



Oregon Natural Desert Association

June 27, 2008

VIA WEBSITE SUBMISSION

Public Comments Processing, Attn: FWS-R6-ES-2008-0022  
Division of Policy and Directives Management  
U.S. Fish and Wildlife Service  
4401 N. Fairfax Drive, Suite 222  
Arlington, VA 22203

Re: State Review of Western Sage Grouse for Listing under the Endangered Species Act

Dear Project Manager:

I write on behalf of the Oregon Natural Desert Association (“ONDA”) concerning the U.S. Fish and Wildlife Service’s status review of the western sage grouse (*Centrocercus urophasianus phaios*) to determine if listing the species under the Endangered Species Act (“ESA”) is warranted.

ONDA is a non-profit public interest organization of approximately 1,000 members. Its mission is to protect, defend and restore forever, the health of Oregon’s native deserts. ONDA has a long history of interest and involvement in FWS and other agencies’ activities with respect to wilderness, grazing, riparian areas, water quality, and protection of imperiled fish and wildlife species and their habitat. Based on the best scientific and commercial information available, and on the inadequacy of current conservation efforts in place, ONDA recommends that the Service list the western sage grouse as threatened or endangered under the ESA.

In these comments, we review for Policy for Evaluating Conservation Efforts (“PECE”) compliance the State of Oregon’s *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat* (Aug. 2005) (hereinafter referred to as the “Oregon Plan”). We also have joined other colleagues in the conservation community in more broad-ranging comments, including PECE reviews of other states’ conservation plans for sage grouse as well as the review by WildEarth Guardians *et al.* (Mark N. Salvo, author) of information produced after January 12, 2005. We incorporate those comments here by reference.

## I. Introduction

Oregon sage grouse populations and sagebrush habitats likely comprise nearly 20% of the North American range wide distribution of the species.<sup>1</sup> Thus, management actions in Oregon will have implications on a range wide scale. Population fluctuation and decline in Oregon during the past century are similar to those documented throughout the species' range. Because Oregon contains some of the largest expanses of relatively intact sagebrush habitat in North America, and coupled with relatively minimal threats of oil, gas or coal-bed methane development<sup>2</sup>, conservation and protection of sage grouse in Oregon is extraordinarily important to the species' survival and recovery range wide.

As described in greater detail in the comments submitted by WildEarth Guardians *et al.* (Mark N. Salvo, author), the main threats to sage grouse include livestock grazing, the spread of weeds and invasive species, unnatural fire, energy development, utility corridors, juniper encroachment, road density, climate change, land use issues (urban development, agriculture, water development), wind energy development and mining. Nearly all of these threats are present in sage grouse habitat in Oregon to one extent or another. Collectively, the resulting loss of habitat has been significant.

## II. The Oregon Plan

In 2005, Oregon published the *Greater Sage-Grouse Conservation Assessment and Strategy for Oregon: A Plan to Maintain and Enhance Populations and Habitat*. This plan “describes Oregon Department of Fish and Wildlife’s management of greater sage-grouse and provides guidance to public land management agencies and land managers for sage-grouse conservation.” Oregon Plan at *viii*. The Oregon Plan is divided into six sections describing the background and philosophy of conservation approaches in the strategy, an overview of sage grouse biology and ecology throughout the species range, an assessment of populations and habitat, conservation guidelines, and implementation components. We are aware of no Local Working Group plans in Oregon.

The main goal of the Oregon Plan is “to restore, maintain, and enhance populations of sage-grouse such that multiple uses of populations and their habitats can continue.” Oregon Plan at 32; *see also id.* at 66 (analogous goal for habitat management direction). The Plan contains statewide and BLM resource area population management objectives that specify the numbers of birds to be maintained or enhanced until 2055, as well as habitat percentage retention objectives. *Id.* at *ix–x*. Attaining the population objectives is largely dependent on achieving habitat goals. *Id.* at 66.

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<sup>1</sup> Approximately 70% of the sage grouse habitat in Oregon is managed by the Bureau of Land Management.

<sup>2</sup> There is, however, the potential and interest to develop wind-energy grids in most sage grouse regions in Oregon. Oregon Plan at 64.

To achieve its goal, the Plan sets out guidelines (“tools” to be used “as needed”) designed to maintain or enhance the quality of current habitats. Implementation of conservation measures outlined in the Plan “will be guided by local implementation groups comprised of land managers and land owners.” *Id.* at 70. These local implementation groups are to identify management priorities, set timelines for implementation, oversee treatments and monitoring and facilitate project funding. *Id.* at 92. The Plan states that monitoring populations and habitat is “paramount,” and calls for various types of habitat and lek surveys. *Id.* at *xii*. The Plan recognizes that implementation will occur at the local level and that its greatest likelihood of implementation and effectiveness relies on the local implementation groups. *Id.* at 4, 91.

We have reviewed the Oregon Plan per the U.S. Fish & Wildlife Service’s PECE. The policy establishes two basic criteria: (1) the certainty that the conservation efforts will be implemented; and (2) the certainty that the efforts will be effective. To determine the likelihood of implementation, the Service evaluates whether or not the parties have the authority, resources and schedule to complete the proposed efforts. To determine the likelihood of effectiveness, the Service evaluates whether or not the plan describes the nature and extent of threats, establishes specific conservation objectives, identifies steps to reduce threats, and provides quantifiable performance measures to monitor for both compliance and effectiveness.<sup>3</sup>

**A. The certainty that the conservation measures will be implemented.**

1. *The conservation effort; the parties to the agreement or plan that will implement the effort; and the staffing, funding level, funding source, and other resources necessary to implement the effort.*

The Oregon Plan outlines the overall conservation effort by authorizing Local Implementation Groups (“LIGs”) based on BLM districts. *See Oregon Plan* at 91–92. The Plan is not signed any federal or state agencies, private groups, or tribes. Because BLM manages more than 70% of the sage grouse habitat in Oregon, the Plan indicates that the agency must identify whether its land use plans conform to the Oregon Plan, including whether existing land use plans will require amendment in order to conform. Funding for projects is the responsibility of the LIGs. The state plan does not meet the PECE for this requirement.

2. *The legal authority of the parties to the agreement or plan to implement the formalized conservation effort, and the commitment to proceed with the conservation effort.*

Since the Oregon Department of Fish & Wildlife is the sole author and party to the Plan, it can be assumed that it has the legal authority to implement its plan. ODFW has established five LIGs as identified by the Plan. *Oregon Plan* at 92. However, the LIGs have not been meeting on any regular basis. It is unknown when any of the LIGs’ last meetings were held. The Plan does not specify a timeline for LIG meetings or timelines. Because many of the conservation efforts, objectives and actions listed in the Plan require other agencies or groups to implement, the

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<sup>3</sup> Although the Oregon Plan briefly mentions the PECE criteria, *Oregon Plan* at 4, it never returns to them and thus does not itself attempt to evaluate whether the Plan satisfies the PECE.

majority of the conservation efforts cannot be legally implemented. The Plan therefore is in compliance with PECE for a limited purpose only—i.e., authorizing and initiating local working groups. However it is not in compliance for any conservation effort requiring non-ODFW resources since there is no legal authority to proceed on lands not managed by ODFW.

3. *The legal procedural requirements (such as environmental review or consultation) necessary to implement the effort; information indicating that fulfillment of these requirements does not preclude commitment to the effort.*

Many of the conservation efforts described by the Oregon Plan involve management practices on public lands not managed by ODFW. Therefore there are legal requirements associated with these lands under statutes such as the National Environmental Policy Act, the Federal Land Policy and Management Act, and the Endangered Species Act. These legal procedural requirements are not addressed in the plan (except to acknowledge that they exist, *see, e.g.*, Oregon Plan at 91). These legal issues are significant and many of the conservation efforts listed in the plan cannot be implemented without following the requirements of these laws and regulations. Therefore, the plan does not meet the PECE requirements for this criterion.

4. *Authorizations (e.g. permits, landowner permission, etc.) necessary to implement the conservation effort; level of certainty that the parties to the agreement or plan that will implement the effort will obtain these authorizations.*

This requirement can only be met when the specific conservation efforts have been defined by the LIGs. Since the Plan does not specifically or adequately identify conservation efforts to be implemented, this requirement is not applicable to the Oregon Plan. Moreover, because more than 70% of the sage grouse habitat in Oregon is managed by BLM, permits and other authorizations concerning use and management of those public lands—for example, federally issued permits to graze livestock on public land—are beyond the control of the Plan. Conservation efforts directed at private lands are completely voluntary. The conservation efforts therefore do not meet this PECE criterion.

5. *The type and level of voluntary participation (e.g. by private landowners) necessary to implement the conservation effort; whether a high level of certainty is provided that the parties to the agreement or plan that will implement the conservation effort will obtain that level of voluntary participation.*

This requirement can only be met when the specific conservation efforts have been defined by the LIGs. Since the Oregon Plan does not specifically or adequately identify conservation efforts to be implemented, this requirement is not applicable for the Plan.

6. *Regulatory mechanisms (e.g. laws, regulations, ordinances) necessary to implement the conservation effort.*

This requirement can only be met when the specific conservation efforts have been defined by the LIGs. Since the Oregon Plan does not specifically or adequately identify conservation efforts to be implemented, this requirement is not applicable for the Plan.

- 7. The high level of certainty that the parties to the agreement or plan that will implement the conservation effort will obtain necessary funding.*

The Oregon Plan indicates that LIGs will be responsible for identifying funding sources for projects. Oregon Plan at 92. No certain sources of funding are listed in the Plan. Since the only party to the plan is the ODFW, it is the only certain source of funding. However, the Plan is silent on whether funding is available. As with many of the other state sage grouse conservation plans, lack of funding may plague this plan. There can be no certainty of implementation if there is not an assured source of funding for the conservation efforts proposed in the Plan. In this case, funding is not certain and the PECE criterion is not met.

- 8. An implementation schedule (including completion dates) for the conservation effort.*

The Oregon Plan does not provide an implementation schedule for the majority of the conservation efforts listed in the plan. The only firm date provided in the Plan is its objectives concerning maintaining sage grouse population levels until the year 2055. The Plan also provides trigger dates (or time periods) for recommended management actions or adaptive management actions. *See* Oregon Plan at 32–37. A detailed implementation schedule is necessary in order to determine if conservation efforts are proceeding towards final implementation. The Plan is silent on these details for almost all of the conservations efforts, where the goal is stated but no other details are provided. The Plan does not provide any details or milestones for how completion dates should be met. This lack of specific information makes implementation uncertain and does not meet the PECE criterion.

- 9. Whether the conservation agreement or plan that includes the conservation effort is approved by all parties to the agreement or plan.*

The Oregon Plan is not signed by any party. It states that “[i]t is anticipated that BLM, NRCS, DSL, U.S. FWS Refuges, USFS, and ODFW will formally adopt the Plan and implement its elements at the local level.” Oregon Plan at 91. It is unclear whether these parties have done so.

## **B. The certainty that the conservation measures will be effective.**

- 1. Description of the nature and extent of threats being addressed by the conservation effort.*

The Oregon Plan identifies a number of threats to sage grouse and sage grouse habitats. These threats include weather, predation, hunting, parasites and disease, and human influences including agricultural conversion, sagebrush conversion, livestock grazing and range development, mismanagement of riparian and wetland areas, recreation and other land uses. Oregon Plan at 5–11, 38–43.

The nature of these threats is documented in the Plan. The Plan includes sections from a statewide perspective on wildfire, prescribed fire, livestock grazing, juniper expansion, invasive vegetation, vegetation treatments, realty, recreation, predation and West Nile virus, which include actions and conservation guidelines specific to each issue. *Id.* at 70–87. The Plan also contains a brief description of regional conservation measures for the five identified LIG regions. *Id.* at 87–90. The conservation guidelines in this section “should be viewed as tools as needed in a region” and implementation “will be guided by [LIGs] comprised of land managers and land owners.” *Id.* at 70. Part of the LIGs’ responsibilities will be to “identify the appropriate tools to meet the objectives in their region.” *Id.* The extent of the threat is addressed for some issues and not for others. The nature and extent of local threats is assigned to the LIGs.

The Oregon Plan meets the PECE criterion for this requirement but the LIGs must describe local threats when developing specific conservation efforts.

2. *Explicit incremental objectives for the conservation effort and dates for achieving them.*

The primary goal of the Oregon Plan is to “restore, maintain, and enhance populations of sage-grouse such that multiple uses of populations and their habitats can continue.” Oregon Plan at 32. The primary objective of the Plan is “to maintain large expanses of intact sagebrush habitat for the benefit of sage-grouse and other sagebrush associated species.” *Id.* at 102.

The Plan lists some incremental objectives for conservation efforts, some of which are stated in quantitative terms but many of which are stated merely in general terms. For example, the Plan states the population levels to be maintained and refers to specific decline rates (e.g., a trend indicating a decline in a population of >7% for more than 3 consecutive years or a decline <7% for 5 or more consecutive years). However, in the event such quantitative measures (e.g., with respect to the declines) are triggered, the Plan merely states that, for example, “federal and state agencies will need to consider management actions to reverse the decline or at least stabilize the population.” *Id.* at 32.

It is questionable whether these are “explicit incremental objectives” as required by this PECE criterion. The LIG plans should therefore be much more explicit when addressing this issue. Section VI of the Plan does not list milestones for, for example, local working groups, wildfire, annual grasslands, and habitat and population monitoring. This section therefore does not address when the goals and objectives of the Plan will be accomplished. Therefore, some aspects of this PECE criterion are met by the Oregon Plan for this requirement and some are not met.

3. *The steps necessary to implement the conservation effort.*

The Oregon Plan outlines the current condition of sage grouse and sage grouse habitat in Oregon, the threats at issue, the potential measures to take to address those threats and the general process for setting up LIGs to implement actual conservation efforts.

Section IV of the Plan goes into some detail about the threats to sage grouse and sage grouse habitat in Oregon. Section V describes conservation measures necessary to reduce, eliminate, or mitigate threats. The measures (“conservation guidelines”) are intended to be used by the LIGs which would choose those measures appropriate to the local threats. The Plan discusses the methods to be used for evaluating and monitoring sage grouse populations and habitat in various places, including in three appendices to the document. The Plan includes only very general recommended habitat characteristics for protective cover and food acquisition.

Each LIG is expected to identify priority conservation actions and related projects based on their habitat and population objectives, local threat characterizations, and other known local factors. Federal land management agencies are then expected to take the lead in facilitating, preparing, or contracting necessary (e.g., NEPA) documentation for specific recommended conservation actions on federal lands. Therefore, the LIGs are responsible for meeting these criteria when the specific conservation efforts are described in their plans.

Although most of these steps are general in nature, they do outline the basics of what needs to be done to implement the strategy. Therefore the Plan minimally meets the PECE requirements for this criterion.

4. *Quantifiable, scientifically valid parameters that will demonstrate achievement of objectives, and standards for these parameters by which progress will be measured.*

The Oregon Plan does not adequately list quantifiable, scientifically valid parameters that will demonstrate achievement of objectives. It emphasizes several current deficiencies or shortcomings in monitoring methods and habitat goals. The basic habitat goal is the “70/30 objective” calling for maintenance of 70% sagebrush and 30% potential habitat, which “approximates the current status of intact and disturbances to sagebrush habitat, respectively, in Oregon.” Oregon Plan at 66. Appendix I sets out a protocol intended to standardize collection of data for lek monitoring, population estimation and hunting procedures/guidelines. The LIGs are responsible for defining the quantifiable parameters for each conservation effort within LIG plans. The Plan recommends that BLM districts adopt the 70/30 framework in land use plans.

5. *Provision for monitoring and reporting progress in implementation (based on compliance with the implementation schedule) and effectiveness (based on evaluation of quantifiable parameters) of the conservation effort.*

The Oregon Plan states that monitoring populations and habitat is “paramount,” and calls for various types of habitat and lek surveys. *Id.* at *xii*. However, the Plan contains little in the way of providing for specific monitoring for the specific threats identified in the document. In Section VI (“Implementation and Monitoring”), the Plan briefly describes general inventory and monitoring of sage grouse distribution and habitat conditions. Most of the discussion is devoted to research needs and gaps in current data and information.

Section V of the Plan outlines threats and the actions and conservation guidelines intended to address those threats. These are largely qualitative approaches that do not list specific

metrics. For example, under the topic of Livestock Grazing the approaches listed in response to a determination that grazing levels are detrimental to habitat quality include only general, adaptive management measures such as changing the locations of salt, water or fencing, changing the season of use, or reducing grazing use levels. Oregon Plan at 75. The conservation guidelines provide that measurement of grazing levels will be conducted only on the portion of the pasture known to be sage grouse habitat. *Id.* Range projects (e.g., troughs, fences, corrals) are to be placed at least 1km from leks. *Id.* at 75–76. In Section IV, the Plan states that at the pasture level, habitat quality can be measured under Rangeland Health Standard #5 on BLM lands. *Id.* at 69.

Overall, these provisions do not provide comprehensive measures for analyzing the impact of livestock grazing on sage grouse populations and habitat. By and large, they do not specify the actual metrics to be used to measure accomplishment of goals. Moreover, the Plan includes nothing specifying or requiring any sort of reporting on progress in implementation. Because the LIGs have not met in quite some time, there likewise is no current information on such progress.

6. *Principles of adaptive management are incorporated.*

The Oregon Plan states that it is “meant to be a dynamic document so as new information is learned it will be used in an adaptive management process to evaluate, maintain and enhance sage-grouse populations and sagebrush habitat.” Oregon Plan at 1–2. There is, however, no section that specifically discusses adaptive management measures or strategies to be implemented. The general theory of adaptive management is not defined or discussed. The only conservation guidelines section to mention adaptive management specifically is the livestock grazing section. *Id.* at 75. Based on this review, the Plan is inadequate in terms of addressing what adaptive management is, how it relates to the sage grouse conservation plans, and when and how adaptive management will be employed for each of the conservation efforts. The LIG plans must therefore provide additional details on how they will incorporate adaptive management into their conservation efforts. The Oregon Plan does not meet this PECE criterion.

### **III. Local Implementation Group Plans**

ONDA is aware of no LIG plans in Oregon.

### **IV. Conclusion**

The conservation efforts included in the Oregon Plan do not meet PECE criteria. Like many other of the state and local working group plans throughout the West, the Oregon Plan cannot be relied upon as a significant factor in mitigating the threats to sage grouse and sage grouse habitat. Major deficiencies in the Oregon Plan include a lack of commitment by agencies identified as responsible for carrying out the conservation efforts, lack of funding, no clear process for implementing the Plan, and few or no scientifically valid parameters to evaluate or monitor the progress of the Plan. These and other deficiencies prevent the Plan from providing certainty that it will mitigate or eliminate current threats to sage grouse in Oregon. The Western Association of Fish and Wildlife Agencies (“WAFWA”) found that funding, leadership, and organizational structure were the three most critical elements necessary to carry out the work of

protecting sage grouse. These issues are reflected in the deficiencies in the Oregon Plan. Success must be linked to actual progress in terms of habitat improvement or increases in sage grouse populations. As a result, the Oregon Plan does not meet the PECE requirements.

ONDA appreciates the opportunity to comment on the U.S. Fish and Wildlife Service's status review of the western sage grouse. If you have any questions regarding these comments or wish to discuss them further, please do not hesitate to contact me. Please retain ONDA on any and all relevant mailing or emailing lists associated with this process.

Sincerely,

s/ Peter M. Lacy

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