooperative - Broadus project	10/1/2019	19.3	\$250	10/10/2019

3754	Baker Field Storage Line #1 Replacement Project	10/1/2019	54.3	\$696	11/21/2019
3717	St. Lawrence Project	10/3/2019	68.7	\$884	10/7/2019
3713	Corwin 5-1 #1	10/7/2019	560.9	\$5,240	10/18/2019
3770	Rob Koelzer	10/15/2019	0.4	\$3	10/21/2019
3771	Schellinger Construction Company Inc.	11/1/2019	68.4	\$863	12/10/2019
3789	Neibauer	11/4/2019	1.2	\$15	11/18/2019
3788	Buffalo Trail Solar Inverter Installation	11/12/2019	8.9	\$78	11/25/2019
3783	Stanford	12/10/2019	0.9	\$11	1/31/2020
3781	Reedpoint	12/10/2019	2.5	\$32	1/31/2020
3828	Nine Bar Six Borrow Site	12/20/2019	31.8	\$404	12/26/2019
3661	2020 Roundup Exchange 1908-00180 Fiber Optic	12/30/2019	32.4	\$422	1/31/2020
3525	2020 Baker Exchange 1908-00182 Fiber Optic Project	12/30/2019	38.0	\$494	3/30/2020
3657	2020 Carlyle Exchange 1908-00183 Fiber Optic	1/7/2020	30.7	\$400	3/30/2020
3659	2020 Fallon Exchange 1908-00181 Fiber Optic	1/7/2020	154.5	\$2,008	10/21/2020
3851	Spectrum Pacific West, LLC - Harve to Malta Fiber Project 2020 - 20200109	1/23/2020	88.1	\$1,145	3/20/2020
3786	Big Timber 2020	2/3/2020	97.0	\$1,251	2/13/2020
3803	South Malta -North	2/3/2020	110.0	\$1,430	4/9/2020
3804	Whitewater FTTH	2/3/2020	393.0	\$5,108	2/13/2020
3885	Raty Nemetz Site	2/26/2020	1.0	\$6	3/2/2020
3886	Topsoil Storage/Staging Areas-Lohman E&W	2/26/2020	3.4	\$44	3/9/2020
3887	Fisher Borrow Site	2/27/2020	6.4	\$44	3/2/2020
3888	WCHU Federal 21-10RH	3/4/2020	17.8	\$231	9/18/2020
3919	Madison mineral exploration project 2020	3/9/2020	395.4	\$4,873	3/31/2020
3880	D5 Culverts- Site 3- Duval Creek	3/12/2020	50.7	\$659	4/17/2020
3917	Bird Road Fiber	3/17/2020	1.6	\$20	3/25/2020
3927	Wharton Shop	4/1/2020	125.5	\$1,182	4/10/2020
3592	Spring Gulch	4/2/2020	119.9	\$1,555	5/11/2020
3868	Carey Pit	4/9/2020	19.3	\$251	10/16/2020
3938	Bateman Site	4/9/2020	42.6	\$342	4/16/2020
3922	Upper Ruby River Road Transmission	4/9/2020	9,929.8	\$19,855***	4/16/2020
3932	D5 Culverts- Site 1- Ryegate Culvert Reline	4/15/2020	17.2	\$223	4/17/2020

3933	Soil Borings for the Proposed Chance Road Bridge over the Clarks Fork River	4/24/2020	5.5	\$71	5/8/2020
3862	Elk Creek - Baker Pump Station	4/24/2020	201.2	\$1,890	5/12/2020
3925	Glacier Pipeline GL09 J&L Pipe Replacement - Lavina Segment	5/1/2020	4,870.8	\$60,261	5/6/2020
3944	New Underground Distribution Line for Construction Power in Section 9	5/5/2020	0.5	\$6	7/31/2020
3977	Arrow Creek Gravel Pit	6/19/2020	70.0	\$315	6/25/2020
3973	Scout Energy Pipeline Construction Project	6/22/2020	355.1	\$4,272	6/24/2020
3524	MDU Keystone XL PS-14 in Fallon, MT	7/14/2020	25,306.0	\$173,924	7/27/2020
4027	Spring Creek Mine TR1 Revision	7/20/2020	0.0	\$107,727****	7/20/2020
4048	STATE 36-16 CD	7/31/2020	43.9	\$439	8/5/2020
4042	Lybeck 4-35-35-20	7/31/2020	217.2	\$1,915	9/1/2020
4054	MDU/OneOk Substation Expansion Project	8/7/2020	4,803.1	\$33,074	8/18/2020
4050	Burlington Oil Well	8/15/2020	477.2	\$4,714	8/17/2020
4085	Opencut Mine - Tract 2 Site	9/9/2020	6.8	\$39	9/11/2020
3907	three phase for northwestern energy compressor	9/11/2020	34.0	\$437	9/21/2020
4145	Sleeping Buffalo Hot Springs Hot Water Well	10/15/2020	2.5	\$33	10/22/2020
		Totals	4,072,003.5	\$1,801,592	

Source: Legislative Audit Division compilation of Department of Natural Resources and Conservation records.

* Legacy project predating program. Mitigation was required in the original Major Facility Siting Act certificate, which was issued years before passage of the Stewardship Act and was then updated in 2018 using a physical acre method, not the HQT. MSGOT was asked to accept mitigation funds and accepted. Because the mitigation was calculated using non-HQT methods, no HQT calculation and no debits are reported.

** Legacy project with voluntary donation. The project obtained at least one permit prior to Executive Order 12-2015, so the project is grandfathered with relation to the EOs and the Stewardship Act. The developer had discretion to decide to develop the project within the boundaries of the prior permit or to go outside the prior permit boundary even though the EO bars new wind turbines in Core Areas. MSGOT decided and communicated to the developer that mitigation would be required for any infrastructure outside the prior permit boundary, but that no mitigation would be required for infrastructure sited within the prior permit boundary. The developer decided to remain within the prior permit boundary for all infrastructure so no mitigation was required. The developer offered a voluntary contribution, which MSGOT accepted.

*** Also undertook permittee-responsible mitigation, so this contribution only partially offsets debits incurred.

**** Legacy project with amended permit. Mitigation was required by coal statutes and the amount was determined by DEQ. MSGOT was asked to receive mitigation funds into the Stewardship Account, and MSGOT accepted.

As displayed by the table, the fund has received over \$1.8 million in mitigation contributions through October 31, 2020. The number of debits this money offsets is greatly inflated by an outlier, the Pryor Mountain Wind Project, which incurred nearly 4 million debits, 98 percent of the total debits represented in the table. Because permits for this project predated the program's existence, it was exempt from mitigation contributions, but the proponent made a voluntary donation to the program, which was accepted by the MSGOT.

Table 4 on the following page displays similar projects that have incurred debits and for which a stewardship account contribution will be made to offset those debits, but for which the contribution has yet to be received as of October 31, 2020. Project developers are not required to make mitigation contributions to the stewardship account until just prior to their project's commencement. This is because, even after a project developer obtains a permit, other factors can influence whether the project moves forward. If the project never takes place, no mitigation is necessary. The program monitors the status of these projects to ensure funds are received prior to their implementation.

Table 4
Debit-Incurring Projects With Outstanding Stewardship Account Balances Due

Project ID	Project Name	Date Review Finalized	Debits Incurred	Stewardship Contribution Amount Due
3415	Southern Montana Telephone Jackson Fiber-to-the-Premise (FTTP) Upgrade Project 2019	3/8/2019	176.4	\$2,287
3431	Crazy Mountain Wind ROW Encroachment	3/12/2019	5.7	\$74
3540	Chapman 13-2	5/20/2019	29.4	\$383
3557	Broadus Lift Station and Lagoon Improvements	5/22/2019	12.9	\$167
3366	2019 Belfry to Roscoe Fiber Optic Cable	5/22/2019	1,006.2	\$13,057
3442	Huft Major Subdivision	7/2/2019	869.5	\$3,416
3693	Barretts Minerals, Inc.	8/26/2019	250.6	\$3,257
3734	Jerke Pit	9/19/2019	29.9	\$323
3683	Powder River County, Clarys Pit	9/19/2019	46.7	\$446
3668	2019 Range Telephone - Rosebud Creek	10/1/2019	175.9	\$2,287
3737	Section 36-T36N-R20E 3D Seismic Project	10/10/2019	20.6	\$268
3392	Squirrel Monkey-1H	10/29/2019	2,335.7	\$21,467
3798	Brence Pit 2	11/25/2019	80.6	\$515
3680	Bridger 16 inch Crude Pipeline	12/20/2019	1,206.0	\$14,810
3739	howard coulee/hcresources	1/9/2020	1,729.6	\$16,264
3796	Fossum ready Mix - Tampico Site	1/27/2020	63.4	\$460
2815	Big Flat Electric PS-09 115kV Transmission Line	1/27/2020	219,307.0	\$413,579*
3889	Southern Montana Telephone Company - 2020 Jackson Upgrade Project	3/3/2020	151.1	\$1,948
3831	Basin Creek Road Relocation	3/5/2020	154.2	\$1,963
3878	Mckamy Exploration Project	3/6/2020	124.7	\$1,596
485	Bardanouve Opencut	3/9/2020	151.8	\$1,454
3682	Capitol Transmission Line Project	3/13/2020	7,153.5	\$55,019
3940	Top of the Hill Minor Subdivision	4/24/2020	131.8	\$1,220
3963	MDT Maintenance Project - Montana Primary Route 323 (P-323), Carter County	5/8/2020	1,728.9	\$22,475
3815	Wright Scoria Pit	6/5/2020	9.0	\$101

3966	Powder River County, Randall Gravel Site	6/5/2020	49.2	\$447
3755	Stephens Production Company: Big Jake 13-7	6/12/2020	7,299.2	\$68,511
3429	Silver Sage Hills Subdivision	6/14/2020	527.5	\$2,251
3975	Century Companies - Nygaard	6/26/2020	26.5	\$165
4014	Y3 Cattle 27-14 #1	6/29/2020	63.8	\$598
3904	NH 57-5(49)239, Little Dry Creek - East, UPN: 9108000	7/24/2020	20,556.9	\$143,374
4057	Adams Pit - Golden Valley County	7/31/2020	0.3	\$3
4070	FEDERAL 6-4 AB	8/13/2020	341.0	\$3,432
4074	FEDERAL 6-6 B	8/25/2020	475.7	\$4,789
4064	Phillips County Carnahan Gravel Site	9/16/2020	527.8	\$3,269
3934	Crooked Coulee	9/23/2020	33.2	\$320
		Totals	266,852.3	\$805,997

Source: Compiled by the Legislative Audit Division compilation of Department of Natural Resources and Conservation records.

* Negotiated outcome; Big Flat Electric PS-09 115kV Transmission Line, Project ID 2815, entailed a negotiated outcome wherein Big Flat agreed to adjust their preferred route to decrease impacts and the state agreed to account for Big Flat's increased construction costs of the new route in the final mitigation obligation. Big Flat's higher construction costs were offset by decreasing the amount of the Stewardship Contribution.

This table indicates that the program has already reviewed projects in sage grouse habitat that can be expected to generate over \$800,000 in revenue to the Stewardship Account in the coming years. Because more projects are always being reviewed, the program will always have to monitor projects with balances due.

In addition to the projects listed in the above table, there is one additional project with a balance due. Cloud Peak Energy Spring Creek Mine's Haul Road is a legacy project that predates the program. The project would amend an existing coal permit to add additional disturbance. Mitigation is required by the Montana Strip and Underground Mine Reclamation Act. The Sage Grouse Program, the Department of Environmental Quality (DEQ), and the proponent jointly developed a mitigation approach, which was approved by MSGOT in December 2018. Because this approach estimated the mitigation obligation and accompanying amount of a contribution to the Stewardship Account using methods other than the HQT, there is no official count of debits. After MSGOT's approval, the project proponent entered bankruptcy proceedings prior to project implementation, with the mitigation obligation captured in the filings. Should the project ever proceed, the agreed-upon mitigation payment – \$1,707,353 – would be due prior to implementation. This amount is reported and tracked by the Program as “Due – Proponent Bankrupt.” Bankruptcy proceedings are ongoing.

Credit-Generating Projects Awarded Stewardship Fund Grants

The money contributed to the stewardship account is used to fund credit-generating conservation and restoration projects. Applicants submit proposed conservation or restoration projects to the program, whose staff review and score the applications with use of the HQT. The program also submit the applications to independent biologist peer reviewers. These materials are then provided to MSGOT, which publicly votes on an award determination. There have been two cycles of grant awards to date, in 2016 and 2019, with a third scheduled to occur in December 2020. The following table displays all grants that have been awarded, their amount, the acreage of the project, the number of credits generated in total and per dollar awarded, and the status of the grant disbursement as of October 20, 2020.

Table 5.
Grants Awarded as of November 20, 2021

Proposal	Year Awarded	Stewardship Account Grant Amount	Acres	Credits Generated	Dollars Spent per Credit	Status
44 Ranch Easement	2016	\$1,500,000	18,033	381,722.40	\$3.93	Disbursed 11/28/2016
Raths Livestock Easement	2016	\$425,000	11,230	286,488.80	\$1.48	Disbursed 12/28/2018
Watson Easement	2016	\$262,500	2,833	28,934.24	\$9.07	Disbursed 5/26/2020
Hansen Easement	2016	\$952,500	13,535	290,141.60	\$3.28	Disbursed 10/9/2018
Willow Basin Easement	2019	\$242,500	3,989	91,007	\$2.66	Disbursed 3/17/2020
Marc Lewis Conservation Easement	2019	\$496,238	3,743	37,977	\$13.07	Disbursement pending (expected 2020)
Sauerbier Ranch Easement	2019	\$1,013,500	7,697	204,423	\$4.96	Disbursement pending (expected 2021)
Burgess Ranch Term Lease	2019	\$787,673	12,901	140,194	\$5.62	\$458,378 Disbursed 4/8/2020; final disbursements pending
Totals		\$5,679,911	73,961	1,460,888	\$3.89	

Source: Legislative Audit Division via DNRC and MSGOT records.

As displayed by the table, over \$5.6 million in grant money have been awarded to eight projects, resulting in the generation of over 1.4 million credits. In addition to the above grants, several other grants were initially

awarded grants by MSGOT, before alternative funding sources were secured by the applicant or the project did not come to fruition for other reasons. In each of these cases, no money was disbursed. MSGOT is in the process of awarding another round of grants in early December 2020.

Note that these grants represent only partial project funding, the rest coming from matches from external entities, such as land trust organizations. However, the entirety of the credits generated by these projects are held by the state. Because the state holds the credits generated by both its grant and the external match, it costs less state money to obtain a credit (currently \$3.89 on average) than the defined cost of a debit. As debit projects take place, equal numbers of credits are retired to balance the debits. The state currently holds over a million credits. One of the questions raised prior to undertaking this work was whether the credits held by the state, which have a defined value, need to be formally accounted for as an asset. The Legislative Audit Division's Financial-Compliance team has determined that, currently, sage grouse credits held by the state do not constitute an asset, in a technical accounting sense. However, potential developments in the market for these credits makes this determination subject to change. DNRC's financial services and program staff have been made aware of this determination.

Oil and Gas Education and Research Account Funding

As previously discussed, up to \$400,000 in annual program administrative costs can be funded from the Stewardship Account. The remainder of administrative costs are funded by another source: the Oil and Gas Education and Research Account (ERA). This account is funded through taxes levied on oil and gas wells and the class II operating fee. By statute (§15-36-331, MCA), a percentage of oil production taxes and natural gas taxes are deposited in the account for the Board of Oil and Gas' use. The Board of Oil and Gas Conservation is authorized by statute (§82-11-131, MCA), to set privilege and license taxes up to 0.3 percent of the market value of each barrel of crude petroleum produced and of each 10,000 cubic feet of natural gas produced to comply with §15-36-331, MCA. The privilege and license tax is currently set at 30 percent of the maximum allowed by statute. Additionally, §82-11-137, MCA, provides for a maximum \$300 annual operating fee for each class II injection well. The board set the current fee at \$200. This account funds many programs throughout DNRC.

Table 6 on the following page shows the total expenditures on the Sage Grouse Program using funds from the Oil and Gas ERA.

Table 6
Oil and Gas ERA Expenditures on Sage Grouse Habitat Conservation
Fiscal Years 2016-2021

	2016	2017	2018	2019	2020	2021*	Grand Total
21 DIRECTOR'S OFFICE	\$50,086	\$91,912					\$141,998
61000 Personal Services	\$48,963	\$90,251					\$139,214
61100 Salaries	\$35,410	\$65,407					\$100,817
61400 Employee Benefits	\$13,553	\$24,844					\$38,397
62000 Operating Expenses	\$1,123	\$1,661					\$2,784
62100 Other Services	\$14	\$31					\$44
62200 Supplies & Materials	\$283	\$625					\$908
62300 Communications	\$240	\$791					\$1,031
62400 Travel	\$334	\$129					\$463
62800 Other Expenses	\$252	\$85					\$337
23 CONSERVATION & RESOURCE DEVELOPMENT DIVISION	\$540,658	\$403,824	\$307,112	\$309,882	\$315,619	\$32,732	\$1,909,827
61000 Personal Services	\$137,383	\$256,683	\$97,871	\$0	\$86,415	\$28,983	\$607,334
61100 Salaries	\$102,498	\$188,623	\$74,519		\$66,114	\$21,726	\$453,480
61400 Employee Benefits	\$34,885	\$68,059	\$23,352		\$20,300	\$7,257	\$153,854
62000 Operating Expenses	\$392,565	\$147,141	\$207,917	\$309,882	\$228,935	\$3,658	\$1,290,098
62100 Other Services	\$347,055	\$117,708	\$177,125	\$310,182	\$126,883	\$956	\$1,079,908
62200 Supplies & Materials	\$17,286	\$3,647	\$3,369		\$7,961	\$754	\$33,017
62300 Communications	\$2,575	\$9,340	\$2,740		\$5,863	\$1,604	\$22,122
62400 Travel	\$24,271	\$10,242	\$14,132		\$5,400	\$208	\$54,253
62500 Rent		\$2,023	\$4,896		\$80,538		\$87,457
62700 Repair & Maintenance	\$20	\$250	\$2		\$327	\$35	\$635
62800 Other Expenses	\$1,358	\$3,932	\$5,652	-\$300	\$1,962	\$101	\$12,705
63000 Equipment & Intangible Assets	\$10,711						\$10,711
63100 Equipment	\$10,711						\$10,711
68000 Transfers-Out			\$1,324				\$1,324
68100 Fund transfers			\$1,324				\$1,324
69000 Debt Service					\$270	\$91	\$361
69300 Capital Leases					\$270	\$91	\$361
GRAND TOTAL	\$590,744	\$495,736	\$307,112	\$309,882	\$315,619	\$32,732	\$2,051,825

Source: Compiled by Legislative Audit Division from SABHRS Financials data.

*FY 2021 data through October 20, 2020.

As displayed in the table, through over five years of program operation, sage grouse conservation has been funded by over \$2 million of oil and gas revenue. In the first two years of operation, some of these expenditures occurred through the Director's Office, but have subsequently only been funded through the Conservation & Resource Development Division, to which the program is administratively attached. Because much of the program's personal services expenditures are funded via the Stewardship Account, the majority of oil and gas funding covers the program's operating expenses.

To calculate the total administrative expenses of the Sage Grouse Habitat Conservation Program, the administrative expenses from each of the two sources of administrative funding (Oil and Gas ERA and Sage Grouse Stewardship Account) must be summed. This is displayed in Table 7 on the following page.

**Table 7
Total Sage Grouse Habitat Conservation Program Administrative Expenditures by Fiscal Year**

	2016	2017	2018	2019	2020	2021*	Grand Total
21 DIRECTOR'S OFFICE	\$50,086	\$91,912					\$141,998
61000 Personal Services	\$48,963	\$90,251					\$139,214
61100 Salaries	\$35,410	\$65,407					\$100,817
61400 Employee Benefits	\$13,553	\$24,844					\$38,397
62000 Operating Expenses	\$1,123	\$1,661					\$2,784
62100 Other Services	\$14	\$31					\$44
62200 Supplies & Materials	\$283	\$625					\$908
62300 Communications	\$240	\$791					\$1,031
62400 Travel	\$334	\$129					\$463
62800 Other Expenses	\$252	\$85					\$337
23 CONSERVATION & RESOURCE DEVELOPMENT DIVISION	\$540,658	\$403,824	\$508,376	\$709,882	\$715,619	\$124,918	\$3,003,276
61000 Personal Services	\$137,383	\$256,683	\$284,527	\$359,207	\$451,045	\$120,805	\$1,609,649
61100 Salaries	\$102,498	\$188,623	\$211,343	\$260,778	\$328,890	\$86,602	\$1,178,733
61400 Employee Benefits	\$34,885	\$68,059	\$73,183	\$98,430	\$122,155	\$34,203	\$430,915
62000 Operating Expenses	\$392,565	\$147,141	\$222,525	\$350,675	\$264,305	\$4,022	\$1,381,232
62100 Other Services	\$347,055	\$117,708	\$177,174	\$319,926	\$158,138	\$956	\$1,120,956
62200 Supplies & Materials	\$17,286	\$3,647	\$6,851	\$6,344	\$10,418	\$866	\$45,412
62300 Communications	\$2,575	\$9,340	\$2,845	\$5,739	\$5,863	\$1,670	\$28,032
62400 Travel	\$24,271	\$10,242	\$15,840	\$10,461	\$7,029	\$393	\$68,235
62500 Rent		\$2,023	\$9,161	\$1,528	\$80,568		\$93,280
62700 Repair & Maintenance	\$20	\$250	\$2		\$327	\$35	\$635
62800 Other Expenses	\$1,358	\$3,932	\$10,652	\$6,677	\$1,962	\$101	\$24,682
63000 Equipment & Intangible Assets	\$10,711						\$10,711
63100 Equipment	\$10,711						\$10,711
68000 Transfers-Out			\$1,324				\$1,324
68100 Fund transfers			\$1,324				\$1,324
69000 Debt Service					\$270	\$91	\$361
69300 Capital Leases					\$270	\$91	\$361
Grand Total	\$590,744	\$495,736	\$508,376	\$709,882	\$715,619	\$124,918	\$3,145,274

Source: Compiled by Legislative Audit Division from SABHRS Financials data.

*FY 2021 data through October 20, 2020.

In over five years of program operation, over \$3.1 million have been expended for program operation. Fifty-six percent of administrative costs are attributable to personal services. On average, around \$600,000 of non-grant expenditures are expended annually.

To obtain figures for total state funds expended on sage grouse conservation efforts, all administrative expenses must be added to total grant disbursements to date. Table 8, below, displays these figures.

**Table 8
Total State Expenditures on Sage Grouse Conservation**

	2016	2017	2018	2019	2020	2021*	Grand Total
Administration	\$590,744	\$495,736	\$508,376	\$709,882	\$715,619	\$124,918	\$3,145,274
Grant Disbursements	-	\$1,500,000	-	\$1,377,500	\$2,802,411	-	\$5,679,911
Total Sage Grouse Conservation Expenditures	\$590,744	\$1,995,736	\$508,376	\$2,087,382	\$3,518,030	\$124,918	\$8,825,185

Source: Compiled by Legislative Audit Division from SABHRS Financials data.

*FY 2021 data through October 20, 2020.

This table shows the total DRNC expenditures on Sage Grouse conservation since fiscal year 2016. The first row shows administrative costs from all funding sources, and the second row displays total grant awards disbursed. Sixty-four percent of total conservation expenditures have been grants awarded to credit-generating projects, with additional funding in the Sage Grouse Stewardship Account that will be awarded in future grant cycles. To date, the state has spent nearly \$9 million on sage grouse conservation.

Considerations of Long-term Program Performance

When the Legislative Audit Division moves forward with a performance audit of the Montana Sage Grouse Habitat Conservation Program, there are several factors to consider that could impact long-term program effectiveness, including:

- **Status-Quo Conservation Projects**

To date, the majority of credit-generating projects have been conservation easements. Conservation easements (and their temporary counterpart, term leases) serve to maintain the status quo in sage grouse habitat, rather than to improve or rehabilitate it. As developments incur debits by decreasing and/or worsening sage grouse habitat, credits generated by status-quo projects do not add to or improve existing habitat. Therefore, there is some risk that, if conservation easements and term leases continue to be the most common form of credit project going forward, functional acres of sage grouse habitat will decrease, rather than be subject to no net loss. If this is the case, policy considerations to incentivize restorative credit projects could be one solution.

- **HQT Accuracy and Remedies**

The HQT is a model of sage grouse habitat quality. Because models are dependent on imperfect data inputs, all models have limitations and will always be inaccurate or lack precision in some circumstances. While the HQT’s results are objective, the model’s representative accuracy of habitat quality is unknown. To address this, the program’s policy includes what is called a “third-level assessment” for parties to appeal HQT outputs, and administrative rule outlines regulations for the HQT’s version control. However, the program does not yet have a practicable procedure for enacting debit-project third-level assessments. In the meantime, credit and debit projects alike are subject to potential over- or under-valuing of the habitat in their footprint.

- **Permitting and Project Tracking**

Consideration of how projects are tracked statewide, and whether there are mechanisms to A. ensure every project proponent consults with the program prior to the permitting process, and B. ensure

project proponents officially make their contributions before starting work on their projects. There is no centralized statewide system for permitting, so it is up to individual permitting offices to ensure compliance with program consultation requirements. Meanwhile, the program must monitor proposed projects with balances due.

- **Administrative Funding**

The program's administrative expenses are not included in the calculation of credit/debit value. This means that the cost of operating the program is not covered by the contributions made to offset development debits in sage grouse habitat and must be funded through general fund appropriations and Oil and Gas ERA funds. The "true" cost of sage grouse conservation could arguably include the costs of program administration, as administering the program is a necessary cost of conserving the species' habitat. The sources of future program administration funding are not clearly defined.

- **Timeliness and Communication**

Lastly, the program has a legal mandate to respond to project developers within specific timelines, with an aim of preventing the bottlenecking of permitting processes. The program collects and tracks information on its response times. An audit could report on this and other information on program timeliness and communication.

It is important to note that a program dedicated to maintaining or rehabilitating the population of a species like the sage grouse will measure its success over decades. Species that have been listed on the Endangered Species Act and have recovered to the point of being removed usually take decades to do so. This is especially the case with Sage Grouse, as its population tends to fluctuate greatly from year to year, is highly dependent on variability in weather, and can only be properly assessed over a long term. U.S. Fish and Wildlife Service biologists reported that any federal status review of the species in the first decade of implementation of state-run conservation programs throughout the west would note and consider population counts, but would generally focus their assessment on whether states are running their programs in compliance with their commitments.

Once the program has completed the contracted build-out of its information system and gone through at least one cycle of adaptive management, a performance audit will provide the legislature more information and evaluate whether the program's current operations enable it to optimally carry out its mission.