

FINDING OF NO SIGNIFICANT IMPACT
Designation of Critical Habitat for Gunnison Sage-grouse
November 10, 2014

The U.S. Fish and Wildlife Service (Service) is designating critical habitat for Gunnison sage-grouse under the Endangered Species Act (Act). The Service concludes that there will be no significant impact from the designation of critical habitat for this species. The conclusions of this Finding of No Significant Impact (FONSI) are based upon determinations in the Final Environmental Assessment for Designation of Critical Habitat for Gunnison Sage-grouse (*Centrocercus minimus*) in Colorado and Utah (final EA), dated November 9, 2014. More detailed information on the designation of critical habitat can be found in the proposed rule (78 FR 2540, January 11, 2013) and in the associated final EA. This FONSI precedes the Service's final decision on the proposed designation of critical habitat for the Gunnison sage-grouse.

Approximately 1,429,551 acres (578,515 hectares) will be designated as critical habitat in Delta, Dolores, Gunnison, Hinsdale, Mesa, Montrose, Ouray, Saguache, and San Miguel Counties in Colorado, and in Grand and San Juan Counties in Utah. All designated critical habitat consists of extensive sagebrush landscapes capable of supporting a population of Gunnison sage-grouse. All critical habitat must also contain at least one of the following Gunnison sage-grouse habitat types: (1) Breeding habitat (lek, nesting, and early brood-rearing habitats); (2) summer-late fall habitat; (3) winter habitat; or (4) alternative mesic habitats such as riparian communities, springs, seeps, and mesic meadows. We consider approximately 55 percent of designated critical habitat to be currently occupied and 45 percent to be currently unoccupied by Gunnison sage-grouse.

In the final rule designating critical habitat, specific properties with conservation plans or agreements based on conservation partnerships are excluded from critical habitat, reducing the proposed designation of 1.6 million acres to approximately 1.4 million acres. We have excluded land with a completed Certificate of Inclusion under the Candidate Conservation Agreement with Assurances; land under permanent conservation easement; and land owned by the Ute Mountain Ute Tribe that is managed under a Species Management Plan.

Section 7 of the Act requires Federal agencies to ensure, through consultation with the Service, that actions they fund, authorize, or carry out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. The final EA recognizes the difference between section 7 consultations that result from listing the Gunnison sage-grouse (i.e., jeopardy) and consultations that result from the presence of critical habitat for the species (i.e., adverse modification). This yields a more accurate estimation of the actual impacts and potential cost of designating critical habitat and provides an estimate for the total potential cost of conserving the species. The final EA evaluates environmental impacts under a no action alternative (listing without critical habitat designation) and under the proposed action (designation of critical habitat with exclusions).

Our Draft Environmental Assessment analyzed the impacts of designating 655,959 ha (1,621,014 ac) of critical habitat. However, in the final rule designating critical habitat, the Secretary has used her discretion to exclude 77,481 ha (191,460 ac) from critical habitat. These areas were excluded based on their coverage by conservation plans or agreements. Please refer to the Exclusions section of the final rule for a more complete description of our analysis under section 4(b)(2) of the ESA. Therefore, we have revised the final EA to reflect that the proposed action is now to designate the remaining 578,515 hectares (1,429,551 acres) as critical habitat.

Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Critical habitat designation will not result in any regulatory requirement for activities on private or other non-Federal lands that do not involve a Federal action because section 7 consultation does not apply in those cases.

This designation has been coordinated with the States of Colorado and Utah, affected Counties, Federal agencies, Tribes, and other stakeholders. The Service provided opportunities for review and comment on the proposed rule to list the species (78 FR 2486, January 11, 2013), the proposed rule to designate critical habitat (78 FR 2540, January 11, 2013), the draft environmental assessment on the proposed designation of critical habitat (78 FR 57604, September 19, 2103), and the draft economic analysis of critical habitat designation (78 FR 57604, September 19, 2013). Comment periods were open for approximately 22 weeks (78 FR 65936, November 4, 2013; 78 FR 57604, September 19, 2013; 78 FR 43123, July 19, 2013; 78 FR 15925, March 13, 2013; 78 FR 2486, January 11, 2013). The Service also conducted three public hearings on the aforementioned proposals on November 19, 20, and 21 in Gunnison, Colorado; Montrose, Colorado; and Monticello, Utah. We received more than 36,000 comment letters. Substantive comments were analyzed and incorporated into the final listing rule, final critical habitat rule, final EA, and final economic analysis as appropriate.

The final economic analysis estimates total potential costs (baseline plus incremental costs) (2013–2032 at 7% discount rate) for designating Gunnison sage-grouse critical habitat to be \$53,300,000. Annualized potential costs are estimated to be \$4,565,000. More detailed information regarding potential costs can be found in the final economic analysis and the final EA. The final economic analysis notes that based on recent court decisions, only Federal action agencies, which are not small entities, are subject to a regulatory requirement as a result of critical habitat designation. Consequently, the designation of critical habitat for the Gunnison sage-grouse will not have a significant economic impact on a substantial number of small entities.

Under the Council on Environmental Quality (CEQ) 40 CFR Part 1508.27, the determination of “significant” impacts, for the purpose of determining whether a more detailed Environmental Impact Statement must be prepared, requires consideration of both context and intensity.

Context

Short- and long-term impacts of the proposed designation of critical habitat for the Gunnison sage-grouse will affect suitable habitat in parts of 11 counties in Colorado and Utah. Critical habitat will be designated in six units that correspond to six of the seven populations of Gunnison sage-grouse. Impacts of critical habitat designation will not be national, only regional and mostly local; impacts at these scales will be minor.

Intensity

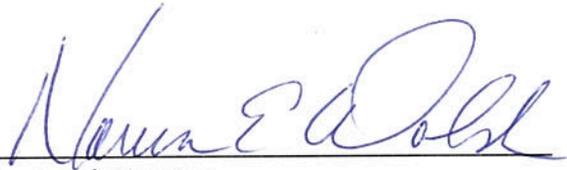
Intensity is defined by CEQ as referring to the severity of impact. The following 10 points identified by CEQ were considered in evaluating intensity in the final EA and are summarized below:

1. *Potential impacts to environmental resources, both beneficial and adverse would be minor or moderate in all cases.* We analyze impacts to environmental resources in chapter 5 of the final EA and foresee some minor to moderate beneficial impacts to the natural environment as a result of ecosystem protections provided through conservation of the Gunnison sage-grouse and requirements of section 7 of the Act. We also anticipate some minor to moderate negative impacts to the human environment due to costs associated with section 7 consultations on Federal actions and possible ecosystem protections required within critical habitat.
2. *There would be negligible impacts to public health or safety from the proposed designation of critical habitat.* The designation of critical habitat will not have a discernible impact on human safety because this is an administrative action only, without any physical changes made to the landscape.
3. *Impacts on unique characteristics of the area would be negligible.* Although several areas designated as critical habitat are within or near parklands, rangeland, farmland, wetlands, scenic areas, or ecologically critical areas, it is unlikely that adverse impacts will occur to these areas because this is an administrative action only, without any physical changes made to the landscape.
4. *Potential impacts to the quality of the environment are not likely to be highly controversial.* There is a perception by some segments of the public that critical habitat designation will severely limit property rights; however, critical habitat designation has minimal additional effect, beyond the effect from listing, on private actions on private land that do not involve Federal approval or action.
5. *The impacts do not pose any uncertain, unique, or unknown risks.* The Service has designated critical habitat for other species in other regions in the recent past and

we are familiar with the associated effects. We anticipate minimal risks. This action does not involve any unique or unknown risks.

6. *The designation of critical habitat by the Service for the conservation of Gunnison sage-grouse is not a precedent-setting action with significant effects.* This designation of critical habitat is not expected to set any precedents for future actions with significant effects or represent a decision in principle about a future consideration because critical habitat has been designated before for other species, as required by law.
7. *There would not be any significant cumulative impacts.* This designation of critical habitat will be additive (cumulative) to critical habitat that has been, and will be, designated for other species. However, it is the Service's conclusion that the adverse impacts of any and all critical habitat designations are small, and therefore, insignificant due to the existing impacts, both beneficial and adverse, already resulting from the listing of the species involved.
8. *This critical habitat designation is not likely to affect sites, objects, or structures of historical, scientific, or cultural significance.* This designation will have minimal adverse effects to sites on the National Register of Historic Places or other scientific or cultural sites, objects, or structures because any such potential impacts would be addressed by Federal and State laws enacted to protect and preserve these resources.
9. *The proposed designation of critical habitat would have long-term, beneficial effects for the Gunnison sage-grouse.* Most impacts from this designation of critical habitat will be beneficial to endangered and threatened species, particularly the Gunnison sage-grouse. Designation of critical habitat can focus conservation actions for listed species by identifying areas essential to those species. Designation of critical habitat alerts the public and land management agencies to the importance of these areas.
10. *Proposed critical habitat designation would not violate any Federal, State, or local laws.* This designation of critical habitat will not violate any Federal, State, or local laws or requirements imposed for the protection of the environment.

Based on a review and evaluation of the information contained in the Final Environmental Assessment for the Designation of Critical Habitat for Gunnison Sage-grouse (*Centrocercus minimus*) in Colorado and Utah, it is my determination that the designation of critical habitat for Gunnison sage-grouse does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Accordingly, preparation of an Environmental Impact Statement on the proposed action is not required.



**Regional Director
Mountain Prairie Region
U.S. Fish and Wildlife Service**

NOV 10 2014

Date

