

Office of the Governor

STATE OF WYOMING EXECUTIVE DEPARTMENT EXECUTIVE ORDER

Order 2011-5
(Replaces 2010-4)

GREATER SAGE-GROUSE CORE AREA PROTECTION

WHEREAS, the Greater Sage-Grouse (*Centrocercus urophasianus*) inhabits much of the sagebrush-steppe habitat in Wyoming; and

WHEREAS, the sagebrush-steppe habitat type is abundant across the state of Wyoming; and

WHEREAS, the state of Wyoming currently enjoys robust populations of Greater Sage-Grouse; and

WHEREAS, the state of Wyoming has management authority over Greater Sage-Grouse populations in Wyoming; and

WHEREAS, the Greater Sage-Grouse has been the subject of several petitions to list the species as a threatened or endangered species pursuant to the Endangered Species Act; and

WHEREAS, the United States Department of the Interior has determined that listing the Greater Sage-Grouse as a threatened or endangered species is warranted over all of its range, including the populations in Wyoming; and

WHEREAS, the United States Department of the Interior has determined that listing the Greater Sage-Grouse as a threatened or endangered species is currently precluded by higher priority listing actions; and

WHEREAS, the Greater Sage-Grouse is currently considered a "candidate" species under the auspices of the Endangered Species Act; and

WHEREAS, the United States Department of the Interior is required to review the status of all candidate species every year; and

WHEREAS, the listing of the Greater Sage-Grouse would have a significant adverse effect on the economy of the state of Wyoming, including the ability to generate revenues from state lands; and

WHEREAS, the listing of the Greater Sage-Grouse would have a significant adverse effect on the custom and culture of the state of Wyoming; and

WHEREAS, the Wyoming State Legislature and other agencies have dedicated significant state resources to conserve Greater Sage-Grouse populations in Wyoming; and

WHEREAS, the state of Wyoming has developed a “Core Population Area” strategy to weave the many on-going efforts to conserve the Greater Sage-Grouse in Wyoming into a statewide strategy; and

WHEREAS, members of the Sixtieth Legislature of the State of Wyoming signed a Joint Resolution recognizing “the Greater Sage Grouse Core Area Strategy [then embodied under Governor’s Executive Order 2008-2] as the State of Wyoming’s primary regulatory mechanism to conserve sage-grouse and preclude the need for listing the bird as a threatened or endangered species pursuant to the Endangered Species Act of 1973.”; and

WHEREAS, on April 17, 2008, the Office of the Governor requested that the U.S. Fish and Wildlife Service review the “Core Population Area” strategy to determine if it was a “sound policy that should be moved forward” and on May 7, 2008, the U.S. Fish and Wildlife Service responded that the “core population area strategy, as outlined in the Implementation Team’s correspondence to the Governor, is a sound framework for a policy by which to conserve greater sage-grouse in Wyoming”; and

WHEREAS, on November 10, 2010, the U.S. Fish and Wildlife Service again confirmed that “This long-term, science-based vision for the conservation of greater sage-grouse has set the stage for similar conservation efforts across the species range,” and that “the Core Population Area Strategy for the greater sage-grouse provides an excellent model for meaningful conservation of sage-grouse is fully supported and implemented”; and

WHEREAS, several western states have adopted or are considering adopting the Wyoming Core Area Strategy, thus making the concept consistent across the species range; and

WHEREAS, new science, information and data continue to emerge regarding “Core Population Areas” and the habitats and behaviors of the Greater Sage-Grouse, which led the Governor’s Sage-Grouse Implementation Team to re-evaluate the original “core population areas” and protective stipulations for Greater Sage-Grouse.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual agency including those found in Title 9, Chapter 5, Article 3 of Wyoming State Statutes, otherwise cited as the Wyoming Regulatory Takings Act, I, Matthew H. Mead, Governor of the State of Wyoming, do hereby issue this Executive Order providing as follows:

1. Management by state agencies should focus on the maintenance and enhancement of Greater Sage-Grouse habitats, populations and connectivity areas identified in Attachment A. Absent substantial and compelling information, these Core Population Areas should not be altered for at least five (5) years.

2. Existing land uses within Core Population Areas should be recognized and respected by state agencies. It is assumed that activities existing in Core Population Areas prior to August 1, 2008 will not be managed under Core Population Area stipulations. Examples of existing activities include oil and gas, mining, agriculture, processing facilities, housing and other uses that were in place prior to the development of the Core Population Areas (prior to August 1, 2008). Provided these activities are within a defined project boundary (such as a recognized federal oil and gas unit, drilling and spacing unit, mine plan, subdivision plat, etc.) they should be allowed to continue within the existing boundary, even if the

use exceeds recommended stipulations (see Attachment B), recognizing that all applicable federal actions shall continue.

3. New development or land uses within Core Population Areas should be authorized or conducted only when it can be demonstrated that the activity will not cause declines in Greater Sage-Grouse populations.
4. Development consistent with the stipulations set forth in Attachment B shall be deemed sufficient to demonstrate that the activity will not cause declines in Greater Sage-Grouse populations.
5. Funding, assurances (including efforts to develop Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances), habitat enhancement, reclamation efforts, mapping and other associated proactive efforts to assure viability of Greater Sage-Grouse in Wyoming should be focused and prioritized to take place in Core Population Areas.
6. To the greatest extent possible, a non-regulatory approach shall be used to influence management alternatives within Core Population Areas. Management alternatives should reflect unique localized conditions, including soils, vegetation, development type, predation, climate and other local realities.
7. For activities outside of Core Population Areas, no more than a one-quarter (1/4) mile no surface occupancy standard and a two (2) mile seasonal buffer should be applied to occupied leks. Incentives to enable development of all types outside Core Population Areas should be established (these should include stipulation waivers, enhanced permitting processes, density bonuses, and other incentives). Development scenarios should be designed and managed to maintain populations, habitats and essential migration routes where possible. It is recognized that some incentives may result in reduced numbers of sage-grouse outside of Core Population Areas.
8. Incentives to accelerate or enhance required reclamation in habitats adjacent to Core Population Areas should be developed, including but not limited to stipulation waivers, funding for enhanced reclamation, and other strategies. It is recognized that some incentives may result in reduced numbers of sage-grouse outside of the Core Population Areas.
9. Existing rights should be recognized and respected.
10. On-the-ground enhancements, monitoring, and ongoing planning relative to sage-grouse and sage-grouse habitat should be facilitated by sage-grouse local working groups whenever possible.
11. Fire suppression efforts in Core Population Areas should be emphasized, recognizing that other local, regional, and national suppression priorities may take precedent. However, public and firefighter safety remains the number one priority for all fire management activities.
12. State and federal agencies, including the U.S. Fish and Wildlife Service, Bureau of Land Management, U.S. Forest Service, and other federal agencies shall work collaboratively to ensure a uniform and consistent application of this Executive Order to maintain and enhance Greater Sage-Grouse habitats and populations.
13. State agencies shall work collaboratively with local governments and private landowners to maintain and enhance Greater Sage-Grouse habitats and populations in a manner consistent with this Executive Order.

14. It is critical that existing land uses and landowner activities continue to occur in core areas, particularly agricultural activities on private lands. For the most part, these activities on private lands are not subject to state agency review or approval. Only those activities occurring after August 1, 2008 which state agencies are required by state or federal statute to review or approve are subject to consistency review. This Executive Order in no way adds or expands the review or approval authority of any state agency. It is acknowledged that such land uses and activities could have localized impacts on Greater Sage-Grouse. To offset these impacts, Core Population Areas have been mapped to include additional habitat beyond that strictly necessary to prevent listing of the species. The additional habitat included within the Core Population Area boundaries is adequate to accommodate continuation of existing land uses and landowner activities. As a result, state agencies are not required to review most existing land uses and landowner activities in Core Population Areas for consistency with this Executive Order. Attachment C contains a list of existing land uses and landowner activities that do not require review for consistency.

15. It will be necessary to construct significant new transmission infrastructure to transport electricity generated in Wyoming to out-of-state load centers. New transmission lines constructed within Core Population Areas will be consistent with this Executive Order if they are constructed between July 1 and March 14 (or between July 1 and November 30 in winter concentration areas) and within one half (1/2) mile either side of existing (prior to Governor's Executive Order 2010-4) 115 kV or larger transmission lines creating a corridor no wider than one (1) mile. New transmission lines outside this one (1) mile wide corridor within Core Population Areas should be authorized or conducted only when it can be demonstrated that the activity will not cause declines in Greater Sage-Grouse populations.

16. For purposes of consistency with this Executive Order there is established a transmission line corridor through Core Population Areas in south central and southwestern Wyoming as illustrated on Attachment D. This two (2) mile wide corridor represents the state of Wyoming's preferred alternative for routing transmission lines across the southern portion of the state while reducing impacts to Core Population Areas and other natural resources. New transmission lines constructed within this corridor shall be considered consistent with this Executive Order if construction occurs within the corridor between July 1 and March 14 (or between July 1 and November 30 in winter concentration areas).

17. New distribution, gathering, and transmission lines sited outside established corridors within Core Population Areas should be authorized or conducted only when it can be demonstrated by the state agency that the activity will not cause declines in Greater Sage-Grouse populations.

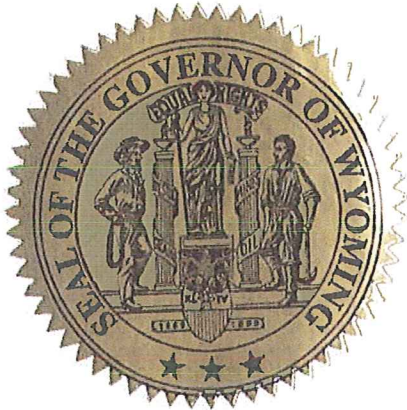
18. State agencies shall strive to maintain consistency with the items outlined in this Executive Order, but it should be recognized that adjustments to the stipulations may be necessary based upon local conditions and limitations. The goal is to minimize future disturbance by co-locating proposed disturbances within areas already disturbed or naturally unsuitable.

19. The protective stipulations outlined in this Executive Order should be reevaluated on a continuous basis and at a minimum annually, as new science, information and data emerge regarding Core Population Areas and the habitats and behaviors of the Greater Sage-Grouse.

20. State agencies shall report to the Office of the Governor within ninety (90) days of signing and annually thereafter detailing their actions to comply with this Executive Order.

This Executive Order shall remain in effect until August 18, 2015, at which time all provisions of this Executive Order shall be reevaluated.

Given under my hand and the Executive Seal of the State of Wyoming this 2 day of June, 2011.




Matthew H. Mead
Governor