

U.S. House of Representatives
Committee on Natural Resources
ESA Hearing, Billings, Montana
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TESTIMONY of David A. Galt
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Welcome to Montana. Thank you for the time and the huge effort to hold a series of meetings in the west to learn more about sage grouse and other potential endangered species.

Chairman Hastings, members of the committee; I am Dave Galt, executive director of the Montana Petroleum Association (MPA). MPA's members include companies involved in the exploration, drilling production, transporting and refining of oil and natural gas. Montana has a long history of oil and gas production. Our first commercial was drilled in Elk Basin in 1915.

Montana State University- Billings has done extensive analysis of the economic impact of the oil and gas industry in Montana. Here are a few facts from their 2012 update published in the Treasure State Journal:

- Direct and indirect jobs supported by the industry exceed 20,000 jobs
- Total economic output from the oil and gas industry in Montana is in excess of \$10 billion dollars.
- Firms, investors, and employees of Montana's oil and gas industry paid an estimated \$440 million dollars in state and local taxes in 2011 -- Tax revenue that supports education, protective services, roads and a host of services.

Montana was one of only a few states that maintained a positive budget balance through the recent great recession. Montana is in the black because of the active petroleum industry. New wells, expanding refinery capacity and new pipeline systems all contribute to a robust economy in Montana. A 5% industry expansion would result in over 1000 new jobs in Montana.

I have attached three charts to help you visualize oil and gas production in Montana. The map shows oil producing areas in green, gas in red and sage grouse core areas in purple. The black dots represent wells drilled in Montana since 1915. While the purple areas represent sage grouse core areas; when you

include the rest of the sage habitat, it covers most of the eastern half of Montana except the extreme north east corner. Sage grouse management proposed by the BLM with the blessing of the US FWS is going to have a debilitating impact on Montana's oil and gas production. The other two slides illustrate oil and gas production by county in Montana. The point is that there is production and potential across Montana, not just in the "Bakken."

The potential listing of sage grouse and the Sprague's pipit pose huge problems not just for the oil and gas industry in Montana, but for all multiple-use activities, including mining and grazing. We are seeing states in the west develop plans to provide conservation measures for sage grouse that place huge tracts of land off limits to nearly all revenue-generating activities. The determination of the need to list the sage grouse has been a topic of litigation and debate for the last decade. Law suits by environmental groups have led to a "closed door" settlement by the Federal government to decide the status of many species, the sage grouse being one, petitioned for listing as threatened or endangered species. The US Fish and Wildlife Service must decide by July of 2015 if the sage grouse is endangered. In the meantime; Western States, led by Wyoming, are developing conservation plans for the grouse. At the same time the Bureau of Land Management, BLM is rushing to release revised resource plans, or amend existing plans, which contain draconian stipulations for resource development. The ink wasn't dry on Montana's 2005 conservation plan, when academics and environmental groups said the restrictions in that plan were inadequate. Wyoming took the lead to identify core areas and protect them with very strict stipulations. And now the BLM's National Technical Team (NTT) on sage grouse recommends even more stringent stipulations, despite the fact that none of the existing stipulations have any science behind them to suggest they are inadequate.

Of particular concern is that the Department of Interior, particularly the US Fish and Wildlife Service, US Geological Survey and Bureau of Land Management, have failed to utilize any type of systematic cataloging and quantitative evaluation to determine the type, extent and effectiveness of mitigation measures that have been employed by the oil and gas industry in areas where it operates. That the agencies have very little useful and site-specific data upon which to base its land management decisions, particularly with respect to oil and gas exploration and development activities, is egregious when one views the protections measure proposed by BLM in its RMP revisions and amendments. DOI is relying upon flawed data perpetuated by its National Technical Team on Sage Grouse which is highly problematic.

Studies relied upon by the NTT were significantly and scientifically flawed. Just a few of these problems are:

The Cooper Ornithological Society's Monograph: Studies in Avian Biology (monograph), used as a primary source of information by the NTT, was reviewed by the Center for Environmental Science, Accuracy and Reliability (CESAR) in a paper¹ which found that the monograph relied upon:

- Significant mischaracterization of previous research;
- Substantial errors and omissions;
- Lack of independent authorship and peer review (3 of the authors of the NTT are also the authors, researchers, and editors on 3 of the most cited sources in the NTT.)
- Methodological bias;
- A lack of reproducibility;
- Invalid assumptions and analysis; and
- Inadequate data.

The NTT also insisted upon repeatedly citing Holloran's 2005 dissertation² as gospel despite the fact that it failed to acknowledge the countless stipulations and mitigation measures utilized by the oil and gas industry throughout sage grouse habitat. It is critically important to recognize that the focus of this study was limited to an unmitigated control area which was to be used as a basis for comparison to areas where mitigation was being employed. Not surprisingly, Holloran's predictions of catastrophic population decline have been clearly refuted by the data. Specifically, he predicted population declines of between negative 8.7 percent to negative 24.4 percent annually in Pinedale (page 82, Table 2). However, those doom and gloom population predictions have simply failed to come true. Instead sage grouse populations in these areas have been continually increasing, and are well above statewide averages.

Analyses of lek count data by the State of Wyoming show that lek-attendance trends have been increasing since 1990 and their densities are the highest in the state. In fact, a separate analysis by

¹ Science or Advocacy? Ecology and Conservation of Greater Sage-Grouse: A Landscape Species and its Habitats: An Analysis of the four most influential chapters of the monograph

² (Holloran, M. J. 2005. Greater sage-grouse (*Centrocercus urophasianus*) population response to natural gas field development in western Wyoming. PhD Dissertation. University of Wyoming. Laramie, Wyoming.)

Renee Taylor of Taylor Environmental Inc. has shown that there is no statistically significant difference between the average number of male sage grouse in areas affected by oil and gas in both the Pinedale and control areas. If Holloran's predictions were true, there would only be a handful of birds left around Pinedale. Clearly, Holloran and his approach were wrong.

A report³ prepared using Wyoming Game and Fish sage-grouse data clearly demonstrates the significance of precipitation levels with respect to sage-grouse population arcs. While weather and precipitation levels cannot be controlled by the federal government, they are clearly tied to sage-grouse survival and population and must be acknowledged. Also, numerous published reports and papers have identified the significant role predation has on the survival of the sage-grouse which have not been taken into full account by the Department of Interior so that reasonable and effective measures to reduce predation can be formulated and adopted.

When BLM prepared its RMP revisions for Montana, no site-specific sage-grouse data relating to the actual study areas was used. Rather, BLM relied upon information based on studies of Sage Grouse Management Zone 1 (MZ1) as described in the NTT Report, which includes northeastern Wyoming and far western North and South Dakota. In so doing, BLM failed to ensure the accuracy needed upon which to base informed land use decisions. Although analysis of MZ1 would be appropriate as a study area for analysis of cumulative impacts to sage-grouse nation-wide, potential direct and indirect impacts to sage-grouse and sage-grouse habitat resulting from implementation of the RMP must address only those conditions and potential direct and indirect impacts specific to the specific planning areas. Consequently, MPA has asked for a redraft of all these RMP Revisions in which sage-grouse data directly applicable to the planning areas in Montana would be utilized.

It is also important to note that the NTT Report is not even supported by the Western Association of Fish and Wildlife Agencies (WAFWA) as DOI's sole source of Sage-grouse management direction. In a letter sent to the Interior Secretary on May 16, 2013 WAFWA member states made it clear that they never endorsed the sole use of the NTT or any other scientific publication. Rather, they believe that a variety of peer-reviewed publications which collectively provide the best available science for sage-grouse should have been used by BLM as the basis for conserving the Sage-grouse, thereby avoiding a listing under the Endangered Species Act (ESA). WAFWA went on to recommend that management and

³ Draught and Wildlife Survival – Wyoming Game and Fish Department, Sage Grouse Precipitation Drought Index

regulatory mechanisms should be based upon the best available science which would provide the best strategy for near- and long-term management of sage-grouse and provides the best opportunity for precluding the need to list the species under the ESA.

We point out that the International Research Center for Energy and Economic Development (ICEED peer reviewed a paper entitled "Oil and Gas Development and Greater Sage Grouse (*Centrocercus urophasianus*): A Review of Threats and Mitigation Measures," Volume 35, Number 1, which was published by The Journal of Energy and Development. The paper pointed out that:

"Current stipulations and regulations for oil and gas development in sage grouse habitat are largely based on studies from the Jonah Gas Field and Pinedale anticline. These fields, and their effect on sage grouse, are not necessarily representative of sage grouse responses to less intensive energy development. Recent environmental regulations and newer technologies have lessened the threats to sage grouse."

As a result of BLM's reliance upon the NTT Report and its recommendations, new oil and gas leasing, exploration and development in Montana will be essentially terminated in areas within sage grouse habitat if the measures proposed by BLM in its RMP revisions are adopted. Specifically, BLM has proposed the use of new No Surface Occupancy (NSO) stipulations on millions of acres of public lands as well as private surface/federal minerals ostensibly to protect sage grouse and its habitat. NSO stipulations, which prevent the use of the surface area of the lease, would be imposed on 50 percent of the public lands in the Miles City FO, 70 percent in the HiLine FO and 60 percent in the Billings FO. Added to that, in the Billing Field Office, BLM is attempting to force the use of the same stipulations upon federal minerals under private surface. We expect similar constraints to be used in the other field offices as well. BLM also proposes to make sizeable portions of these areas off-limits to new right-of-way construction and even goes so far as considering forcing the removal and replacement of existing rights-of-way to areas outside sage grouse habitat.

In conclusion, while we support efforts to avoid a listing of the Greater Sage-grouse as a threatened or endangered species, we are disturbed that the DOI has embraced the notion that habitat destruction is the single most important factor impacting the sage-grouse, particularly that from oil and gas development, which as pointed out earlier in this testimony has been proven to be a fallacy. While we acknowledge that unmitigated habitat destruction may play a role, albeit much more limited than

acknowledged by the agencies, in the survival of the sage-grouse, weather and predation are extremely important factors that have been essentially ignored by the agencies when determining how best to manage habitat. To date, DOI's focus has been to find ways to prevent or minimize human uses of habitat based upon flawed studies and reviews contained in the NTT Report. Nevertheless, it is patently obvious that DOI's tunnel vision will not result in essential improvements to the widespread degraded habitat managed by federal agencies nor will it address the significant problem of extensive predation throughout the Western states. Instead, it will shift DOI's burden and responsibilities to public land users in discrete areas where they have activities while failing to address the problem as a whole. Nevertheless, the Greater Sage-grouse will continue to survive to the best of its ability while the economy of the public lands states will suffer draconian declines due to unjustified limits on multiple-use and revenue generating activities.