

**STATEMENT OF
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LAND AND MINERALS MANAGEMENT,
U.S. DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE,
SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND WATER
ON
SAGE-GROUSE CONSERVATION**

September 24, 2004

Mr. Chairman and Members of the Committee, thank you for providing us with the opportunity to discuss the Department of the Interior's (Department) efforts with state wildlife agencies, private landowners, and others to conserve sage-grouse. As the discussion below reveals, the Department is working with stakeholders across the spectrum to put forth an unprecedented effort for this species.

Let me preface my remarks by noting that the U.S. Fish and Wildlife Service (FWS), the bureau within the Department responsible for implementation of the Endangered Species Act (ESA), is currently undertaking a comprehensive range-wide status review as part of its determination of whether or not the species is warranted for listing under the ESA. During this process, the FWS will consider input from the public, states, and other federal agencies. Because of this ongoing review, however, my statement will not address issues that relate to the FWS decision-making process. Instead, I will first discuss the Bureau of Land Management's (BLM) efforts to conserve sage-grouse, followed by a brief discussion of some general FWS programs and tools that relate to the Department's efforts to improve species conservation.

Background

Sage-grouse are a popular game bird once seen in great numbers across sagebrush landscapes of the West. The greater sage-grouse is generally found at elevations of 4,000 to over 9,000 feet, and its historic range included Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Colorado, Utah, North and South Dakota, Nebraska, Arizona, and three Canadian provinces. However, conversion of habitat to agriculture and urban development, changes in fire regimes, and fragmentation all have contributed to declines in sage-grouse populations over the past century. According to the Western Association of Fish and Wildlife Agencies (WAFWA), greater sage-grouse now occupy just over half of the 118.6 million acres of habitat estimated to exist prior to the arrival of European settlers.

The Department is responsible for managing a large number of acres of that habitat. The BLM alone is responsible for managing half of the remaining sagebrush habitat, approximately 57 million acres, in the United States. Of these, 30 million acres are considered to be occupied sage-grouse habitat, with another 10 million acres potentially suitable for sage-grouse. As discussed below, the BLM currently manages for sage-grouse as a special status species across its range and recognizes the critical need to maintain and restore sagebrush habitat and populations.

Bureau of Land Management Activities

In furtherance of Secretary Norton's "4 C's" philosophy of communication, consultation, and cooperation, all in the service of conservation, the BLM has been part of a collaborative approach to ensure the conservation of the sage-grouse. As managers of much of the habitat for sage grouse, the Department, through the BLM and FWS, signed an MOU with the WAFWA and the U.S. Forest Service in 2000. A key objective of this MOU is the development of a framework for conservation planning across the 11-state range of the greater sage-grouse. In order to achieve this objective, a State/Federal Sage-grouse Conservation Planning Framework Team was developed and is comprised of representatives from four state agencies and the three federal agencies.

Under the last four years of this state-federal partnership, information has been developed concerning the condition of sagebrush habitats, the present status of populations, and potential threats to sage-grouse. Much of this data is available on the SAGEMAP website, found at <http://sagemap.wr.usgs.gov/>, which contains data that can be used for research and management of sage-grouse and shrubsteppe systems. Also important, a cooperative conservation planning for sage-grouse, unprecedented in its breadth and scope, has been initiated across all eleven states, at both the statewide and local levels. Those plans are now being completed and the majority should be in place within the next year. The BLM is committed to working with the states and local partners to pull these plans into a rangewide conservation strategy for sage-grouse.

In addition, in order to address the need for habitat improvement to support sage-grouse populations on BLM-administered lands (pending the completion of the MOU's range-wide state conservation plans), the BLM drafted a National Sage-grouse Habitat Conservation Strategy in the summer of 2003 and made the draft available for public comment. The Strategy is being designed to complement the cooperative conservation efforts being led by state wildlife agencies. Many of the actions are directly related to needs identified during the BLM Director Clarke's "listening session" visits to sage-grouse states in February and March of this year. It will provide guidance to BLM offices on planning and best management practices, as well as a resources guide, mechanisms for voluntary participation in conservation efforts, and improved access to science support. Feedback from stakeholders and written comments from the public have been received and will also be taken into consideration in finalizing the Strategy.

BLM's national strategy is designed to further improve the federal contribution to the state-federal conservation efforts already underway. The BLM has also offered information to FWS on the bureau's land health standards and ecological improvement programs. Examples include systematic monitoring and assessments, the mitigation measures BLM requires for land uses, and BLM's fire and riparian restoration efforts with native plants.

The BLM will spend over \$14 million on sage-grouse conservation in FY 2004, and is seeking an increase of \$3.2 million for FY 2005 for restoration and conservation of sagebrush habitats. These projects supplement our planning efforts by supporting specific cooperative projects to improve sage-grouse breeding, nesting, brood rearing and wintering habitat.

The Special Status Species Program is the BLM's overarching regulatory mechanism to address conservation efforts designed to avoid listing of species. Pursuant to the Department's Manual at 632.16, the BLM should "utilize authorities to not only protect listed species, but also to avoid precipitating the decline of other species to the point where (ESA) listing would be appropriate." Furthermore, the BLM's manual specifies that sensitive species will be given the same level of protection afforded federal candidate species. All states where the BLM manages land classify the greater sage-grouse as a sensitive species. Accordingly, the BLM addresses mitigation factors for sage-grouse in all of its planning efforts. As an example, BLM-Wyoming currently requires that habitat and population health for special status species be one of six standards in their Standards and Guidelines for Healthy Rangelands, which they use to monitor livestock grazing. For other activities, such as fluid and solid mineral development, recreation use and right-of-way development, the BLM's Mitigation Guidelines for Surface Disturbing Activities are applied. For sage and sharp-tailed grouse, this generally means no activities are authorized within nesting habitat from February 1-July 31, or in critical winter concentration areas from November 15-April 30. Mitigation like this is carried out by the BLM across the range of sage-grouse using standards that are developed collaboratively between the BLM and each individual state.

Other Conservation Tools

The Department, through the FWS, currently has many conservation tools available which provide for close cooperation with private landowners, state and local governments, and other non-federal partners and that are particularly important in implementation of the ESA.

Through the Candidate Conservation program, the FWS works with states, landowners, and others to voluntarily conserve candidate and other declining species. Recently, the FWS applied the policy in the

case of slickspot peppergrass (*Lepidium papilliferum*). In that instance, a Candidate Conservation Agreement, developed by the BLM, the State of Idaho, the Idaho Army National Guard, and several private property owners who hold BLM grazing permits, served as part of the basis for the FWS's determination to withdraw its proposal to list the plant. Among other information central to the FWS's decision to withdraw the proposal, conservation efforts in this formalized agreement were determined to reduce risk to the slickspot peppergrass such that this species is unlikely to become endangered within the foreseeable future. The slickspot peppergrass story is a good example of partners working together to conserve a species.

Another tool is a Candidate Conservation Agreement with Assurances (CCAA). Under a CCAA, non-Federal property owners who voluntarily agree to manage their lands or waters to remove threats to proposed or candidate species receive assurances that their conservation efforts will not result in future regulatory obligations under the Act, beyond what they agreed to, in the event the species becomes listed. Species that are considered likely to become candidate or proposed species in the near future may also be included in a CCAA.

CCAAs differ from Candidate Conservation Agreements in several key respects. Candidate Conservation Agreements can involve both federal and non-federal land, and they do not include assurances. Moreover, there are no specific regulatory requirements concerning the content of Candidate Conservation Agreements. In contrast, CCAAs are specifically designed to provide incentives to non-federal landowners. CCAAs are available for non-federal lands only, and they result in issuance of a permit that is the mechanism for providing assurances to the non-Federal landowner. The Service enters into such agreements when they determine that the benefits of the conservation measures under the CCAA, when combined with those benefits if they were taken on other necessary properties, would preclude or remove any need to list the covered species.

Under the Landowner Incentive Program, the FWS also provides financial assistance to partners interested in implementing conservation actions that benefit listed and other imperiled species on non-federal lands. This program provides competitive matching grants to states, territories, and tribes to establish or supplement landowner incentive programs that provide technical and financial assistance to private and tribal landowners.

As part of the Administration's overall Cooperative Conservation Initiative and funded through the Land and Water Conservation Fund, the Partners for Fish and Wildlife program is a voluntary habitat restoration program that provides financial assistance and restoration expertise to private landowners, tribes, and other conservation partners who choose to improve the condition of fish and wildlife habitat on their land. Recognizing that the majority of the Nation's current and potential threatened and endangered species habitat is on property owned by non-Federal entities, the program affords landowners the tools needed to make private lands working landscapes that benefit wildlife, while maintaining productive activities. Since its creation in 1987, the Partners for Fish and Wildlife Program has established over 28,000 agreements with landowners resulting in the restoration of 1,060,000 acres of uplands, 649,300 acres of wetlands, and 4,670 miles of riparian and in-stream habitat.

These programs reflect the belief that the conservation of listed species and their habitat depends on the cooperative participation of non-federal partners. These programs, which require non-federal cost-sharing participation, reflect a strong commitment to conservation through cooperation, communication, and consultation with private, state, and other non-federal partners.

Petition Review

Between May 1999 and December 2003, seven petitions were filed with the FWS to protect the sage-grouse under the ESA. Three of these petitions are to list the greater sage-grouse throughout its range. In April 2004, FWS released its 90-day finding that there was enough information presented to merit a status review.

During this status review, the FWS will utilize its Policy for Evaluation of Conservation Efforts (PECE), which was developed by the FWS and NOAA-Fisheries. PECE is designed to help guide agency personnel in the evaluation of whether planned conservation efforts by other federal agencies, state, local, or tribal governments, businesses, organizations, or individuals, contribute to forming a basis for not listing a species or for listing a species as threatened rather than endangered. The final policy, published at 68 Fed. Reg. 15100, identifies criteria to be used by the agencies in determining whether formal conservation efforts – those identified in conservation agreements, conservation plans, management plans, or similar documents – that have yet to be implemented or to show effectiveness contribute to making listing a species unnecessary.

The policy lists 15 criteria that FWS personnel will use to direct their analysis as to whether a particular conservation effort is sufficiently certain to be implemented and effective. Examples of the criteria include: 1) the conservation effort, the parties to the agreement or plan that will implement the effort, and the staffing, funding level, funding source, and other resources necessary to implement the identified effort are identified; 2) the legal authority of the parties to the agreement or plan to implement the formal conservation effort, and the commitment to proceed with the effort, are described; and 3) regulatory mechanisms necessary to implement the conservation effort are in place.

The policy is not intended to provide guidance for determining the level of conservation or types of efforts needed to make listing unnecessary; instead, it is intended to ensure a consistent and adequate evaluation process in making a determination as to whether a conservation effort is sufficiently certain to be implemented and to be effective, and that it contributes to eliminating or reducing one or more threats to a species. Under this policy, those conservation efforts that are not sufficiently certain to be implemented and effective cannot contribute to a determination that listing is unnecessary or to a determination to list a species as threatened rather than endangered.

The FWS is currently reviewing material submitted by the BLM, Forest Service, states, and other interested parties and intends to meet the 12-month deadline for status review on December 29.

Conclusion

The Department is committed to working cooperatively with our partners toward conservation of the sage-grouse and its habitat. Mr. Chairman and Members of the Committee, this concludes my statement. I am happy to answer any questions that you might have.