# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

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Mr. Tom Kirschenmann, Chief of Terrestrial Resources
SD Department of Game, Fish and Parks
Joe Foss Building
523 East Capitol Avenue
Pierre, South Dakota 57501-3182

Dear Mr. Kirschenmann:

Thank you for the opportunity to review the draft "Sage-grouse Management Plan for South Dakota 2014-2018" (Plan). We appreciate the important role the South Dakota Department of Game, Fish and Parks (Department) has played in the collaborative conservation planning efforts for the greater sage-grouse (*Centrocercus urophasianus*) (hereafter sage-grouse). We recognize the Plan is a Department sage-grouse management plan and that currently less than 1% of the land in the sage-grouse core area is managed by the Department. Additionally, we recognize that the Department has the expertise for sage-grouse management but has little authority for regulating surfacing disturbing activities. However, we encourage the Department to utilize its management expertise to develop a plan that more closely incorporates the conservation strategies identified in the February 2013 *Greater Sage-grouse Conservation Objectives: Final Report* (COT Report). A more detailed Plan could provide other state and federal land management and regulatory agencies with informed guidance to assist in their decision making for managing surface disturbing activities. The development and subsequent implementation of these strategies may help to eliminate or ameliorate negative impacts to the sage-grouse and sage-steppe habitat from surface disturbing activities. We believe this process is important to conserve sage-grouse and sage-steppe habitat in South Dakota.

We strongly support the larger core areas proposed in the Plan and the increased connectivity with the sage-grouse populations in North Dakota and Wyoming previously missing in the Priority Areas of Conservation (PAC) identified in the COT Report. We are also supportive of the closure of the sage-grouse hunting season the Department undertook in 2013. Finally, we find merit in the strategies identified in the Plan and believe those strategies may contribute to

the stated goal of the Plan to "maintain a sustainable sage-grouse population" and agree with the Department that goal can only be accomplished through cooperation and coordination with other state and federal agencies. For example, table 4 in the Plan indicates approximately 19% of the core area is under the management of the South Dakota Office of School and Public Lands (SPL) and approximately 42% of core area has some jurisdictional (when including surface and subsurface rights) of the Bureau of Land Management (BLM) and US Forest Service (USFS). This means approximately 60% of the core area has some type of public ownership or management interest that can benefit from cooperation. Additionally, we believe the South Dakota Department of Environment and Natural Resources (DENR) can play a role in the protection of sage-grouse habitat on private and state lands through its permitting authorities for oil and gas development if they were to implement stipulations in their leasing actions for the protection of sage-grouse habitat. Therefore, we believe the Department in coordination with SPL, BLM/USFS, and DENR can begin to stem the "loss and degradation of habitat" and implement adequate regulatory mechanisms that will address the COT Report conservation objectives.

## Review Process

The introduction to the Plan refers to the 2010 listing decision (USFWS 2010) for the greater sage-grouse that found it warranted for listing but precluded by higher priorities, noting the contributing factors to the decision were "loss and degradation of habitat" (Factor A) and "inadequate regulatory mechanisms" (Factor D). Our review of the Plan is therefore concentrated on how the contributing factors are addressed and how the implementation of the strategies in the Plan will contribute to the listing decision anticipated in 2015. Furthermore, we utilized the COT Report for detailed guidance as it was developed to provide direction to state and federal agencies to conserve the sage-grouse with the intention of preventing listing.

## Harvest Strategy and Trends

We appreciate the discussion in the Plan regarding sage grouse's more limited reproductive output than many other upland birds and that harvest mortality may be additive to natural mortality in isolated sage-grouse populations. We also approve the Plan's use of a science based adaptive harvest strategy for future hunting seasons but note that part of the Plan looks to lean fairly heavily on expert opinion, input from landowners, and sage-grouse hunters - i.e., more opinion/consensus to set the season. Further, the Plan indicates that if all priority leks are unable to be counted in a given year, a "judgment decision will be made using the best available data to make a hunting season recommendation."

We recommend the Plan clarify this judgment decision to ensure this regulatory mechanism is perceived as transparent and adequate to conserve sage grouse.

## Mitigation

We encourage the Plan to incorporate a mitigation strategy and suggest mitigation should be sequenced as defined by CEQ (40 CFR 1508.20) as avoid, minimize, rectify, reduce or eliminate over time, and compensate. Mitigation should be applied in all greater sage-grouse habitat, to all discrete anthropogenic development disturbances over which there is discretionary authority, and based on a complete assessment of all direct and indirect impacts associated with a proposed action. For impacts that are unavoidable, compensatory mitigation should be designed to achieve the greatest conservation benefit for the species, be made durable, and targeted to within PACs or core areas and other locally identified important habitats. Application of mitigation strategies should ultimately result in a net conservation gain to the species.

## COT Report Consistency in Plan Development

General Conservation Objective 1: *Stop population declines and habitat loss.*

The objective is to eliminate or redesign activities that negatively impact sage-grouse and their habitats and conserve all current core areas through the appropriate level of management. Strategy 1.4b of the Plan recommends that policy makers utilize the conservation measures in the COT Report, along with other guidance documents, to develop regulatory mechanisms that could reduce negative impacts to sage-grouse habitat. However, the Plan does not provide specific guidelines on development of regulatory mechanisms or the appropriate level of management within the core areas. Therefore, we do not believe the Plan will meet objective #1 and lead to a substantial reduction in the threats unique to South Dakota.

General Conservation Objective 2: *Implement targeted habitat management and restoration.*

The Plan outlines considerable voluntary actions for habitat management which we believe will benefit sage-grouse we are concerned voluntary actions alone may not be enough to stop the downward trend in the South Dakota sage-grouse population. Additionally, the Plan does not provide direction on sage-grouse habitat management outside core areas or any significant guidance on restoration as encouraged in COT Report.

General Conservation Objective 3: *Develop and implement state and federal sage-grouse conservation strategies and associated incentive-based conservation actions and regulatory mechanisms.*

The COT Report recommends that state agencies along with interested stakeholders develop and implement conservation strategies and associated incentive-based conservation actions and regulatory mechanisms; that state agencies should develop conservation plans in coordination with the Fish and Wildlife Service (FWS); and these plans should include clear mechanisms for addressing the threats to sage-grouse as identified in the COT Report. Additionally these plans should consider using the criteria identified in the *Policy for Evaluation of Conservation Efforts (PECE) when Making Listing Decisions* (Federal Register/Vol. 68, No. 60/Friday, March 28, 2003; Appendix B), the main points of which we highlight below. This will ensure that the plans address the threats contributing to the 2010 warranted but precluded determination, and that conservation strategies will meaningfully contribute to future listing analyses.

Conservation plans should:

1) Be based on the best available science;

2) Use local data on threats and ecological conditions, including status of local sage-grouse populations and their associated habitats;

3) Maintain the diversity of sagebrush habitats essential to provide for all sage-grouse seasonal and life history stages;

4) Maintain genetic and physical connectivity; and,

5) Maintain all current intact sage-grouse habitats according to the state management plans (developed in coordination with FWS as discussed above) or other conservation efforts (e.g., BLM priority areas), recognizing existing valid rights.

We believe the Department utilized numbers 1, 2, and 4 in the Plan development. However, we believe the Plan as currently written may not have the regulatory mechanisms needed to sufficiently address numbers 3 and 5. We recommend further development to provide direction to other state and federal agencies and help ensure sage-grouse/sage-steppe conservation.

General Conservation Objective 4: *Develop and implement proactive, voluntary conservation actions.*

We believe that GFP and others have contributed to this objective and will continue to do so as indicated by the Strategies in Objective 1 of the Plan. Specifically the Departments private lands habitat program and the collaboration efforts with Natural Resource Conservation Services' Sage Grouse Initiative and Pheasants Forever Farm Bill Biologist are in place to continue to put quality conservation actions on the ground to conserve sage-grouse.

General Conservation Objective 5. *Develop and implement monitoring plans to track the success of state and federal conservation strategies and voluntary conservation actions.*

While important monitoring strategies are included in the Plan we recommend the development of an overall monitoring plan that includes an adaptive management aspect to inform future management decisions. We also recommend that the Plan incorporate management actions of other state agencies in the development and implementation of a monitoring plan.

After a careful review, we believe that the Plan as currently written does not provide or recommend sufficient regulatory mechanisms to achieve the conservation objectives identified in the COT Report and does not sufficiently address the threats to South Dakota's sage-grouse population as identified in the COT Report. We recognize it will be difficult to meet the COT Report objective to abate and reverse the decline in sage-grouse numbers and loss of sage-steppe habitat in South Dakota without the assistance of other state and federal agencies that have more regulatory authority. Therefore, we are supportive of a plan that involves other state land management and regulatory agencies if it encourages those other agencies to implement measures to conserve sage-grouse and sage-steppe habitat. We believe the goal, objectives, and strategies identified in the Plan have merit but encourage more regulatory mechanisms be identified to address that aspect of the Plan.

Sincerely,

Scott Larson

Scott Larson
Field Supervisor
South Dakota Field Office

## LITERATURE CITED

U.S. Fish and Wildlife Service. 2013. Greater Sage-grouse (*Centrocercus urophasianus*) Conservation Objectives: Final Report. U.S. Fish and Wildlife Service, Denver, CO. February 2013.