U. S. Fish & Wildlife Service

Nevada Fish and Wildlife Office

Conserving the biological diversity of the Great Basin, eastern Sierra, and Mojave Desert

Reopening of the Public Comment Period on the Proposed Listing and Special 4(d) Rule for the Bi-State Distinct Population Segment of Greater Sage-Grouse

Frequently Asked Questions

August 4, 2014

New Material

Why is the U.S. Fish and Wildlife Service (Service) reopening the public comment period for 30 days?

The extra comment period is necessary because the Service received new information regarding population trends. Additionally, interagency funding commitments were recently announced for various conservation efforts associated with the Bi-State Action Plan. Comments previously submitted need not be resubmitted, as they will be fully considered. The final listing decision will be published on or before April 28, 2015.

What kind of new information did the Service receive?

The information offers some insight into population growth and trajectory of the Bi-State Distinct Population Segment (DPS) of greater sage-grouse across its range as well as within individual subpopulations contained within the DPS. Additionally, these data help characterize risk to the Bi-State DPS and predict future population trends. This information is available on the Internet at *http://www.regulations.gov*, Docket No. FWS–R8–ES–2013–0072.

How much money is being promised through the interagency funding commitments?

The Service received state and federal agency letters (available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0072), including from the Natural Resources Conservation Service (who leads efforts primarily on private land), that document commitments totaling approximately $32 million to implement conservation actions in the Bi-state Action Plan.

Previously Published Material

What is the Bi-State Distinct Population Segment (DPS) of greater sage-grouse and where does it occur?

The Bi-State DPS of greater sage-grouse, formerly known as the Mono Basin area population of greater sage-grouse, includes sage-grouse that occur in portions of Carson City, Lyon, Mineral, Esmeralda and Douglas Counties in Nevada. It also includes sage-grouse in portions of Alpine, Inyo and Mono Counties in California.

Why did the U. S. Fish and Wildlife Service determine that the Bi-State greater sage-grouse population is a Distinct Population Segment (DPS)?

The Bi-State greater sage-grouse population qualifies as a DPS because genetic analysis shows it has been separated from other greater sage-grouse for thousands and perhaps tens of thousands of years and is discrete. It is significant to the remainder of the greater sage-grouse population because of these genetic differences**.**

The Service and the National Oceanic and Atmospheric Administration–National Marine Fisheries Service developed the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (DPS Policy) (61 FR 4722), to help determine what constitutes a DPS. The DPS Policy identifies three elements to be considered in a decision regarding the status of a possible DPS. These elements include (1) the discreteness of the population segment in relation to the remainder of the species to which it belongs; and (2) the significance of the population segment to the species to which it belongs. If a population satisfies the above two elements, it is a DPS and then the third element is applied: (3) the population segment's conservation status in relation to the Endangered Species Act (ESA) standards for listing, delisting or reclassification (is the population segment threatened or endangered). Our policy further recognizes it may be appropriate to assign different classifications (i.e., threatened or endangered) to different DPSs of the same vertebrate taxon.

What is the Service's determination regarding the status of Bi-State DPS of the greater sage-grouse?

After evaluating the best available scientific information regarding the Bi-State DPS of greater sage-grouse, including an analysis of the threats to the species and its habitat, the Service has determined that protection under the ESA is warranted, and the species is proposed for listing as threatened. If the Service finalizes the rule as proposed, it would extend the ESA's protections to this species.

What is the purpose of the special rule? What will it do?

The special rule will increase flexibility in implementing actions that will help conserve sage-grouse. For example, any actions consistent with the Bi-State Sage-Grouse Local Area Working Group Action Plan will be recognized as helping to conserve sage-grouse, and will not require additional regulatory review to ensure they would not jeopardize the species**.**

The proposed 4(d) special rule provides that any "take" (an ESA term meaning harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) of the Bi-State DPS of greater sage-grouse incidental to routine livestock ranching activities conducted in a manner that maintains the local ecological integrity of the land, is not a prohibited action under the ESA.

What threat analysis did the Service complete in making this determination?

Under the ESA, the Service can determine that a species is endangered or threatened based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have determined that the primary threats to the Bi-State DPS of greater sage-grouse are urbanization and habitat conversion (Factor A); infrastructure (Factors A and E); renewable energy development and associated infrastructure (Factors A and E); non-native and native invasive species (e.g., cheatgrass, piñon-juniper encroachment) (Factors A and E); wildfires and altered fire regimes (Factors A and E), and small population size and population structure (Factor E). Other threats impacting the DPS are climate change, including drought (Factors A and E); mining (Factors A and E); recreation (Factors A and E); disease and predation (Factor B); and inadequacy of existing regulatory mechanisms (Factor D).

The DPS is experiencing multiple, interacting impacts (i.e., synergistic effects) to sage-grouse populations and sagebrush habitats that are ongoing (and expected to continue into the future) in many areas throughout the species' range.

Bi-State DPS of greater sage-grouse occur as small, local populations that are relatively isolated from each other. Small populations are inherently at greater risk than larger populations from events such as disease epidemics, or environmental catastrophes. Together, the Bodie and South Mono PMUs (which harbor the two stronghold populations), located mainly in California, represent less than 20 percent of the historical range for the Bi-State DPS.

Why did the Service make a determination on the Bi-State DPS of greater sage-grouse?

The Service received two petitions to list the Bi-State DPS of greater sage-grouse, one from the Institute for Wildlife Protection (dated December 28, 2001), and the other from the Stanford Law School Environmental Law Clinic (dated November 10, 2005) on behalf of the Sagebrush Sea Campaign, Western Watersheds Project, Center for Biological Diversity, and Christians Caring for Creation. A series of standard actions by the Service was taken in response to the petitions, which included publication (in 2006) of a 90-day finding that these petitions did not present substantial scientific or commercial information indicating that the petitioned actions were warranted.

Legal challenges were filed in response to this finding, and the Service subsequently voluntarily remanded its 90-day finding. Based on reevaluation, the Service published a 90-day finding on April 29, 2008, concluding the petitions presented substantial scientific or commercial information indicating that listing this population may be warranted, initiated an in-depth status review, and made a "warranted but precluded" 12-month finding, placing the species on the ESA Candidate List.

What is being done to conserve the Bi-State DPS of greater sage-grouse?

The Service acknowledges its state, federal and local working group partners as well as private landowners for their ongoing and proposed conservation efforts across the range of the Bi-State DPS of greater sage-grouse. A Bi-State Local Area Working Group has been meeting regularly to discuss projects, issues, and opportunities, and developed a Local Area Working Group Action Plan in 2004. In 2012, the Bi-State Action Plan was finalized. Similar in nature to the 2004 Plan, it updated the current understanding of the population and apparent stressors and includes a series of actions needed to alleviate impacts. Signatories to this plan include the Nevada Department of Wildlife, California Department of Fish and Wildlife, Bureau of Land Management, U.S. Forest Service, Natural Resources Conservation Service, U.S. Geological Survey and the Service. The plan was vetted through the Bi-State Local Area Working Group.

While the 2012 Action Plan remains non-regulatory, it provides a general strategic path forward toward conservation and affords a degree of confidence in implementation among stakeholders. It will also serve as a good framework for development of a species recovery plan.

Does the proposed listing of the Bi-State DPS of greater sage-grouse mean that the wider ranging greater sage-grouse will also be proposed for listing?

No. The Service's decision on the Bi-State DPS of greater sage-grouse is unique to this DPS. Based on the best available scientific and commercial information, it was proposed for protection as a separate entity and will have no bearing on the future evaluation of the wider-ranging population of greater sage-grouse.

There is still time to make conservation progress prior to the 2015 settlement date for the wider-ranging greater sage-grouse. Our proposed listing of the Bi-State DPS of greater sage-grouse should not deter implementation of actions for either the Bi-State DPS of greater sage-grouse or the wider-ranging greater sage-grouse.

How can I find out more information about the proposal?

Information about the proposed listing and special 4(d) rule is available on the Internet at http://www.fws.gov/Nevada or at http://www.regulations.gov , or by calling the U.S. Fish and Wildlife Service at 775-861-6300.

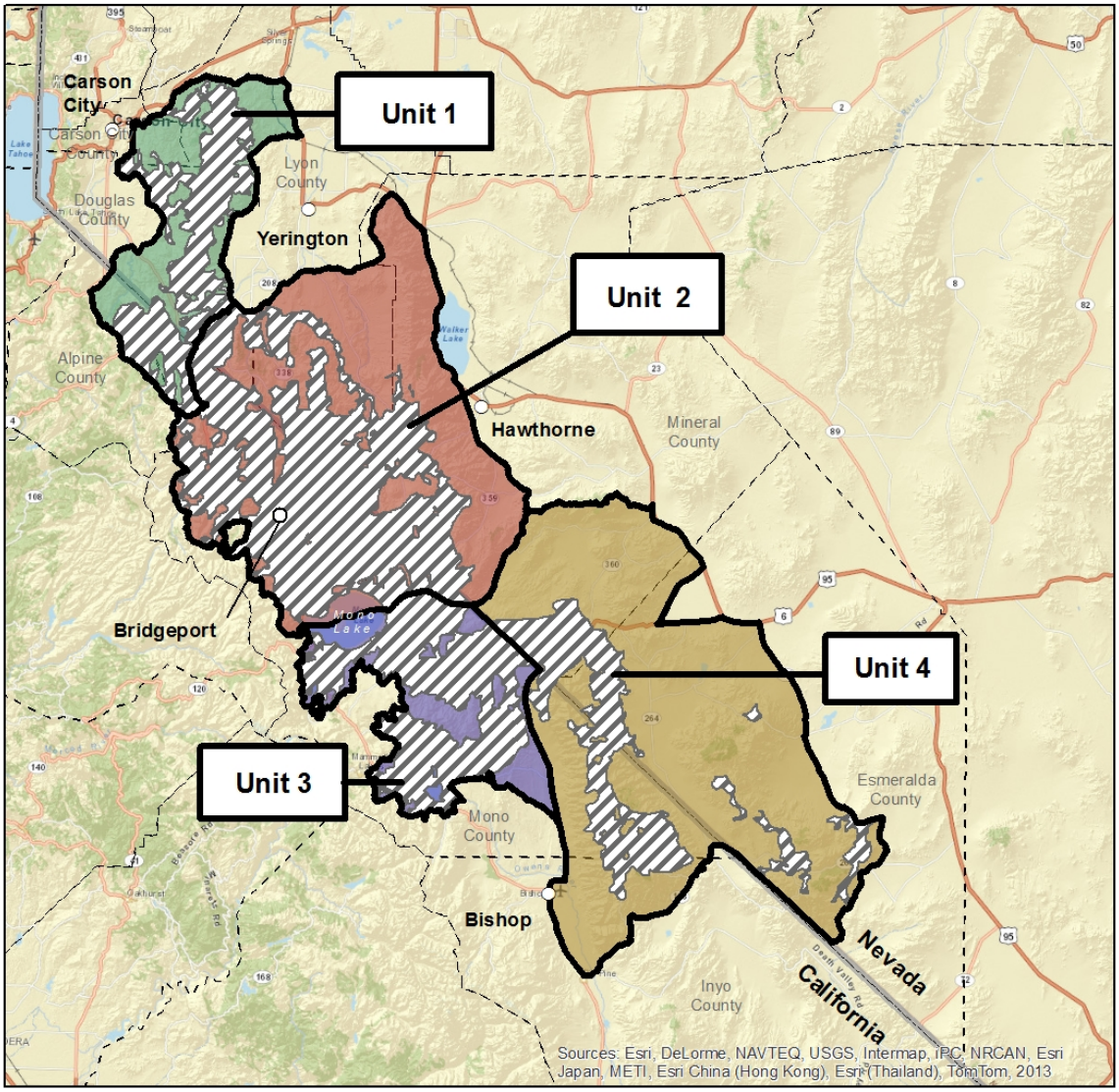
How can I provide comments on the proposal?

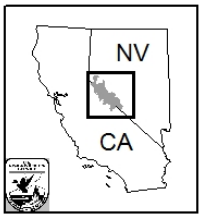
Scientific information regarding the proposal will be accepted until September 4, 2014, and may be submitted by one of the following methods:

- Electronically, via the Federal eRulemaking Portal, at http://www.regulations.gov. In the Search box, enter FWS-R8-ES-2013-0072, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on "Comment Now!"

- Hard copy, via U.S. mail or hand delivery, to: Public Comments Processing, Attn: FWS-R8-ES-2013-0072; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

Index Map: Critical Habitat for Bi-State Distinct Population Segment (DPS) of Greater Sage-Grouse; Alpine, Inyo, and Mono Counties, California; and Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties, Nevada





Miles
0 25 50

Kilometers
0 25 50

Bi-State DPS
Critical Habitat
State Boundary
County Boundary
Towns
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