



## WYOMING GAME AND FISH DEPARTMENT

5400 Bishop Blvd. Cheyenne, WY 82006

Phone: (307) 777-4600 Fax: (307) 777-4610

Web site: <http://gf.state.wy.us>

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July 7, 2009

Mr. Brian Kelly  
Wyoming ES Field Office  
Field Supervisor  
5353 Yellowstone Road, Suite 308A  
Cheyenne, WY 82009

Dear Brian,

Wyoming Game and Fish Department (WGFD) is working with proponents on various renewable and non-renewable energy projects. These projects are in both sage grouse core and non-core areas. As with the implementation of any new program there are always unanticipated issues that need to be worked out. It is our hope that you would provide additional thoughts and insight on the U.S. Fish and Wildlife Service's (USFWS) endorsement of Wyoming's Greater Sage Grouse "Core Population Area Strategy" Executive Order 2008-2). In particular, how should Wyoming address the following two issues to ensure that the Service maintains their endorsement. We understand your time constraints but respectfully request a written response prior to July 15, 2009 as we have several projects that are waiting for WGFD's reply.

### **Wind Development in Core Areas**

The Sage Grouse Implementation Team Recommendations that were adopted by the State Land Board Commission state:

Proposals to deviate from standard stipulations will be considered by a team including the WGFD and appropriate land management agencies, with input from the USFWS. Project proponents need to demonstrate that the project area meets at least one of the following conditions:

- 1) No suitable habitat is present in one contiguous block of land that includes at least a 0.6-mile buffer between the project area and suitable habitat;
- 2) No sage grouse use occurs in one contiguous block of land that includes at least a 0.6 mile buffer between the project area and adjacent occupied habitat, as documented by total absence of sage grouse droppings and an absence of sage grouse activity for the previous ten years;

- 3) A project plan developed in consultation with the Wyoming Game and Fish Department that is designed to: 1) reduce habitat fragmentation; 2) minimize mortality to sage grouse; 3) minimize the project footprint; 4) demonstrate through credible monitoring data, changes in sage grouse populations as a result of project activity; and 5) provide for a mitigation plan to affect population decline on not less than a 1:1 bird basis in the event monitoring data demonstrates a decline in sage grouse populations in the core area due to project activity.

The third condition implies that it is possible to implement a mitigation plan to offset any declines in sage grouse numbers caused by development. Currently we are unaware of any peer reviewed research that definitively proves impacts or lack of impacts of wind turbine generators on sage grouse. We have found white papers, research work that is partially completed, and research based upon species other than the greater sage grouse that indicate negative impacts should be expected.

We are also unaware of any information in terms of on-site or off-site mitigation or best management practices related to greater sage grouse habitat improvement that will ensure a 1:1 replacement of sage grouse lost as a result of wind development.

With the current state of knowledge, what are the USFWS's thoughts on the probability of developing a wind turbine project in a core area with a suitable mitigation plan that would ensure no loss of sage grouse?

### **Non-core area levels**

Our second question is related to energy development in non-core areas. Basically we are not sure of what level of impact can occur in non-core areas to provide flexibility for development but still meet the intent of point # 6 of the Executive Order 2008-2. Point 6 states 'Incentives to enable development of all types outside Core Populations Area should be established (these should include stipulation waivers, enhanced permitting processes, density bonuses, and other incentives). However, such development scenarios should be designed and managed to maintain populations, habitats and essential migration routes outside Core Population Areas.'

The current research currently indicates that 2-3 disturbance occurrences and 20-60 acres of disturbance per 640 acres will result in less than 50% probability of lek persistence. When the number of occurrences is above 3 and disturbance acreage increases above 60 per 640 acres, probability of lek persistence decreases to less than 26% which is defined as 'extreme' by our recommendations.

The question is how low can the probability of lek persistence get or sage grouse populations decline within non-core habitat, and still meet the intent of the sage grouse core area strategy as outlined in the Governor's Executive Order 2008-2?

Brian Kelly  
July 7, 2009  
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We appreciate receiving your thoughts to these questions. Please call if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Steve Ferrell". The signature is fluid and cursive, with the first name "Steve" and last name "Ferrell" clearly legible.

Steve Ferrell  
Director

SF/je

cc: Ryan Lance, Deputy Chief of Staff, Governor's Office  
Clifford Kirk, President, Wyoming Game and Fish Commission  
Ed Mignery, Vice President, Wyoming Game and Fish Commission  
Clark Allan, Commissioner, Wyoming Game and Fish Commission  
Aaron Clark, Commissioner, Wyoming Game and Fish Commission  
Jerry Galles, Commissioner, Wyoming Game and Fish Commission  
Mike Healy, Commissioner, Wyoming Game and Fish Commission  
Fred Lindzey, Commissioner, Wyoming Game and Fish Commission  
John Emmerich, Deputy Director, Wyoming Game and Fish Department  
Mary Flanderka, Habitat Protection Coordinator, Wyoming Game and Fish Department