

# The Greater Sage-grouse ESA Listing Decision



# Purpose of the Endangered Species Act

“The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved...”

## ENDANGERED SPECIES ACT OF 1973

AN ACT To provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Endangered Species Act of 1973”.*



Photo © Mark Gocke, Used by permission

# Two Ways a Species Gets Listed

1. Public petition submission
2. USFWS internal annual review



Photo © James Yule, Used by permission

# Listing Petition Process

Petition submission: Anyone!

We evaluate:

- **Adequacy** and **reliability** of information
- Apply a “**reasonable person**” standard





# “Mega-petitions”

In 2007 we received  
Petitions to list **207**  
species in our  
Mountain-Prairie Region

...and **475** species in our  
Southwest Region



In the Office of Endangered Species  
U.S. Fish and Wildlife Service  
United States Department of Interior



A Petition to List All Critically Imperiled or Imperiled Species in the Southwest  
United States as Threatened or Endangered Under the Endangered Species Act,  
16 U.S.C. §§ 1531 et seq.

June 18, 2007

Petitioner: Forest Guardians, 312 Montezuma Ave. Suite A, Santa Fe, New Mexico  
87501, (505) 988-9126

Petition Prepared by: Nicole J. Rosmarino, Ph.D. & James J. Tutchton, Esq.

# What's Next?

- If a positive petition finding (90-day finding), move onto a status review (12-month finding)
- Status review evaluates all available scientific and commercial data
- Includes examination of the 5 listing factors identified in the Endangered Species Act



# Listing Factors

- A. Present or threatened destruction, modification, or curtailment of habitat or range
- B. Overuse for commercial, recreational, scientific or educational purposes
- C. Disease or predation
- D. Inadequacy of existing regulatory mechanisms
- E. Other natural or manmade factors affecting the species continued existence



Photo © James Yule  
Used by permission

# Listing Factors

(continued)

A species need only meet  
one of the listing criteria  
to be considered  
for listing







Photo © James Yule, used by permission

# Status Review Outcomes

- **Warranted** - Listing proposal drafted; species is listed as *proposed* until final rule enacted.
- **Warranted, but precluded** - Listing is warranted, but precluded by higher priority actions; species a *candidate*
- **Not warranted** - Review does not support a listing action; species not a candidate

# Expeditious Progress

A finding of “**Warranted but Precluded**”  
can only be made when:

1. There are higher priority proposed rules that preclude us from issuing a proposed rule at the time of our finding; **AND**
2. Expeditious progress is being made to add qualified species to the list.



Photo Mark Gocke

# MDL Settlement

*May 10, 2011*

Prompted by litigation on failure to make “expeditious progress” on candidate species (251)



Photo © James Yule  
Used by permission

REQUIRES us to make a finding on whether or not to proceed with listing by **September 2016** for all candidates, and specifies earlier dates for some species.

Sage-grouse:

- Bi-State Population – **September 2013**
- Greater Sage-grouse and any other DPSs – **September 2015**

# Sage-grouse Petition Summary

1999 – 2003: FWS  
received 8 petitions



Photo © James Yule  
Used by permission

- 1999 – Columbia Basin populations
- 2001 – Bi-State (Mono Basin) population (and 2005)
- 2002 – Western subspecies
- 2002 – Greater sage-grouse range-wide
- 2002 – Eastern subspecies
- 2003 - Greater sage-grouse range-wide (2)





Photo © Mark Gocke  
Used by permission

# Results :

## *Columbia Basin DPS*

- Warranted but precluded
- Designated a Candidate

## *3 range-wide petitions*

- Combined into one finding
- Not Warranted

Remaining petitions determined to lack sufficient information to warrant further action



# Challenges to findings

## Bi-State

- Settlement agreement to conduct new finding



Photo © James Yule  
Used by permission

## Eastern/Western subspecies

- Eastern legal challenges dismissed
- Western legal challenges - remanded decision

## Rangewide

- Finding remanded in 2007



# 2010 Greater Sage-grouse Listing Decision *Summary*





# Species Life History

- Sagebrush obligate
- Long-lived, low reproductive rates
- Can be migratory
- High fidelity to seasonal habitats

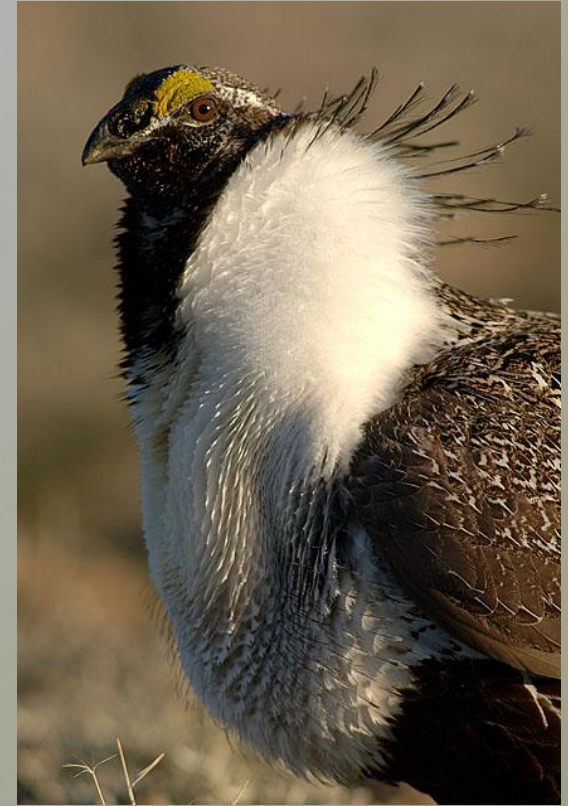
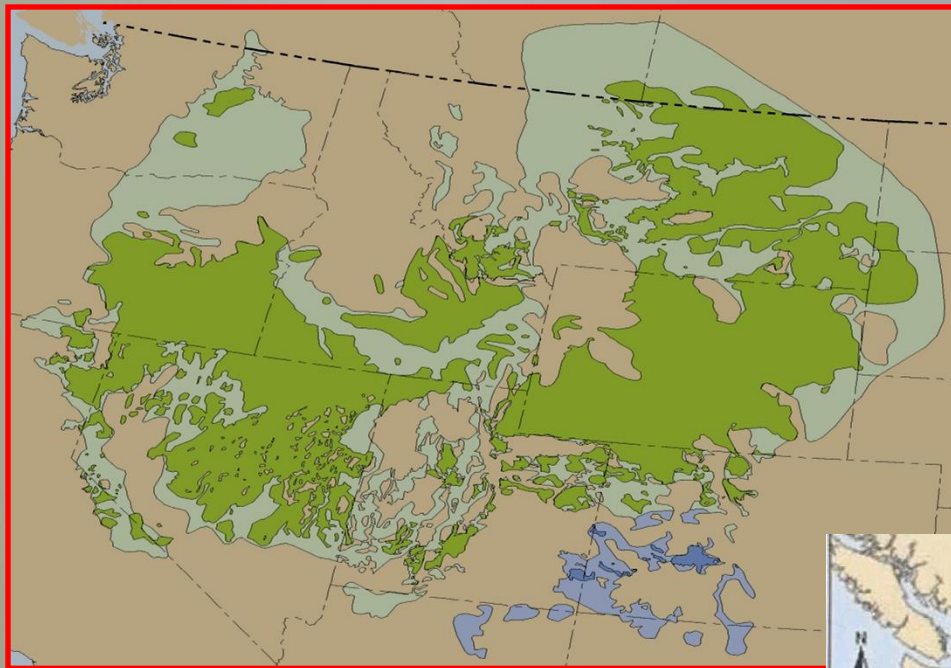


Photo © James Yule  
Used by permission

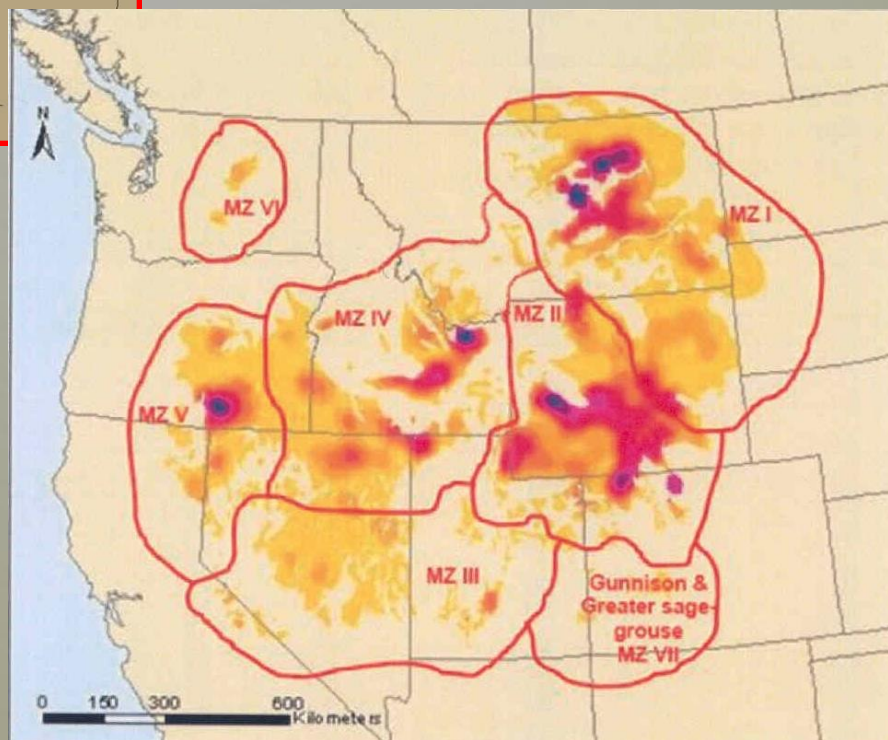
*Landscape scale species*





Historic and  
current range

Current sage-grouse  
distribution and  
density

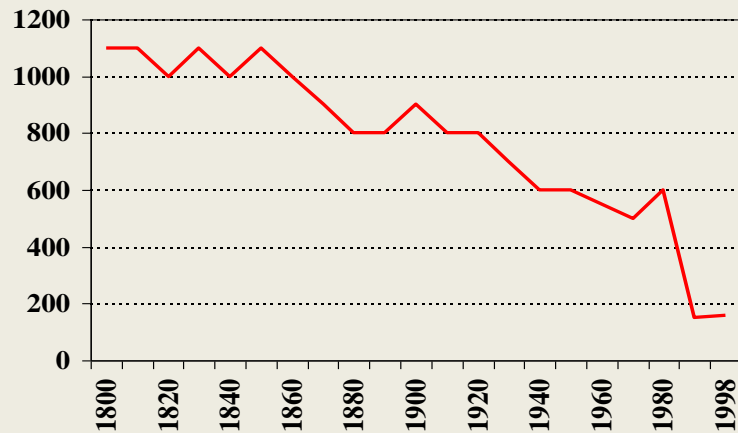


# Population Trends

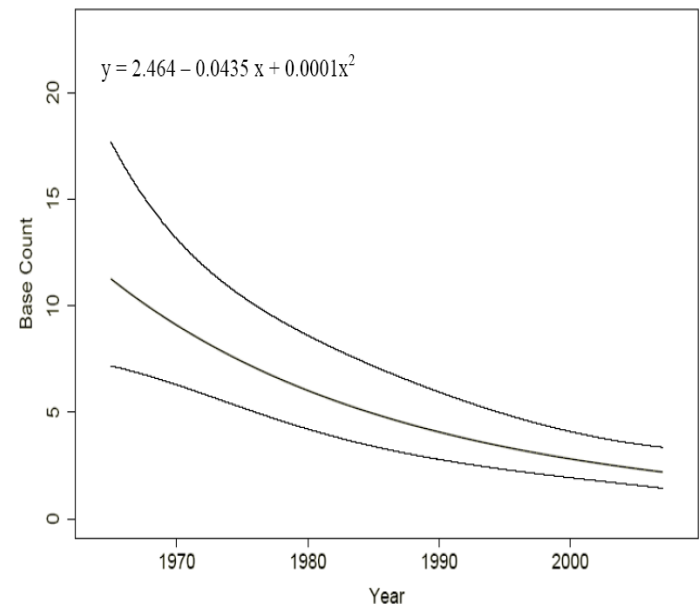
Estimated decline of **80 to 90 %** from pre-settlement numbers?

Decline of **30%** since 1985

Population in Thousands



Year  
WAFWA 1999 (1800 – 1998)



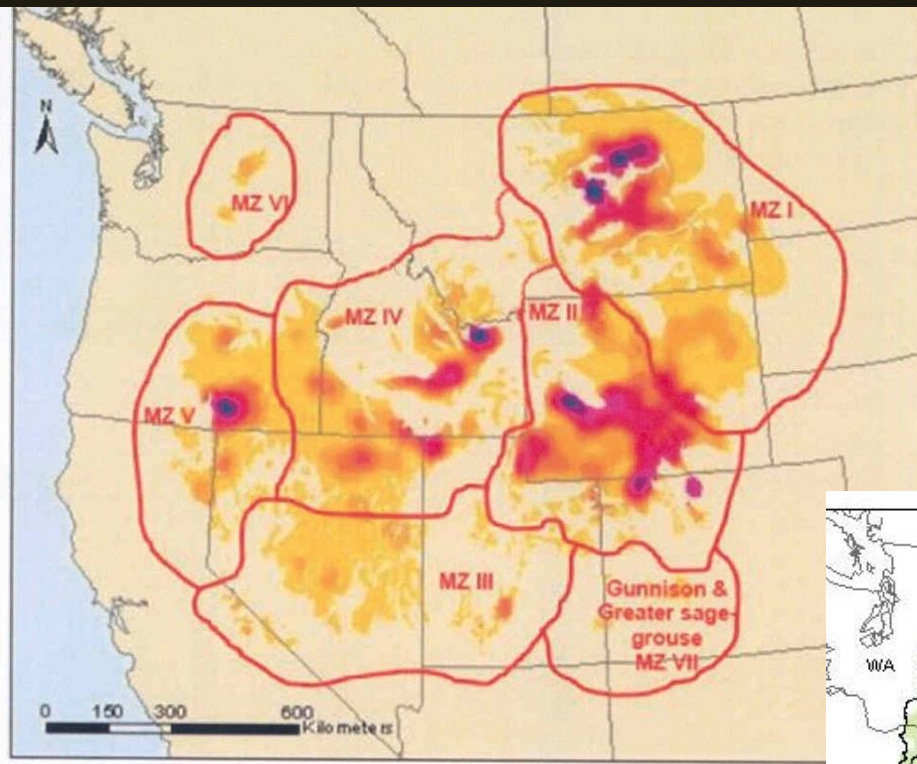
Year  
WAFWA 2008 (1965 – 2007)

# Biological Background Habitat

- Sagebrush is essential
  - Not all are equal habitat for grouse
  - Also need the healthy understory
- Long restoration times: 20 to > 100 years depending on species and conditions
- Fire kills sagebrush
- Seed banks do not persist
- We don't know how to restore or "fix" it

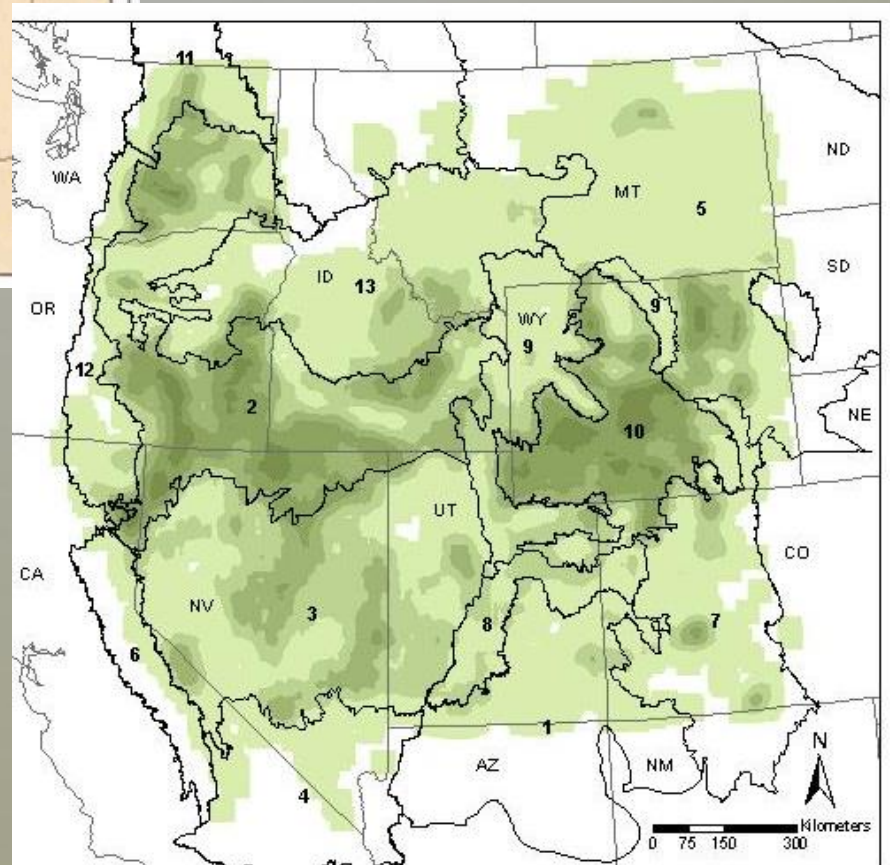






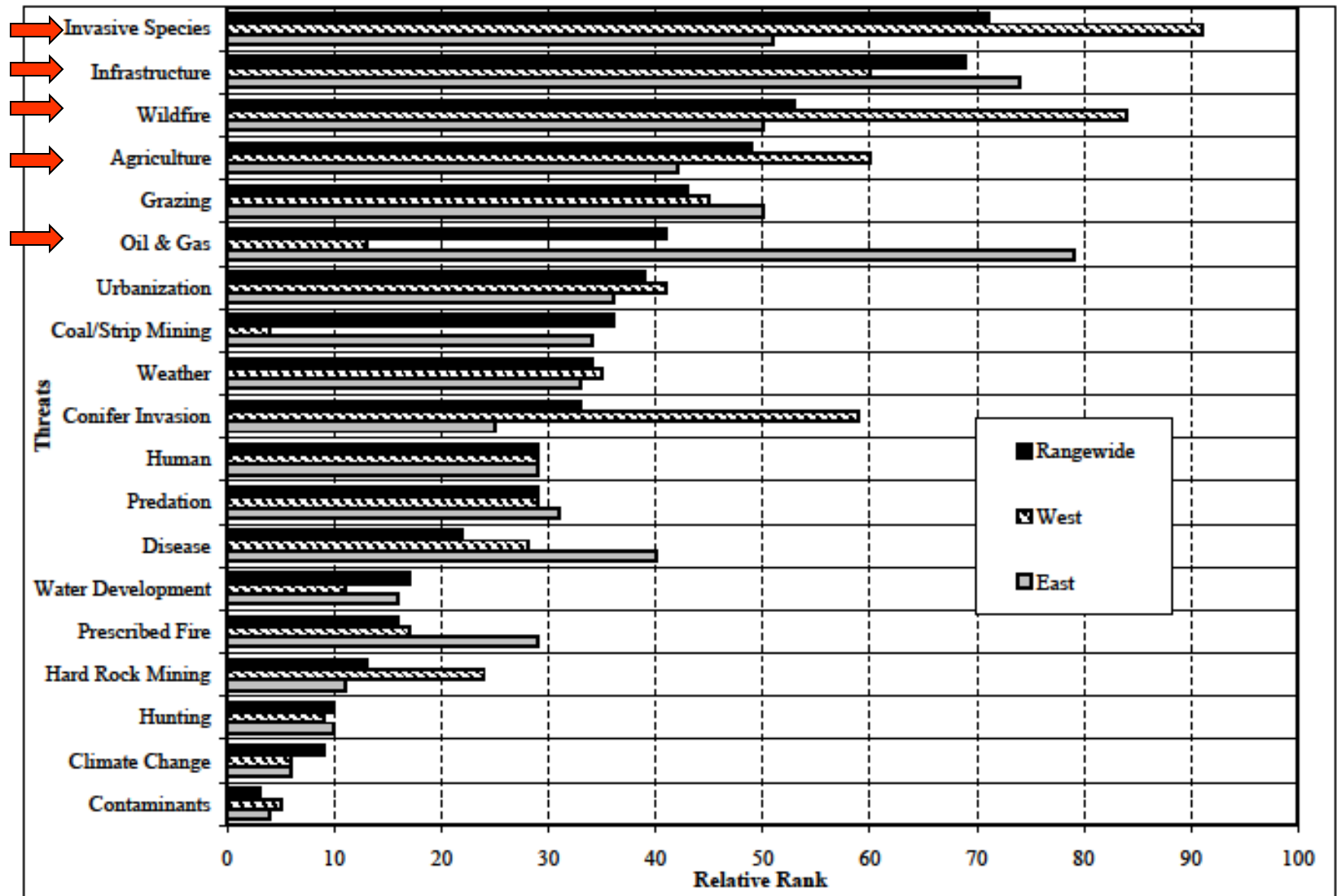
## Sage-grouse distribution

Percent landcover  
in sagebrush





# 2005 Finding



# Changes since 2005

- Threats identified in 2005 remain but with additional new threats (e.g., wind power and West Nile virus).
- Scale and intensity of 2005 threats have increased and are exacerbated by the synergistic effects: e.g. disease and climate change.
- Much clearer understanding of how threats affect viability.
- Regulatory mechanisms on federal lands (60% of the extant habitat) have not been effective.



# Primary Threat

## *Habitat Fragmentation*



### Energy Development

- NE WY: 79% decline in 12 years
- No affect with  $\leq 1$  well pad per sq mi
- Most fields 16-128 pads per sq mi



### Invasive Species/Fire

- Historic fire cycle 200-350 years; now 70 to 158 years
- In Great Basin: 27% of sage-grouse habitat has burned since 1980

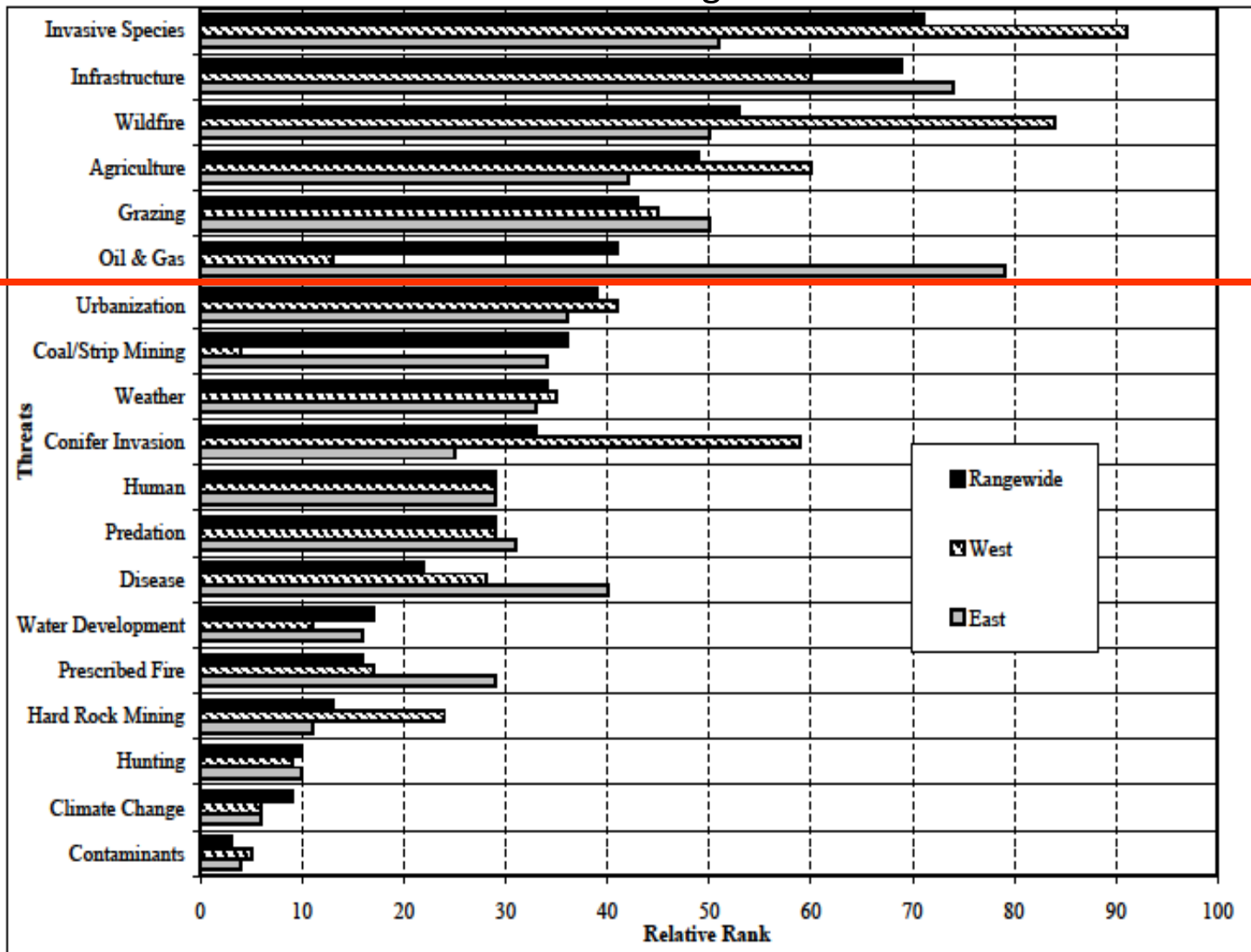
### Agriculture

- 19 % of SB in MT lost to AG
- 84 % of SB in MT affected
- 



# Secondary/Synergistic Threats

2005 Finding

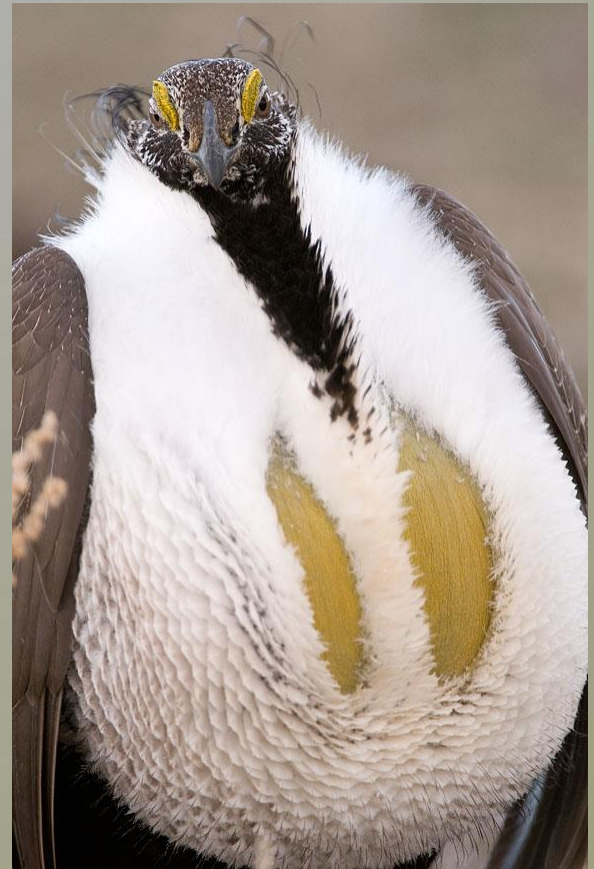




# Regulatory Mechanisms

Considered all mechanisms including:

- Federal
- State
- County
- Other conservation efforts



# Regulatory Mechanisms

Current regulatory mechanisms are inadequate to protect sage-grouse habitats



# Greater Sage-grouse Finding

## *March 23, 2010*

- Greater Sage-grouse is warranted but precluded
- The Bi-State population is a DPS; warranted but precluded
- Primary threats – Habitat destruction/modification and lack of regulatory mechanisms.

A warranted but precluded findings mean that a species becomes a **Candidate species** under the ESA



Photo © Mark Gocke, used by permission

# Greater Sage-grouse Conservation Objects Report



All photos credit James Yule



# Purpose of the COT

To define the degree to which threats need to be ameliorated to conserve the sage-grouse so that it is no longer in danger of extinction or likely to become in danger of extinction, by 2013 for the Bi-state Distinct Population Segment (DPS), and 2015 for the Greater sage-grouse range-wide.

# History of the COT

- Governor's sage-grouse task force provided list of actions by Secretary
- Team of state and FWS representatives appointed in March 2012
- Draft report completed on August 1, 2012
- Peer review completed and submitted to FWS the end of October, 2012
- Report revised and final report completed in March, 2013



# General Conservation Objectives

- Stop population declines and habitat loss
- Implement targeted habitat management and restoration
- Develop and implement state and federal conservation strategies and incentive-based conservation actions and regulatory mechanisms

# General Conservation Objectives

- Develop and implement proactive, voluntary conservation actions
- Develop and implement monitoring plans
- Prioritize, fund and implement research to address uncertainties





# Threat Amelioration

- Objectives focus on each specific habitat threat
- Specific goals tied to 2006 WAFWA Conservation Strategy:

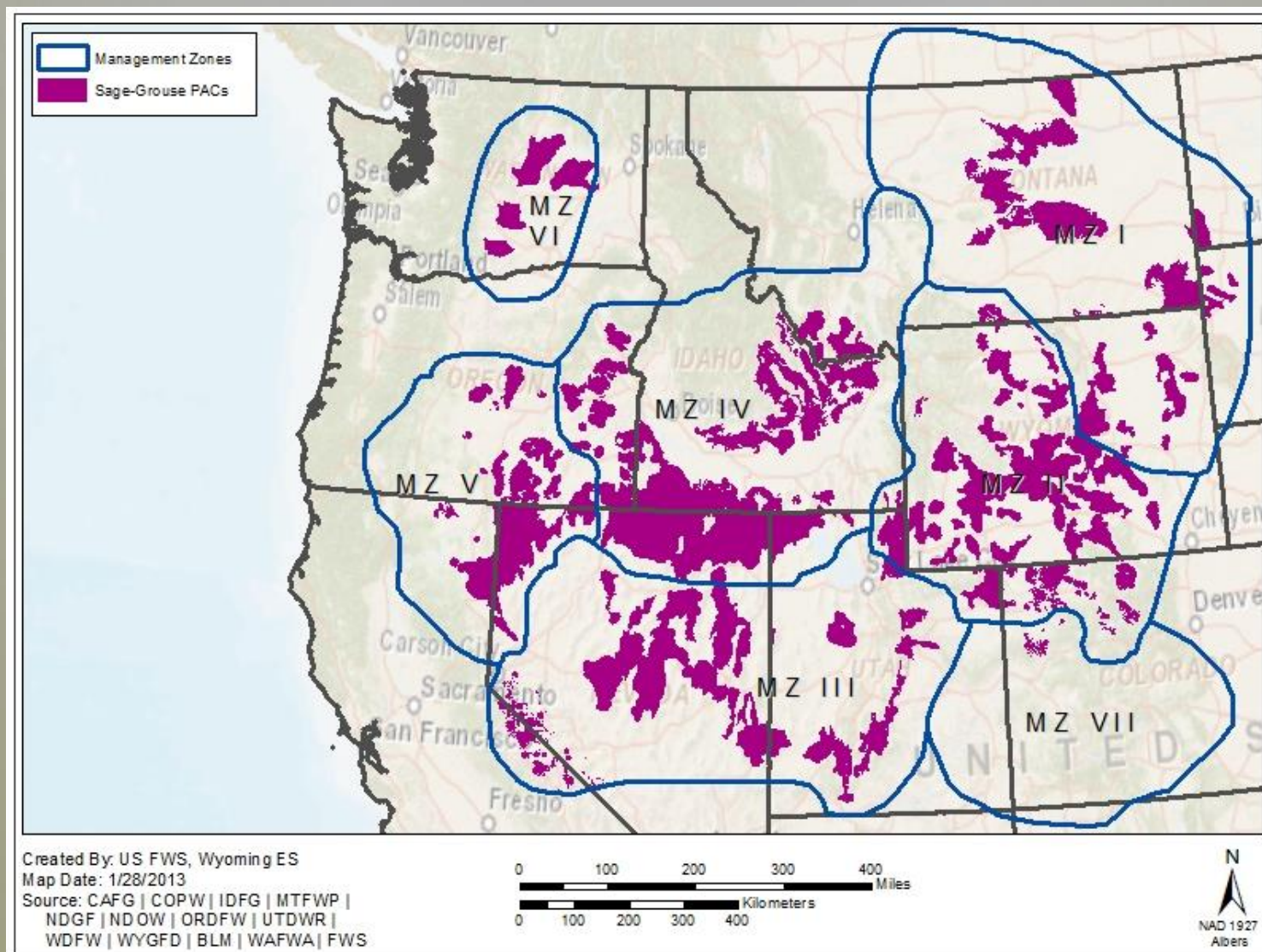
★ Stable to increasing long-term population trends by MZ



- ***Conservation Objective:*** Retain and restore healthy native sagebrush plant communities within the range of sage-grouse.
- ***Conservation Measures:***
  - Restrict or contain fire within the normal range of fire activity (assuming a healthy native perennial sagebrush community), including size and frequency, as defined by the best available science.
  - Eliminate intentional fires in sagebrush habitats, including prescribed burning of breeding and winter habitats.
  - Design and implement restoration of burned sagebrush habitats to allow for natural succession.....



# Priority Areas for Conservation



# Application

- Need to achieve the conservation objective
  - May just be a plan in place by the listing determination date
  - Must meet PECE, or its intent
- How should make sense based on local conditions and legal or cultural parameters.
  - Can tier to management plans that have been developed in coordination with USFWS.



Photo Mark Gocke



# Application

- Discussion of some specific conservation objectives also provides options for achieving the objective
  - Not mandatory, but provided as examples of what could be done
- Applies to habitats inside and outside PACs





Photo © James Yule, used by permission

# Questions?