



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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In Reply Refer To:  
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### Memorandum

To: Linda Slone, RMP Project Manager, Casper Field Office, Casper, Wyoming

From: Brian T. Kelly, Field Supervisor, U.S. Fish and Wildlife Service, Wyoming Field Office, Cheyenne, Wyoming

Subject: Comments on the Draft Environmental Impact Statement and Draft Biological Assessment for the Casper Resource Management Plan Revision

This response is in reference to our review of the U.S. Bureau of Land Management's (Bureau) Draft Environmental Impact Statement (DEIS) and Draft Biological Assessment (BA) for the Casper Resource Management Plan (RMP) revision. The DEIS was received by our office on July 20, 2006. The DEIS contains information relative to separate alternatives for management of the Casper Field Office Planning Area and describes potential Bureau activities and their effects to resources for Converse, Platte, and Goshen Counties, Wyoming. The draft BA for the Casper RMP was received by the Service on July 25, 2006.

The Service provides recommendations for protective measures for threatened and endangered species in accordance with the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). Protective measures for migratory birds are provided in accordance with the Migratory Bird Treaty Act (MBTA), 16 U.S.C. 703 and the Bald and Golden Eagle Protection Act (BGEPA), 16 U.S.C. 668. Wetlands are afforded protection under Executive Orders 11990 (wetland protection) and 11988 (floodplain management), as well as section 404 of the Clean Water Act. Other fish and wildlife resources are considered under the Fish and Wildlife Coordination Act.

After our review of the DEIS and the draft BA, the U.S. Fish and Wildlife Service (Service) has the following comments and suggestions.

#### General Comments on the DEIS and Draft BA

1. The Service realizes that the Bureau is currently continuing to prepare a BA which will analyze the impacts to listed species from implementation of the Casper RMP revision. During the week of August 21, 2006, the Service provided assistance directly to the Bureau biologist preparing the BA. Because the Service has already provided informal technical assistance to the Bureau in preparing and improving the most recent version of

the draft BA, the Service will only reiterate here, major concerns regarding the BA, as identified by the Service.

2. The Service suggests that coordination be continued between the Bureau and the Service until a final BA has been completed by the Bureau and the Service has determined that it has received all information necessary to complete a Biological Opinion (BO) pursuant to section 7 of the Act.
3. The Bureau has stated that "the Preferred Alternative of the DEIS (Alternative E)" represents the management actions recommended by the Bureau's Casper Field Manager that best resolve planning issues within the Casper Field Office Planning Area and that best promote balanced multiple-use objectives. Therefore, the Service has focused its review of the DEIS on the environmental consequences of Alternative E. The Service anticipates that the Bureau will initiate formal Section 7 consultation with the Bureau over this alternative.
4. Throughout the DEIS, the Bureau states that certain wildlife species (e.g. bald eagle, greater sage-grouse, etc.) will receive protective buffers which restrict or prohibit "surface-disturbing or disruptive activities". The Service requests that the Bureau more clearly define what constitutes a "surface-disturbing or disruptive activity" to remove some ambiguity in the types of activities which will or will not occur within these protective buffers.
5. Some of the conservation measures and effects determinations incorporated within the Casper RMP BA were not consistent with the Bureau's Statewide Programmatic Species-Specific Section 7 consultations. The Service encourages the Bureau to review the Statewide Programmatic consultations and revise the Casper RMP BA, if appropriate.

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### **Specific Comments on the DEIS and Draft BA**

#### **DEIS. Chapter 2, Page 48, Table 2-3, Row 4023, Preferred Alternative E.**

The DEIS indicates that surface-disturbance activities may occur as close as ½ mile to greater sage-grouse (*Centrocercus urophasianus*) leks. The Service is concerned that a ½ mile buffer is not adequate protection for sage-grouse leks and may not result in the persistence of leks where this degree of protection is implemented.

The following information is provided for your use in the evaluation of proposed actions and their potential effects to the sage-grouse. The Service has determined that the greater sage-grouse is unwarranted for listing at this time. However, the Service continues to have concerns regarding sage-grouse population status, trends and threats, as well as concerns for other sagebrush obligates.

Greater sage-grouse are dependent on sagebrush habitats year-round. Habitat loss and degradation, as well as loss of population connectivity have been identified as important factors contributing to the decline of greater sage-grouse populations rangewide (Braun 1998, Wisdom et al. 2002). Therefore, any activities that result in loss or degradation of sagebrush habitats that are important to this species should be closely evaluated for their impacts to sage-grouse. Around important breeding habitat (leks, nesting or brood rearing habitat), the Service recommends no project-related disturbance from March 1 through June 30, annually. Minimization of disturbance during lek activity, nesting, and brood rearing is critical to sage-

grouse persistence within these areas. Likewise, if important winter habitats are present, the Service recommends no project-related disturbance from November 15 through March 14, annually.

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We recommend you contact the Wyoming Game and Fish Department to identify important greater sage-grouse habitats within the project area, and appropriate mitigative measures to minimize potential impacts in the RMP planning area. The Service recommends surveys and mapping of important greater sage-grouse habitats where local information is not available. The results of these surveys should be used in project planning, to minimize potential impacts to this species. No project activities that may exacerbate habitat loss or degradation should be permitted in important habitats.

In Wyoming, information suggests that greater sage-grouse populations are negatively affected by energy development activities, especially those that degrade important sagebrush habitat, even when mitigative measures are implemented (Braun 1998, Lyon 2000). Greater sage-grouse populations can repopulate areas developed for resource extraction after habitat reclamation for the species (Braun 1987). However, there is no evidence that populations attain their previous levels and reestablishment of sage-grouse in a reclaimed area may take 20 to 30 years, or longer (Braun 1998). Recent information from a doctoral dissertation on the impacts of oil and gas development to greater sage-grouse in the Pinedale Anticline found that as development increased, lek activity declined up to 100 percent (Holloran 2005). Therefore, the authorized activities under the RMP should be carefully evaluated for long-term and cumulative effects on the greater sage-grouse, since reclamation may not restore populations to pre-activity levels. The Bureau should ensure activities authorized under the Casper RMP do not exacerbate greater sage-grouse declines on either a local or range-wide level.

In 2000, the U.S. Forest Service, the Bureau of Land Management, and the U.S. Fish and Wildlife Service signed a Memorandum of Understanding (MOU) with the Western Association of Fish and Wildlife Agencies (WAFWA) to conserve the greater sage-grouse and its habitat. This MOU outlined the participation of Federal and State wildlife agencies, including the Wyoming Game and Fish Department, in greater sage-grouse conservation, and these commitments should be considered in project planning in sage-grouse habitat. Additionally, unless site-specific information is available, greater sage-grouse habitat should be managed following the guidelines by Connelly *et al.* 2000 (also known as the WAFWA guidelines). The WAFWA guidelines state that energy-related facilities should be located greater than 2 miles from active leks whenever possible.

DEIS, Chapter 2, Page 54, Table 2-3, Row 4045, Preferred Alternative E.

The DEIS states that “no surface use is allowed within 1-¾ miles from the ¼ mile protection zone between March 1 and June 15 so that nesting area around the sharp-tailed grouse (*Tympananuchus phasianellus*) strutting/dancing ground can be protected”. The Service interprets this statement to mean sharp-tailed grouse leks will receive 2 mile buffer zones throughout the planning area from March 1 through June 15. The Service believes that greater sage-grouse leks should also, at a minimum, receive 2 mile buffer zones throughout the planning area. In contrast, however, the Service believes that these buffer zones should be “year round” instead of “seasonal” (See comment above regarding impacts to sage-grouse from oil and gas development). The Service also suggests that the Bureau include a definition of the term “surface use” in the protective measure above, to clarify its meaning.

DEIS, Chapter 2, Page 54, Table 2-3, Row 4046, Preferred Alternative E and Chapter 2, Page 57, Table 2-3, Row 4057, Preferred Alternative E.

The DEIS states that the Bureau will implement a ½ mile buffer for avoiding surface disturbance or occupancy around raptor nests, except certain species, for which the Bureau will only implement a ¼ mile buffer. The Service, however, recommends larger buffer zones prohibiting surface disturbance and occupancy for some raptor species. The Service suggests a seasonal 1 mile buffer prohibiting raptor-disturbing activities be implemented around bald eagle nests as well as ferruginous hawk (*Buteo regalis*) nests. Furthermore, the DEIS states that a seasonal restriction of February 1 – July 31 will be implemented around raptor nests. However, this timing restriction may not be adequate. The Service suggests the seasonal restriction be from February 1 – August 15 for nests of the bald eagle (*Haliaeetus leucocephalus*), merlin (*Falco columbarius*), northern goshawk (*Accipiter gentiles*), peregrine falcon (*Falco peregrinus*), and prairie falcon (*Falco mexicanus*). The Service recommends that activities that would require surface occupancy be prohibited within 0.5 miles of bald eagle nests. The sizes of buffers which prohibit potential bald eagle-disturbing activities may be modified based on site-specific conditions [See documents related to the Bureau’s Programmatic Statewide Bald Eagle Consultation (BLM 2003, USFWS 2004) for details].

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DEIS, Chapter 2, Page 55, Table 2-3, Row 4049 and 4050, Preferred Alternative E.

The Bureau uses the terminology “occupied lek” to describe the sage-grouse habitat area to receive protection with buffer restrictions. The Service suggests that the Bureau provide a definition of an “occupied lek” in the DEIS to better clarify this protective measure.

DEIS, Chapter 2, Page 56, Table 2-3, Preferred Alternative E.

The DEIS states that the Bureau would “avoid surface disturbance or occupancy within ¼ mile of the perimeter of occupied sage-grouse leks outside the Bates Hole area”. The Service is concerned that a ¼ mile buffer around sage-grouse leks is insufficient protection and will not result in persistence of sage-grouse leks. For further information, please see comment above regarding necessary buffer sizes for protection of sage-grouse leks.

DEIS, Chapter 2, Page 64, Table 2-3, Row 6019, Preferred Alternative E.

The DEIS states that “approximately 10 percent of the allotments in the planning area are evaluated each year”. The Service is concerned that this level of evaluation may not adequately assess habitat conditions present on the Bureau’s grazing allotments. If allotments are normally permitted for a 10 year time period, then on average, each allotment would be evaluated only once out of the 10 years for which it is permitted. The Service suggests that the Bureau evaluate the conditions on their grazing allotments on a more frequent basis to better assess the condition of the resources present there.

DEIS, Chapter 2, Page 90, Table 2-3, Row 7045, Preferred Alternative E.

The DEIS states that timing stipulations around raptor nest habitat are “discretionary”. The Service wishes to remind the Bureau that disruption of raptors during nesting may result in a violation of the MBTA. The Service recommends using adequate buffer zones and seasonal timing stipulations to protect nesting raptors.

DEIS, Appendix V, Page 47, Page 48, Page 49, Page 50, Page 55 and Page 56.

The DEIS states that there will be a “No Surface Occupancy (NSO)” stipulation from ¼ to 1 mile of bald eagle nests. The Service recommends that the Bureau prohibit activities that result in

surface occupancy within ½ mile from bald eagle nests. Exceptions to this buffer size could be made in consultation with the Service (see USFWS 2004).

DEIS, Appendix I, Page 3.

The DEIS identifies the burrowing owl (*Speotyto cunicularia*) as the owl of importance within the Casper Field Office planning area. However, other owl species also reside and nest in Wyoming and may require protective buffers as well. The Service suggests that all species of owls receive adequate protection from disturbance. Also, the Bureau states that all raptor species will have a disturbance free timing buffer of February 1-July 31. However, the Service recommends a disturbance free timing buffer of February 1-August 15 for the bald eagle, merlin, northern goshawk, peregrine falcon, and prairie falcon.

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DEIS, Glossary, Page 7.

The glossary acknowledges that the term NSO has two different recognized meanings. The Service is concerned that giving this term two different meanings may lead to confusion. The Service suggests having two different terms instead of one term with two meanings.

Draft BA, Chapter 4, Page 1.

The draft BA did not contain analyses of effects for the critical habitat of the Colorado butterfly plant or the Preble's meadow jumping mouse. The Service recommends that the Bureau add these analyses to the BA.

Draft BA, Chapter 4, Page 5, Lines 34-36.

The draft BA mentions the reintroduction of black-footed ferrets (*Mustela nigripes*) to the Shirley Basin in Wyoming, but does not give an update of this effort. The Service suggests that the Bureau include an update of the status of the reintroduced Shirley Basin population of black-footed ferret.

Draft BA, Chapter 4, Page 10, Lines 20-23.

The draft BA states that the Bureau's Statewide Programmatic Biological Assessment for the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) was completed in May 2004. However, that document has not yet been finalized. The Service suggests rewriting this statement to more accurately reflect the timeline for completion of that BA.

Draft BA, Chapter 6, Pages 4 & 5.

Pages 4 and 5 of Chapter 6 of the draft BA list the conservation measures common to all listed species in Casper Field Office Planning Area. The Service suggests updating these conservation measures as per the discussions which occurred between Bureau and Service personnel during the week of August 20, 2006.

Draft BA, Chapter 7, Page 3, Lines 7-8.

The draft BA makes reference to a ¼ to 1 mile No Surface Occupancy restriction around bald eagle nests. The Service recommends a seasonal 1 mile buffer prohibiting bald eagle-disturbing activities be implemented around bald eagle nests from February 1-August 15. The Service also recommends that activities that would require surface occupancy be prohibited within 0.5 miles of bald eagle nests. The sizes of these buffers may be modified based on site-specific conditions and in consultation with the Service [See documents related to the Bureau's Programmatic Statewide Bald Eagle Consultation (BLM 2003, USFWS 2004) for details].

As stated previously, the Service realizes that the Bureau is continuing to prepare the next draft of the BA for the Casper RMP. The Service wishes to continue coordination efforts with the Bureau until a complete and adequate BA has been prepared. If you have questions regarding the comments or suggestions contained in this correspondence regarding the DEIS or the draft BA for the Casper Resource Management Plan revision, please contact Alex Schubert of the Wyoming Field Office at (307) 772-2374, extension 38.

cc: BLM, Endangered Species Coordinator, State Office, Cheyenne, WY (J. Carroll)  
BLM, Wildlife Biologist, Casper Field Office, Casper, WY (J. Wright)  
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