From:	Bush, Jodi
To:	Alt, Nicole
Cc:	Michael Thabault; Noreen Walsh; Pat Deibert; Matt Kales
Subject:	Re: GRSG: BP for Secretary re: MT EO
Date:	Wednesday, October 29, 2014 1:30:53 PM
Attachments:	GRSG MT EO Secretary BP 10-29-14_jbeds.docx

Looks good. Caught some minor edits. JB

Jodi L. Bush
Field Supervisor
Montana Ecological Services Office
585 Shepard Way, Suite 1
Helena, MT 59601
(406) 449-5225, ext.205

On Wed, Oct 29, 2014 at 11:18 AM, Alt, Nicole <nicole_alt@fws.gov> wrote:

> Attached below is the request briefing paper for the Secretary regarding the State of Montana's Executive Order in advance of the letter from the Service to the state. Please let us know if you have any questions.
>
> Nicole
>
> Nicole Alt
> Deputy ARD Ecological Services
> Mountain-Prairie Region
> nicole_alt@fws.gov

INFORMATION/ BRIEFING MEMORANDUM FOR THE SECRETARY

DATE: October 28, 2014

FROM: Director, U.S. Fish and Wildlife Service

SUBJECT: Greater sage grouse: State of Montana Executive Order and the Montana Sage-Grouse Habitat Conservation Program

The purpose of the memorandum is to summarize the Fish and Wildlife Service's (Service's) concerns with some of the components of Montana Executive Order (EO) 10-2014 (as compared with similar components of the Wyoming State EO), and the status of discussions between the Montana Governor's Office and the Service. An official comment letter from the Service to the Governor's Office is forthcoming.

BACKGROUND

In February 2013, the Governor's Office formed the Montana Sage-Grouse Council (Council) and tasked it with providing to the Governor recommendations on policies and actions for a state-wide strategy to preclude the need to list the greater sage-grouse under the ESA. Service personnel actively served in an advisory capacity to the Council and provided extensive comments on all draft recommendations. The Council finalized its recommendations to the Governor in January of 2014, electing not to incorporate or fully address a number of the Service's comments and concerns. The Service held subsequent meetings with the Governor's Office in an effort to influence the final Montana strategy. ~~The EO that was issued~~ In early September 2014, the Governor issued an EO, which established the oversight team and overall program. However, mandatory project review and compliance with the stipulations therein is not required in the EO. The state has stated that a subsequent EO ~~is issued~~ requiring mandatory compliance is forthcoming; a date for the second EO is not specified in the September 2014 EO. The Governor's Office has indicated they anticipate this would occur in early 2015.

DISCUSSION

The initial Montana sage-grouse EO is structured similarly to the Wyoming sage-grouse EO, and contains similar components. However, there are important differences between the settings in the two states, which is why the Service has offered different recommendations to each state on their approaches to sage-grouse conservation. For example, while the Wyoming EO regulatory scope is well-defined, we are currently uncertain of the Montana EO regulatory scope. Wyoming core habitat contains about 84% of the GSG population, comprises 35% of GSG habitat, occurs primarily (54%) in Federal ownership, and occurs more in contiguous public ownership blocks. By contrast, Montana core habitat contains about 76% of the GSG population, comprises 28% of GSG habitat, occurs primarily (54%) in private ownership (i.e., potentially offers less regulatory applicability), and often occurs in mixed public / private ownership. This difference likely means ~~s~~ less regulatory scope and protection for the GSG across a more fragmented, mixed ownership area. Lastly, overall population status of GSG in Montana is not robust, with population status trending down (54% below the long term average

this year), whereas Wyoming contains a significant percentage (~30%) of the total rangewide population, and has recently identified upward trends in some sub-populations within the state

Remaining issues regarding the Montana EO include the Service's continuing recommendation for the Montana EO to increase both the 0.6 mile permanent lek buffer in core habitat, and the 0.25-mile permanent lek buffer in general habitat to provide better protection for nesting birds and to compensate for a more fragmented mixed ownership landscape. The buffer distances in the Montana EO are both existing elements of the Wyoming EO. While the buffer distances are similar, the scope, detail and processes of both are not. The Service also remains concerned that without an implementation track record, and the differences between the biological systems in Montana and Wyoming, certainty of effectiveness will be difficult to demonstrate in Montana.

The Service met with the Governor's Office on October 17, 2014 to discuss the substance of our pending comment draft letter. The State has asked whether there are other plan components that could potentially be adjusted to reduce Service core lek buffer concerns. The Service continues to work with the State to determine the ability to adjust measures and other EO components in an effort to maximize GSG conservation effectiveness.

NEXT STEPS

- The Service plans to issue an official comment letter to the State that conveys perceived primary strengths of, and remaining concerns with, the Montana EO.
- The Service will continue to consider and meet with the State regarding these issues.
- The State has committed to continued discourse with the Service on these issues, including core and general habitat area boundaries, and has committed to developing a regulatory scope document that may be an appendix to the EO. The State is also considering the possibility of fully implementing, on an accelerated schedule, portions of the EO in advance of program-wide implementation.