Western Governors' Wildlife Council Report to Governors

December 2011

Inventory of State and Local Governments' Conservation Initiatives for Sage Grouse

WESTERN GOVERNORS' ASSOCIATION

EXHIBIT 6

Western Governors' Wildlife Council Report to Governors – December 2011

Inventory of State and Local Governments' Conservation Initiatives for Sage Grouse

Executive Summary

The Greater Sage-Grouse, a bird species listed as "warranted but precluded" on the Federal Endangered Species List, is found throughout the interior West. Eleven of the Western Governors' Association's (WGA) 19 member states provide habitat to the sage-grouse – habitat that often intersects with lands ideal for energy development and rangeland agriculture. If the sage-grouse is fully listed under the Endangered Species Act (ESA), the economic impacts to states and communities that have sage-grouse habitat could be severe.

Western states have been coordinating on sage-grouse conservation for decades. In WGA policy resolution 11-9, the Western Governors directed WGA staff and the Western Governors' Wildlife Council (WGWC) to inventory state and local actions that conserve sage-grouse and sage-grouse habitat. WGA and the WGWC partnered with the Western Association of Fish and Wildlife Agencies (WAFWA) to develop this report for the Governors.

In order to maximize awareness of possible conservation mechanisms, this inventory includes information pertinent to the Gunnison sage-grouse, as well as the Bi-State and Washington State populations of Greater Sage-Grouse. The report shows that state and local governments are engaged in a range of activities to conserve sage-grouse and sage-grouse habitat. The states have set forth a variety of protections for the sage-grouse, including local working groups, conservation plans, executive orders and agency guidance. County governments have also pursued conservation mechanisms, most often working in partnership with state and federal governments through Local Working Groups.

This inventory report provides a catalogue of management approaches implemented by state and local authorities, as well as by local partnerships committed to on-the-ground action to conserve sage-grouse and their habitat. The WGWC recommends that state and local governments and their partners review the elements included in this inventory, and give strong consideration to the initiatives recorded here when strengthening their own sage-grouse conservation efforts.

Introduction

The sage-grouse is known as a "landscape-scale bird" because it needs large expanses of land to provide habitat components for the stages of its lifecycle. Sagebrush, key habitat for the species, is found throughout the interior West in 11 of WGA's 19 member states. But according to published scientific literature, sage-grouse now occupy just 56% of their historic range. In order to maximize awareness of possible conservation mechanisms, this inventory includes information pertinent to the Gunnison sage-grouse, as well as the Bi-State and Washington State populations of Greater Sage-Grouse.

In 2010, the U.S. Fish and Wildlife Service (FWS) listed the Greater Sage-Grouse as "warranted but precluded" under the Endangered Species Act. The regional economic impacts of placing sage-grouse on the endangered species list could be severe, since much of the West's grazing rangeland and energy resources overlap with sage-grouse habitat.

Western states, through the WGA and WAFWA, have worked for decades to collaboratively address challenges to sage grouse and their habitat. Partnerships established through local working groups have been successful because of a shared commitment to maintaining adequate population numbers, in the face of significant pressures on the species and its habitat. Local working groups are broad partnerships between state, local, and federal governments along with private landowners and other stakeholders. These groups identify local issues and concerns for sage-grouse, prioritize local practices and projects, and implement action items in a manner that will help ensure success.

With the passage of policy resolution 11-09, the Western Governors demonstrated support for all reasonable management efforts necessary to avoid a threatened or endangered listing of the species. This report inventories state and local conservation actions underway that strive to make a threatened or endangered listing of the sage-grouse unnecessary.

Background

The sage-grouse is an important member of the sagebrush ecosystem found throughout the West, home to multiple species of concern. Sage-grouse habitat covers more than 57 million acres in 11 states. Federal agencies manage nearly two-thirds of the sagebrush habitat, private landholders own approximately 31% of the habitat, and state agencies manage 5% of the overall sage-grouse habitat. The efforts to conserve sage-grouse at a state, regional and federal level date back several decades.

The Western states have a long history of working together on sage-grouse conservation. Local working groups (LWGs) are one of the most enduring mechanisms in place; these partnerships are actively pursuing conservation actions to support the sage-grouse. WAFWA reported in their Comprehensive Conservation Strategy[i] that conservation actions planned or being implemented by LWGs number in the hundreds, however, conservation actions are dynamic and precise tallies are difficult to obtain.

The Greater Sage-Grouse was first petitioned for ESA listing in 1999. In 2000, Western state wildlife agencies signed a Memorandum of Understanding with the Department of the Interior to work on conservation efforts relative to the sagebrush ecosystem for a wide variety of species. Through WGA, Western Governors created two reports in 2004 demonstrating the state and local actions that protect the species.[ii] The FWS determined that the Greater Sage-Grouse did not warrant listing in 2005, but that decision was challenged in court, and a federal judge's ruling in 2007 remanded it to the agency for

reconsideration. To inform this new finding, Western Governors and their respective state fish and wildlife agencies submitted to the FWS significant data and success stories on sage-grouse recovery efforts. In addition, the Western states through WAFWA, along with the FWS, the Bureau of Land Management (BLM), the U.S. Forest Service (USFS) and U.S. Geological Survey (USGS), published a conservation template for sage-grouse in 2006. This document was adopted by WAFWA directors and endorsed by the FWS.[iii]

In March 2010, the FWS found that the Greater Sage-Grouse warranted protection under the provisions of ESA, but the species was precluded because of higher listing priorities. The FWS will revisit the listing decision in 2015, as announced through a 2011 settlement in federal district court. Since the 2010 decision, state agencies have continued to focus significant efforts and resources on sage-grouse and sagebrush management.

Federal agencies – which manage the vast majority of sage-grouse habitat – have also made progress in sage-grouse conservation efforts since the "warranted, but precluded" listing decision. BLM first published a "National Sage-Grouse Habitat Conservation Strategy" in 2004 and revised that with supplemental guidance in 2010. Significantly, BLM announced this year that they are working to revise all of their relevant Resource Management Plans (RMPs) to address sage-grouse conservation on BLM lands. Also in 2010, the U.S. Department of Agriculture (USDA) and the Department of the Interior signed an agreement to work together to conserve sage-grouse habitat. The USDA's Natural Resources Conservation Service (NRCS) programs help private landowners apply conservation measures on their own property, thus helping protect sage-grouse on lands outside the management of state or federal agencies. NRCS has committed over $110 million in FY 2010-11 for sage-grouse conservation[iv].

Methods

WGA staff distributed a one-page survey to states, cities and counties via e-mail. Staff used contacts at the state Governors' offices to disseminate to the appropriate agencies. Municipal and county contacts were made with the assistance of the National League of Cities and the National Association of Counties, respectively. At the initial deadline, WGA tallied five responses from 163 counties (2% response rate) with sage-grouse resources. To increase response rates, 20 counties were randomly selected for direct follow up from the 158 non-respondents. Also questioned were two counties that are believed to have current sage-grouse or sagebrush conservation measures or initiatives. The low response rate indicated there was a problem with the distribution of the survey, a lack of clarity for how to respond, or no activities underway in that particular county. No cities or municipalities responded to the questionnaire, and no further solicitation of comments was made

The survey asked for the name of the policy or conservation measure, the type of action, the phase of implementation, and a description of the action. Additional questions were asked for reference, validation and duplication. The survey requested the conservation measure or action be categorized as a policy, executive order, rule, regulation, statute, conservation plan, initiative or a local working group.

Data were consolidated by conservation measure and jurisdiction.

Data Analysis

Our survey was distributed to 11 states and 163 counties that have occupied sage-grouse habitat. All 11 states with sage-grouse habitat responded to our survey. A total of 17 counties were successfully contacted, but only eight reported that they had county-level sage-grouse regulations, initiatives or conservation measures in place. A summary of every response received can be found in Appendix A.

Local Working Groups: Working groups are a popular and prevalent means of conservation that involves teamwork between government and citizens alike. Eight of the reporting states identified local working groups (LWGs) as functional conservation organizations in their respective states. All LWGs reported having conservation plans in place and conducting conservation efforts. Responding counties reported working with or participating in LWGs.

Initiatives: Four states and three counties responded that they had initiatives to protect or enhance sage-grouse populations or sagebrush habitat. Gunnison and San Miguel Counties in Colorado report that they have developed a tax initiative for purchasing conservation easements, land-fill tipping charges for mitigation, and a land heritage program. Each of these initiatives was designed to protect habitat. Montana reports a functioning Montana Sagebrush Initiative designed as part of their statewide sage-grouse conservation plan for the purpose of conserving native sagebrush grasslands for a period of 30 years. Initiatives in Wyoming include a landscape conservation initiative, a statewide sage-grouse seasonal habitat map, and a statewide sagebrush map.

Nevada has implemented Nevada Partners for Conservation and Development. Modeled after the UtahPCD, the NevadaPCD is a unique partnership of several natural resource agencies and organizations committed to providing solutions to conservation issues, including sage grouse conservation. From Federal agency representation and State leadership, to local coordinators on the ground, the NevadaPCD members work together to leverage resources and increase effectiveness. Core values of the NevadaPCD are to protect Nevada's biological diversity, to restore productive rangeland ecosystems to support wildlife and agriculture, and to provide high quality outdoor recreation opportunities that include sage-grouse conservation as a primary consideration.

Conservation Plans: All states reported having conservation plans for sage-grouse. Most plans have been in existence for a number of years and several states reported that they were in various phases of plan revisions. Six of the 17 reporting counties cited local level sage-grouse conservation plans. Five of the plans were from Utah as part of the local working group process. The remaining local conservation plan was developed by Gunnison, Colorado specifically for the Gunnison Sage-grouse. The plan, "Gunnison County Strategic Plan; 2008, 2009, 2011", provides for an inventory of areas for habitat protection, agricultural production, and industrial, commercial and residential developments. The inventory is to be completed in 2012 and appropriated in 2013.

Executive Orders: Wyoming's Governor Mead issued an Executive Order on June 2, 2011 which reiterated and clarified the intent of Wyoming's Core Area Strategy, originally developed under former Governor Freudenthal's administration with the assistance of the Governor's Sage-Grouse Implementation Team and the local sage-grouse working groups. An implementation process has been developed, including an on-line disturbance density and acreage calculation tool and manual to guide users through the process.

Resolutions: In 2011, the Nevada General Assembly passed Concurrent Resolution No. 3. The resolution urges each state and local governmental group involved in activities to improve the population of Greater sage-grouse and to prevent the Greater sage-grouse from being listed as an endangered or threatened species, to engage in those activities in a positive and proactive manner to ensure the protection and restoration of the population and habitat of the Greater sage-grouse, and to mitigate any future damage to that habitat and population in Nevada. Further, the members of the Nevada legislature recognized the need for acquiring and maintaining sources of money and other funding to assist in the efforts to protect and restore habitat and population numbers.

Additionally, the Wyoming General Assembly passed a resolution in 2009 in support of the Governor's Executive Order on Wyoming's Core Area Strategy.

Statutes: All states cited statutes that protect, manage or conserve sage-grouse within their wildlife agencies. Washington cited provisions of their threatened and endangered statutes that are unique because of the candidate status of Washington's sage-grouse population. The Wyoming legislature has appropriated funds for sage-grouse conservation activities; $1.5 million in 2005-2007; $2.83 million in 2008; and $1.8 million in 2010.

Regulations: Two states and three counties reported having regulations in effect for sage-grouse. An examination of the state responses revealed that hunting season rules or regulations were included. All states have regulations that govern hunting or take of the species.

The three counties that reported regulations included land use provisions and annual road closures. Gunnison and San Miguel Counties in Colorado and Harney County, Oregon reported they have land use restrictions codified that limit development or make provisions for sage-grouse. Gunnison County reports they have annual road closures to protect breeding sage-grouse.

Policies: Montana provided a position statement that could be classified as an agency policy to protect sage-grouse. This policy is embedded in their "Agency Position – Sage-Grouse Conservation and Energy Development" paper, May 2007.

Three of the 17 reporting counties indicated they have policies to protect sage-grouse. Gunnison and San Miguel counties in the range of Gunnison sage-grouse reported policies to protect sage-grouse and their habitat. These policies originate with the county government by either adopting strategic plans or providing regulations in the county codes. Hot Springs County, Wyoming adopted its "Natural Resources Plan for State and Federal Lands" in 2005. This plan forms the basis for their policy.

Results

Responses from state and local governments followed a pattern of statutory responsibility. States hold the primary responsibilities for the protection and management of sage-grouse and as such reported at a high percentage and more comprehensively than county governments. County governments, with the exception of those in the range of Gunnison sage-grouse, reported at a very low rate of <3%. Follow-up inquiries conducted of a random sample of non-responding counties found that a majority of these counties do not have any county-based conservation measures in place. More than 50 percent of the counties contacted did not remember initially receiving the questionnaire. This lead to the conclusion that the recipients; 1) may not

have known who to direct the inquiry to, 2) did not have any policies or initiatives that would benefit sage grouse, or 3) believed they received the questionnaire in error. Those that did respond indicated a good working relationship with, and reliance on, state fish and wildlife agencies to handle sage-grouse issues. The objective of developing a range-wide summary of local policies and initiatives, however, was likely not met with the low response rate from local governments.

States provided a comprehensive list of policies and initiatives underway within their respective jurisdictions. All responding states cited their fish and wildlife agencies for the protection of the species through hunting or take. Washington reported that sage-grouse are protected under their Threatened and Endangered Species statutes. No other state government agencies provided information on sage-grouse conservation efforts.

Additionally, individual interpretations of "initiatives" were very broad and we believe scores of initiatives were unreported as part of conservation plans, normal operations or initiatives that have been implemented for a number of years. Nevada and Utah's "Partners for Conservation and Development" programs are a clear fit in the category of "initiative," however, some states reported several programs without classifying them as initiatives. We believe that many states are conducting additional conservation "initiatives," which were not reported.

This inventory demonstrates that sage-grouse habitat protection is active at state, regional and county levels. The data analysis indicates that state fish and wildlife agencies are rightly viewed as the primary authority for sage-grouse conservation, yet significant efforts are also being implemented under local government land use planning authorities. Partnerships through LWGs appear to enhance awareness of activities across the range of authority – from local, state and federal governments to private landowners. These partnerships are excellent examples which demonstrate the opportunities both state and local governments have for sage grouse conservation given their management authority.

Conclusion

This inventory report provides a catalogue of management approaches implemented by state and local authorities, as well as by local partnerships committed to on-the-ground action to conserve sage-grouse and their habitat. The Western Governors' Wildlife Council recommends that state and local governments and their partners review the elements included in this inventory, and give strong consideration to the initiatives recorded here when strengthening their own sage-grouse conservation efforts.

---

[i] "Greater Sage-Grouse Comprehensive Conservation Strategy," Western Association of Fish and Wildlife Agencies, 2006.

[ii] "Conserving the Greater Sage Grouse: Examples of Partnerships and Strategies at Work Across the West" and "Conserving the Greater Sage Grouse: A Compilation of Efforts Underway on State, Tribal, Provincial, and Private Lands," Western Governors' Association, 2004.

[iii] "Greater Sage-Grouse Comprehensive Conservation Strategy," Western Association of Fish and Wildlife Agencies, 2006.

[iv] NRCS Sage Grouse Initiative.
http://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/programs/farmbill/initiatives/?&cid=steldevb1027671.