



THE WILDERNESS SOCIETY

July 30, 2004

Field Supervisor
Wyoming Ecological Services Office
Suite 4000
Airport Parkway
Cheyenne, Wyoming 82001

Fw6_sagegrouse@fws.gov

To Whom This May Concern:

The Wilderness Society submits the following comments for inclusion in the administrative record regarding the U.S. Fish and Wildlife Service's (FWS) 90-day finding for petitions to list the greater sage-grouse (sage grouse) as threatened or endangered, and the FWS's ongoing status review of this species. Because the Bureau of Land Management (BLM) harbors over one-half of the remaining greater sage-grouse habitat within the United States – 57 million acres, according to the agency – our comments focus on issues related to the BLM's land and resource management policies and practices which affect sage grouse populations and habitat.

BLM oil and gas policy and management -In its deliberations regarding the efficacy of efforts by the BLM to protect and restore sage grouse habitats on the lands it manages, we wish to direct your attention to the BLM's record with respect to the implementation of sage grouse protective stipulations incorporated into federal oil and gas leases.

Specifically, FWS should review the data on the following websites:

www.wy.blm.gov/pfo/wildlife/wild_sage_exc0204.htm and
www.wy.blm.gov/rfo/wildlife/exceptionsfy04.htm.

These two websites display the BLM's record of granting "exceptions" to sage grouse habitat protection stipulations during the 2003-2004 winter season by the Pinedale and Rawlins (Wyoming) Field Offices. Both offices have similar data available for previous winter seasons. In addition, other BLM offices with active oil and gas programs (ex. Farmington, Kemmerer, etc.) likely keep similar data, though (to our knowledge) not in electronic format. We strongly urge that FWS ask the BLM for the record of sage grouse stipulation exceptions granted by all BLM offices during the past 4 years. We are confident that FWS will find that during this period of time hundreds of requests from oil and gas operators and other

BLM permittees for exceptions to these stipulations have been granted. We strongly urge FWS to ask the BLM if any evaluations or analyses of the impact on sage grouse populations and habitat quality have been performed by the BLM subsequent to the granting of these exceptions, which you will note from the data, are frequently season-long. Should such analyses indicate that the frequent granting of exceptions have harmed sage grouse populations and/or habitat, the FWS should re-evaluate the BLM's policies and practices with respect to stipulation exceptions and waivers, and recommend more effective policies and practices to assure the long term restoration of sage grouse populations and habitats in areas subject to oil and gas exploration and development activities.

The ¼ mile buffer policy -- Current BLM policy provides generally that, "Surface occupancy (long-term or permanent aboveground facilities) would be controlled within 1/4 mile of greater sage-grouse leks unless adverse impacts could be mitigated." (See, BLM, *Final Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan*, July, 2004, p. 2-87) The FWS should evaluate the scientific basis for BLM's "1/4 mile policy" and determine if this buffer is appropriate in all (or any) circumstances. It is also apparent from the formulation quoted above that the "1/4 mile policy" can be altered. The FWS should evaluate the circumstances in which the BLM allows alteration of this policy, what sort of mitigation BLM accepts as a substitute requirement for protection of sage grouse values in such instances, and to what extent such alternative mitigation has been successful in recovering sage grouse populations and habitat values. We note also that at least some evidence indicates that sage grouse react unfavorably to oil and gas activities at distances beyond ¼ mile. According to Environmental Assessment CO-130-2004-0834-EA, issued 7/13/04 by the Grand Junction Field Office of BLM in Colorado, relating to sage grouse impacts: "There is evidence that an operating gas well-drilling rig within 3 miles of a sage grouse strutting ground, or lek, can affect the number of males and female birds that will come to the lek (Holleran & Anderson. 2004. Sage-grouse response to natural gas field development in northwestern Wyoming. In: Proceedings of the 24th meeting of Western Assoc. of Fish & Wildlife Agencies' Sage and Columbian Sharp-tailed Grouse Technical Committee, Wenatchee, WA).

We would also recommend that you review The Wilderness Society's study of the impacts of habitat fragmentation on wildlife habitats entitled, *Fragmenting Our Lands: The Ecological Footprint From Oil and Gas Development*. The report contains a synopsis of findings pertaining to the impacts of oil and gas infrastructure on sage grouse habitat, and a listing of the pertinent scientific literature on this topic. (Weller, Thomson, Morton, and Aplet, *Fragmenting Our Lands: The Ecological Footprint From Oil and Gas Development*, TWS, September, 2002, p 17.)

BLM's new policy discourages inclusion of protective stipulations in federal oil and gas leases - We also wish to draw your attention to the fact that BLM policy change discourages the inclusion of protective wildlife stipulations, including seasonal sage grouse stipulations, into newly issued oil and gas leases. According to IM # 2003-233 (issued on July 28, 2003), BLM State Directors were notified as follows:

"The EPCA [Energy Policy and Conservation Act Inventory] integration is a good opportunity to evaluate lease mitigation requirements to determine whether they are appropriate and effective. This evaluation will include a review of all current oil and gas lease stipulations in the State and Field office stipulation books and databases. We need to make sure each of these documents clearly state the intent of the mitigation, and the mitigation is the *least restrictive necessary* to

accomplish the desired protection. Stipulations not necessary to accomplish desired resource protection should be modified or dropped using the exception, waiver, or modification criteria outlined in the land use plan or through the land use planning process...

“Any stipulation duplicative of Section 6 of the Standard Lease Terms will be eliminated using the exception, waiver, or modification criteria outlined in the land use plan or through the land use planning process...” (emphasis added)

We strongly urge the FWS to evaluate the implications of this new policy -- which we view as weakening current protections afforded by lease stipulations -- on the BLM's overall strategy to protect and recover age grouse populations and habitat as a consequence of this new policy guidance.

Post exploration and development policies and practices -- It is our understanding that lease stipulations intended to protect sage grouse populations and habitat generally apply only to activities that may be carried on during the exploration and development phases of an oil or gas field. Once the necessary infrastructure is in place and production is occurring, these stipulations generally no longer apply. FWS should ask the BLM if it has monitored the impacts on sage grouse and sage grouse habitat of the production infrastructure and production activities during the producing stage of oil and gas fields established on BLM lands where sage grouse populations occur. If such monitoring does occur, and monitoring data indicate degradation of sage grouse habitat, and/or deleterious impacts on sage grouse populations, the FWS should ask what steps the BLM takes to rectify such situations. The FWS should assess the future impact of this policy on populations in areas undergoing intense contemporary or projected oil and gas development. An evaluation of the BLM's ability to protect and restore sage grouse habitats and populations on BLM lands undergoing rapid and unprecedented levels of natural gas development is critically needed because the agency has projected the establishment of tens of thousands of new wells and accompanying infrastructure in the near future on millions of acres of public lands containing this species (see further discussion below).

BLM's new Resource Management Plans -- The BLM is in the process of developing new Resource Management Plans (RMP) for millions of acres of the lands it manages throughout the range of the greater sage grouse. Many of these RMPs project large and unprecedented increases in oil and gas activities within planning areas. We strongly urge the FWS to evaluate the impacts on sage grouse habitat and populations from these projected increases in oil and gas activities, and its accompanying infrastructure of thousands of drill pads, thousands of miles of roads, thousands of miles of pipeline rights-of-way, compressor stations, staging areas, etc.

In many instances, these new RMPs contain proposals to address sage grouse populations and habitat occurring on BLM lands. We urge FWS to evaluate whether or not the management prescriptions articulated in these RMPs will be effective in restoring populations and habitats. It is our impression from our review of such documents that sage grouse management emphasis is weighted toward proposals to *mitigate the damage* anticipated to be caused by other activities (ex. oil and gas exploration and development, livestock grazing, off-road vehicle use, etc.), rather than *restoration* of degraded habitats and *protection* and restoration of diminished sage grouse populations.

For example, in the recently released *Final Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan*, the BLM states: “The management practices in the greater sage-grouse

habitats would be designed *to limit direct loss of habitat and prevent habitat degradation* (BLM, *Final Environmental Impact Statement for the Jack Morrow Hills Coordinated Activity Plan*, July, 2004, p. 2-87, emphasis added).

RMPs also frequently allude to the BLM's intention to monitor and evaluate various activities that may have a detrimental impact on sage grouse (and other wildlife species) over time. FWS should evaluate BLM's record with respect to implementing, monitoring and evaluation programs, if the BLM intends to rely on such processes to address sage grouse concerns, as well as the BLM's proposals for providing the requisite resources needed to sustain effective monitoring programs over time. Beyond monitoring, the FWS should evaluate what actions the BLM intends to take if monitoring data indicate continuing deterioration of sage grouse habitats and populations in circumstances where other permitted activities are causing declines in populations and habitats.

Livestock Grazing -- During the past several years, the BLM has renewed over 10,000 livestock grazing permits for the public lands it manages (see, *Testimony of Jim Hughes, Deputy Director Bureau of Land Management Before the Senate Energy and Natural Resources Committee Subcommittee on Public Lands and Forests Oversight of Grazing on Public Lands June 23, 2004*) . We strongly recommend that the FWS evaluate the extent to which and effectiveness of requirements that have been incorporated into those new grazing permits intended to protect sage grouse and their habitats. In addition, the new Resource Management Plans discussed above contain standards and guidelines for the achievement of rangeland health. The FWS should assess the extent to which the inclusion and implementation of these standards and guidelines in the new RMPs adequately address sage grouse habitat and population recovery needs.

Government Performance and Review Act – Finally, the FWS should evaluate the BLM's proposed performance measures for greater sage grouse recovery on BLM lands (assuming it has some) pursuant to the Government Performance and Review Act. These performance measures should be developed and displayed to measure quantifiable success parameters, for example, acreage targets for sage grouse habitat restoration and protection, population targets, and appropriate budget and staff commitments to meet those targets.

Thank you for the opportunity to comment.

Submitted by:

David Alberswerth
Bureau of Management Program Director
The Wilderness Society
1615 M Street, NW
Washington, DC 20036