

**NORTHERN PLAINS CONSERVATION NETWORK**  
**ORGANIZATION POSITION SUMMARY**  
**GREATER SAGE GROUSE**  
**March 2016**

The USA has changed the trajectory and put numerous resources into a collaborative effort to avert listing of Greater Sage-grouse under the Endangered Species Act. Canada has lessons that can be learned from the US experience. Although Canada has identified and protected some critical habitat and implemented an emergency protection order for Greater Sage-grouse, there is minimal resourcing for conservation efforts.

In the USA, environmental organizations in the Northern Great Plains are monitoring BLM plan implementation to ensure restoration of key habitats as well as Greater Sage-grouse recovery. They are largely working through administrative channels as well as directly with private landowners and permittees.

Depending on jurisdiction and organization philosophy, both litigation to tweak/expand protections and collaborative programs that increase the number of landowners involved will likely be used to recover Greater Sage-grouse.

At this time it is unclear which, if any, groups plan additional litigation over Greater Sage-grouse other than ongoing actions to work with the Government of Canada to defend Canada's Species at Risk Act against industrial interests.

Some groups, while supporting BLM's plans, are also asking for additional priority grouse habitat to be conserved, as recommended by scientists and top grouse conservation experts. Pursuit of additional wilderness area designations remains part of the agenda for some groups.

A major role for NPCN is to communicate information on Greater Sage Grouse. The pages below provide a brief legal background as well as a summary of various NPCN participant group positions on Greater Sage Grouse.

-Cliff Wallis, NPCN Steering Committee Member

*Click on links below to go directly to that group's summary position, or scroll through the document to get a broad sense of the various perspectives. Each section includes a hyperlink to the organization's website.*

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## Legal Background

M. Benjamin Cowan and Andrew Davitt, Locke Lord LLP provide some background on the recent decision by the U.S. Fish and Wildlife Service not to list Greater Sage Grouse in a Law360 article "Is There a New paradigm for ESA Species Listings?":

"In its 2010 finding that listing of the greater sage-grouse was warranted but precluded, the U.S. Fish and Wildlife Service (FWS) identified habitat loss, fragmentation and the inadequacy of existing regulatory mechanisms as the primary threats to the species. In reaching its recent decision that a listing of the greater sage-grouse is no longer warranted, the FWS determined that since 2010, regulatory mechanisms contained in federal and state conservation plans have substantially reduced these risks in approximately 90 percent of greater sage-grouse breeding habitat."

"This conclusion was based on the FWS' analysis of the regulatory conservation actions mandated by state plans in Wyoming, Montana and Oregon (collectively, the "state plans"), and the BLM and Forest Service land management plans (collectively, the "federal plans"). Each of these plans takes a slightly different approach to greater sage-grouse conservation, but in general they all identify important conservation objectives for the greater sage-grouse, provide mechanisms that limit disturbance and development in important habitat areas, and require avoidance and minimization strategies such as lek buffers and noise restrictions."

...

"FWS did not rely upon conservation plans developed in Colorado, Idaho, Nevada, North Dakota, South Dakota and Utah, noting that while those plans may provide long-term benefits to the species, they lacked certainty of implementation and effectiveness."

...

"FWS pointed to the effective use of candidate conservation agreements and other conservation mechanisms entered into by private landowners since 2010 to support its "not warranted" finding. Based largely on these collective conservation efforts, the FWS concluded that the greater sage-grouse does not face the risk of extinction now or in the foreseeable future and thus does not need protection under the ESA."

...

"FWS will review the status of the greater sage-grouse in five years. Some observers think this may be a new paradigm/approach for endangered species by the FWS, i.e. encouraging the use of voluntary conservation plans."

...

"FWS is incentivizing that participation through the implicit threat that lack of participation may prove its point and warrant a listing in a mere five years. Some legal experts believe that this "iterative approach helps FWS avoid the complexity and legal challenges associated with a Section 4(d) rule based on a patchwork of disparate plans, as well as the enormous administrative burden (e.g. incidental take permits) and political backlash that would have resulted from an endangered listing, while keeping both its carrot and its stick intact."

...

"The "not warranted" determination and the federal and state plans upon which the FWS relied have already faced harsh criticism from both industry and conservation groups. Some

conservation groups have expressed concern that the plans do not provide sufficient protection for the species and fail to include critical measures. Industry has indicated that the federal plans' restrictions on development are overly burdensome and perhaps illegal."

### [Alberta Wilderness Association/Canada](#)

Based in Alberta, Canada, the AWA does collaborative work while also pursuing legal action. It is currently working with groups in Saskatchewan and the new Government of Canada to stop further transfer of federal PFRA Pastures to the provincial government in Saskatchewan. These federal pastures are critical to the long-term recovery of Greater Sage-grouse in Canada.

1. **Dec. 4, 2013:** for the first time in Canadian history, a Species at Risk Emergency Order is enacted, placing restrictions on oil and gas development with minimal impact on ranching operations-- affects about 1,700 square kilometres (664 square miles) of public land. No private land is involved.
2. **Dec 2013:** Government of Canada release a proposed amended recovery strategy for Greater Sage-grouse identifying a new larger area as critical habitat (as a result of litigation from AWA and other groups)
3. **Current litigation from oil and gas industry**--AWA and other groups are working with Ecojustice Canada to be included in a case being argued by Medicine Hat Oil and Gas and LGX who are seeking to have the Canadian government's jurisdiction on the Species at Risk Act Emergency Order overturned by the courts.
4. **Spring 2015, Canada doubled the number of strutting males.** There is some hope that populations might recover with on the ground work and getting the landscape back into a more grouse friendly condition (removing structure, industrial activity).
5. **July 2015**—Government of Canada announcement and AWA news release about protection for Govenlock (a PFRA Pasture): "In March 2013, AWA asked the Government of Canada to make the Govenlock Community Pasture a National Wildlife Area under the management of Environment Canada. This request has been a priority of the Northern Plains Conservation Network (NPCN) for the last two years under its *Sage-grouse/Grassland Bird Initiative*, to protect priority grassland areas in Canada in the area known as the "Forgotten Corners" in SE Alberta and SW Saskatchewan." Lands were transferred to Environment Canada, beginning the long process towards National Wildlife Area designation."

The AWA has been involved in commenting on BLM plan amendments, particularly in the HiLine area of Montana and continues its collaborative work with ranchers and other ENGOs on protecting Greater Sage-grouse in Canada. It supports on the ground action and protection and will be monitoring implementation of BLM plans with respect to Greater Sage-grouse in the USA.

### [American Bird Conservancy](#)

American Bird Conservancy (ABC) [supports the Department of Interior's decision](#) that Endangered Species Act (ESA) protection for the greater sage-grouse is currently 'not warranted.' ABC applauds the major conservation effort initiated by a range of stakeholders to support grouse recovery on private and public lands. Under the Natural Resources Conservation

Service's Sage Grouse Initiative, significant progress has been made to improve grouse habitat on private working lands, which are critical to the conservation of this and many other at-risk species. ABC sees partnerships as essential to conservation and range-wide recovery for the greater sage-grouse.

Federal land management plans, formally adopted by the Bureau of Land Management and the USDA Forest Service, call for a variety of changes. These plans include protection of sagebrush habitat from industrial development and wildfires and adopt new management standards that advance conservation and habitat restoration across millions of acres of the species' range on public lands. Now that these plans are formally in place, they need time to take effect. ABC is optimistic; however, ABC wants to see regular reviews of the species' population trend to learn if the current long-term decline is reversed. If not, the plans require adaptive management. ABC is concerned that the proposed 10 million acre withdrawal from leasing or sale, including coal, falls far short of the sage-grouse National Technical Team's recommendation to protect priority habitat. ABC has asked other organizations to sign on to a comment letter that supports the BLM's proposal but does request that additional priority grouse habitat be conserved, as recommended by scientists and top grouse conservation experts.

The breadth and scope of the collaborative effort for sage grouse may be unprecedented in the history of bird conservation. ABC believes and is committed to ensuring that momentum can continue, more sagebrush habitat can be saved, that new science will be continuously employed for better outcomes, and that this work can become a model of cooperative conservation. Real success will require constant monitoring and evaluation—and willingness to make needed changes where we are falling short.

### [Defenders of Wildlife](#)

The National Greater Sage-Grouse Planning Strategy is an unprecedented effort by the federal government to improve management of more than 60 million acres of the Sagebrush Sea, a landscape that is vital to fish and wildlife, recreation, western communities and sustainable economic development. The planning process has advanced landscape-level planning within the Bureau of Land Management (BLM) and other federal agencies, designating tens of millions of acres of priority habitat on public lands to conserve greater sage-grouse and more than 350 other species of conservation concern.

While the final plans are an important achievement in land use planning, the purpose of the Planning Strategy is to conserve and recover sage-grouse. Unfortunately, a comparison between newly adopted management prescriptions and the best available science indicates they may be inadequate to protect sage-grouse over the long-term.

- The final plans fall short of what the federal government and top experts recommended to ensure conservation of the species. Many prescriptions in the proposed plans would merely reduce harm to sage-grouse rather than increase protection and certainty in management for the bird. The plans are also missing key measures to conserve the grouse and its habitat, including protections for critical wintering areas, designation of sagebrush reserves (e.g., ACEC's, new/expanded national wildlife refuges), and guidance for managing the known effects of climate change on sagebrush habitat.

- Federal plans in Wyoming adopt the state’s “core area” strategy, which is an improvement over past management, but still less protective of important seasonal habitats than other federal and state conservation strategies. This inconsistency in the plans is not only concerning for sage-grouse conservation—it also exposes the administration to legal challenge.
- Finally, it is uncertain when and how some conservation measures will be applied to ameliorate the threats the U.S. Fish and Wildlife Service identified when declaring the sage-grouse a candidate for listing under the Endangered Species Act in 2010.

Plan implementation will be key to achieving the goals of the Planning Strategy. This may require improving the final plans in order to protect and restore the most essential habitats, careful monitoring for conditions that may trigger management changes, and developing and implementing programs to mitigate for land use and development wherever it continues to occur in sage-grouse range.

### [Montana Wilderness Association](#)

Mark Good, Great Falls-based central Montana field director for the Montana Wilderness Association, said Montana is home to some of the last, unbroken prairie in the West. MWA, he added, is grateful the BLM recognizes the value of protecting areas for big game and sage grouse. Despite this support, MWA notes that the lack of protections for wildlands is more glaring in some plans, e.g. HiLine, Miles City.

### [National Audubon Society](#)

After almost a decade of working on the Greater Sage-grouse conservation challenge through education, science, and policy, Audubon remains encouraged by the unprecedented collaboration that has come about in recent years. Federal and state agencies, alongside other stakeholders, have taken much needed steps to look at the ecosystem as whole and minimize surface disturbance going forward, at a scale that is unparalleled in wildlife management. “We have continuously pushed for conservation plans to be based on science and we are further than we’ve ever been before. We are seeing a positive change in how this ecosystem is being looked upon and that is very encouraging for a lot of species that depend on it,” notes Alison Holloran, Executive Director for Audubon Rockies.

Audubon is carefully monitoring implementation of these conservation plans, to assure careful and appropriate implementation. Audubon is very cognizant that the processes, at the state and federal level, must not only be sufficiently funded but nimble enough to respond meaningfully to how the bird and the habitat are responding to the conservation plans. Audubon is continuing to engage with decision-makers to ensure science is incorporated appropriately going forward.

We do not want to see this species decline further, because if it does, we have collectively failed for not only grouse but for 350 other wildlife species and an iconic western landscape. If we succeed, this could reflect a new way of doing wildlife management at a landscape scale. Brian Rutledge, long-time advocate for sage-grouse and Central Flyway Policy and Conservation

Strategy Advisor for Audubon, states “The plans will evolve and improve as sagebrush conservation continues—and conservation must continue, because there’s still a long way to go before the ecosystem is restored.”

### [National Wildlife Federation](#)

Collin O’Mara, president and CEO of the National Wildlife Federation, said the greater sage grouse won’t need the protections of the Endangered Species Act because of the safeguards in state and federal conservation plans and work by private landowners.

The NWA believes that recent decisions will help rebuild greater sage grouse populations and conserve sagebrush habitat that supports more than 300 species, including pronghorn, mule deer, and elk. The NWA also note that the decision not to list illustrates what the Endangered Species Act is supposed to be all about: galvanizing collaborative efforts to save wildlife species before they’re on the brink of extinction.

The NWA notes that the campaign to save the greater sage grouse is an unprecedented collaboration in its geographic scope – 11 Western states – and the diverse parties involved, including governors from both parties, federal and state agencies, sportsmen and women, private landowners, ranchers, conservationists, industry groups, and outdoor recreationists.

The NWA, with its 6 million members and supporters and its state affiliates, will push to ensure this crucial work is implemented effectively and will oppose attempts in Congress to derail these efforts to save an iconic species and landscape. NWA groups across the west will be making sure the state and federal sage grouse conservation plans are carried out in order to recover greater sage grouse and sagebrush habitat.

### [Wild Earth Guardians](#)

Sage grouse plan amendments fall well short of the science. All plans are subject to administrative discretion; soft language with no hard rules. Guardians believe that sage grouse are heading towards extirpation where discretion is granted to allow development.

In Wyoming, oil and gas drilling causes the most intense and widespread habitat destruction and has been cited by the U.S. Fish and Wildlife Service as the biggest threat to sage grouse. Protections from drilling are weakest in Wyoming. Sage grouse leks (dancing and breeding sites) only get 0.6-mile buffers from industrial development in Wyoming, far less than the 3.1-mile minimum buffers identified by federal scientists (and applied in all other states). Guardians considers these to be inadequate protections against the main threat facing the 40 percent of sage grouse that live in Wyoming.

Starting in 2008, federal agencies pulled more than 9.8 million acres of oil and gas leases range-wide from quarterly lease auctions based on conflicts with sage grouse conservation. In 2011, federal and state sage grouse experts issued a final report that recommended closing "priority habitats" entirely to future oil and gas leasing. Defying their own scientists, the Bureau of Land Management and the Forest Service opened up all priority habitats to future fossil fuel leasing under varying terms and conditions, ranging from "No Surface Occupancy" subject to exceptions in most states, to allowing future leasing under token protections in Wyoming.

Guardians notes that more than 16 million acres designated as Priority Areas for Conservation and termed “the most important areas needed for maintaining sage-grouse representation, redundancy, and resilience across the landscape” by the U.S. Fish and Wildlife Service have mysteriously disappeared from the Priority Habitat areas proposed in U.S. Forest Service and Bureau of Land Management sage grouse plans.

A report by Guardians reveals that agencies shrank sage grouse Priority Habitat boundaries in their recently proposed sage grouse plan amendments by huge margins. The downloadable report, titled [\*The Shrinking Geography of Sage Grouse Conservation\*](#), features rangewide Geographic Information System (GIS) data analysis on the status of proposed sage grouse habitat protections, and compares protected areas to remaining key population hotspots.

According to two new public opinion polls, the public expressed strong support for the Endangered Species Act as well as further sage grouse conservation, even in the face of economic trade-offs.

### **World Wildlife Fund**

In response to The Department of Interior announcement that the Greater Sage-Grouse does not need protection under the Endangered Species Act, World Wildlife Fund (WWF) issued the following statement from Martha Kauffman, managing director of WWF’s Northern Great Plains program:

“Habitat protections put in place by ranchers, agencies, nonprofits, and businesses over the last decade have given the sage grouse a fighting chance for survival. We must continue to build on that momentum by expanding ongoing recovery efforts by public and private land managers, continuing vital monitoring programs, and advancing the science decision makers need to ensure we continue to provide for the future of this iconic species.”

"Recent conservation efforts are helping more than just the sage grouse. By conserving remaining native grassland and sage-steppe ecosystems, we’re addressing declines in other species that also need help, and have a shot at also keeping them from needing protection under the Endangered Species Act.”

Strong partnerships contribute to creating a unified voice for conserving grasslands across the Northern Great Plains, including with livestock producers. Ranching partners can bring political clout to help ensure that future policies and legislation support conserving grassland and sage-steppe systems. WWF remains supportive of the ESA and having it administered on the basis of strong science, as was the case with the sage grouse decision.