

Bjornsen, Alan

From: Bob Budd [bbudd@state.wy.us]
Sent: Sunday, June 27, 2010 11:40 PM
To: Bob Harshbarger; Charley Dein; Dave Applegate; Tom Clayson; Gregg Bierei; Wendy Hutchinson; Sandy DaRif; Barbara Dilts; Sherlyn_Kaiser@Barrasso.senate.gov; Barbara Chase; Bruce Lawson; Bob Green; Jessica Baldwin; Lyndon Bucher; Dru Bower-Moore; Nick Agopian; Sandy Tinsley; Nate Ferguson; Alan Edwards; Lauren Furtney; Scott Benson; Jennifer Hartman; Lesley Roth; Jack Palma; Alan Rabinoff; Bill Vetter; Karyn Coppinger; Jackie King; Johnnie Burton; Bjornsen, Alan; Mark Tallman; Matt Grant; Cheryl Sorenson; Mike Smith; Dave Lockman; Jay Jerde; Jon Kehmeier; Garry Miller; Renee Taylor; Bobbie Frank; Charles Kelsey; Paul Goss; Wayne Heili; Marion Loomis; Lynn Welker; Richard Zander; Erik Molvar; Dan Heilig; Daryl Lutz; Mary Flanderka; Tom Christiansen; Brian Reilly; Hollis Wold; Marty Wilde; Ken Hamilton; Christy Hemken; Don McKenzie; Dick Loper; Sophie Osborn; Jim Magagna; Scott Streeter; Mike Fraley
Subject: Fwd: Governor's Letter
Attachments: Governors Conveyance Letter From SGIT June 2010 v4.docx

FYI

Bob Budd, Executive Director
State of Wyoming
Wildlife and Natural Resource Trust
500 East Fremont
Riverton, Wyoming 82501
(307) 856-4665 (OFFICE)
(b)(6) (CELL)
(b)(6) (HOME)
bbudd@state.wy.us

EX. 6

>>> Bob Budd 6/27/2010 9:39 PM >>>
All,

Here is the latest version, with no major changes, and some very important additions. This is the version we will work from tomorrow.

Bob Budd, Executive Director
State of Wyoming
Wildlife and Natural Resource Trust
500 East Fremont
Riverton, Wyoming 82501
(307) 856-4665 (OFFICE)
(b)(6) (CELL)
(b)(6) (HOME)
bbudd@state.wy.us

EX. 6

6/27/10
64

WYOMING SAGE GROUSE IMPLEMENTATION TEAM

Monday, 28 June 2010

Governor Dave Freudenthal
State Capitol
Cheyenne, Wyoming 82002

Dear Governor Freudenthal,

Your Sage-Grouse Implementation Team (SGIT), with the assistance of eight local working groups (LWGs), and substantial input from the public, has completed the tasks you assigned us in your letter of 09 March 2010. Specifically, you requested that we, 1) reassess the Core Population Area (CPA) maps in light of the most current biological and development information, 2) address the issue of connectivity between populations of geographic importance, 3) recommend a procedure and guidelines for development within Core Population Areas and non-core areas, and, 4) consider needs for research, inventory, and habitat protection. The contents herein outline the most recent process in detail, and we would respectfully request that you implement the recommendations of the SGIT at your earliest opportunity.

MAPPING

In the time since the initial Core Population Areas were identified, this approach has been re-analyzed repeatedly, and has proven to be a sound conservation strategy, as recognized by the U.S. Fish and Wildlife Service in their listing decision of 03 March 2010. In the most recent analysis of the original Core Population Areas, the SGIT asked each of the local working groups (Jackson Hole, Upper Green, Southwest, South-Central, Wind River, Casper-Bates Hole, Big Horn Basin, and Northeast) to closely assess each of the CPAs in their region using a specific set of sideboards provided by the SGIT. This was done using high-resolution aerial photos, current breeding data, a statewide sagebrush cover map, actual permitted activity, and all other information available (including valuable anecdotal knowledge) relevant to the local areas. Those recommendations were reviewed by the SGIT, and sent back to each of the LWGs for further clarification. As a result, the adjustments you see to the Core Population Areas have been generally reviewed at a fine-scale analysis at least three, and more often, four times since the initial areas were defined. We would like to thank you and the Wyoming Legislature for significant investment in better mapping; this investment has significantly improved the quality of our work.

In the CPA boundary revision process, additions and subtractions from the original 2008 boundaries have added to the integrity of the Core Population Area strategy. The percentage of breeding birds within Core areas increased slightly in this analysis, while potential conflicts declined significantly. Issues related to seasonal habitats and connectivity have been largely resolved. Further analysis has identified breeding populations that were not fully protected as a result of their location at the edge of Core Population Areas, and populations fully conserved within suitable habitats. The analysis was done on an individual lek basis, by LWGs and biologists in the local areas. These adjustments to populations are included in the current count, which indicates that Wyoming has assured significant protection for 83.1% of the Sage-grouse in the state within Core Population Areas. At the same time, we have endeavored to assure economic activities which are vital to the State of Wyoming will be allowed to continue, both inside and outside Core Population Areas.

The final Core Population Area map recommendations are found in Attachment A, and when approved by you, will be posted for public use in their final configuration. We would recommend that these boundaries not be adjusted for five years, and then, only when adequate data is present to either expand, contract, or replace portions of the Core Population Areas. We fully recognize that these boundaries are defined by the biology we have at hand today, and that they have been derived by a combination of biological and development information. The primary concern of this team has been to provide a plan that provides maximum protection for Sage-grouse, in full recognition of human activity, past, present, and future, in key habitats for that species.

CONNECTIVITY

The issue of connectivity was raised in the listing decision as a roadblock to effective recovery of the species, and while Wyoming cannot manage Sage-grouse outside our jurisdiction, we have developed a strategy that identifies and protects the ability of the species to move into, and out of Wyoming, in a manner that is largely unhindered by new development. As you can see from the current mapping effort, there is ample opportunity for birds to maintain genetic diversity within the state, and to allow genetic mixing with birds in Montana, Colorado, Utah, and Idaho. This is the primary reason some originally separate Core Population Area boundaries were connected (e.g Big Horn Basin, eastern Wyoming) within the state in this revision. In addition, two key connectivity areas have been identified in northern Wyoming to maintain potential movement of birds in those areas. Within these connectivity areas, development should be tailored to minimize disturbance of sagebrush habitats, and to actions that do not impede movement of migrating birds. Recommendations for management in connectivity areas are being developed by the Northeast LWG, in a joint effort between

federal land management agencies, private landowners, industry, and other interested parties. We fully support that effort, and heartily endorse the notion that local solutions are far superior to statewide standards in that regard.

There remains interest in identifying potential connectivity areas in the center of the state that potentially connect populations in the Big Horn, Wind River, and Powder River Basins. We do not have adequate data at this time to either identify those areas, or to reject their existence. We would recommend this determination be made only when sufficient data can confirm the need for further delineation. We expect that if the need arises, other LWGs throughout the state will develop local recommendations to protect the needs of Sage-grouse relative to connectivity issue. Local Working Groups are fully cognizant of the importance of connectivity as it relates to the protection of the sage-grouse and its habitat.

WINTERING

As you are aware, we have completed the process of mapping vegetation, and are in the process of identifying seasonal habitats that may not be addressed within Core Population Areas. What we know today is that there are wintering areas in western Wyoming that are not currently in Core Population Areas. These wintering areas have been identified on the Core Population Area map in a manner similar to connectivity zones. As with the issue of connectivity, we do not have sufficient data to identify all of the needs of the species within those areas at this time. It is our recommendation that LWGs, in conjunction with land and wildlife management agencies, industry, private landowners, and other interested parties continue to identify winter use areas and develop specific management recommendations within these local areas. We have commitment from those parties to engage that process immediately, and again, believe that local solutions will be the most appropriate to these unique habitat requirements.

PROCESS AND STIPULATIONS

Since your original Executive Order was signed in August 2008, guidance has been developed that will allow appropriate development in Core Population Areas that will not contribute to Sage-grouse population declines. Oil and gas activity has already been studied extensively, and those stipulations have not been changed in this process. The U.S. Fish and Wildlife Service has already conveyed its concerns about development of wind resources in Core areas, and for now, it is presumed that wind development is not compatible with Sage-grouse. Mining has been assumed to be an historic, ongoing, highly-regulated activity. However, to address disturbance associated with new mine activity, new stipulations for mining have been recommended as a part of the complete

package of practices that will be used to evaluate development within Core Population Areas. In addition to specific stipulation recommendations, the SGIT has identified a process we believe will address permitting of industrial activity within Core Population Areas. These are included as Attachment B.

It is important to note that the development of these stipulations, as with previous stipulations, was done with the input and assistance of industry, conservation groups, and local working groups. We would particularly applaud the willingness of all industries to honestly address concerns relative to development within Core Population Areas. By example, numerous industries are already initiating efforts to enhance habitat, accelerate reclamation, and effect long-term conservation measures aimed solely at assuring the health of local populations. It is imperative that the State of Wyoming continue to defend those resource users who have chosen to be forthright in their efforts to conserve Sage-grouse as they develop our natural resources.

Some concern has been raised that this process gives some greater level of regulatory authority to the Wyoming Game and Fish Department. That is not the case, and it will be important to continue to clarify that the role of the department is consultative, and hopefully facilitative, as the people of Wyoming continue to develop our natural resources, including the well-being of Sage-grouse.

To date, state, local and federal agencies have done a good job of trying to work through the elements needed to avert a Sage-grouse listing. This effort has been made more effective through the voluntary participation of agriculture, industry, and local government, and their continued willingness to perform in manners that benefit Sage-grouse. However, the need to institutionalize the stipulations and processes within state government may remain. How you choose to approach that, whether through executive order, rule and regulation, legislation, or some combination of all we will leave to your discretion.

EXISTING ACTIVITIES

Consistent with your original Executive Order, it is assumed that existing activities in Core Population Areas will not be managed under Core Population Area stipulations. Examples of existing activities include oil and gas, mining, agriculture, processing facilities, housing, and other uses that were in place prior to development of the Core Population Areas. Provided these activities are within a defined project boundary (such as a recognized oil and gas unit, mine plan, subdivision plat, etc.), they should be allowed to continue within the existing boundary, even if the use exceeds our proposed stipulations for Sage-grouse. However, outside those areas, activities should be

regulated in a manner consistent with process and stipulations for new activities, as provided in Attachment B.

Some specific examples of these activities may help to provide a better understanding of our intent and vision. The Oregon Basin oilfield in northwest Wyoming is older development, contained within a defined production unit, and will likely engage in some level of tertiary recovery, including closer well spacing, and increased activity. Within the unit boundary, that would not be treated as "new" activity and would not be subject to CPA stipulations. Trona processing and extraction facilities owned by FMC Wyoming would be allowed to continue and expand within the mine permit boundary, without additional stipulations inside the permit boundary. The point is that these activities have been ongoing for years prior to now, and should be allowed to continue within the permit area without unnecessary interference.

NON-CORE AREA STIPULATIONS

In non-core areas, less restrictive stipulations and greater flexibility for development is essential. We recommend using a 0.25 mile "No Surface Occupancy" standard, and a two-mile buffer for seasonal timing stipulations be applied to leks in non-core habitat. These stipulations will not prevent declines in sage-grouse numbers, but will allow some level of Sage-grouse persistence as demonstrated in areas with long-term development. Additional incentives to encourage development outside core area should include stipulation waivers, and enhanced permitting processes.

Although this level of protection may lead to declines in Sage-grouse populations in non-core Sage-grouse habitats, not all non-core area habitat will be impacted by development. In addition, imposing a higher bar for development in Core Population Areas mitigates declines in non-core areas. This strategy has been recognized by the U.S. Fish and Wildlife Service in their support for management of Sage-grouse in Wyoming. Voluntary practices by industry including accelerated plug-and-abandon programs, intensive reclamation, consolidation of utility and travel corridors, and innovative habitat enhancement efforts also provide important mitigation outside Core Population Areas. These efforts, properly documented, should be recognized, and may allow greater industrial activity in Core Population Areas in the future.

OTHER RECOMMENDATIONS

Future research is needed to continue to understand impact wind energy on sage-grouse, document the effectiveness of different sagebrush habitat treatments, identify and understand habitat uses of sage-grouse, better understand connectivity between the Big Horn, Powder River and Wind River Basins, and refine the effects of energy development (all forms) on sage-grouse use of winter habitat.

Inventory of seasonal habitats is still a high priority especially identifying winter high use areas.

It has been our experience that no decision in this matter is without fault. You will hear from some groups that this team has given over the future of the state to a bird. You will hear from others that industry has gotten everything, while the Sage-grouse has gotten nothing. Members of the SGIT have endured pressure and criticism from all angles, yet have maintained a thoughtful and deliberate approach throughout the process. We are united in our belief that this approach to conservation is sound biologically, sound economically, and will serve as a model for management of sensitive species here and elsewhere.

You will hear that this process has lacked scientific integrity. To the contrary, this process has consistently relied upon the most current science relative to Sage-grouse available. This effort has led to development of the same process in other states, and for other species, and it is adaptive to changing realities. More importantly, the results of this effort directly address every concern raised by the U.S. Fish and Wildlife Service relative to their listing decision. We are confident that the State of Wyoming has taken appropriate actions to assure this species will endure for centuries.

In closing, I would like to express my appreciation to each of the members of the Sage Grouse Implementation Team for their efforts over the past three years. This is a dedicated, passionate group of people who have sacrificed much for the greater good of our state. They have been ridden hard, and challenged greatly in the past four months. They have been professional, honest, and forthright throughout that process. Each of them has added value to the process, and each of them has taken their share of abuse for their effort. It has been a great honor to work with them.

Thank you for your consideration of these recommendations. At this time, I would ask that you dismiss the team, with appropriate thanks for their service.

Sincerely,

Bob Budd, Chairman
SAGE GROUSE IMPLEMENTATION TEAM