United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
3425 Miriam Avenue
Bismarck, North Dakota 58501

DEC 1 2 2013

Mr. Terry Steinwand, Director
North Dakota Game and Fish Department
100 N. Bismarck Expressway
Bismarck, ND 58501

Subject: US Fish and Wildlife Service input on the 2013 Revision of the 2005 Management Plan and Conservation Strategies for the Greater Sage Grouse in North Dakota

Dear Director Steinwand:

On July 2, 2013, the North Dakota Game and Fish Department (Department) requested review and input from the US Fish and Wildlife Service, North Dakota Field Office (Service) and other conservation partners concerning the Department's 2013 draft revision of the 2005 Management Plan and Conservation Strategies for the Greater Sage Grouse in North Dakota (Plan). The purpose of this letter is to recap the high points of our August 20, 2013, meeting regarding the Plan, as well as comments and recommendations that seem appropriate after reviewing the Plan. These comments are intended to facilitate the ongoing revision process and to insure clear communications as we partner with you on this important undertaking for the conservation of the greater sage-grouse (*Centrocercus urophasianus*) (sage grouse).

The Service believes sage-grouse in North Dakota (ND) represent a somewhat unique component in the context of an overall, range-wide conservation strategy. Located at the northeastern extent of the species coterminous range, ND sage grouse play an important role in maintaining the species historic distribution. When assessing the population status/species viability, sage-grouse distribution is one of the three general population attributes (numbers and reproduction are the other two) the Service considers when assessing the species' response to the array of threats throughout the 11-State distribution. Though relatively few in number, and at the edge of the range, the Service believes ND sage grouse play an important role in the long-term viability of the species by contributing to the species' resiliency, redundancy, and representation.

After a careful review, the Service believes that the Plan as currently written does not provide sufficient assurances of achieving the conservation objectives as stated in the February 2013 Greater Sage-grouse Conservation Objectives: Final Report (COT Report). The Plan relies

largely on voluntary actions, which may eventually prove effective in achieving the objectives, but as there is not currently a track record of success, it is difficult at this stage to determine whether or not the Plan will be effective. We therefore are not able to consider the conservation actions contemplated within the Plan as an adequate regulatory mechanism under Factor D in our five-factor analysis. However, through the Service's Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE) we can consider conservation actions in the Plan if they meet certain criteria.

As presented in the Plan (pp. 56-57), the PECE identifies criteria used in determining whether formalized conservation efforts, not yet implemented or not yet effective, can contribute to listing a species as threatened or endangered unnecessary. Many of the voluntary conservation efforts associated with non-federal land as discussed in the Plan may not be initiated or completed by 2015, and will thus be evaluated under our PECE policy. The Plan accurately depicts on pp. 56-57 the relevant criteria used by the Service to assess the implementation and effectiveness of the conservation actions presented in the Plan.

A portion of conservation objective 3 (COT report) that is within the State's authorities may be met, depending on the outcome and effectiveness of a possible gubernatorial Executive Order (EO) and other incentive-based actions. However, full achievement of Objective 3 is not expected due to the Plan being dependent upon voluntary participation of the other ND State departments (e.g., Department of State Lands, ND Industrial Commission, Department of Mineral Resources, Oil and Gas Division, and Department of Transportation), county governments, and private landowners to ameliorate the dominant threats from energy development, infrastructure, and fire.

The species' extensive use of habitat on private lands presents an additional conservation challenge because State regulatory control over these dominant threats is currently not present. Accordingly, population and habitat trends, and the associated need to monitor the trends (COT objectives 1, 2, and 5) are likely to remain essentially unaffected by the Plan as currently drafted. Development of incentive-based conservation strategies, voluntary conservation actions, and research activities (COT objectives 3, 4, and 6), currently being implemented to some degree under the existing 2005 Plan, are expected to continue once the revision of the Plan is completed. However, until such time as actions pursuant to objectives 3 and 4 are fully fleshed out and implemented, the Service does not believe that an informed judgment of meeting those COT report objectives can be made.

We suggest characterizing the threats and ranking their relative severity as they are presented in the COT report, unless the Department has local information or more relevant reasoning upon which to identify an additional threat or different ranking. For example, the Plan reports the two highest threats to be energy development and infrastructure, consistent with the COT report. However, it is unclear to the Service why fire is reported as a lower threat in the Plan than in the COT report. In addition, population isolation/small size is not explicitly identified in the Plan as a threat (p. 26). Further, the Plan identifies the threats of predation (ranked #6), recreational disturbance (ranked #8), [game] harvest management (ranked #9), and the lack of outreach/education (ranked #10). These latter four threats are not explicitly identified in Table 2 of the COT report as threats that are currently present in ND. Additional explanation is

suggested in the threat discussion so readers can understand why there may be differences between the Plan and the COT report.

We agree with the distribution and abundance objectives as stated in the Plan (p. 16). Any constriction in the species' range or observed reductions in the area of occupancy within the range (e.g., a reduction in numbers or lek attendance) would reasonably be viewed as evidence indicating a reduction in the population status of sage grouse. Thus, achieving the distribution and abundance objectives through the habitat improvement you discuss in the Plan would have significant conservation value; however, as mentioned previously, it is unclear how these objectives will be achieved, given the largely voluntary nature of actions described in the Plan, and the lack of a history of actions that can be assessed.

To increase the likelihood of achieving the objectives of the COT Report, the Service has a few suggestions to consider for the implementation goals presented on page 56 (Section V). The Plan has an excellent description of the suite of potential programs, funding, and policies that are in place, or could be put in place to facilitate implementation of the conservation actions intended to ameliorate each threat (Section IV). However, the Service believes the Plan lacks some key components needed to realize maximum conservation; specifically: 1) a specific threat analysis depicting the location of at least the most severe threats (i.e., energy development, infrastructure, and fire as stated in the COT Report, and: 2) an implementation schedule and adaptive management measures describing when and where the needed conservation actions should occur. For example, the resource selection function developed by Department scientists (Section IV, pp. 26-29), coupled with a spatially explicit threat analysis, could inform the timing and delivery mechanism for the numerous conservation actions presented. The Service believes this or a similar approach would provide a transparent planning approach, linking the comprehensive scientific foundation presented in the Plan with the underlying rationale behind the Department's specific management recommendations. In short, this would provide more clarity on what, where, when, and why one or more conservation actions should occur.

In our August meeting we discussed the inherent uncertainty associated with the voluntary nature of the Plan. To address this lack of certainty towards achieving the Plan's implementation goals, as well as the conservation objectives stated in the COT report, we discussed the options to maximize ND State regulatory control as soon as possible. Options discussed included development of an EO and/or State mitigation strategy to ameliorate current threats. Giving sage grouse conservation equal consideration in decisions involving, for example, energy development, grazing, and infrastructure on lands managed by the State of ND (i.e., Trust lands within the sage grouse range) or other ownerships, could result in threat reduction that is biologically meaningful. However, the certainty of an EO being issued and the ability of any EO to bring about significant conservation for the grouse are unknown at this time.

On the other hand, we suspect that land use decisions on private lands, if effective, likely would have the most significant influence on sage grouse conservation, given that the sage grouse management zone in ND is comprised primarily of private lands (estimated 77 percent). Accordingly, partner agencies have spent considerable time devising an approach to promote private landowner-based conservation agreements. Subsequent to our August 20 meeting, the

Department, Bowman/Slope Soil Conservation District, Natural Resources Conservation Service, Bureau of Land Management, the Department, and the Service have worked together to jointly deliver a workshop for private landowners/managers on December 11 in Rhame, ND. The purpose of the meeting was to provide information on options available to landowners, such as Candidate Conservation Agreements with Assurances, sources of funding, technical assistance, and in-kind services. Nevertheless, until these or other actions are actually implemented, the effectiveness of any voluntary landowner conservation agreements will remain unknown.

In closing, the Service wants to express our appreciation for the highly effective, collaborative working environment between our agencies on these issues. We continue to be impressed by the professional integrity of the Department's managers and scientists. It is therefore no surprise that the science contained in the Plan is sound and well-presented.

We look forward to our mutual efforts to conserve this important species. If you have any questions, please do not hesitate to have your staff contact Kevin Shelley of my staff at (701) 355-8512, or you can contact me directly at (701) 355-8508 or at the letterhead address.

Sincerely,

Jeffrey K. Towner

Jeffrey K. Towner
Field Supervisor
North Dakota Field Office

cc: US Fish and Wildlife Service, Regional Director, Region 6, Denver, CO
(attn.: M. Thabault and N. Alt)
Bureau of Land Management, ND Field Office Manager, Dickinson, ND (R. Rymerson)
US Forest Service, Dakota Prairie Grassland Supervisor, Bismarck, ND (D. Neitzke)
Natural Resources Conservation Service, ND State Conservationist, Bismarck, ND
(M. Podoll)
Bowman-Slope County Soil Conservation District, Bowman, ND (Chair)
US Fish and Wildlife Service, Partners for Fish and Wildlife, Bismarck, ND (S. McLeod)