



January 20, 2017

*Submitted online via [appsi.dnrc.mt.gov/pubcomment/](https://appsi.dnrc.mt.gov/pubcomment/)*

Ms. Carolyn Sime  
Sage Grouse Habitat Conservation Program Manager  
Montana Sage Grouse Oversight Team  
Department of Natural Resources and Conservation  
P.O. Box 201601  
Helena, MT 59620-1601

**Re: Sage Grouse Mitigation Proposed Rule**

Dear Ms. Sime:

Western Energy Alliance appreciates the opportunity to submit comments on the proposed rule for the Sage Grouse (GrSG) Habitat Conservation Program (HCP) in Montana. We support the State of Montana's efforts to establish a conservation program that will aid the GrSG and prevent a future listing under the Endangered Species Act (ESA), but we are concerned by several aspects of the proposed rule that we believe will inhibit conservation efforts.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in Montana and across the West. The Alliance represents independents, the majority of which are small businesses with an average of fifteen employees.

We wish to incorporate by reference the comments submitted by the Montana Petroleum Association, the Montana Coal Council, the Montana Contractors Association, the Montana Electric Cooperative Association, and the Treasure State Resources Association (the Trades) on January 20<sup>th</sup>, 2017. These organizations have been intimately involved in development of the HCP, and their comments provide substantive concerns with the proposed rule. We support their continued work on the HCP in Montana, and believe their voice is critical to achieving the goal of a workable program that benefits the GrSG.

Western Energy Alliance shares the concerns the Trades expressed in their comments, and want to highlight several concepts that are especially troubling to us. Additionality, durability, landscape-scale, and net conservation gain are all terms that are defined in the proposed rule and used throughout.

These terms are consistent with the Bureau of Land Management's (BLM) GrSG land use plans and several mitigation policies that were released by the U.S. Fish and Wildlife Service (FWS) under the previous presidential administration, but we believe those policies

exceed statutory authority. We have filed a legal challenge on the land use plans, and our litigation is ongoing.

We also submitted extensive comments opposing the FWS ESA Compensatory Mitigation Policy (FWS Policy), and those comments are submitted separately as File 2. Please see pages 22 through 30 for a full discussion of how FWS is exceeding its authority, which we summarize thusly: the ESA “does not provide a means by which FWS can commandeer the various agencies to protect both listed and unlisted species, impose use restrictions across expansive landscapes, and require agency decisions to result in ‘net conservation gain.’”

Unlike FWS and BLM, the State of Montana is not bound by the ESA in crafting its HCP. However, we believe it is ill-advised, at best, to model the state’s plan on federal policies that are unlawful and likely to be modified or eliminated altogether under the new presidential administration. The concepts listed above are all problematic for legal and practical reasons, as outlined in the Trades’ comments and our comments on the FWS Policy.

The State of Montana can and should craft an HCP that balances GrSG habitat conservation with active development of land in the species’ habitat. Unfortunately, the proposed rule does not achieve that goal, so we request the State withdraw the proposed rule and continue working with the Trades to find an appropriate solution. Thank you for the opportunity to comment, and please do not hesitate to contact me with any questions.

Sincerely,



Tripp Parks  
Manager of Government Affairs