

**UINTAH BASIN
LOCAL
WORKING
GROUP**

Date: 12/6/16

Place: DNR office, Vernal, Utah

Present: Leah Lewis (BLM), Natasha Hadden (BLM), Jimi Gragg (UDWR), Tom Adamson (BLM), David Allison (consultant), Nathan Hall (DEQ), Scott Chamberlain (SITLA), Scott Chew (State Representative), Stephanie Tomkinson (QEP Energy), Jim Spencer (NRCS), Greg Todd (Duchesne County), Josh Easter (USFS), Boyd Kitchen (USU Extension), Mark Ewell (NRCS), Dixie Sadlier (BLM), Terrell Thayne (UDAF GIP), Alan Clark (UDNR), Van Elsbernd (Vermillion Ranch), Quincy Bahr (BLM), Melissa Wardle (BLM), Tory Mathis (DWR), John Spencer (Simplot), Brad Dickson (Deseret Power), Brandon McDonald (BLM), and Lorien Belton (USU Extension facilitator).

Information Presented/Discussion Highlights

Lorien updated the group about the Utah CBCP listservs. Each local working group has its own listserv, and Rae Ann has been sending the newsletter to a separate database with names and contact info. All the separate lists will now feed into one list that will get the newsletter, and any info meant for all the groups. Anyone who would not like to be on the main list can still stay on the individual list. Let Lorien know if you need help getting your listserv subscriptions the way you want them.

Population and grouse movement report

Brian Maxfield showed the group what he is learning about the sage-grouse that are currently collared in the Northeastern Region. USFS and BLM have both purchased GPS collars, and UDWR is doing the tracking and data management. Because there is a much more data analysis that could be done beyond simply tracking movements, BYU will be helping to analyze the data and build a winter habitat model.

The GPS collars send 5 location points each day in the summer. In winter, when birds are more sedentary, 4 or maybe even three points is enough to understand where they are spending time. Collars have been put out in the Three Corners area, on Little and Diamond Mountain, on Blue Mountain, and on Anthro Mountain. More transmitters will be put out in the spring (2017).

In the three corners area, Goslin Mountain, Antelope Flat, and Bear Top are the areas of focus. Antelope Flat is turning out to be very important for the birds year-round. Last year, despite there being a lot of snow, birds stayed on top of Goslin Mountain. They did not drop down to Clay Basin as expected, where there are birds in the winter. It is not clear yet what the relationship is between the Goslin Mountain birds and those that do winter in Clay Basin. The birds also have shown year-to-year variation in where they spend time. For example, birds that

used wet meadows in the first year during brood rearing went into an area with a number of sagebrush skeletons from fire the following year. One female went all the way up into Wyoming, mated, and then came back to Utah to nest.

Little and Diamond Mountain birds: Birds from Diamond and Colorado are wintering together in Shiner Basin, which is north of Split Mountain. Little Water Flat: Two males were trapped that were strutting on Grassy Bench. One that lived hung out all summer on the edge of a sagebrush/alfalfa field on tribal land, and goes between patches of Wyoming sagebrush. More collars are planned for next year in this area as well.

Blue Mountain birds: There are 5 transmitters on birds from Blue Mountain. One bird died quickly, and was eaten by a coyote. The remaining collars have indicated that there is some crossover between Colorado and Utah birds. One hen spent time with her broods in wet meadow areas near a recent PJ treatment that was done on Scott Chew's land.

Anthro birds: Even though there are just four birds collared on Anthro Mountain, their movements essentially delineated all the sagebrush areas, suggesting a limiting factor in the habitat. So far, (as of Early December) they have not dropped off Anthro. In the past, birds have left Anthro Mountain and gone to Emma Park/Whitmore, and to Tavaputs.

In total, there are 14 collars out on birds, and 22 that will be put out in the spring. There are 9 others that may be able to be refurbished. The focus has been on areas of interest to BLM and USFS since they are paying for the collars. Focus areas include Anthro, above the phosphate mine, a few on Blue Mountain, and some in three corners but further east than previous collars. Probably no new ones will go on Goslin.

The group discussed that there is no collar data, but that birds on East Bench go to Willow Creek after nesting and tend to die there in late summer. Jimi offered to help get the data animated so that movements as the seasons progress can be watched using the data points.

Someone also noted that Jason Wood, a Master's student at BYU, also has 40 collars in Grass Valley in southern Utah and is looking at how birds use habitat projects.

Mitigation discussion

Alan Clark explained how the state's new compensatory mitigation program has evolved and what it will look like when it is up and running.

The state sage-grouse plan outlines a 4:1 mitigation ratio for permanent disturbance in sage-grouse habitat. To hopefully accommodate the many possible scenarios, the state of Utah is writing a rule (authorized by Senate Bill 200 and to be administered by the UDNR) that would set up a program to manage compensatory mitigation. Although no one on private or SITLA land is required to do the mitigation, the state has taken the responsibility to make sure mitigation happens for disturbance on those lands. Federal agencies may or may not use the Utah system

when it is up and running, depending on what internal policies they develop.

Initial feedback that determined what was written into the rule included:

- Keep it simple
- Leverage existing options
- Have flexibility that works for multiple entities
- Be defensible to USFWS
- Don't change the rules mid-stream
- Make sage-grouse an asset, not a liability, for landowners

The draft rule outlines three different models for how mitigation can happen:

1) The WRI model:

In cases where there are no regulatory requirements (i.e. SITLA or private lands) to mitigate permanent disturbance to sage-grouse habitat, the Watershed Restoration Initiative (WRI) database will be used to track state-initiated projects. No one will be charged if they (SITLA, or a landowner) for the mitigation, but the state will pay for it. To qualify, habitat projects will need to add to existing sage-grouse habitat by doing vegetation work (juniper removal in most cases) in areas adjacent to occupied sage-grouse habitat.

This system does not require permanent land protection to protect the life of the projects; however, if projects are in danger of becoming no longer usable, the credits can be moved to another project location to maintain the viability of the credits.

2) The middle approach: SITLA or private landowners can create credits and sell them.

So that private entities can also participate in doing projects, a second option is available. If a private landowner creates new sage-grouse habitat on their land, they can sell those credits, using the state of Utah's tracking system as an intermediary, to developers or others who need to purchase credits in Utah. The land that has the projects will also need to be protected for the life of the disturbance, under a mechanism such as an easement (but easements are not required) to ensure that the project will stay in sage-grouse habitat for the length of the disturbance. If the original disturbance is removed, the credits can then be resold by the landowner if still functional habitat.

This is similar to systems used by Colorado and Nevada. The landowners will be paid for the credits at a yet-to-be-discovered market value per acre. They will also be required to pay for ongoing monitoring to ensure that the habitat is still good for sage-grouse. Developers will only be able to purchase already created credits, so this system may take a couple years to come to full fruition.

These projects will also be tracked in the WRI database using a "compensatory

mitigation” label so they are not double-counted with other projects for habitat improvement. The state of Utah hopes that this mitigation will match with what at least some federal agencies can use according to their policies, so that disturbances on federal land (Forest Service, for example) might be able to be mitigated on private land. The mitigation ratios for this type of work will depend on what each agency requires.

3) A conservation bank:

This would be set up according to USFWS guidelines, and is the third and most complex option. The state of Utah will not be developing a formal conservation bank, but now allows for one to be established. This might or might not even ever happen. Right now there are only three conservation banks for sage-grouse in the country, and they are each tied to industry. Developing one requires a significant input of capital.

Basically, anyone who is interested in mitigation should be able to use one of these three systems. Even federal agencies could potentially pick a system and require developers to use it.

Regardless of which system is used, it will need to **create more sage-grouse habitat**. For now, the main way to will be juniper removal, primarily in stage 1 or 2 juniper stands where sage-grouse can occupy the habitat quickly after treatment. One possible other option would be to create corridors between occupied habitat areas. Easements are not allowed within the compensatory mitigation program, because they don't add to habitat. There are other programs that support easements, just not this system

In order to qualify as habitat, areas will need to meet certain requirements. Sagebrush cover will need to meet a minimum coverage percentage (10-15%, probably) and tree coverage will be limited to under 4%; otherwise the project will not count. It also has to be in an SGMA, at least for the first option. Other users of the system can track the projects through the WRI database system but have other requirements.

When the rule is complete, it will be administered by DNR. The draft rule is currently being reviewed by lawyers. There will be a 30-day rulemaking public comment period sometime in January probably. Lorien will send out a notice to the groups when it is available.

Alan addressed a few additional specific questions:

- Value of a credit will be market-based, so it is not knowable yet what that will be.
- There is a provision in the rule that will allow regulatory agencies to add some data capacity to the system if they are willing to pay for it.
- Mitigation needs to last as long as the “permanent” disturbance. Reclamation will be accounted for, and credits can be sold or re-issued.

BLM update

Quincy Bahr presented to the group about the seven new BLM instructional Memoranda (IMs)

that came out in September. They provide additional guidance about how to implement the plan amendments for sage-grouse that were approved in 2015 for 98 different BLM plans west-wide. Those plans allow for a large amount of discretion. The IMs are intended to help different field offices interpret that discretion similarly, and have consistency and transparency in process.

Common threads in the IMs include:

- Rangewide procedural consistency and transparency
- Retain flexibility to adapt to local conditions
- Gather monitoring data to support/justify locally-relevant decisions
- Continue to coordinate with stakeholders to identify and consider local conditions

The seven IMs that were released include:

- 2016-139, which addresses how the overall plan implementation is being tracked
- 2016-140, regarding the adaptive management trigger process
- 2016-141, about how grazing permits will be prioritized for review
- 2016-142, on including thresholds and responses in grazing plans as appropriate
- 2016-143, regarding oil and gas implementation
- 2016-144, about monitoring sage-grouse habitat and other areas using standard systems

First, Quincy explained IM 144 on monitoring. AIM (Assessment, Inventory and Monitoring) is a consistent process for collecting data for many things, including but not limited to sage-grouse. The Habitat Assessment Framework (HAF) is an additional system which fits into AIM, but is specific to sage-grouse. Most of the data collected using AIM processes can feed into HAF assessments, although some of AIM is not relevant to HAF. HAF also includes other data gathering that is only relevant for sage-grouse habitat (e.g., sagebrush shape, distance to conifers, etc.).

HAF looks at sage-grouse habitat from four different scales. First order HAF looks at the species range across the West. Second-order HAF looks at population areas, and dispersal between sage-grouse populations (for example, at the Diamond or Blue Mountain scale). HAF third order is relevant to seasonal habitat movements and connectivity at local population scales. Fourth order HAF examines the site-scale experience of sage-grouse, such as habitat suitability in a particular area. First, second, and third order analysis are important for regional and state-level understandings. At the site scale, fourth order HAF data provides the most valuable information.

Next, Quincy reviewed the two grazing IMs. While these documents focus on grazing, it doesn't mean that grazing is being viewed as a big threat to grouse; but instead that having grazing in so many sage-grouse areas means that it is important to have standard and fair procedures to address any threats to sage-grouse that might be related to grazing. The IM outlines the internal process to use and decide whether allotment leases can be simply renewed under FLPMA (under the same terms as before) or whether the area needs to be examined more closely and renewed using a new NEPA (EA) process.

If everything is going well in an allotment, there will likely be no reason to change anything. If it is a potential problem, then the system allows that to be dealt with more quickly. Local determinations are very important, and flexibility is provided at the local scale.

The thresholds concept basically allows adaptive management at a very local scale. Fully processed permit renewals” must include threshold options in the NEPA document. That does not mean that there must be a threshold included in the permit renewal, however, just as one of the alternatives that is considered. If the permit removal isn’t “fully processed,” say, just a “partially processed renewal,” it may not be necessary to consider any thresholds at all in the renewal process. One way to handle this complexity may be to include a variety of options in the NEPA, but not write it into the permit—just allow it to be available to be included in a new decision if one is needed. One important note: Thresholds should not be tripped easily by something really little; for example, would better be determined by multi-year trends rather than one year of data

Last, Quincy briefly reviewed the IMs on Disturbance Tracking and Oil and Gas. The SDARTT tool, which will be used to track surface disturbance, was field-tested in the Vernal office, so it will be familiar to many people already in this area. It will also be public facing – a company will be able to go check to see if an area is already over 3% disturbance, for example.

For oil and gas:

- The IMs clarify how oil and gas leasing and other decisions will be prioritized.
- It specifically does NOT direct BLM to wait for lower value sage-grouse lands to be leased before higher priority lands.
- It does NOT prohibit leasing in PHMA or GHMA, only makes it lower priority
- All existing rights on leases already issued will be honored.
- Prioritization is per lease: if rejected once the same lease can be requested for consideration again the following year, for example

Anyone with questions on any of the material in the IMs can contact Quincy directly.

Follow-up Needed

- Lorien will send out a notice to the groups when the public comment period starts on the compensatory mitigation rule.
- Anyone with wet meadow projects good for a field tour, please tell Lorien.

Next Meeting:

Lorien will schedule the next meeting by email.

Next year’s field tour will, if possible, be focused on wet meadows or other riparian areas, in sage-grouse habitat. Anyone with projects or areas that would be worth visiting, please let Lorien know.