

**NATIONAL WILDLIFE FEDERATION®***People and Nature: Our Future Is in the Balance*Northern Rockies Project Office • 240 North Higgins, # 2 • Missoula, MT 59802  
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SENT VIA FAX

June 1, 2009

Gene Terland, State Director.  
Bureau of Land Management  
Montana State Office  
5001 Southgate Drive,  
Billings, Montana 59101-4669  
Phone: 406 896-5000 Fax: 406 896-5292**RE: PROTEST OF MONTANA BLM JUNE 16, 2009 LEASE SALE PARCELS**

Dear Director Terland:

On behalf of the National Wildlife Federation (NWF), I respectfully protest the inclusion of the following parcels and ask that they be withdrawn from the BLM's June 16, 2009 lease sale in Montana.

**PROTESTED LEASE SALE PARCELS**

MT-06-09-14 (2354 acres); MT-06-09-18 (2240 acres); MT-06-09-20 (2558 acres) in the area of southwest Montana's Sweetwater Basin.

NWF bases this protest on three factors:

- we believe that new research makes clear the proposed wildlife stipulations pertaining to greater sage-grouse are inadequate to protect breeding lek complexes from negative stressors presented by potential energy development;
- BLM had formerly agreed to consult with FWP regarding leasing decisions in order to protect sage-grouse and other wildlife, and FWP does not concur that the proposed stipulations are adequate for sage-grouse;
- the protested lease parcels are within "core area" habitats of sage-grouse, those deemed most important for conservation of this species statewide.

It is our view that given the pending petitioning of greater sage-grouse for Endangered Species Act (ESA) listing, the results of recent research showing a high sensitivity of sage-grouse at a landscape level to energy development, the 2005 agreement between FWP and BLM to cooperate through the Montana Management Plan for Sage Grouse, and the more recent agreement to consult FWP biologists for concurrence on specific conservation needs related to development (and lack of agreement regarding the protested parcels here), then a conservative approach to leasing and development in core sage-grouse habitats is warranted.

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## **BACKGROUND**

In 2005, the State Director of the BLM signed the Management Plan and Conservation Strategies for Sage Grouse in Montana. The overall goal of this document is to implement strategies that "Provide for the long-term conservation and enhancement of the sagebrush steppe mixed-grass prairie complex within Montana in a manner that supports sage grouse and a healthy diversity and abundance of wildlife species and human uses". Specifically, the document cites Policy Act BLM 6840, "[BLM] State directors, usually in cooperation with state wildlife agencies, may designate sensitive species. BLM shall carry out management, consistent with the principles of multiple use, for the conservation of sensitive species and their habitats and shall ensure that actions authorized, funded, or carried out do not contribute to the need to list any of these species as T&E".

## **NEW RESEARCH FINDINGS**

With respect to sage-grouse, there is substantial and material new information about the current condition of habitat and populations, the impacts of oil and gas drilling on habitat and breeding leks, and recommended management measures for reducing the adverse effects of development on sage-grouse populations. It is critical that the BLM take this information into account before leasing parcels in high-quality "core area" sage-grouse habitat in Montana.

Numerous current studies show dramatic adverse effects to sage-grouse populations and habitats from energy development ( Braun *et al.* 2002; Holloran 2005; Doherty 2009 in press; Aldridge and Brigham 2003; Remington and Braun 1991; Holloran and Anderson 2005; Naugle *et al.* 2006; Naugle *et al.* 2009 in press; Lyon and Anderson 2003; Aldridge and Boyce 2007; Walker *et al.* in press).

Recent research indicates that, at a minimum, any energy development within 4 miles of an active sage-grouse lek has adverse impacts on sage-grouse populations, even when a 1/4 mile no surface-occupancy (NSO) and a 2-mile seasonal timing stipulation is applied.

In addition, to our knowledge there are no examples of studies showing maintenance of healthy sage-grouse populations in the presence of dense (greater than 1 well pad per square mile) oil and gas development and production.

Recent research in Wyoming and Montana has revealed significant negative effects of oil and gas development and production on sage-grouse populations (Naugle *et al.* 2006). Attendance at leks located within developed fields was 46% lower than attendance outside of developed fields. Within energy fields only 40% of leks remained active over the four-year study, whereas outside of fields 80% of leks remained active. In addition, leks located at the edge of development had the highest lek attendance, indicating that development was displacing birds into areas that were yet undeveloped. While displacement is often considered by the public to be preferable to mortality, at the population level it is detrimental to both the displaced population and the receiving population due to increases in density-dependent sources of mortality, decreasing survival and reproduction, and potentially increased susceptibility and transmission of disease. The effects measured in this study as a result of oil and gas development should be considered minimal, as there is a considerable time lag in terms of the response of sage-grouse populations in relation to landscape changes (Holloran 2005). Hence the duration of the study reported by Naugle (and others) may not have been long enough to detect the full extent of energy development impacts:

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Another recent report by Naugle et. al. (2006) showed that wintering greater sage-grouse avoided energy developed areas in otherwise suitable winter habitat. The data indicate that sage-grouse habitat selection occurs at a very large scale, on the order of "numerous square miles" of intact habitat.

### **Summary of Significant Findings**

#### **Breeding Activities**

During the breeding season, male sage-grouse are sensitive to disturbance during both the exploratory and production phase of oil and gas development. Levels of sensitivity as measured by the distance at which no change in male attendance was detectable, vary by a number of factors, but are consistently significant at distances of less than 3 km. Impacts to lek activity included an observed 50% decrease in the number of active leks within developed gas fields as well as a 50% reduction in the average number of males present on remaining leks. There was a discernible time lag between development and observed declines. Changes in numbers were likely an artifact of both distribution shifts in attendance as well as changes in survival and recruitment rates. Existing stipulations that restrict surface occupancy within 0.4 km (0.25 mile) of an active lek are insufficient to maintain populations within developed oil and gas fields. Current well spacing of 32 – 64 ha (80 – 160 acres) appear to be several times greater than breeding sage-grouse populations can tolerate.

#### **Nesting and Brood Rearing**

Even if 5-km buffers are employed around existing leks increased development and production activity in the zone beyond that buffer will impact the remaining 40% of nesting hens and potentially compromise the success of those birds nesting within that 5 km buffer based on the density-dependent factors noted above. Stipulations restricting seasonal surface use within 2 miles of an active lek during the breeding and nesting period (1 March – 15 June) are inadequate to maintain sage-grouse populations within developed habitat. At a minimum we suggest stipulations utilizing a 6.9 km (4 mile) buffer around leks to protect nesting and brood -rearing habitat for a minimum of 70% of the nesting hens associated with a lek from March 1 through June 30. This level of protection should apply to both initial development and subsequent annual operations and maintenance operations.

### **NO CONCURRENCE WITH MONTANA FISH, WILDLIFE, AND PARKS**

The lead FWP wildlife biologist for that district in southwest Montana has written to BLM expressing disagreement with the proposed stipulations regarding sage-grouse.

"As I have mentioned in comments on other proposed leases, Fish, Wildlife and Parks recommends a No Surface Occupancy (NSO) Stipulation within 2 miles and a Timing Limitation Stipulation (March 1 to June 30) out to 4 miles for known sage grouse leks. We make this request only to maintain the probability of leks persisting at full field development. We desire to be proactive with sage grouse and their habitats, particularly given the ongoing USFWS status review. Please refer to the attached table to see those parcels for which we recommend additional stipulations as well as the stipulation number and rationale. All the parcels for which stipulation 11-4 is recommended, fall within 4 miles of some Lima Reservoir, Sweetwater or Basin Creek leks. Though I recognize, as mentioned before, that your agency does not agree on the need for these particular stipulations, they are nonetheless, important ones." (Bob Brannon, FWP biologist, letter to BLM's DFO 2/18/09).

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The comments of FWP were relevant to the parcels proposed as of February 2009. We recognized that some of the parcels (ex. Lima Reservoir) mentioned in that correspondence have had their nominations withdrawn, so are not currently offered for lease. However, conservation concerns remain unresolved in particular for the Sweetwater basin parcels being protested here. In addition, the protested parcels are within the habitat "core areas" for sage-grouse identified by FWP (see attached map).

#### **RECOMMENDATIONS FOR ADDITIONAL STIPULATIONS**

Analysis of the Powder River Basin sage-grouse study, makes clear that the standard federal sage-grouse measures (prohibiting surface infrastructure within 0.25 miles of leks, timing restrictions within a 2-mile buffer of leks for drilling during the breeding season) are insufficient to protect breeding sage-grouse populations (Walker *et al.* 2009 in press).

So in addition to the stipulations suggested by FWP (NSO within 2 miles of leks and March 1-June 30 timing limitation out to 4 miles around leks), we would recommend development of a well pad density stipulation of no more than one pad per square mile.

#### **CONCLUSION**

We believe it is incumbent upon the BLM to adopt state-of-the-art wildlife conservation stipulations at any time. However, the recent economic slow down and corresponding declines in industry interest in leasing may provide BLM with increased opportunities to take appropriate science-based conservation actions at this time. It is our hope that BLM takes action to either implement more conservative stipulations in this lease sale, or withdraw or defer leasing of the protested parcels until such conservation actions can be taken.

Thank you for the opportunity to comment on this lease sale.

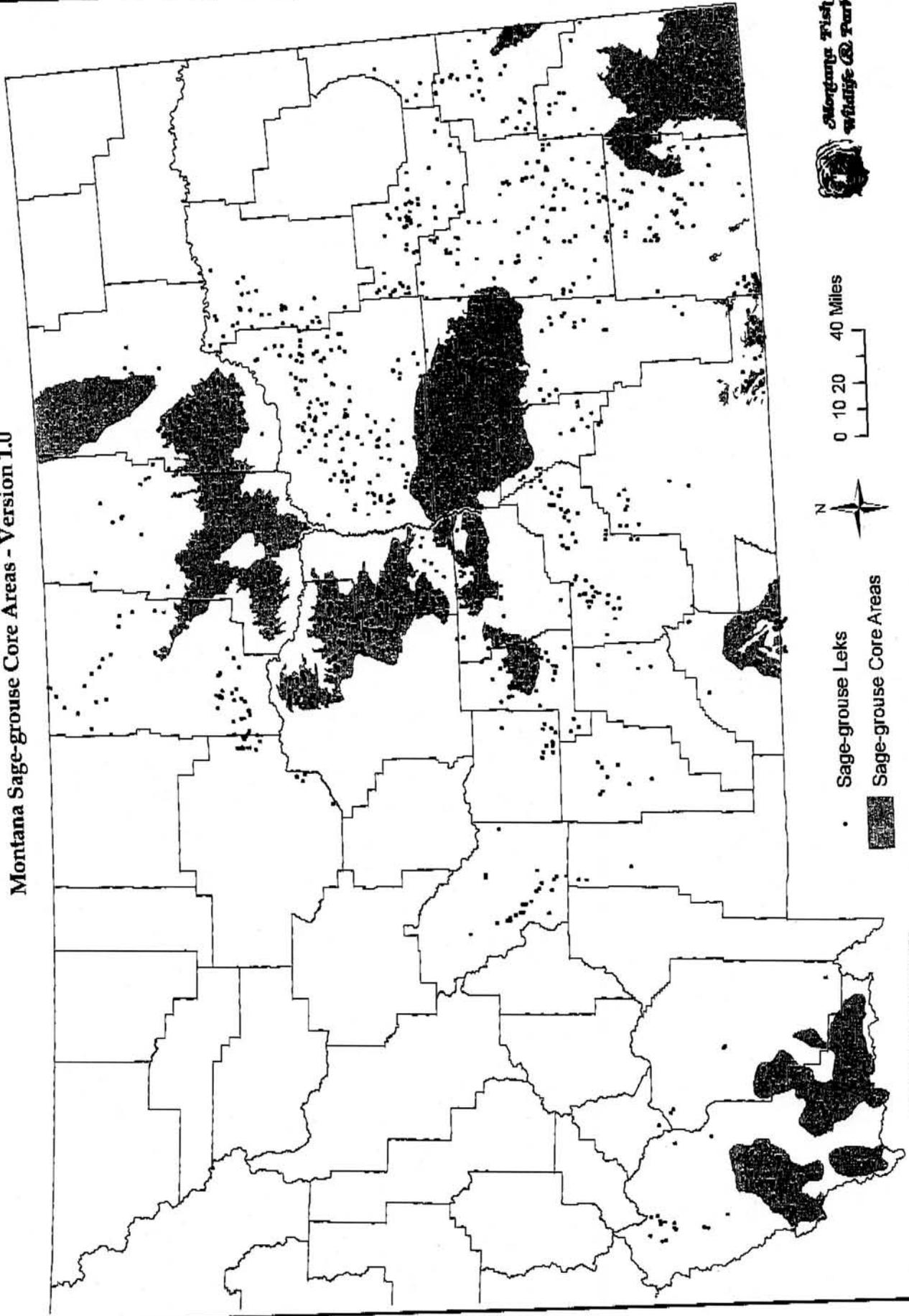
Sincerely,



Ben Deeble  
Sage-grouse Project Coordinator

attachment- FWP core area map

Montana Sage-grouse Core Areas - Version 1.0



IS#3631 CoreAreas.mxd MF-WP-ISD-IMB MAM 1/21/2009