

**From:** [Berglund, Jeff](#)  
**To:** [Matt Kales](#)  
**Cc:** [Jodi Bush](#); [Brent Esmoil](#)  
**Subject:** Re: Urgent action, please read: SG data call for Secretary of the Interior, due 1200 MST, 11/21/13  
**Date:** Thursday, November 21, 2013 12:13:53 PM  
**Attachments:** [Montana State Summary 11-21-2013.doc](#)

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Hi Matt - here's the response from the Montana FO. Please let us know if you have any questions. Thanks,

Jeff

On Mon, Nov 18, 2013 at 1:38 PM, Matt Kales <[matt\\_kales@fws.gov](mailto:matt_kales@fws.gov)> wrote:

FMT:

I hope everyone had a good weekend. As we discussed on last Thursday's FMT call, the Secretary will meet with the sage-grouse Governors in conjunction with the Western Governors Association meeting in mid-December. The Department, through our Director, has asked the Service for briefing information for that meeting, specifically an update on the status of state conservation planning efforts, our assessment of same, and the interface between state and federal conservation efforts in each of the 11 affected states. The informal feedback you all kindly provided last week in advance of today's federal principals' meeting should serve as a foundation for your more formal contributions to this exercise.

This e-mail message serves as the data call for this briefing information. **It also contains a template that contains the questions we must answer for the data call.** Please review the tasking description and template and let me know if you have any immediate questions. Please note we have a hard due date of **1200 MST this Thursday, 11/21**. Thanks in advance for your time. Matt

Tasking Description:

**What:** Data call for briefing information about state conservation planning efforts in each of the 11 sage-grouse states.

**Why:** Secretary will meet with sage-grouse Governors and wants a fine-level understanding of the status of each individual state efforts so she can offer a "mid-term assessment" consisting of (a) Department support for ongoing progress and (b) opportunities to identify and address aspects of each state planning process that requires improvement.

**Who/how:** FMT members or their proxies will complete the standard template (see below)

and provide to a central FWS POC (Kales), for QA/QC and transmittal to HQ via DTS.

**When:** All information is due to Kales **by 1200 MST on Thursday, 11/21**. We are operating under an extremely tight deadline from the Department and ask everyone please respect this deadline, since we must transmit a complete product and any missing/late information will hold up the larger package.

Template for Completing Data Call:

**State:**

**State plan status:** Where in the continuum (of no plan to completed plan) is your state? What key milestones are approaching? How has FWS contributed to the development of the state plan? If a state has a completed plan, what does implementation look like to date?

**FWS assessment of state plan:** this information should be based on your state's completed self-assessment plan, if available, and your review of that plan. Please address high points of how your state believes their plan comports with COT final report objectives.

**FWS assessment of state plan:** please address the degree to which you agree with the state's self-assessment and identify any major areas where we have a different opinion about the ability of the state's plan to meet COT final report objectives. Further, please note the degree to which you have been able to develop a dialogue with the state to date over those differences of opinion. Please don't be shy about reporting significant positive aspects of state plans; we are seeking to develop as balanced and comprehensive an assessment of state planning efforts as possible via this exercise.

Note: I have attached a copy of the state self-assessment status table as of 1200 MST today; please let me know if you haven't seen your respective state's self-assessment and I will send it to you right away.

**Interface between state planning efforts and federal conservation planning efforts in your state** (i.e., BLM/FS land management planning revisions): this is especially important for those states where the state plans may be under consideration by the federal land managers as an alternative in their planning process.

**Matt Kales**

**Special Assistant for Greater Sage-Grouse Conservation**

**Office of the Regional Director**

**US Fish and Wildlife Service, Mountain-Prairie Region**

**Office: (303) 236-4576**

**Mobile: (720) 234-0257**

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**Jeff Berglund**

**Fish and Wildlife Biologist**

**U.S. Fish and Wildlife Service**

**Montana Field Office**

**585 Shepard Way, Suite 1**

**Helena, MT 59601**

**(406) 449-5225, ext. 206**

## State: Montana

**State Plan Status:** Montana developed an advisory, voluntary action-based management plan in 2005 that did not function as a regulatory mechanism for sage-grouse. Governor Bullock's February 2, 2013 Executive Order established the Greater Sage-grouse Habitat Conservation Advisory Council. The purpose of the Council, co-chaired by the FWP Director and the Governor's Natural Resources Policy Advisor, is to "to gather information, furnish advice, and provide 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, by no later than **January 31, 2014.**" Council members include representatives from agriculture and ranching, conservation and sportsmen, energy, mining and power transmission, tribal government, local government, and the legislature. While not a Council member, the Service committed to participation by attending all eight (non-shutdown period) two-day Council meetings in an advisory capacity, answering questions, presenting information on the PECE Policy and Mitigation, reviewing draft documents, and on September 24, 2013, providing written informal comments on the preliminary draft Strategy. A public review draft of the Strategy was issued November 1, 2013 with comments due **December 4, 2013.** The Service will be providing fairly extensive comments, as many of our informal comments were not fully addressed in the public draft Strategy. The Service met with the State and BLM in late October to discuss the general nature of our forthcoming comments. A final Council meeting will be held to address all public comments on **January 7/8, 2014;** our dialogue with the State is ongoing.

**FWS Assessment of State Plan: *State's Self-Assessment*** - Since the State's draft Strategy will not be finalized until January 2014, the State's self-assessment did not include activities/measures related to the draft Strategy. The State generally classified most threats in the overall summary table as "partially addressed" or "unknown", with a few classified in the "not addressed" category. Highest individual numeric rankings (relative to conservation measures) were assigned to fire (elimination of intentional fires in sage-grouse habitat; rank 4-5) and re-evaluation of PACs (rank 6). The vast majority of other conservation measure numeric rankings ranged from 3 to 4 ("partially addressed"). The State expressed optimism that assessment of the final Strategy would allow for assignment of "threat addressed" classifications for many of the listed threats. The primary (four of the six) Montana populations were included in the self-assessment. The assessment did not include the Powder River Basin and Wyoming Basin populations, which occur mainly in Wyoming but also extend into southeast Montana.

**FWS Assessment of State Plan: *State Plan (Strategy) Assessment*** - We generally agree with the State's self-assessment, with the understanding that the assessment does not yet include the State Strategy. We were not aware that intentional fires are not implemented by the State in sage-grouse habitat, as mentioned above and assigned a high numeric ranking per the self-assessment, and will clarify this with the State. This could alleviate some of our concerns with respect to how the State plan addresses fire. Whether the final Strategy would adequately address all threats, allowing for assignment of "threat addressed" classifications in the self-assessment (as discussed above), depends on what revisions/clarifications are ultimately incorporated into the final Strategy. Most importantly, we are still unaware of what the regulatory authority of any conservation actions taken by the State might be. Without this information it is difficult to determine how much conservation benefit these conservation actions might provide.

During our review of the public draft Strategy, we were unable to determine consistency with the COT Report conservation objectives for the majority of threats due to the voluntary nature of measures, absence of measures, and/or our uncertainty with measure implementation or effectiveness. We did find the Strategy to be consistent with the COT Report objectives for sagebrush removal. Consistency

was unknown, but appeared to be trending positively for range management structures, agricultural conversion, ex-urban development, and fences. Consistency was unknown for fire, invasive plant species, energy development (although consistent for wind energy in core areas), improper grazing, conifer expansion, mining, and recreation. The Strategy appears to be inconsistent with the conservation objectives for infrastructure. Given the amount of and exceptions for core habitat proposed (see below), the health of general habitat areas is a critical element in the effort to maintain the abundance and distribution of greater sage-grouse in Montana.

**Primary draft Montana Strategy Strengths:**

- 5% disturbance cap in core habitat; 1 mile core NSO lek buffers; core-wide seasonal restrictions; 1 disturbance per 640 acre oil and gas and mining density limitations (core habitat); wind energy exclusion (core habitat); sagebrush eradication prohibition (core and general habitats), cropland agriculture conversion prohibition (core habitats, pending Board of Land Commission approval), monitoring / adaptive response (within 4 miles in core).
- Proposed addition of the Garfield / McCone County core area.
- Proposed appointment of Montana Sage-grouse Oversight Team to oversee implementation.
- Proposed Montana Stewardship and Conservation Fund to conserve sagebrush habitat and grazing lands within sage-grouse habitats on private lands; recommendation for the Governor to prioritize state agency conservation funding for protection, enhancement, and restoration of sage-grouse habitat in core, connectivity, and general areas; commitment to fund at least 5.5 FTEs in conjunction with Strategy implementation.

**Primary draft Montana Strategy Weaknesses:**

- Proposed core areas include approximately 76% of the Montana sage-grouse population; Strategy proposes Special Management Core Areas within up to 3% of total core habitat that would allow for projects in selected core areas to exceed Strategy stipulations.
- Proposed exemption of proposed coal mining projects from compliance with elements of the Strategy that are more restrictive than the existing permitting program requirements under the Montana Strip and Underground Mine Reclamation Act and the Surface Mining Control and Reclamation Act.
- Lacks clear statement / enactment of an “avoidance first” approach to proposed surface disturbance activities to sage-grouse habitats; particularly core areas, and clear direction as to when compensatory mitigation for proposed surface disturbance activities would be required.
- Management recommendations for important issues including range management / grazing, wildfire response, and invasive plant species are depicted as 100% voluntary, even on State lands; several key specifics are missing from Rangeland, Fire, and Invasive Species sections.
- Proposed 0.25-mile NSO from active leks in general habitat is inadequate; core area stipulations for Transportation (2 mile haul road NSO) and Power Lines / Communication Towers (1 mile NSO) are inadequate and we provide recommendations for improvement.
- Prescribed burns in sagebrush habitat are not prohibited (nor conditioned to only be allowed on a case-by-case basis if can be determined / assured to be neutral or beneficial to sage-grouse).
- Management practices for minimizing impacts in general habitat are not included or referenced.

**Interface Between State and Federal Planning Efforts:** Like the Service, the BLM has attended all Council meetings in an advisory capacity. At this time we are not aware of any BLM intent to incorporate the State Strategy into any Montana RMP EISs as a stand-alone alternative. All five Montana RMP/DEISs have completed, or are currently within, the 90-day public review process.