

**FINDING OF NO SIGNIFICANT IMPACT FOR ISSUANCE OF  
INCIDENTAL TAKE PERMITS  
FOR THE**

**GREATER SAGE-GROUSE UMBRELLA CCAA  
FOR WYOMING RANCH MANAGEMENT**

## INTRODUCTION

The U.S. Fish and Wildlife Service (Service) and several State, Federal, and local partners prepared an Umbrella Candidate Conservation Agreement with Assurances (CCAA) to provide Wyoming ranchers with the opportunity to voluntarily conserve greater sage-grouse and its habitat while carrying out their ranching activities. Ranchers may apply for an enhancement of survival permit under section 10(a)(1)(A) the Endangered Species Act of 1973, as amended (ESA) (16 U.S.C. 1531 et seq.), by agreeing to implement certain conservation measures in the Umbrella CCAA that apply to their properties.

The Umbrella CCAA covers an area of approximately 17 million acres of privately owned lands within the range of the greater sage-grouse in Wyoming. It is proposed as a cohesive management plan containing a variety of conservation measures that can be used by ranchers who have private lands that support sage-grouse habitat. A private landowner who wishes to enroll in the Umbrella CCAA would develop an individual CCAA for the enrolled property. Partner agencies would assist interested landowners in selecting the conservation measures from the Umbrella CCAA that would address threats occurring on the enrolled properties. Each landowner would submit their individual CCAA to the Service when applying for a permit for take of the sage-grouse incidental to conservation and ranching activities, should the species become listed.

The Service is proposing to issue permits to individual landowners who implement individual CCAAs. Individual CCAAs, and the subsequent permits that are issued, encourage private and other non-Federal property owners to implement conservation efforts for species by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property if that species becomes listed under the ESA in the future. CCAA permit application requirements and issuance criteria are found in 50 CFR 17.22(d) and 17.32(d).

The enhancement of survival permits (permit) will authorize a specified amount of incidental take of the greater sage-grouse—currently listed as a Candidate species under the ESA—for each landowner implementing an individual CCAA. Each permit will be in effect for 20 years. The estimated incidental take of greater sage-grouse due to the proposed action is 2,785 birds, an average of 139 birds per year over the 20-year life of the project within the *action area* (the estimated 43,000,000 ac of sagebrush habitats within the state of Wyoming). This equates to approximately 0.07 percent of the estimated 208,000 birds statewide, a level of take that will not substantially alter the population's numbers, distribution or reproduction in a negative manner: on that basis, the Service has concluded that the minor negative effects of the proposed action in the action area within Wyoming are unlikely to result in an appreciable reduction in the likelihood of survival and recovery of the Greater Sage Grouse across its entire range (Service 2014).

Pursuant to the National Environmental Policy Act (NEPA) of 1969, we evaluated the potential environmental effects associated with the Proposed Action of issuing the Enhancement of Survival Permits and implementation of the Umbrella CCAA and associated individual CCAAs in an Environmental Assessment (EA). Two additional alternatives analyzed included: a No Action Alternative and an Alternative in which issuance of a CCAA would be done strictly on an individual landowner basis.

## DECISION RATIONALE

Based on a detailed review of the CCAA and the analyses in the EA, we selected the Proposed Action because it:

- provides long-term holistic conservation strategy for the greater sage-grouse and its habitat through a more effective and responsive proactive conservation strategy that emphasizes the protection and enhancement of high-quality habitat on both private and Federal properties;
- provides for broader opportunities, implemented in the most efficient manner possible, for habitat conservation across a large range of habitat on private and Federal lands;
- provides for habitat quality monitoring on select private and Federal lands to be incorporated into a well-defined and robust adaptive management process; and
- provides a more cost-effective, streamlined process for ESA coverage while ensuring a more strategic approach to conservation of the species, rather than a piecemealed approach that would occur in either the No Action or Individual landowner Alternative, which would rely on the development of an individual CCAA case-by-case.

Table 1 provides a summary description of the three alternatives we analyzed. Further details on each alternative are in Section 2.0 of the EA.

**Table 1. Summary of the Alternatives Evaluated**

Topic	No Action	Landowner by Landowner CCAA Alternative	Umbrella CCAA (Proposed Action)
<b>Type of Activities Covered</b>	None	Routine farm and ranch management and recreational activities	Routine farm and ranch management and recreational activities
<b>Participants</b>	None	Private landowners on individual basis	Private landowners all under the Umbrella CCAA
<b>Covered Species</b>	None	Greater sage-grouse	Greater sage-grouse
<b>Likelihood of signing-up all applicants</b>	N/A	Low	High
<b>Permit Area/ Duration</b>	N/A	Individual ranches occurring throughout Wyoming; 20 year duration	Individual ranches occurring throughout Wyoming; 20 year duration
<b>Threats Addressed through Conservation Measures (CMs)</b>	Determined on an individual landowner basis as part of other (non-CCAA related) actions such as Farm Bill Programs like EQIP, WHIP, SGI	<ul style="list-style-type: none"> <li>• Habitat fragmentation</li> <li>• Infrastructure</li> <li>• Restoration of disturbed habitats</li> <li>• Invasive species</li> <li>• Surface water development</li> <li>• Sagebrush treatments</li> <li>• Livestock management &amp; rangeland health</li> </ul>	<ul style="list-style-type: none"> <li>• Habitat fragmentation</li> <li>• Infrastructure</li> <li>• Restoration of disturbed habitats</li> <li>• Invasive species</li> <li>• Surface water development</li> <li>• Sagebrush treatments</li> <li>• Livestock management &amp; rangeland health</li> </ul>
<b>Monitoring</b>	None required but may occur on a project-specific basis	<ul style="list-style-type: none"> <li>• Conservation Measure Compliance Monitoring</li> <li>• Biological/Habitat Monitoring</li> </ul>	<ul style="list-style-type: none"> <li>• Conservation Measure Compliance Monitoring</li> <li>• Biological/Habitat Monitoring</li> </ul>

<b>Topic</b>	<b>No Action</b>	<b>Landowner by Landowner CCAA Alternative</b>	<b>Umbrella CCAA (Proposed Action)</b>
<b>Adaptive Management</b>	None	<ul style="list-style-type: none"> <li>• Annual monitoring to evaluate effectiveness of CMs</li> <li>• Opportunity to evaluate effectiveness of Conservation Measures and adapt accordingly for willing landowners</li> <li>• Opportunity to evaluate need for changes based on Changed Circumstances</li> </ul>	<ul style="list-style-type: none"> <li>• Annual monitoring to evaluate effectiveness of CMs</li> <li>• Opportunity to evaluate effectiveness of Conservation Measures and adapt accordingly for willing landowners</li> <li>• Opportunity to evaluate need for changes based on Changed Circumstances</li> </ul>
<b>Administration</b>	Determined on a project-specific basis	<ul style="list-style-type: none"> <li>• Service CCAA coordinator &amp; participating agency biologist</li> </ul>	<ul style="list-style-type: none"> <li>• Service CCAA coordinator &amp; participating agency biologist</li> </ul>

### **FINDING OF NO SIGNIFICANT IMPACT**

Based upon information contained in the EA and CCAA, and consideration of comments received during the public review, we find that the proposed issuance of section 10(a)(1)(A) enhancement of survival permits for the greater sage-grouse in association with ranch management and livestock grazing activities in Wyoming as described in the CCAA, will not significantly affect the quality of the human environment for the following reasons:

1. Regulatory assurances conferred to enrollees will provide an incentive for more landowners to maintain their ranch operations and lessen the likelihood these lands will be sold and divided for exurban development. The curtailment of the development threat would benefit sage-grouse populations by maintaining habitat quantity and quality and limiting habitat fragmentation, which has been identified as the most significant threat to the species.
2. The Service has concluded that the minor negative effects of the proposed action in the action area within Wyoming are unlikely to result in an appreciable reduction in the likelihood of survival and recovery of the Greater Sage Grouse across its entire range (Service 2014). Further, the CCAA will result in a net conservation benefit to the sage-grouse because conservation measures will be implemented across large, intact, areas providing suitable habitat for the sage-grouse. Without implementation of the Umbrella CCAA, while private landowners would likely continue within other programs to implement conservation on the ground to conserve the sage-grouse (e.g., Farm Bill Programs such as WHIP, EQIP and others, as well as the NRCS Sage Grouse Initiative), it is unlikely that the full suite of conservation measures articulated in the CCAA would be implemented.

The CMs identified in this CCAA are expected to benefit sage-grouse through maintenance, enhancement, and restoration of sage-grouse populations and their habitats and by reducing threats causing direct mortality. CMs address potential threats associated with: fragmentation of the landscape, infrastructure, restoration of disturbed lands, invasive species management, surface water development, disease, sagebrush management, livestock management and rangeland health, woodland encroachment, predation, insecticide use, drought, big-game populations, and fences. Since non-Federal landowners control substantial acreage of important habitat for sage-grouse, encouraging implementation of CMs by enrolled landowners throughout Wyoming will improve conservation of this species statewide.

3. The umbrella CCAA provides further incentives for landowner participation through a streamlined enrollment process. Although enrollees will need to sign individual CCAAs, the umbrella CCAA simplifies the process for developing site-specific plans by providing the suite of appropriate CMs for each threat that may occur on the property. With anticipated increased enrollment as a result of these incentives, benefits to the species are expected at a landscape scale.
4. The short-term economic costs to the landowner from implementing CMs would be offset by the long-term benefits; overall, the umbrella CCAA would result in long-term, minor socioeconomic benefits. Additionally, there will be no impacts to cultural or historic properties, and no impacts to minority or low-income populations.

#### **PUBLIC COMMENT**

The CCAA was developed with considerable input from, and collaboration with, Federal, State and local government stakeholder representatives, many of whom work closely with private landowners in Wyoming. On February 7, 2013, we issued a Notice of Availability in the *Federal Register* (78 FR 9066) for the draft Umbrella CCAA and draft EA for public review. A 30-day public review and comment period was open until March 11, 2013. The draft EA and draft CCAA were available at the Service's Mountain-Prairie Regional Ecological Services Web site, and were available for review at the Wyoming Ecological Services Field Office in Cheyenne, WY.

We received fifteen comment letters from the following entities: one Federal agency; four state-level agencies from Wyoming; four county-level governments; two energy industry representatives; two conservation non-governmental organizations; one Greater sage-grouse working group; and one individual from the general public. Comments included eight in support of the draft CCAA; six expressed appreciation for the opportunity to comment but remained silent in terms of support or opposition; and one expressing opposition. None of the comments identified any significant new environmental impacts that had not already been addressed in the draft EA.

#### **CHANGES MADE BETWEEN DRAFT AND FINAL CCAA AND EA**

A number of comments and recommendations to both the CCAA and EA were provided regarding minor grammatical edits and clarifications. We appreciate these comments and

suggestions and have incorporated suggested edits and clarifications to the extent they improved clarity of these documents. We also received several more substantial comments on both the CCAA and EA. In response to these comments and recommendations, we made changes to each document as follows:

**Changes to the Umbrella CCAA (Comments/Response):**

**Comment:** The manner in which *ranch management* was described and defined was too general and included activities that are not associated with routine ranch management.

**Response:** Characterization of *ranch management* activities was made more specific.

**Comment:** Recommendations were made to define some terms in accordance with more standardized definitions used by Society for Range Management.

**Response:** Definitions of technical terms including *deferment*, *meadow* and *rest* were changed for consistency with Society for Range Management.

**Comment:** Some ranches provide better habitat for sage-grouse than others and, consequently, support greater numbers of sage-grouse than the state-wide average. Incidental take should take this into consideration.

**Response:** Language was added to consider site-specific sage-grouse numbers for calculating incidental take.

**Comment:** In addition to impacts on sage-grouse habitat associated with concentrating domestic livestock, concentrated populations of big-game (e.g., mule deer, pronghorn, elk) and free-ranging horses and burros also have substantial impacts to habitat.

**Response:** Language was added regarding potential impacts to sage-grouse habitat of concentrated big-game and wild horses.

**Comment:** The Service was urged to recognize predators as a threat to sage-grouse and incorporate predator control as a Conservation Measure where appropriate.

**Response:** A statement was added to recognize the potential for localized impacts due to predators. The Service's interpretation of the best available science is that, on a range-wide basis, predation has little impact on breeding sage-grouse populations. The Service will continue to monitor the findings of ongoing research regarding this issue, and will consider appropriate measures based on our evaluation of more information as it becomes available, using the Adaptive Management framework as a model of how to move forward.

**Comment:** It is unclear the extent to which landowners may participate in development of additional Conservation Measures due to *changed circumstances*.

**Response:** Language was added to clarify the importance of participation of landowners if changes in Conservation Measures are proposed due to changed circumstances.

**Comment:** Rangeland production varies significantly across the landscape depending upon precipitation patterns and other factors, and should be taken into consideration for monitoring.

**Response:** Language was added regarding site-to-site variability in rangeland production and sage-grouse habitat condition associated with precipitation patterns.

**Comment:** Landowners on split-estate properties (i.e., individuals who own the land but not the mineral rights) cannot direct or control the development of energy resources. Additionally, the Service mischaracterized Wyoming's Surface Accommodation Act (SAA).

**Response:** Language was added acknowledging that the ability of enrolled landowners to direct or control development of energy on split-estate properties is limited by the willingness of developers who own the mineral rights to work with landowners voluntarily in terms of avoidance and minimization of potential impacts to sage-grouse and habitat. Additionally, detailed language was added pertaining to Wyoming's surface damage provisions, codified at Wyo. Stat. Ann. §30-5-402 (2012).

### **Changes made to the EA (Comments/Response):**

**Comment:** It is inaccurate to say, under the No Action Alternative, that private landowners will not engage in any conservation practices that benefit sage-grouse.

**Response:** Language was added clarifying that, for the No Action Alternative, while private landowners would likely continue within other programs to implement conservation on the ground to conserve the sage-grouse (e.g., Farm Bill Programs such as WHIP, EQIP and others, as well as the NRCS Sage Grouse Initiative), it is unlikely that the full suite of conservation measures that could be implemented within the context of the CCAA would be implemented.

**Comment:** Some of the threats to sage-grouse on private lands are not under the control of the landowners and should not be characterized as such.

**Response:** Language was added clarifying the extent to which some of the threats to the sage-grouse on private lands are—or are not—actually under control of the landowners (e.g., over-abundant big-game populations, wildfire).

**Comment:** Clarification is needed regarding the characterization of domestic livestock grazing as a significant threat to the sage-grouse. In fact, inappropriate grazing practices are the real threat, not grazing *per se*. To suggest that grazing is a significant threat leading to the decline in sage-grouse is inconsistent with the Service's own listing determination made in 2010.

**Response:** Language was added clarifying that grazing is not, in fact, considered a threat to the sage-grouse; rather it is poor management of grazing practices that may constitute a threat to the species.

**Comment:** Data used for Water Quality analyses are outdated and inaccurate. It is suggested that the 2010 data be replaced by the 2012 data that are currently available on Wyoming Department of Water Quality website and the analysis be re-done accordingly.

**Response:** Substantial changes were made in Section 3.3.1 for Water Quality. The Draft summarized data from 2010 provided by Wyoming Department of Environmental Quality (DEQ); these data were replaced with 2012 water quality data from DEQ and the analysis and summary were updated accordingly. Of particular note is that the water quality sources and causes of impairment were substantially different from 2010. As indicated in Table 3 of the EA, based on the 2012 data, sources of impairment are unknown for forty-four percent of Wyoming streams. Eighteen percent are impaired by natural sources, with several sources of impairment contributing to the remaining thirty-eight percent. Consequently, it is unclear what effects may occur to riparian habitats and stream water quality under the No Action Alternative, and language was deleted regarding impacts from existing ranch practices under the No Action Alternative and Proposed Action Alternative.

**Comment:** The consequences under the No Action Alternative should be made clear regarding the additional burden associated with section 7 consultation if the sage-grouse is listed under the ESA.

**Response:** Language was added clarifying that, for the No Action Alternative, any future proposed activities having a Federal nexus (e.g., Federal programs and/or funding), and for which prior consultation

has not occurred, that might affect a listed or proposed species would undergo section 7 consultations in accordance with ESA. Consequently, if the sage-grouse were listed under the ESA, there would be a substantially increased time needed for project reviews of any related Federal programs and activities.

**Comment:** Language in the EA stating that participation in the CCAA would result in major, long-term improvements in sage-grouse numbers, as well as other species currently listed under the ESA, is not defensible and is inconsistent with the Service's own (2010) listing rule acknowledging that livestock grazing is not a significant threat across the species' range. As already pointed out, mis-management of grazing can have significant localized impacts.

**Response:** Language was deleted regarding the anticipation that under the Proposed Action Alternative the result would be major, long-term improvements in sage-grouse populations, as well as to other species currently listed under the Endangered Species Act. While the Service believes that participation in the Proposed Action Alternative would contribute to conservation benefits to the sage-grouse and its habitat on participating ranchlands, we would not expect to see significant increases in sage-grouse populations associated with participation. Similarly, there is no information to suggest that other species listed under the ESA would experience population increases either. For the same reason, language was dropped regarding the anticipation under the No Action Alternative the result would be major, long-term declines in sage-grouse populations.

**Comment:** The Analysis regarding the impacts on recreational opportunities is not supported.

**Response:** Analysis of the evaluation of potential impacts on recreational opportunities was found to be purely conjectural with no basis in data or reliable information. Consequently, this evaluation was dropped from the EA.

**Comment:** It is unclear if and when Candidate Conservation Agreements (CCAs) on Federal lands would be developed for landowners participating in CCAAs who hold Federal grazing permits.

**Response:** A statement was added to explicitly explain that, upon request of private landowners, it is anticipated that Candidate Conservation Agreements (CCAs) will be developed simultaneously with CCAAs for individuals who have grazing permits on those Federal lands.

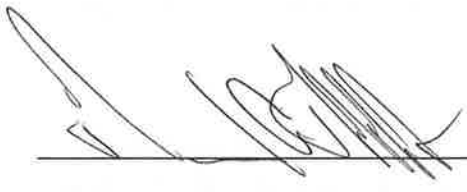
## CONCLUSION

Based upon my review and evaluation of the information contained in the EA, Umbrella CCAA, and other supporting documents, I have determined that the issuance of Enhancement of Survival permits and implementation of the CCAA, as proposed, is not a major Federal action that will significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969. Accordingly, preparation of an environmental impact statement on the Proposed Action is not required.

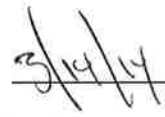
Documents used in the preparation of this finding of no significant impact include the EA (Service 2013a), Umbrella CCAA (Service 2013b), and Intra Service Section 7 Conference Report (Service 2013c). All documents are incorporated herein by reference, as described in 40



CFR 1508.13. All supporting documents are on file and available for public inspection, by appointment, at: U.S. Fish and Wildlife Service, Wyoming Ecological Services Field Office, 5353 Yellowstone Road, Suite 308A, Cheyenne, WY 82009; (307) 772-2374.

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Assistant Regional Director – Ecological Services  
U.S. Fish and Wildlife Service  
Mountain-Prairie Region

A handwritten date "3/14/14" written in black ink over a horizontal line.

Date

## **Related Documents**

U.S. Fish and Wildlife Service. 2013. Final Greater Sage-Grouse Umbrella CCAA for Wyoming Ranch Management.

U.S. Fish and Wildlife Service. 2014a. Final Environmental Assessment for A Greater Sage-Grouse Umbrella Candidate Conservation Agreement with Assurances for Wyoming Ranch Management.

U.S. Fish and Wildlife Service. 2014b. Intra-Service Section 7 Conference Opinion and Determination of Non-Jeopardy.