

OFFICE OF SPECIES CONSERVATION

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July 1, 2013

Steve Ellis
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Idaho State Office
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Dear Steve,

This letter is in response to your May 6, 2013 request for further clarification of certain components of the September 2012 draft of the Governor Otter's Sage-Grouse Conservation Alternative (Governor's Alternative) for purposes of the Bureau of Land Management's (BLM) and US Forest Service's (USFS) analysis under the National Sage-Grouse Planning Effort. As you are aware, over the past two months the State of Idaho has worked diligently to clarify and refine components of the Governor's Alternative to better assist the BLM and USFS in their analysis under the National Environmental Policy Act (NEPA).

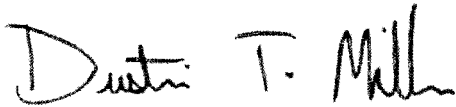
As you know, in December 2011 Secretary of the Interior Ken Salazar invited western governors to create state-specific sage-grouse conservation plans that could be implemented as interim management, provided that "concurrence" is granted from the Service, and incorporated as alternatives in the federal land-use planning effort. In response, Governor Otter created a Sage-grouse Task Force through Executive Order 2012-02. This Task Force began meeting in March 2012 and developed recommendations on actions needed to preclude a listing of greater sage-grouse in Idaho while maintain predictable levels of land-use activity. From those recommendations, the Governor's Alternative was drafted and submitted to the BLM and USFS for consideration in the Idaho and Southwest Montana Sub-regional EIS. In accordance with Secretary Salazar's December 2011 request, the Governor began seeking concurrence from the Fish and Wildlife Service. In March 2013, the Governor submitted a concurrence request to Brian Kelly, Idaho State Director for the Service. In April, 2013, Brian Kelly responded very positively to the Governor's Alternative and was willing to "concur" with the Governor's

Conservation Areas, the three zone habitat structure, the conservation objectives, the adaptive trigger strategy, and the grazing strategy. He stated the Governor's approach would provide needed benefits for sage-grouse and sage-grouse habitat.

In our continuing commitment to multi-agency collaboration, we have attached thorough explanations to the questions you asked us in May 2013. Some measures that may have appeared vague or incomplete have been refined and clarified along with additional actions needed to proactively deal with wildfire within sage-grouse habitat.

For the purposes of the NEPA analysis, the State requests BLM to consider the Governor's Alternative dated September 5, 2012, the Governor's March 13, 2013 request for concurrence, the concurrence letter from the Service to Governor Otter dated April 8, 2013 and the following attachments. The September 2012 Alternative is adopted herein by reference, and only where specifically noted in the March 2013 Concurrence request and in this letter should the Governor's Alternative be construed as revised or modified. Additionally, please refer to Idaho's Mitigation Framework, attached, for further explanation of the Governor's Compensatory Mitigation Strategy.

Sincerely,

A handwritten signature in black ink that reads "Dustin T. Miller". The signature is written in a cursive, slightly slanted style.

Dustin T. Miller

Request for clarification or refinement of Governor Otter's Alternative for Sage-Grouse
Management
07/01/13

Proposed Implementation of Governor Otter's Management Plan

In addition to the description of this implementation scheme in the Governor's Alternative at 7, 19 and 27, and Governor Otter's March 2013 request for concurrence at 4, 7 (Appendix II), the below narrative provides more detail for the implementation of Governor Otter's Sage-grouse Conservation Alternative (Governor's Alternative). As mentioned previously, this process is modeled after the Idaho Roadless Rule implementation framework.

Should the Bureau of Land Management (BLM) select the Governor's Alternative as the final decision, the State of Idaho is proposing the following steps:

- Enter into a Memorandum of Understanding (MOU) between the BLM, U.S. Forest Service, and the State of Idaho establishing the State as a cooperating agent to implement the final decision.
- As part of the state's responsibility under the MOU, Governor Otter would issue an Executive Order (under state law, an EO has the force and effect of law) establishing an Implementation Task Force to meet the state's role and responsibilities under the MOU. This task force would be similar in composition to Governor Otter's Sage-Grouse Task Force pursuant to Executive Order 2012-02.
- The Implementation Task Force would be tasked with providing Governor Otter advice and counsel on at least the following issues: (1) analyzing the annual sage-grouse monitoring data to determine whether an adaptive response is appropriate and necessary given the population and habitat objectives provided in the Governor's Alternative; (2) providing input during the National Environmental Policy Act (NEPA) process for on-the-ground infrastructure projects; and (3) prioritizing habitat restoration opportunities. The Implementation Task Force would submit these recommendations to the Governor, and based on his review and concurrence, will transmit these recommendation to the appropriate agency as part of the underlying NEPA analysis. The ultimate decision involving public land management would fall to the appropriate agency.
- The Implementation Task Force will make recommendations based on the data and recommendations provided by a science subcommittee led by the Idaho Department of Fish and Game (IDFG). The Implementation Task Force may solicit outside experts if necessary.

Process for Determining Whether an Adaptive Response is Necessary

As the U.S. Fish and Wildlife Service (Service) stated in its Concurrence Letter in April 2013, one of the most significant components of the Governor's Alternative is the adaptive management construct. The "trigger" approach makes this component work through monitoring habitat and population data and allowing for changes in management when necessary. The trigger strategy has been amended since the September 5th, 2012 draft and those changes are noted in the Governor's March 2013 concurrence request. As is discussed in further detail below, population and habitat data are collected and analyzed by the IDFG and presented to the Implementation Task Force. "Tripping a trigger," whether at the lower "soft" trigger, or the "hard" trigger will lead the Implementation Task Force to initiate potential management changes.

1. Data Collection by Idaho Fish and Game

The IDFG has been collecting sage-grouse population data since at least 1951. The lek routes referenced in the Alternative are all routes that were conducted during the 2011 baseline year. Leks on these routes represent 21% of all known leks. In addition, individual leks not associated with routes but counted in two consecutive years (e.g. 577 leks in 2013 equals 26% of all known leks) are combined with lek routes counts to calculate population growth (finite rate of change) for a habitat management zone. These counts combined represent approximately half of the known leks in Idaho and are distributed across the bird's range.

Population Data Collection: For purposes of determining whether an adaptive regulatory trigger is necessary, the Governor's Alternative identifies two primary methods:

- Number of males counted on lek routes as identified on page 8 of the Governor's Alternative.
- Number of males counted on individual leks not assigned to a lek route in the Governor's Alternative (as resources allow). This information is useful in the lambda population trigger.

Population data is collected by counting male sage-grouse attending leks per protocols for weather conditions, time of day, time of year, what constitutes a lek, time between counts (e.g. 7-10 days), etc. Maximum number of males observed on lek route(s) over 3-4 counts during the spring is used to monitor sage-grouse population trend in a habitat management zone. Lek data can be used to assess population trends over time (Garton et al. 2011) but counts for a single year may not reflect trends very well because of variation of male attendance at leks caused by severity of the previous winter, weather, timing of counts during spring, and a variety of other factors (Emmons and Braun 1984, Hupp 1987, Baumgart 2011). Therefore, maximum number

of males counted is averaged over three consecutive years and compared to the 2011 baseline.

Habitat Data Collected

- Acres of nesting and wintering habitat lost (due to wildfire, invasive species expansion, infrastructure development, and/or other secondary threats).
- Acres of nesting and wintering habitat gained (due to restoration or natural succession).

Habitat and Population Restoration Data Collection

- Acres protected (e.g. conservation easements or Phase 1 juniper treated).
- Feet of fence marked.
- WNV mosquito habitats treated or eliminated.

IDFG will continue to be responsible for collecting sage-grouse population data and compiling habitat data into useable forms (e.g. maps and/or tables of annual wildfire, juniper removal, and other habitat changes). This information will be collected throughout the year and will be presented to the Implementation Task Force on at least an annual basis. Further discussion between the State, BLM, and USFS is necessary to determine who will collect necessary habitat data.

2. Determination of Adaptive Response

Based on the annual report and the recommendations of the subcommittee, the Implementation Task Force will consider whether an adaptive regulatory trigger is necessary to maintain a viable population of the species. (See Alternative and Concurrence Request defining “soft” and “hard triggers”). Of particular note, the September Alternative proposed an “Emergency Wildfire Clause”. This clause has been removed as the better defined triggers will likely lead to the same management response.

If the annual report indicates that a “soft trigger” has been tripped within a particular conservation zone there is no required adaptive response. The “soft trigger” is an early warning system that permits the Task Force the discretion to identify and recommend best management practices before an adaptive regulatory response becomes necessary. By contrast, if the information indicates that a “hard trigger” has been tripped within a particular conservation zone, the decision to recommend the appropriate adaptive regulatory response is no longer discretionary.

In the process of determining whether a trigger has been tripped, the Implementation Task Force will attempt to identify the cause(s) for the decline. This analysis will first examine the primary threats to the species (e.g., wildfire, invasive species and infrastructure); and only where the primary threats are not responsible for the decline will the Implementation Task Force analyze the secondary threats to the species.

3. Consequences of an Adaptive Trigger

If a soft trigger trips in the Core Habitat Zone, the Implementation Task Force may consider making the following recommendation to the Governor. Recommendations could be, but not limited to:

- Increase monitoring and evaluation of sage-grouse populations in Core Habitat Zone.
- Implement Core Habitat Zone management strategy in corresponding Important Habitat Zone of the same Conservation Area.
- Implement Core Habitat Zone BMPs in corresponding Important Habitat Zone of the same Conservation Area.
- Not allow any new (large) infrastructure development within the Core Habitat Zone (no exceptions allowed).
- Reallocate resources to focus on primary threats in the Core Habitat Zone (e.g. direct resources from other parts of the state to the area of concern).
- Reallocate resources to focus on secondary threats in the Core Habitat Zone (e.g. direct resources from other parts of the state to the area of concern).

If a soft trigger trips in the Important Habitat Zone, the Implementation Task Force may consider making the following recommendations to the Governor. Recommendations could be, but not limited to:

- Increase monitoring and evaluation of sage-grouse populations in area of concern.
 - Implement Core Habitat Zone management strategy in the Important Habitat Zone.
 - Implement Core Habitat Zone BMPs in the Important Habitat Zone.
 - Not allow any new (large) infrastructure development in Core Habitat Zone (no exceptions allowed) of the same Conservation Area.
 - Apply Core Management Zone criteria for all primary threats, and/or all secondary threats to the Important Habitat Zone.
 - Reallocate resources to focus on primary threats in the Important Habitat Zone (e.g. direct resources from other parts of the state to the area of concern).
 - Reallocate resources to focus on secondary threats in the Important Habitat Zone (e.g. direct resources from other parts of the state to the area of concern).
- If a “hard trigger” becomes operative in particular Conservation Area, the following consequences are no longer discretionary:

- First, the IHZ within that Conservation Zone will be managed according to the CHZ regulations primarily impacting the ability to consider infrastructure projects. See Concurrence Response at 5 noting the benefit to the species should this action be required.
- Second, if the cause is related to wildfire or invasive species, the Implementation Task Force will consider additional best management practice to prevent further loss of core habitat within that Conservation Zone.
- Third, only if a primary threat is not the cause(s) for the decline will the Implementation Task Force analyze secondary threats and determine the appropriate management response. The Service identified wildfire, invasive species, and infrastructure as the primary threats and West Nile Virus, improperly managed grazing, and recreation as secondary threats. This adaptive trigger strategy focuses the analysis on mitigating the primary threats to the species.

Wildfire

Under the wildfire section within the Governor's Alternative for the CHZ, IHZ and GHZ, the State of Idaho desires to replace reference to the incorporation of BLM WO IM 2011-138 with BLM's updated Instruction Memorandum referenced as BLM WO IM 2013-128.

The original intent of the State of Idaho through the Governor's Alternative was to decrease the wildfire response time from the current baseline of response time by 25%. This measure was an effort to arrive at an adequate regulatory mechanism necessary for precluding a listing.

However, recognizing the difficulty in measuring this, and based on further conversations with the Service, BLM and Forest Service, the State wishes to remove that objective and replace it with the below refinement.

Wildfire is a difficult threat to prevent and control. However, the adaptive construct of Governor's Alternative provides a mechanism to prevent sage-grouse from any likelihood of becoming endangered in the foreseeable future. The short-term use of triggers and zones will provide the time to develop more proactive measures that demonstrate long-term success on the landscape.

Attached to this letter is a spreadsheet that will aid in developing a consistent wildfire suppression plan that improves upon the current baseline. Close coordination with federal, state, and private firefighting personnel, local fire departments and local expertise including Rangeland Fire Protection Associations (RFPAs) is crucial to continually improving strategies for initial attack and developing comprehensive fuel break strategies to minimize and reduce the size of wildfires threatening the CHZ and IHZ following ignition.

The employment of specific, more aggressive wildlife and invasive species management practices to prevent further encroachment into the CHZ and IHZ should be driven by local planning efforts at the field office and ranger district level. As referenced above, the creation of RFPAs throughout the Sage-Grouse Management Area (SGMA) is a regulatory mechanism that

will ensure better and faster initial attack on wildfires threatening the CHZ and IHZ through the employment of additional trained firefighters and resources in rural parts of the SGMA. From a regulatory mechanism standpoint, Idaho Code Chapter 1, Title 38 was recently amended to allow for the creation of Rural Fire Protections Associations (RFPAs). Additionally, this spring the Idaho Legislature authorized funding to help cover start-up costs for 4 RFPAs in southwest Idaho.

The emphasis for fuel break prioritization should be in areas within the Wildland-Urban Interface (WUI) where human life and safety are at risk. For instance, the Boise District BLM is currently in the planning phase of a fuel-break project within the Interstate-84 corridor between Boise and Mountain Home, Idaho referred to as the “Paradigm Project”. The idea behind the project is to strategically place and improve upon fuel breaks within this corridor, therefore keeping wildfires to more manageable sizes thus requiring fewer firefighting resources. The State of Idaho supports this project, as well as other similar fuel-break projects designed to secure the WUI and free up firefighting resources to be focused on providing initial attack on wildfires in areas that have the potential to impact greater sage-grouse habitat within the CHZ and IHZ. After securing the WUI, prioritization of fuels breaks should go to areas of high human ignition based upon ignition data and maps produced by BLM districts and field offices. The attached spreadsheet provides conservation measures to be incorporated into the Governor’s Alternative regarding prevention, suppression, and restoration activities. One crucial component of this is the utilization of grazing as an effective management tool in reducing fuel loading on BLM and Forest Service lands. The State of Idaho encourages the BLM and the Forest Service to employ this effective fuels management tool, particularly within areas of high fuel loading that are at high risk of wildfire threatening the CHZ and IHZ.

Infrastructure Development

Exemptions for ROW avoidance areas within CHZ will be analyzed by the Implementation Task Force as part of that site-specific NEPA analysis. The Task Force will assess project proposals and their mitigation packages, if required, to determine whether to recommend an exemption for the governor’s consideration. The Task Force will use the following criteria to make these assessments, which are outlined on page 33 of the Governor’s Alternative:

- Is the project developed pursuant to a valid existing right?
- Is the project an incremental upgrade/capacity increase of existing development ? (authorized prior to the record of decision) subject to best management practices, outlined in G, pgs 43-45).
- For new development, can the project be reasonably accomplished outside the CHZ? Can the development co-locate with existing infrastructure to the maximum extent practicable?

- Can the project proponent demonstrate the population trend for the species within the relevant Conservation Area is stable or increasing over a three year period?
- Will this project benefit the state of Idaho?
- Compensatory mitigation will be assessed according to Idaho's Mitigation Framework, which is attached to this document.

If the project proponent responds satisfactorily, the Implementation Task Force will recommend to the Governor that the project should be permitted. The Governor will consult with the BLM or USFS on the Implementation Task Force's recommendation, which BLM or USFS must use in its consideration of the project's permit application. All other questions outlined on page 33-34 of the Governor's Alternative will be included in the more in depth NEPA analysis of the project.

Livestock Grazing

The Livestock Grazing Framework was amended for the Governor's March 2013 Concurrence Request, to ensure this component remains consistent with the Idaho Rangeland Health Standards (IRHS) and the Conservation Objectives Team (COT) Report. In the Service's April 2013 response to the Governor's Concurrence Request, Brian Kelly expressed his support for this component because of its consistency with the COT report as well as the requirement that IRHS be met within the context of the Governor's overall adaptive management strategy.

There are two pathways where this management framework is applicable: (1) in conjunction with scheduled term grazing permit renewals; and (2) where the adaptive regulatory trigger has been tripped (as described in section 3) and livestock grazing is identified as a potential causal factor. See Concurrence Request at 6.

Under the first path, the Governor's Alternative provides a framework for BLM to assess Standard 8 and Standards 2 and 4 based on the Conservation Objectives Team Report (COT Report) with respect to sage-grouse. As described in more detail below, if no trigger has been tripped across a Conservation Area, the Standard 8 analysis for sage-grouse should be a straightforward process.

Standard 8 of the IRHS establishes that the habitat important to threatened and endangered plants and animals meet a "maintain a viable population" threshold with respect to livestock grazing. 43 C.F.R. Subpart 4160. Consistent with the overall approach of the Governor's Alternative, utilizing an outcome-based conservation strategy within an adaptive construct, the State of Idaho has identified an overall population target buttressed by regulatory mechanisms and adaptive regulatory triggers. Where these population and habitat triggers are being maintained within a Conservation Area, there is a rebuttable presumption that current grazing systems are adequate to maintain viable sage-grouse populations; and therefore, absent compelling information, no further changes to the grazing systems will be required pursuant to the Standard 8 analysis with respect to sage-grouse.

This rebuttable presumption *only relates* to sage-grouse management; it does not extend to other relevant issues in the Standard 8 analysis. Moreover, it does not preclude adaptive change to grazing permits based on the other standards contained in the IRHS. Again, it is important to note that the Forest Service is not subject to the IRHS; however, the conservation objectives established in the Governor's Alternative meets the applicable standards in NFMA.

If an adaptive regulatory trigger is tripped consistent with the process outlined above, and livestock grazing is identified as the potential limiting factor, the presumption that the current grazing operations within the Conservation Area have met Standard 8 with respect to sage-grouse will no longer be applicable. Following such a determination, the process outlined in the Governor's Alternative at 12-18, and as described below, for Standard 8 as well as Standards 2 and 4 will be implemented.¹ BLM will individually analyze those allotments and pastures within the relevant Conservation Area. Given limited agency resources, prioritization will be given to areas that have the potential to provide the greatest benefit to sage-grouse. Allocation of resources should be concentrated on allotments within the CHZ that have declining sage-grouse populations. Following those permits within the CHZ, resources will be further prioritized to allotments within the IHZ with breeding habitats that have decreasing lek counts. (See Flow Chart, Appendix V). Sage-grouse populations that are stable or trending upward will be a lower priority for permit renewal and the assessment process.

The assessment/determination process for sage-grouse and Standard 8 compliance must rely on published characteristics of sage-grouse habitat and the Ecological Site Descriptions, existing vegetation, habitat inventories/assessments (Stiver et al. 2010), and where available, state and transition models that describe vegetation and other physical attributes for sage-grouse. The related characteristics within the categories shown below will also be included. These characteristics indicate the ability of a given area to provide sage-grouse habitat.

Category 1: The grazing allotment (or any pasture/significant area therein) has the existing vegetation and existing ecological condition (seral state) to provide sage-grouse habitat

Category 2: The grazing allotment (or any pasture/significant area therein) has the ecological potential to provide sage-grouse habitat.

Where an allotment or pasture meets one of these Categories above, Tables 3-5 (pages 14-17) will be incorporated into relevant resource management plans as the desired conditions with the understanding that these desired conditions may not be achievable: (a) due to the existing ecological condition, ecological potential or the existing vegetation; or (b) due to causal events unrelated to existing livestock grazing. Allotments will only be managed for the primary seasonal habitat that it has the potential to support. Typically, summer habitats will be managed to provide the conditions described in Table 3; winter Table 4; and breeding habitats in Table 5.

¹ Where inconsistencies arise between the grazing framework described on pages 12-18 of the Governor's Alternative and this document, defer to this document.

Based on these habitat characteristics, BLM will conduct fine and site scale-habitat assessments to help inform grazing management. Where necessary, a determination of factors causing any failure to achieve the habitat characteristics (Tables 3, 4 and 5, pages 14-16) will be conducted at a resolution sufficient to document the habitat condition. This determination will include consideration of local spatial and inter-annual variability. A determination of issues attributable to livestock grazing management should not result from one year of data at a specific location within an allotment.

If the process and conditions outlined above demonstrate that livestock grazing is limiting achievement of the habitat characteristics (Tables 3-5), renewed permits will include measures, including but not limited to the actions outlined in (J, pages 46-48), to achieve desired habitat conditions. These measures must be tailored to address the specific management issues associated with seasonal habitat limitations identified in the fine-scale assessments.

Additionally, adaptive management changes related to existing grazing permits should only be undertaken if improper grazing is determined to be the causal factor in not meeting habitat characteristics, specific to site capability, based upon monitoring over time with appropriate site variability.

The Implementation Task Force will maintain oversight capabilities throughout the process and will be given the ability to review proposed management changes and the implementation of conservation measures to ensure that the measures are being appropriately applied.

Under the second path, this adaptive framework aides in determining whether improperly managed livestock grazing may be a causal factor potentially requiring adaptive change prior to permit renewal to existing permits within a Conservation Area. This adaptive process is tied solely to Standard 8 and will rely on the preceding process as outlined above.

