

**EMPOWERING STATE MANAGEMENT
OF GREATER SAGE GROUSE**

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

Tuesday, May 19, 2015

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OVERSIGHT HEARING ON EMPOWERING STATE MANAGEMENT OF GREATER SAGE GROUSE

Tuesday, May 19, 2015
U.S. House of Representatives
Committee on Natural Resources
Washington, DC

The committee met, pursuant to notice, at 10:02 a.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Committee] presiding.

Present: Representatives Bishop, Lamborn, McClintock, Lummis, Benishek, Duncan, Labrador, LaMalfa, Denham, Cook, Westerman, Graves, Newhouse, Zinke, Hice, Radewagen, MacArthur, Mooney, Hardy; Grijalva, Costa, Dingell, Gallego, and Polis.

Also present: Representative Tipton.

The CHAIRMAN. The committee—the script says the committee has to come to order, but you are all so quiet out there, anyway. We will see what—we are now in order.

The committee is meeting today to hear testimony on empowering state management of the greater sage grouse.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chair and the Ranking Minority Member, Vice Chair, and a designated Ranking Minority Member, which will allow us to hear from our witnesses sooner, and help keep Members to their schedules.

Therefore, I ask unanimous consent that all Members' opening statements be made part of the hearing record, if they are submitted to the Committee clerk by 5:00 p.m. today.

[No response.]

The CHAIRMAN. Hearing no objections, that is so ordered.

I also ask unanimous consent to allow Representative Tipton of Colorado to participate in today's hearings when he is able to be here, and to ask questions.

[No response.]

The CHAIRMAN. Hearing no objection, that will be so ordered, as well.

All right. Let me begin with some opening statements, if we could. So, fortunately, I am going to start with mine. You know, whether you all want it or not, I am going to start with mine.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

The CHAIRMAN. Over the past few months we have been hearing a lot coming from the Interior Department, Fish and Wildlife, and Bureau of Land Management about their cooperative efforts. Today is the time we are going to hear directly from states.

Forty years ago, the Endangered Species Act was passed with every good intention; but, despite some of the rhetoric coming from

special interest groups and their claims, the reality is that less than 2 percent of the more than 1,500 listed species have ever actually been recovered. Cramming more species onto a list, or blocking millions of acres, including restricting even how our military can use lands for military training and readiness, is not a measure of success.

You know, in the play “Wicked,” Elphaba was asked—was told by the good witch, whose name just escaped me, that black is this year’s pink. We can also say the same thing, that the greater sage grouse is this year’s northern spotted owl. Twenty years ago, the Fish and Wildlife Service placed millions of acres under Federal management, destroying jobs, wiping out entire communities.

And the result? Well, today the spotted owls continue to decline, this time caused by a larger species of owl, the barred owl, and catastrophic wildfires from poorly managed forest land that was blocked off for the owls’ habitat. Fish and Wildlife Service is now dispatching armed bird specialists to kill the predatory barred owl, which—I am sorry, neither is effective, nor is it creative.

So, what we need to do is, simply, we have to think differently. The failure of Federal programs, which is constant, is not going to be the issue of today’s hearing. It is how to succeed that is going to be the issue of today’s hearing. To do that, we have to simply think differently, and we need to examine the states’ under-utilized authority to manage species. The states are in charge of wildlife, and the states have a record of success in that obligation. States are the laboratory of innovation, something the Federal Government, with its efforts, simply cannot match. That is why we are still here, in some effort, to try and do things differently.

The states have not been sitting on the sidelines in this effort. There are some special interest groups out there that are simply saying, in all the rationale they give, that the common boundary—that states are incompetent to do this kind of job, that only somebody on the national level is smart enough, is organized enough, has enough resources on the national level to actually do this. That is pure, unadulterated balderdash. And you all know what word I am thinking of, instead of “balderdash.”

What we will show in here is simply that people at the states level have just the trained competence and intelligence to do it. If you actually look at some of the special interest groups’ arguments, what they are saying are people in the states are dumb, and only people here in Washington are smart. We have one witness today who worked for the state, then became the national BLM Director here at Washington, and then left and went back to the state. I will ask her at some time what made her go dumb, all of a sudden, when she left Washington and went back to Utah. But that, indeed, is the argument that some interest groups keep extending. That does not work.

In 2011, then-Secretary Salazar invited 11 states to develop individual sage grouse management plans to effectively balance economic development and management of the species. Those states responded in an unprecedented effort, backed by some of the top researchers and scientists in the country, and came up with programs that, unfortunately, have been dismissed out of hand by the

Fish and Wildlife Service without a good reason. It is not, as the Director said, nor is it right to have strongholds where wilderness-like restrictions over 16.5 million acres of land will be done—all drafted in Washington, behind closed doors, and without the input of the states. That is not, in my estimation, collaboration or cooperation.

We can do better. We will do better. And if we allow the states to actually go forward with the plans they have, we will find an amazing renaissance, not only with this species, but all sorts of other processes that we can do in the future.

[The prepared statement of Mr. Bishop follows:]

PREPARED STATEMENT OF THE HON. ROB BISHOP, CHAIRMAN, COMMITTEE ON
NATURAL RESOURCES

Over the past few months, we've heard much rhetoric from Interior Department, Fish and Wildlife Service and Bureau of Land Management officials about their "cooperative efforts." Now it's time to hear directly from the states.

More than 40 years ago, the Endangered Species Act was enacted with good intentions and bipartisan support to recover species at the brink of extinction. Unfortunately, with less than 2 percent of the more than 1,500 listed species ever recovered, the law is failing.

Cramming thousands more species onto the list and blocking the use of millions of acres of land—including restricting even how our military servicemen can use lands for military training and readiness, cannot be a measurement of success.

States are using resources wisely to recover species and keep them off the list. We should do more to encourage them.

It is in that context that we examine the states' underutilized authority to manage species. Given the chance, states could prevent the need for a Federal listing, and prevent endless fights to de-list species that recover. States have already proven to be laboratories where innovative policymakers can experiment to develop more effective policies. The problem with the Federal one-size-fits-all approach is that it's never actually been compared to anything else.

The greater sage grouse is fast becoming the "new" northern spotted owl. Over 20 years ago, the Fish and Wildlife Service placed millions of acres under Federal management, choking out a once thriving Northwest timber industry, destroying jobs and wiping entire communities off the map. The result today: Spotted owls continue to decline, caused by a larger species of owl—the barred owl—and catastrophic wildfires that have destroyed poorly managed forests blocked off for the owl's habitat. The Fish and Wildlife Service is now dispatching "armed bird specialists" to kill the predatory barred owls. This doesn't sound like effective or creative management to me.

There has to be a better way to conserve these animals and at the same time protect the livelihoods of the people that live closest to them. Standing idly by as the Federal Government makes the sage grouse the next spotted owl while wrecking countless local economies is not an option. Instead, a significant step in the right direction would be to empower states to fulfill their duty as wildlife managers.

Some say states have been sitting on the sidelines. To the contrary, states have been leading on their own, despite the Interior Department's top-down, litigation-driven approach.

In 2011, when then-Secretary Salazar invited 11 western states to develop individual sage grouse management plans, there was confidence that states could develop individually tailored plans that would effectively balance economic development and management of the species, and that these plans would provide the blueprint for successful sage grouse management.

The states responded with an unprecedented effort, backed by some of the top researchers and scientists in the country, and many were hopeful they would be given fair consideration. But despite these significant efforts, state plans were dismissed out of hand. Even worse, the Director of the Fish and Wildlife Service recently mocked those concerned with their inept handling of the Federal listing process as a "kabuki drama."

Last October, the Fish and Wildlife Service introduced perhaps its most stunning sage grouse suggestion yet: stop everybody from doing anything, by creating arbitrary "strongholds;" in effect, cementing wilderness-like restrictions on 16.5 million acres of Federal land in several states. States that have spent significant resources

and years on sage grouse efforts were blindsided by these new proposals, which were drafted in Washington, DC behind closed doors, without their input. This doesn't sound like collaboration or cooperation to me.

We can do better. We need transparency for data and science behind these Federal listing proposals. We need to remove incentives that fuel frivolous litigation.

We need to ensure policymaking happens out in the open and not behind closed doors or in courtrooms. What we need to do is to bring management of species into the 21st century.

I look forward to hearing about the positive work being accomplished to protect and manage species that will serve to point us in a new direction.

The CHAIRMAN. With that, I will turn to the Ranking Member for his opening statement.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman. Today's meeting continues a very familiar trend of holding hearings to criticize the Administration's work under the Endangered Species Act without inviting the Administration to testify. A balanced hearing on this topic would include witnesses from the Bureau of Land Management and the U.S. Forest Service, which together manage the 64 percent of the remaining greater sage grouse habitat that is located in the U.S. public lands.

It would also include the U.S. Fish and Wildlife Service, the agency that will decide, based on the best-available science, whether the bird warrants protection under ESA. Instead, the Majority has invited political appointees, not scientists, from three states who claim they have been frozen out by Federal managers and their efforts to conserve sage grouse—and their efforts are sufficient.

As far as their claim of having no access, nothing could be further from the truth. Federal agencies have worked closely with the 11 relevant states throughout the process of developing science-based strategies to conserve sage grouse and their habitat. I am sure if the Republicans had invited any of these agencies, they would have told us more about this collaborative effort.

Even as they have worked closely with state officials, Federal agencies have gone out of their way to let states prove they have sufficient local conservation measures in place. Federal officials have asked states to submit plans that balance conservation needs with other state priorities for public and private lands. Last year, the Fish and Wildlife Service approved such a plan for Wyoming, and I am hopeful other states will take advantage of this opportunity.

To be clear, the states cannot reach their goal of avoiding an ESA listing of the greater sage grouse unless their plans create certainty that the bird is not threatened with extinction. The greater sage grouse has been wiped out in two states, and has seen its range nearly cut in half because of habitat destruction. At one point, as many as 16 million greater sage grouse called the sagebrush sea ecosystem their home. Now the population has been reduced to as few as 200,000 birds.

I am confident that the necessary work can be accomplished in advance of the September 30 deadline, and that the greater sage

grouse can become an ESA success story. Fish and Wildlife Service and the states themselves agree that a not-warranted decision is within reach.

Unfortunately, some Members are attempting to snatch defeat from the jaws of victory. They support legislation to delay a listing decision and give up control of the people's lands to state governments that lack the resources to manage them. Instead of supporting an unprecedented cooperative conservation effort, some Members on this committee are undertaking efforts to undermine the entire process. They have gone as far as arguing that protecting the greater sage grouse could impact military readiness, a claim which has been roundly discredited by the Defense Department.

I understand why some people want to short-circuit this process. If it works, then ESA works. A successful plan that avoids species listing and protects a landscape stretching across multiple states, while also allowing for economic development, would undercut arguments in favor of weakening the Act.

The ESA has been the catalyst for conservation of many species and landscapes across this country. We are close to another success with the greater sage grouse. The only thing standing in the way is a group of people more concerned about the extinction of their talking points than the extinction of the species.

Again, I thank the witnesses for being here today, and I yield back the remainder of my time.

[The prepared statement of Mr. Grijalva follows:]

PREPARED STATEMENT OF THE HON. RAÚL M. GRIJALVA, RANKING MEMBER,
COMMITTEE ON NATURAL RESOURCES

Thank you, Mr. Chairman.

Today's meeting continues the familiar trend of holding hearings to criticize the Administration's work under the Endangered Species Act (ESA) without inviting the Administration to testify. A balanced hearing on this topic would include witnesses from the Bureau of Land Management and the U.S. Forest Service, which together manage the 64 percent of remaining greater sage-grouse habitat that is located on U.S. public lands. It would also include the U.S. Fish and Wildlife Service, the agency that will decide based on the best available science whether the bird warrants protection under the ESA. Instead, the Majority has invited political appointees—not scientists—from three states who claim they have been frozen out by Federal managers and that their efforts to conserve sage-grouse are sufficient.

As far as their claim of having no access, nothing could be farther from the truth. Federal agencies have worked closely with the 11 relevant states throughout the process of developing science-based strategies to conserve sage-grouse and their habitat. I'm sure if the Republicans had invited any of these agencies, they would have told us more about this collaborative effort.

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To be clear, the states cannot reach their goal of avoiding an ESA listing of the greater sage-grouse unless their plans create certainty that the bird is not threatened with extinction. The greater sage-grouse has been wiped out in two states, and has seen its range nearly cut in half because of habitat destruction. At one point, as many as 16 million greater sage-grouse called the sagebrush sea home; now the population has been reduced to as few as 200,000 birds. I am confident that the necessary work can be accomplished in advance of the September 30 deadline, and that the greater sage-grouse can become an ESA success story. FWS and the states themselves agree that a "not warranted" decision is within reach.

Unfortunately, some Members of Congress are attempting to snatch defeat from the jaws of victory. They support legislation to delay a listing decision and give up control of the people's lands to state governments that lack the resources to manage them. Instead of supporting an unprecedented, cooperative conservation effort, some members—including the Chairman of this Committee—are trying to undermine the process. They have gone as far as arguing that protecting the greater sage-grouse could impact military readiness, a claim which has been roundly discredited by the Department of Defense.

I understand why some people want to short circuit this process: if it works, then the ESA works. A successful plan that avoids species listings and protects a landscape stretching across multiple states—while also allowing for economic development—would undercut arguments in favor of weakening the Act. The ESA has been the catalyst for conservation of many species and landscapes across the country, and we are close to another success with the greater sage-grouse. The only thing standing in the way is a group of people more concerned about the extinction of their talking points than about the extinction of species.

Again, I thank the witnesses for being here today, and I yield back my time.

The CHAIRMAN. Thank you. Now I am going to call several different audibles here. Part of it is because we have a time commitment here. So, before I recognize the Vice Chair and any other designee for opening statements, I would like to have some of our witnesses be introduced by those here who know them very well.

So, we do have at the witness table, Kathleen Clarke, who is the Director of the Public Lands Policy Coordinating Office in the State of Utah, and formerly the Director of the Bureau of Land Management here in Washington. We have Mr. Dustin Miller, who is the Administrator from the Idaho Office of Species Conservation in the State of Idaho; Mr. Ed Arnett, who is with the Theodore Roosevelt Conservation Partnership; and Mr. John Swartout, who is a Senior Policy Advisor from the Office of Governor Hickenlooper, in the State of Colorado.

Because Mr. Lamborn has another obligation, I would like him, if he would, to take a moment to introduce Mr. Swartout. And then we will actually turn to Mr. Polis and Mr. Labrador to introduce some of the guests. Let me finish off with mine, and then we will go from there. Then we will come back to the statements. Sorry.

Mr. LAMBORN. Thank you, Mr. Chairman. Thank you for having this hearing. Thank you for your flexibility. It is my honor to introduce one of our witnesses, Mr. John Swartout, who is the Senior Policy Advisor, as you said, for Governor John Hickenlooper.

In the past, Mr. Swartout has been Executive Director of Greater Outdoors Colorado, GOCO, and of the Colorado Coalition of Land Trust; so he does have a lot of resource and land background and experience. In addition to working for Governor Hickenlooper, he has worked in the past for Senator Wayne Allard and Governor Bill Owens. He is one of these individuals whose abilities are sought out by governors and administrations on both sides of the aisle, and I think that is a real testament to his ability. I am glad we can have him here today; and I really commend his testimony to everyone who is at this hearing, and listening, and will read later, like I will, because I can't stay for the whole hearing.

So thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you, Mr. Lamborn.

Mr. Polis, I understand Mr. Arnett is your constituent.

Mr. POLIS. Thank you. I am thrilled to welcome Dr. Arnett from Loveland, Colorado. Dr. Arnett, who has his Ph.D. in forest science from Oregon State University, is the Senior Scientist at the Theodore Roosevelt Conservation Partnership. His other academic degrees include natural resource management, fish and wildlife management, zoology, and physiology. He worked as a wildlife biologist for the Forest Service and for the U.S. Fish and Wildlife Service.

After he finished his doctorate, he joined an international conservation effort. He also is part of a public television series, "This American Land," that helps educate the American public about our natural resources. He is also an avid sportsman, enjoys big-game hunting, fly fishing, and water fowl and upland bird hunting, and is also an American Kennel Club judge.

I am really thrilled to welcome, from Loveland, Colorado, Dr. Ed Arnett. I yield back.

The CHAIRMAN. Thank you. Mr. Labrador, if you would like to introduce Mr. Miller from the state of Idaho.

Mr. LABRADOR. Thank you very much, Mr. Chairman. I am pleased to introduce Dustin Miller this morning. It is great to have him here. He is a graduate of the University of Idaho, with a degree in environmental science. He served as a natural resources field coordinator to Idaho Senator Larry Craig before he joined Governor Otter's Office of Species Conservation in 2008.

At OSC he served first as a Project Manager and Policy Advisor for Terrestrial Wildlife Issues, and has served as the Administrator of the agency for nearly 3 years now. The Office of Species Conservation is charged with coordinating and implementing policies and programs related to the conservation and recovery of species listed as threatened, endangered, or candidate under the Endangered Species Act in Idaho. In his position at OSC, Dustin has worked tirelessly and led statewide efforts to develop Idaho's sage grouse management plan. They have done a terrific job, and I thank you for being here today.

The CHAIRMAN. Thank you. I appreciate that.

Kathleen, I will apologize. You are from my state. It is not going to be as flowery as the other introductions. I apologize for that.

She had the opportunity of having a lot of experience in the state of Utah, and then, I think about the time I came back here, she also came back here as the Director of the Bureau of Land Management. She spent 5 years in that thankless job, and did a marvelous job in trying to bring some kind of balance to the entire situation. After retirement from that, she has gone back to the state where she is still working now with Governor Herbert's Office, dealing with the Public Lands Policy Coordinating Office.

I have to admit, in a whole bunch of areas when it has come to land issues, you have been a valuable resource in everything that we are trying to do in Utah, from the public lands initiative, to this area that deals with sage grouse. I appreciate your willingness to come back here and be with us in a hearing room that you have, I am sure, many fond and maybe not-so-fond memories from your past experience.

[Laughter.]

The CHAIRMAN. But it is great to have you here. I thank all the witnesses, especially because I know how long it takes to travel from out in the real world, where we live, to come back here; so I appreciate you doing that.

With that, and with appreciation for making the break so we could do those, I would go back to our opening statements. I will recognize the Vice Chairman, the gentlelady from Wyoming.

STATEMENT OF THE HON. CYNTHIA M. LUMMIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Mrs. LUMMIS. Thank you, Mr. Chairman. The purpose of this hearing, as I understand it, is to allow states to tell their remarkable stories. I appreciate that you have given them a voice. We will catch the Administration's position on another day.

In 2011, Secretary Salazar invited the states to take the lead in conserving sage grouse. The goal was preventing a species listing that would devastate western economies, which it can because it affects 11 states. The states have responded with tens of millions of dollars, countless man hours, and an unprecedented dedication to sage grouse conservation.

But what we have found out as states is, because there are 11 states, and the issues that threaten sage grouse populations in these 11 states are so different, a cookie-cutter approach won't work. Each state is unique in their ecology, their economies, their culture, their sage grouse habitat, and the reasons for sage grouse to decline in their states are very different, some within the control of mankind, some not.

I am proud to say that Wyoming has led the pack by securing the first and only federally approved state sage grouse plan. Our plan makes sense for Wyoming. It balances sage grouse conservation with energy production, agriculture, and other human necessities. But each state varies in the type and degree of threats to sage grouse. For some, like in Wyoming, it is primarily oil and gas production. In others, like Utah and Nevada, it is wildfires and drought.

So, you cannot use the same methodology in each state to address the problem. The factors aren't static, even within a state. States are in the best position to be nimble, and to respond to the conditions on the ground. And states can achieve this better in real time, as they adjust to the conditions they are dealing with, rather than on paper in the Federal Register.

That is why the Fish and Wildlife Service needs to allow states to craft plans that are as unique as the states themselves. This isn't just important for the sage grouse, it is important for my state of Wyoming; because no matter how solid Wyoming's plan is, if the sage grouse is listed anywhere, it is listed everywhere, including Wyoming.

So this hearing, Mr. Chairman, is also very timely, in light of yesterday's announcement by the Administration that they will pursue some administrative changes to the Endangered Species Act. It is a refreshing day when the Administration admits that the law needs more transparency, more state and local involvement, and less unproductive litigation. These are exactly the kind of improvements that were passed last year, and by the full House, as

part of H.R. 4315. We had four bills that we bundled and sent to the Floor that came out of this committee that did exactly that.

Now, the Administration has previously spurned this committee's efforts to improve the Act and defended the deeply flawed system. So we need to make sure that, while the Administration took a positive verbal step yesterday, that they follow through and fix the problems as they exist on the ground, not just here in Washington, among bureaucrats.

So, as we review the Administration's proposals in more detail in the days ahead, I hope they are a sign that we can finally lose the scare tactics, have articles about people that want to tweak the ESA and update the ESA as gutting the ESA. That is hardly the case of what we want to do. We need this open dialog with the Administration on how to bring the ESA into the 21st century. It is a positive sign. This hearing is a positive sign.

Thanks again, Mr. Chairman. I yield back.

[The prepared statement of Mrs. Lummis follows:]

PREPARED STATEMENT OF THE HON. CYNTHIA M. LUMMIS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF WYOMING

Thank you Mr. Chairman.

Thank you for holding this hearing to allow sage grouse states, the leaders in sage grouse conservation, to tell their remarkable story.

In 2011, Secretary Salazar invited the states to take the lead in conserving the sage grouse. The goal: preventing a species listing that would devastate western economies. The states have responded with tens of millions of dollars, countless man hours, and an unprecedented dedication to sage grouse conservation.

With 11 states involved, a cookie cutter approach won't work. Each state is unique—in their ecology, in their economics, and in their culture.

I am proud to say that Wyoming has led the pack by securing the first and only federally-approved state sage grouse plan. Our plan makes sense for Wyoming, balancing sage grouse conservation with energy production, agriculture, and other human necessities. But each state varies in the type and degree of threats to sage grouse—whether oil and gas production, wildfire, drought, urbanization, invasive species, or piñon junipers.

And these factors aren't static. States are in the best position to be nimble and responding to conditions on the ground. States can achieve better results for the sage grouse in real time, not just on paper in the Federal Register.

The Fish and Wildlife Service needs to allow states to craft plans that are as unique as the states' themselves. This isn't just important for the sage grouse, it's important for the state of Wyoming. No matter how solid Wyoming's plan is, if the sage grouse is listed anywhere, it is listed everywhere, including Wyoming.

This hearing is also very timely in light of yesterday's announcement by the Administration that they will pursue administrative changes to the Endangered Species Act. The Administration has finally admitted that the law needs more transparency, more state and local involvement, and less unproductive litigation.

These are exactly the kind of improvements passed by this committee and the full House as part of H.R. 4315 in the last Congress. Yet this Administration has had "just say no" policy on ESA improvements for the last 6 years, including a veto threat of last year's modest, common sense package.

The Administration has spurned this committee's efforts to improve the law, all while defending a deeply flawed system. Simply trusting that the Administration will fix these problems on its own seems like allowing the fox to guard the hen house.

As we review the Administration's proposals in more details in the days ahead, I hope these proposals are a sign that we can finally lose the scare tactics and have an open dialog with the Administration on how to bring the ESA into the 21st century.

Thank you again Mr. Chairman. I yield back.

The CHAIRMAN. OK. I understand Mr. Polis is giving the opening statement for the Minority side. Is that correct?

Mr. GRIJALVA. Yes, thank you.

The CHAIRMAN. You are recognized.

**STATEMENT OF THE HON. JARED POLIS, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF COLORADO**

Mr. POLIS. Thank you, Mr. Chairman, Chairman Bishop, Ranking Member Grijalva. Thank you to our witnesses.

You know, I wonder whether, if the Dutch had an Endangered Species Act, whether the dodo bird would have gone extinct, and whether we would have the expression that something has gone the way of the dodo. Unfortunately, too many animals, including the dodo bird, have become extinct due to human actions.

The heath hen, a coastal North American bird in the grouse family, was once found from Massachusetts, south of Virginia, right near this area. But, due to over-hunting and habitat loss and domestic cats, my friend, the heath hen, who I have here, has sadly gone the way of the dodo.

What will be the fate of the greater sage grouse? If the language recently tucked into the Defense bill—of all things, the Defense bill—is any indication, unfortunately, my friend, the greater sage grouse, could go the way of the heath hen and go the way of the dodo bird. Effectively, it could be legislated into extinction by politicians. And that would be a shame, because state and Federal managers are on the cusp of a huge conservation victory if wildlife experts are allowed to stay the course without congressional or political interference.

I am fortunate to share my home state of Colorado with both the greater sage grouse and the Gunnison sage grouse. The greater sage grouse, which is the topic of today's hearing, is distributed in six populations in northwest Colorado; but it is threatened by industrial oil and gas development, fragmentation of its sagebrush habitat, fire, and invasive weeds. Due to these threats, the greater sage grouse occupies only half of the historic range and, therefore, based entirely on its merits has become a candidate for listing under the Endangered Species Act.

Through the Endangered Species Act, we have seen Federal agencies, the largest manager of sage grouse habitat in our area, in collaboration with state and local partners, take very important steps toward conserving and saving the bird and its habitat. More than 1.8 million acres of Colorado's greater sage grouse habitat is found on BLM lands in the Northwest District. That is almost half of the bird's entire habitat in Colorado.

The draft management plan considers four possible management alternatives for maintaining and increasing habitat for the greater sage grouse on BLM and national forest lands in northwest Colorado.

By the way, as you know, this applies to Federal lands only, not to private lands. And, importantly, the management alternatives reflect local adjustments and input to national management recommendations, based on input from cooperating government agencies and the general public. This unprecedented effort to bring people together to save a species that is an important part of our

natural heritage in Colorado were catalyzed by the Federal recognition that the bird was a candidate species under the Endangered Species Act.

But you know what? It is also about the habitat. Colorado and other states, alongside their Federal partners, have been and continue to invest time and resources to protect the sage-steppe ecosystem which is critical to sportsmen and Colorado's outdoor-based economy. The sage-steppe ecosystem has been recognized as one of the most imperiled ecosystems in America. Of course, the bird is an emblem of it, but it has so many other important ramifications to protect our critical ecosystems.

Tourism is an incredible driver of our economy. In fact, as Governor Hickenlooper's executive order to preserve the sagebrush steppe said, in sustaining Colorado's outdoor-reliant economy, "it fuels more than \$3 billion in annual spending on wildlife-related recreation." I am pleased to see that, thanks to the flexibility of the Endangered Species Act, efforts from Federal agencies to private landowners and others can have an impact and save a species to prevent it from going the way of the heath hen, the way of the dodo.

I am thrilled that Mr. Swartout is here. Thank you for being here, and for your work on this important conservation initiative. Yours and Governor Hickenlooper's commitment to protecting the sage grouse from endangerment is clear in last week's executive order. I look forward to working with you, the Governor, and our coordinated agencies to preserve the framework of the Endangered Species Act, prevent forced legislative extinction of species, ensure that Colorado remains at the forefront of sage grouse protection, and to ensure that the sage grouse does not go the way of the dodo or the heath hen.

I yield back the balance of my time.

[The prepared statement of Mr. Polis follows:]

PREPARED STATEMENT OF THE HON. JARED POLIS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF COLORADO

Thank you, Chairman Bishop and Ranking Member Grijalva.

If the Dutch had the Endangered Species Act, would the dodo bird have gone "the way of the dodo bird?" What about the now-extinct Heath Hen? The Heath hen, a coastal North American bird in the grouse family, known for its courtship displays, was once found from Massachusetts south to Virginia, but due to overhunting and habitat loss the heath hen sadly went the way of the dodo bird.

What will the fate of the greater sage-grouse be? If the language recently tucked into the Defense bill is any indication, the bird could be legislated into extinction. And that would be a shame, because state and Federal managers on the cusp of a huge conservation victory if they are allowed to stay the course without congressional interference.

I am fortunate to share my home state of Colorado with both the greater sage-grouse and the Gunnison sage-grouse. The greater sage-grouse, the topic of today's hearing, is distributed in six populations in northwest Colorado. However, it is threatened by oil and gas development, fragmentation of its sagebrush habitat, fire, and invasive weeds. Due to these threats, the greater sage-grouse occupies only half of historic range and has become a candidate for listing under the Endangered Species Act.

Through the Endangered Species Act, we've seen the Federal agencies, the largest manager of sage-grouse habitat, in collaboration with state and local partners, take considerable steps toward conserving the bird and its habitat.

More than 1.8 million acres of Colorado's greater sage-grouse habitat is found on BLM lands in the northwest district. That is almost half of the entire bird's habitat in Colorado. Last fall, the BLM and Routt National Forest released the Draft

Management Plan Amendment for public comment. The draft considers four possible management alternatives for maintaining and increasing habitat for the greater-sage grouse on BLM and Routt National Forest lands in northwest Colorado. This applies to Federal lands only, not to private lands. And, importantly, the management alternatives reflect *local* adjustments to national management recommendations based on input from the cooperating government agencies and the public.

These unprecedented collaborative efforts, which were catalyzed by the Federal recognition that the bird was in a candidate species under the ESA, have been impressive. But this isn't all about the bird. It's about the habitat, too. Colorado and other states, alongside their Federal partners, have been and continue to invest time and resources to protect the sage-steppe ecosystem which is critical to sportsmen and Colorado's outdoors-based economy. The sage-steppe ecosystem has been recognized as one of the most imperiled ecosystems in America due to continued degradation and lack of protection. This habitat is a cornerstone of the West's ranching industry since its inception and many rural western communities rely on the seasonal economic boost provided by sportsmen. As was stated by the Backcounty Hunters and Anglers in reaction to Governor Hickenlooper's executive order, sagebrush steppe plays a crucial role "in sustaining Colorado's outdoor-reliant economy, which fuels more than \$3 billion in annual spending on wildlife-related recreation like hunting."

I am pleased to see that, thanks to the flexibility of the ESA, efforts from Federal agencies to private landowners can have an impact. However, I hope that the state's plans ultimately provide the certainty needed for the bird's successful recovery.

The CHAIRMAN. Thank you. We will now turn to our witnesses; and I am going to do another audible on this one, in figuring out which way to go. I will be totally chauvinistic, and allow Ms. Clarke to go first, and then the others I am going to do alphabetically, if that is OK with you.

So, Ms. Clarke, we will start on this process.

For all of the witnesses, your written testimony is included in the record. Your oral testimony, by our rules, will be limited to 5 minutes. If this is your first time with us, the lighting system above you is—if it is a green light, you are OK. When there is 1 minute left, you have the yellow light; and then, when it is the red light, I am going to do whatever I can to stop you.

So, Kathleen, if I can turn to you for your oral testimony, we are happy to have you here.

STATEMENT OF KATHLEEN CLARKE, DIRECTOR, STATE OF UTAH PUBLIC LANDS POLICY COORDINATING OFFICE, SALT LAKE CITY, UTAH; FORMER DIRECTOR, BUREAU OF LAND MANAGEMENT, 2001–2006

Ms. CLARKE. Thank you. It is good to be with the committee, and I find myself in somewhat a unique and interesting position today, having formerly served as the Director of the Bureau of Land Management. When I was in that position, I directed and oversaw the development of a sage grouse strategy for conservation, which was implemented throughout the BLM in 2003 and 2004. And I believe that that contributed significantly to the finding of not-warranted for listing that we had in 2005.

As the current Director of the Public Land Policy Coordinating Office, I was given a similar assignment by Governor Herbert. I was asked to assemble a team of stakeholders, to do a year-long overview of the status of sage grouse in the state of Utah, and to put together a comprehensive sage grouse conservation plan for the state.

I believe that Utah's work in this effort should also contribute to a not-warranted finding. However, despite our good work and tireless efforts to find common ground with our Federal land management agencies, I can tell you that, sadly, I think there is a dichotomy developing between the state's collaborative approach and Federal unilateralism. What started out as a very promising partnership is becoming increasingly imbalanced and, sadly, adversarial.

I want to be clear. The state of Utah is absolutely committed to the conservation, long-term conservation, of the sage grouse. Over \$50 million have been invested in the last 10 years in sage grouse conservation, and Utah has only 4 percent of the birds. But that is the second-highest amount that any state has invested in the grouse conservation.

In close partnership with our Federal agencies, we have restored over half-a-million acres of sage grouse habitat. This has been since 2006. Significantly, that is after a not-warranted decision was made. So, fears that if a not-warranted decision comes out, then we stop conservation, are simply not true—at least not in Utah, because that put us to work at an even more rigorous pace.

Research and groundwork have been the hallmark of sage grouse conservation in Utah. We have engaged in an aggressive research program in the state led by Utah State University and other universities, and we have probably the most robust data set on sage grouse of any state in the West. We have over 15 years, a very comprehensive data that has been collected throughout each of our significant sage grouse management areas. That has been done in collaboration with local working groups; these groups are an assemblage of Federal agencies, as well as on-the-ground partners, such as ranchers, farmers and sports enthusiasts, and the scientists. They have worked together to come up with a clear understanding of the needs of the bird.

We have engaged in land management studies involving habitat improvement and restoration, predator control, and population augmentation. And the results, quite frankly, have been stunning and directly contradict the doom and gloom that we are hearing about the sage grouse. We have taken our scientific findings and translated them into very effective conservation practices. As a result of the work, populations in Utah have stabilized and trends are positive.

A recent study by the Pew Foundation failed to recognize that fact, but it also ignored the 9- to 12-year cyclical nature of the birds within the state of Utah, even though the scientist that issued that report had previously acknowledged that cycle in a prior study on population viability. Our matrix for success are far simpler. Recognizing the cyclical nature of populations in Utah, we have the goal of stabilizing these trends by focusing on the most basic conservation need of the birds, and that is the maintenance and the creation of usable habitat for the populations of the birds.

Our conservation plan provides a solid framework for assessing the needs of the birds within the state. Utah is not like Wyoming; we do not have a vast sea of sagebrush. And we are not like the Great Basin. Our most important conservation strategies address the major threats that the species face in Utah, and that is wildfire

and the associated invasion of undesirable grasses and the encroachment of conifer trees into the sagebrush. These natural events constitute 97 percent of the threat in the state of Utah, where development, or ex-urban development and energy, only represent 3 percent of the threat to our sage grouse populations.

Our strategies are based upon the best-available science, and we rely on robust data collected for over 20 years. We analyzed every wildfire in our separate sage grouse management areas over a period of 18 years to see where those vulnerabilities were.

The CHAIRMAN. Kathleen, I need you to summarize.

Ms. CLARKE. OK.

The CHAIRMAN. You are over, here.

Ms. CLARKE. I am already over?

The CHAIRMAN. Yes. I gave you a break for the cough you had. I need you to summarize quickly.

[Laughter.]

Ms. CLARKE. OK, all right. I want to emphasize that the state of Utah is fully committed to conserving sage grouse populations. We place great reliance on the substantial contributions of ranchers and other concerned landowners to conserve the species.

And I want to state that I firmly believe that regulations do not conserve species. I believe that people do. And if people are going to work for conservation, conservation has to work for people. In the state of Utah, we have a plan that motivates our private landowners. We work in concert with our Federal partners and our state agencies, and we have a very successful program and look forward to working with all of our partners to continue that into the future. Thank you.

[The prepared statement of Ms. Clarke follows:]

PREPARED STATEMENT OF KATHLEEN CLARKE, UTAH PUBLIC LANDS POLICY
COORDINATING OFFICE

I. INTRODUCTION: DICHOTOMY OF STATE COORDINATED PLANNING AND
IMPLEMENTATION AND THE FEDERAL MANDATE PROCESS

I find myself in an interesting position. As a former Director of the Bureau of Land Management, I have extensive insight into operations of a Federal regulatory and land management agency. I respect the role of the Federal Government in management of lands and natural resources and oversaw BLM's development and implementation of a rigorous range wide sage grouse conservation strategy which helped to support a "non-warranted" listing determination for the greater sage grouse (GRSG) in 2006.

As the current director of the Public Lands Policy Coordinating Office for the State of Utah (PLPCO), I oversaw a year-long review of sage-grouse in Utah, and the subsequent development of a bold, science-based conservation plan, including clearly identified goals and objectives recognized as innovative by observers of the process. Based upon that work and the subsequent efforts to find common ground with the Federal land management agencies, I can tell you that sadly, there is a dichotomy developing between the state of Utah's collaborative planning process and a growing Federal unilateralism. What started out as a promising partnership is becoming increasingly imbalanced and adversarial.

Let me be clear, the state of Utah is committed to long-term sage-grouse conservation. Over \$50 million has been invested in the last 10 years in sage-grouse conservation in Utah. The state, in a close partnership with Federal agencies, has restored over 560,000 acres of sage-grouse habitat since 2006, which work was funded and undertaken *after* the U.S. Fish and Wildlife Service determined the species was "not warranted" for listing. Research and ground work have been the hallmark of sage-grouse conservation. The state has engaged in an aggressive research program through our universities to scientifically determine the conservation needs of the species. We have improved habitat and engaged in land management studies

involving habitat improvement and restoration, predator control and population augmentation. Results have been stunning, and directly contradict the recent gloom and doom predictions concerning the sage-grouse.

As a result of all this work, populations have stabilized. A recent study issued by the Pew Foundation fails to recognize this fact. The recent study failed to take into account the 9- to 12-year cyclical nature of populations in Utah, a point which was clearly recognized by the same authors in their earlier work on the topic of population viability. Our metric for success is far simpler and takes into account the cycles of population. Recognizing the cyclical nature of population numbers in Utah, the State's Conservation Plan sets the goal of stabilizing the population trends by emphasizing the most basic conservation need in Utah—the maintenance and creation of useable habitat for the populations of birds.

II. DETAILED CONSERVATION PLANNING

The State of Utah's Conservation Plan provides a solid framework for assessing the needs of the birds within the state. Utah is not a vast sea of sagebrush, such as found in Wyoming or the Great Basin. The most important conservation strategies address the major threats to the species in Utah—wildfire and the associated invasion of undesirable grass, and the encroachment of conifer trees into the sagebrush. These natural events constitute 97 percent of the threat to the species in Utah. Human activities, such as energy development and exurban development, are not major threats, representing only 3 percent of the threat. Utah's sage-grouse conservation strategies are completely based upon the best available science developed over the past 20 years, and the most robust data.

The state's team analyzed every wildfire in our 11 separate Sage-Grouse Management Areas over a period of 18 years. We funded mapping of invasive conifer encroachment on the 7.4 million acres within the SGMAs. We analyzed every existing oil and gas well, and explored likely energy development patterns. We considered complex forward-looking models of the expansion of human towns and cities. We analyzed the nexus between these patterns and on-the-ground sage-grouse populations to identify the most effective tools for conservation. Finally the state developed complex, acre-by-acre planning for the next decade to ensure that the state has a conservation strategy to address areas where there is a nexus between the major and lesser threats and the birds. Implementation of these strategies by state agencies was recently fortified through a Governor's Executive Order.

III. RATIONALE FOR THE EFFORT

Why did the state do this? In part, this was due to invitations by Federal partners to produce conservation plans sufficient to support a not warranted listing for the species. But also because the science and other relevant information clearly demonstrate that long-term conservation of sage-grouse can be assured under science-based, strategic state management. In Utah, balance still matters. Developing solutions that protect our freedoms and private property rights still matters.

Throughout our deliberative process, we have been able to identify and implement proven solutions that will conserve sage-grouse. More importantly these solutions also work for the people and partners who live, work and raise their families in sage-grouse country. These citizens were focused on the conservation of sage-grouse through the efforts of 10 Local Working Groups involving over 1,500 volunteers, long before the U.S. Fish and Wildlife Service ever considered a petition to list. Long-term success of sage-grouse can be successful only if these partnerships are protected under state-management of sage-grouse. Top-down Federal mandates threaten that success.

We are experiencing numerous frustrations as we work with the Federal land management agencies on proposed plan amendments which will reduce the likelihood of a listing of the species. Instead of helping cut through the red tape, Federal agencies are focusing most of their effort on finding new ways to regulate human activity. As someone representing a state which has invested decades in sage-grouse conservation, the relentless efforts to force more standardized and irrelevant mandates on the use of the land not only threatens the conservation of the species, but unnecessarily imposes hardship on the hard-working citizens of the West.

Some examples may help you understand this. Utah's plan and detailed conservation strategies focus agency energy and funds into wildfire suppression and rehabilitation, the elimination of conifer encroachment and the improvement of poor quality habitat. The science behind this work demonstrates that the birds will immediately use the rehabilitated lands once a project is complete. Yet, instead of this proven approach, the Federal land agencies are intent on the creation of unnecessary zones

of regulation, most of which will have no effect on the primary conservation issue (more useable habitat), or on reduction of the primary threats.

We find the Federal resistance to implementing the conservation programs that matter the most to be the most frustrating. Now is the time to put aside the state vs. Federal electioneering that we are seeing from Federal agencies. While lip service is paid to “collaboration,” the focus of Federal regulators is increasingly unilateral and dismissive of state conservation actions. After months of conversation, states see more and more demands for regulation for issues that pose only remote risk and/or benefit, but threaten millions of acres with unnecessary mineral withdrawal, “no-surface occupancy” rules that are counterproductive, and a strong emphasis on proposed resolution of lesser conservation threats.

The state of Utah is fully committed to conserving sage-grouse populations and the sagebrush landscape upon which they depend. Our efforts include a strong adaptive management program designed to monitor the effects of the current conservation plans, and to find solutions for future issues that may arise. The state’s 15 year conifer removal program needs to be immediately and aggressively undertaken by all landowners, including the Federal agencies. This, and a shift in emphasis of the wildfire suppression and rehabilitation program toward sage-grouse conservation, will do the most to benefit sage-grouse. These efforts directly address the high-risk threats to the species in Utah.

The state also places reliance upon the substantial efforts by ranchers and other concerned landowners to conserve the species. These folks are working hard to employ best available practices endorsed by the Natural Resources Conservation Service, and other agencies. They are eager to participate through conservation easements and other legal tools. More than 1,500 volunteers participate in Utah’s Local Working Groups and associated conservation projects. The state’s Conservation Plan contains a specific measurable goal to this effect. Yet we are informed that these efforts are meaningless, because there is no “certainty” in the immediate future attached to their contributions, according to the U.S. Fish and Wildlife Service’s current and strongly expressed interpretation of its Policy for the Evaluation of Conservation Efforts (PECE).

The state of Utah supports the efforts of Congress to allow the states the opportunity to demonstrate the robust nature of their plans, and demonstrate the required level of certainty required by the Service’s PECE standards. The 10-year time frame mentioned in legislation is firmly based in the science of sage-grouse in Utah, and is recognized in peer-reviewed scientific papers. We believe that congressional action is likely the only way to ensure the states have the necessary time to demonstrate effective conservation efforts and to secure the long-term sustainability of the GRSG.

Thank you.

QUESTIONS SUBMITTED FOR THE RECORD BY ROB BISHOP TO KATHLEEN CLARKE,
DIRECTOR, UTAH PUBLIC LANDS POLICY COORDINATING OFFICE

Question 1. The witness from the Theodore Roosevelt Conservation Partnership suggested that the state of Utah abandoned its sage grouse protection program after the Interior Secretary made her “not warranted” determination.

If this is an incorrect statement, please provide data to the contrary.

Answer. Since 2006, which is the year after sage-grouse were declared “not warranted” for listing, Utah did not abandon its conservation program for greater sage-grouse. Rather, the state of Utah, with the continued commitment and help of many partners, has dramatically increased its conservation efforts since that time. Since 2006, over 500,000 acres of sage-grouse habitats have been enhanced in Utah, even though more than 50 percent of the habitat in Utah is privately owned, and at a cost of nearly \$80 million (Figure 1). So, even after sage-grouse were found to be “not warranted” for listing, conservation efforts and associated expenditures in Utah have not only grown, but they have synergistically accelerated through broad, volunteer-based partner collaboration. Total expenditures for on-the-ground conservation actions in Utah have increased since 2006, and even exceeded \$10 million in 2008 and 2013 (Figure 2), was that trend of conservation actions and expenditures, when combined with those of other western states clearly demonstrates an increased commitment, not the “abandonment” that has been suggested, to sage-grouse conservation by Utah and other states (Figure 3).

Sage-grouse Conservation Expenditures

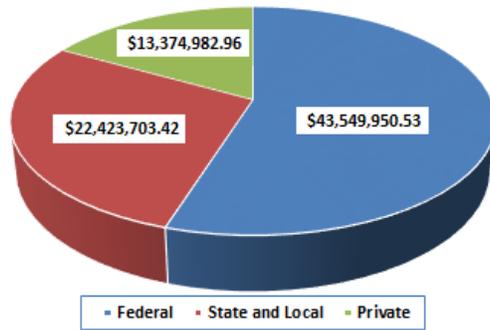


Figure 1. Total on-the-ground greater sage-grouse conservation expenditures in Utah since 2006.

Total Expenditures in Utah 2006 - 2014

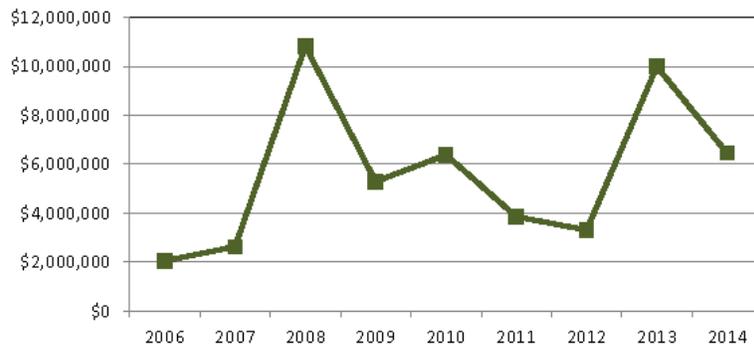


Figure 2. Total expenditures in Utah on greater sage-grouse conservation projects, 2006–2014.

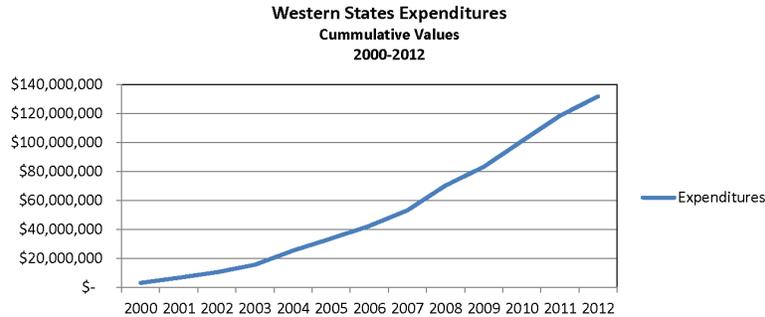


Figure 3. Total estimated expenditures by 10 western states on sage-grouse conservation actions, 2000–2012.

These on-the-ground conservation expenditures were made possible through broad collaboration, combined with local commitment to long-term conservation of sage-grouse populations in Utah. Utah's track-record of voluntarily planning and implementing landscape-level, science-based and collaborative conservation projects is testimony to our commitment and resolve in protecting this species without the need for Federal regulation. To date, over 1,500 voluntary participants in our 10 Local Working Groups across Utah have been voluntarily participating in sage-grouse conservation efforts. Through those local collaborative efforts, all Local Working Groups have revised their local conservation plans since 2006. In addition, the state of Utah has updated the 2002 Utah Sage-grouse Strategy, and those updates were locally reviewed and approved by the Utah Wildlife Board and was published in 2009. In addition, in 2013 the Utah Public Lands Policy Coordinating Office, with support from the Utah Division of Wildlife Resources, finalized the Conservation Plan for Greater Sage-grouse in Utah, which is designed to enhance, restore and increase landscape-scale sage-grouse habitats.

As further testament to Utah's most recent commitment to the long-term conservation of greater sage-grouse, on February 25, 2015, Utah Governor Gary Herbert signed Executive Order (EO/2015/002), *Implementing the Utah Conservation Plan for Greater Sage-grouse*, which directs state agencies to collaborate in the implementation of the Conservation Plan for Greater Sage-grouse in Utah. Since that time, the Public Lands Policy Coordinating Office, through close coordination with the Utah Division of Wildlife Resources, has executed a series of Memorandum of Understandings, each of which further clarify and formalize the commitments of each agency to the continued and collaborative conservation of greater sage-grouse in Utah.

Question 2. During the hearing, the recent PEW study was referred to. Has your state had a chance to review the study including the methodology used?

Do you support the study's conclusion, and if not, why not?

Do you have data to suggest that the conclusions in the PEW study are incorrect?

If yes, provide any data to the committee.

Answer. Yes, the state of Utah has reviewed the recently distributed, and scientifically flawed PEW Charitable Trust report (Garton et al. 2015). For many reasons, the state of Utah *does not support* the conclusions of the PEW report.

First and foremost, in Garton et. al. (2011), which is a scientifically reviewed, published and widely recognized study that was led and co-authored by the same lead researcher as the PEW report, the authors state that sage-grouse populations in Utah "increased from about 6,500 males in 1965 to a peak at 14,000 males in 1970, followed by cycles of declines and peaks at 9- to 12-year intervals." These data and conclusions, which again, were derived by the same lead author as the PEW report, were based on a robust range-wide sage-grouse lek count data that was collected from 1965 through 2007. That study recognizes, validates and has served as the scientific basis for the understanding that range-wide sage-grouse populations are naturally cyclical.

Rather than adding new data from 2008 to 2013 to that existing dataset from Garton et al. (2011), the PEW Report is based on selective data which appears to incorporate only low periods (2007–2013) in the natural 9–12 year sage-grouse population cycles (see Figure 4 below). These data and conclusions clearly present biased

and misleadingly negative outcomes and conclusions about the effectiveness of sage-grouse conservation actions in Utah. Had the authors analyzed a longer-term dataset, including the data from 2014 and the newly collected 2015 lek count data in Utah, the conclusions of this study would likely have been much different. This is why the *Conservation Plan for Greater Sage-Grouse in Utah* (2013) relies heavily on a 10-year rolling average of population abundance when assessing population trends over time.

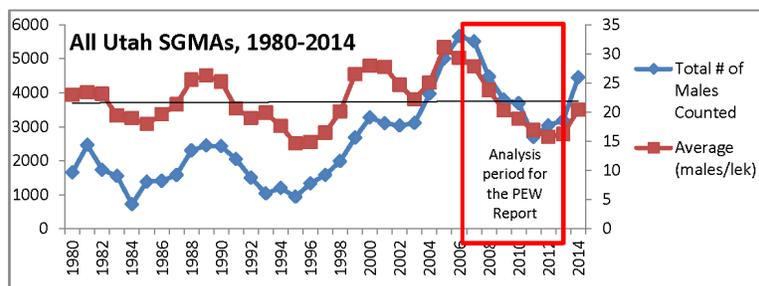


Figure 4. The annual total and average number of male sage-grouse counted per lek, and the 10-year rolling average sage-grouse population trend in Utah, 1980–2014.

Second, the report has not been subjected to a rigorous peer-review process, which is widely accepted as the most reliable process for generating the best available science. The state of Utah did not have an opportunity to review the PEW Report prior to its distribution. Had local biologists from the Utah Division of Wildlife Resources been given that opportunity, they would have recommended that a longer-term dataset be incorporated into the study.

Further, the areas that were evaluated in the PEW Report do not correspond well to Utah's Sage-Grouse Management Areas (SGMAs), which are outlined in the *Conservation Plan for Greater Sage-Grouse in Utah* (2013) and provide the basis for state-wide sage-grouse conservation in Utah. More specifically, the Rich-Morgan-Summit and Uintah SGMAs are only small edges of the Wyoming Basin modeling area in the PEW Report, the Box Elder SMGA is only a small portion of the Northern Great Basin modeling area in the PEW Report, and the Ibapah and Hamlin Valley SGMAs are only small portions of the Southern Great Basin modeling area in the PEW Report. As a result of this poor spatial correspondence, conclusions that are based on efforts that span multiple states jurisdictions do not accurately represent the effectiveness of sage-grouse conservation actions in Utah.

Finally, the authors then extrapolated the statistics based upon the decline portion of the cycle into unsupported conclusions about the effectiveness of conservation efforts. The authors specifically suggest that the conservation actions implemented since 2007 appeared to have had no effect on populations. This assertion is inappropriate and is not based upon an unbiased set of information. Such a conclusion must be based instead upon a comparison of sage-grouse lek count trends in areas where conservation actions were completed, then compared with areas where no actions were conducted. Such an analysis was not completed nor was it considered as part of this study.

Question 3a. Please explain the activities of your state to work with private landowners in your efforts to create/expand habitat for sage grouse.

Answer. Utah's approach to sage-grouse conservation is rooted in local decisions that guide local conservation. To that end, the state of Utah has partnered with Utah State University to develop Utah's Community-Based Conservation Program, whose mission is to "implement a process that enhances coordination and communication between community-based adaptive resource management working groups, private and public partners." Through that process, 10 Local Working Groups have been developed, and to date they have collaboratively developed, updated and implemented local management plans for designated geographic areas in Utah that contribute to the conservation of sage-grouse. In total, more than 1,500 people have participated in these Local Working Groups, and even though more than 50 percent of Utah's lands are privately owned, over 500,000 acres of sage-grouse habitats have been enhanced in Utah at a cost of nearly \$80 million (see Figure 1).

The state of Utah has been actively working with private landowners and others on sage-grouse conservation since the mid-1990s. As part of that effort, the state of Utah sponsored the creation of 10 Local Working Groups (LWGs). In 2006, in order to evaluate if the LWG process and similar efforts in other states were meeting stakeholder needs, the CBCP coordinator initiated a 2-year study of 700 randomly selected members in 54 sage-grouse LWGs in nine western states. The research was supported by a Natural Resource Conservation Service (NRCS) Fish and Wildlife Conservation Grant. The research project explored these core questions: (1) What types of LWGs have been the most successful at generating effective wildlife conservation programs on working agricultural lands, (2) What kinds of technical or institutional support can increase the potential for success among current LWGs, and (3) What role can LWGs play in the portfolio of NRCS efforts to protect wildlife on working lands? The survey research was then augmented by in-depth case study interviews of participants in four LWGs. A copy of the final technical report can be accessed at http://extension.usu.edu/files/publications/publication/pub_8613439.pdf. The state of Utah also produced a guide for NRCS and other western states on how to better work with local landowners and communities to implement sage-grouse conservation actions. In this case, Utah not only worked to more fully engage Utah landowners in sage-grouse conservation, but also focused on how to better support local working groups and landowners throughout the entire range of greater sage-grouse.

Question 3b. Will the draft RMP revisions enhance your efforts in that regard or make such tasks harder?

Answer. The draft RMP revisions do not consider conservation measures as part of an “all lands” approach. While portions of the proposed revisions are helpful for the species (i.e., wildfire provisions), many of the provisions may wind up being counter-productive. For example, BLM restrictions concerning activities on its lands could simply move the disturbance to private or state land, when the least damaging option may be on the BLM lands.

Question 4. Are the goals of Director Ashe’s October (2014) memo consistent with your analysis of the problems facing the sage grouse?

If yes, please explain. If these proposals miss the mark, please explain.

Answer. The October, 2014 memo does not represent a comprehensive solution to the threats faced by the greater sage-grouse. The memo has led to the creation of proposed BLM and Forest Service “solutions” which do not reflect the best conservation measures for the species, instead the memo has caused the agencies to focus on peripheral matters.

The memo identified a new category of lands—the so-called population “strongholds.” No data has been provided which would allow independent review concerning the need for those particular areas, they are simply delineated as strongholds based upon the general reference to various studies. Several of these same studies were used by the states as the basis for the state plans, so the strongholds memo does not present any new information. The states had previously identified Priority Areas for Conservation, which were included in the Service’s Conservation Objective Team (COT) Report dated March, 2013. The strongholds memo ignores the advice of the Service’s own COT Report, which has been held up by Interior officials as the gold-standard for conservation measures for the sage-grouse.

The identification of strongholds has directly resulted in the proposed creation of “Sagebrush Focal Areas” by the BLM and the Forest Service as part of their plan amendment process. The proposed sagebrush focal areas feature a withdrawal from the mining law, no surface occupancy with no exceptions for fluid minerals, and a prioritization for the review of grazing. These provisions have been described as “pivotal” in the discussion about a “not warranted” decision by the Service, which is forthcoming by the end of September.

The Interior Department has informed the public that the withdrawal from the mining laws is required to prevent the creation of valid property rights in the hands of claimants. Yet all of the current mining operations in the West comprise a total of around 350,000 acres, and more than 9 million is proposed for withdrawal. The solution proposed is out of balance with the true nature of the possible threat to the species represented by mining. Mining is a disturbance which can be managed—the proposed withdrawal, which requires a separate Secretarial process, is designed to eliminate mining exploration. Exploration is not a threat to the species identified in the 2010 Service sage-grouse listing decision.

The proposed NSO provisions have the potential to be counter-productive in areas with mixed ownership of lands, as it may preclude the siting of land disturbances in the least offensive manner to the habitat needs of the species.

The CHAIRMAN. Thank you.
Mr. Arnett.

STATEMENT OF ED ARNETT, SENIOR SCIENTIST, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP, LOVELAND, COLORADO

Dr. ARNETT. Good morning, Chairman Bishop, Ranking Member Grijalva, and members of the committee. Thank you very much for the invitation to testify this morning on this very important topic. My name is Ed Arnett, I am the Senior Scientist with the Theodore Roosevelt Conservation Partnership. We are a national sportsman's conservation partnership organization with 42 formal partners, many of those who work very extensively on sage grouse.

I appreciated Mr. Polis' introduction. I have been a professional biologist for 25 years, working with Federal agencies, as well as a Fortune 500 timber-industry company during the spotted owl era that was mentioned earlier; so I have a little bit of background on that particular set of issues. I also have worked with the NGO sector for some time now.

The title of this hearing, "Empowering State Management of Greater Sage Grouse," is an important one to note. The states, in fact—as we have already heard, and we agree with—have been extensively engaged and empowered from the very beginning. Any notion to the contrary would, of course, be misleading.

Indeed, it was the state agency biologists decades ago that brought attention to concerns over sagebrush ecosystems, and increasing concerns about sage grouse. Since then, the states have been full partners with Federal managers, ranchers, and other relevant stakeholders in developing the conservation road map that we see today for sage grouse.

As we have heard and will hear from the states, they have made very important and significant contributions that we certainly appreciate and recognize. TRCP fully supports the state management of all wildlife species, because this is a critical tenant of the North American model that is so important to sportsmen.

There can be no doubt that the best way to maintain oversight of sage grouse and, moreover, hundreds of species that are dependent on this system, is to keep the bird off the Endangered Species List. If we can all agree that that is our shared definition of success, to sustain state management of grouse and keep it from being listed, then we should agree that the path forward is through the development and implementation of both Federal and state plans that are robust to preclude the need to list the species.

This is not an either/or proposition. We need strong plans for our Federal lands; and we need state plans that address private lands, as well as the state lands that operate under different mandates. Of course, we also need our private landowners, and their critical important engagements, to round out a comprehensive strategy for these diverse western landscapes.

We are confident that the conservation measures and collaboration necessary to do this are currently happening across the range of the species, and require no action by this Congress other than the allocation of appropriate levels of funding for sustained

management and conservation, so we avoid winding up in the same place further down the road.

The Endangered Species Act is a tool of last resort, and one that certainly is not preferred by sportsmen as a vehicle for conservation; but the loss of sage grouse habitat and the drop in numbers is no secret, and the weight of evidence can't be denied. It seems that the specter of an ESA listing has been necessary to drive this historic level of collaboration, at least among some, and among the different stakeholders that is currently taking place on behalf of greater sage grouse.

The science clearly indicates that sage grouse habitat must be protected with durable conservation plans that will eventually produce habitat and more birds on the ground. Suggesting there is some other path forward simply serves to unnecessarily confuse the issue.

We must remain on the path we are on today and finalize these plans and begin—as Kathleen noted that the state of Utah is implementing—we need to implement these things broadly on the ground and get it over the hump and moving forward.

The vast majority of core sage grouse habitat is on Federal land, so strong Federal plans covering both BLM and Forest Service acres are close to being finalized. We are nearly there, but they have to be coupled with strong state plans and reflect state-specific approaches to sage grouse conservation. We believe this will be enough to thwart off the listing.

Science-based state and Federal conservation plans implemented with adequate funding represent the only way to maintain state authority of the sage grouse plan—the sage grouse management. Fundamentally shifting Federal land management and decision-making to the states at this stage of the game, or delaying Federal action on a listing, are perhaps the best ways to ensure the bird winds up on the list. Actions like this only serve to take focus off what must be done.

And, interestingly, we are only hearing from a minority about the delays needed to allow the state plans to develop and manifest. We are not hearing from the U.S. Fish and Wildlife Service that they require a delay to get to a not-warranted decision. As such, we believe Congress should let the current process and historic collaboration continue, and we believe we will have a successful conclusion.

I would again like to thank you for the opportunity to testify today, and I will be happy to answer questions after the other speakers. Thank you.

[The prepared statement of Dr. Arnett follows:]

PREPARED STATEMENT OF EDWARD B. ARNETT, PH.D., SENIOR SCIENTIST, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP

INTRODUCTION AND QUALIFICATIONS

Chairman Bishop, Ranking Member Grijalva, members of the committee, my name is Ed Arnett and I am the Senior Scientist for the Theodore Roosevelt Conservation Partnership, a national sportsmen's conservation organization comprised of 42 Partner organizations, our mission is to ensure all Americans a quality place to hunt and fish. I appreciate the opportunity to testify today on such a timely and important topic as sage grouse conservation.

I've been a professional wildlife biologist and scientist for 25 years, with experience in research, management, academia, and conservation policy. I earned my Ph.D. from Oregon State University in Forest Science; a Master's degree in Zoology and Physiology from the University of Wyoming; a Bachelors from Montana State University in Fish and Wildlife Management; and an Associate of Applied Science degree in Natural Resources Management from Colorado Mountain College. I have extensive research and management experience in forest-wildlife relationships, wind energy and wildlife, and other aspects of energy and wildlife relationships.

BACKGROUND

Once numbering millions and spanning 13 U.S. states and three Canadian provinces, greater sage-grouse are now extirpated in two states and one province and have lost 44 percent of their original range. Numerous stressors that include habitat fragmentation, energy development, urbanization, fire, invasive species, disease and poor rangeland health have contributed to declines of sage-grouse in the past several decades. Indeed, the fact that a once abundant, widely distributed and harvested game bird is now at population levels low enough to consider for listing as threatened or endangered should be a major concern for all stakeholders and certainly for America's sportsmen.

Sagebrush ecosystems are critically important to more than 350 species of plants and animals, including those pursued by sportsmen such as mule deer, pronghorn, and the greater sage-grouse. The sage-grouse in essence has become a modern day "canary in the coal mine" that is telling us that sagebrush ecosystems and many of the species that depend on them are in jeopardy. Thriving populations of sage grouse are a good indicator of healthy sagebrush ecosystems.

The TRCP supports the continued science-based management of sage-grouse as a game bird under the authority of state fish and wildlife agencies. We believe that the best way to maintain state management authority is to enact both Federal and state conservation plans with durable protections for sage-grouse habitat, thus enabling the U.S. Fish and Wildlife Service (USFWS) to make a "not-warranted" decision under the Endangered Species Act (ESA) without delay. Balancing sagebrush and sage-grouse conservation with other land uses also is important, notably (1) implementation of sustainable grazing practices that keep working ranches in operation while providing habitat for sage-grouse; and (2) responsible energy development that balances with conservation and does not further impact sage-grouse and their habitats and mitigates unforeseen impacts once avoidance and minimization measures have been taken.

PAST ENGAGEMENT BY THE STATES

Given the theme of this hearing, a bit of history is in order regarding the engagement of the states in the collaboration and progress that has been made the past decade. Any notion that the states have not been "empowered" or engaged is misleading. In the mid-1990s, it was state agency biologists that began expressing concern about declining numbers of sage-grouse, loss of habitat, and deteriorating conditions of the remaining sagebrush ecosystems. At that time, however, it was determined that sage-grouse did not meet requirements for listing under the ESA. As we all know, years later, after litigation, a "not warranted" decision in 2005, and more litigation, the USFWS in 2010 determined sage-grouse did warrant ESA protection. The USFWS is now under court order to finalize a decision by September 30, 2015. But the stage for extensive state agency engagement and cooperation with the Federal agencies was set a decade earlier.

In 2002, the Western Association of Fish and Wildlife Agencies (WAFWA) partnered with the USFWS to generate an assessment of sage-grouse populations and habitats (Connelly et al. 2004) and a conservation strategy (Stiver et al. 2006) built from the ground up that continues to serve as a foundation of the current efforts. The Governor's Sage-grouse Task Force was later created in 2011 and chaired by the states (Governors Matt Mead-WY and John Hickenlooper-CO). That state-dominated task force was charged with developing recommendations on how to best advance a coordinated, multi-state, range-wide effort to conserve the sage-grouse, including the identification of conservation objectives to ensure the long-term viability of the species (USFWS 2013). With the backing of this task force, the USFWS embarked on developing range-wide conservation objectives for the sage-grouse to define the degree to which threats need to be reduced or ameliorated to conserve sage-grouse so that it is no longer in danger of extinction or likely to become in danger of extinction in the foreseeable future (USFWS 2013). The USFWS recognized that *state wildlife agencies have management expertise and management authority for sage-grouse*; as such, the USFWS created a Conservation Objectives Team (COT)

of state and FWS representatives to accomplish this task. The COT consisted primarily of state agency biologists/representatives (10 of the 11 western states in the range of sage-grouse) along with five biologists and other staff from the USFWS. At the heart of the COT report is the foundation laid by the WAFWA conservation strategy (Stiver 2006). Importantly, all of the states signed off on the COT report and the threats to sage-grouse and strategies to reduce those threats embedded within the report.

The states have continued to be engaged extensively, through the Governor's Task Force, WAFWA and their Sage-grouse Executive Oversight Committee, and other venues. From my perspective, the coordination and work between the states and Federal agencies to achieve positive outcomes and ultimately a not-warranted decision, while not perfect at all levels or all the time, has been unmatched in my 25-year career.

STATE AND FEDERAL LAND MANAGEMENT OPERATE UNDER DIFFERENT MANDATES

Nearly half of the Nation's remaining sagebrush habitat lies on Federal public lands administered by the Bureau of Land Management, and conservation measures in that agency's new resource management plans will likely carry significant weight in the September 2015 decision. Private and state lands, however, are also vital to the birds' future, and the ESA listing decision will hinge on good state conservation plans and efforts from private landowners (e.g., the NRCS Sage Grouse Initiative). The states have done a tremendous amount of work, as evidenced by reports from the Western Governors Association and others, and should be commended for their efforts. Both voluntary and regulatory measures in the current and future state plans are critically important components of a broader, comprehensive Federal and state strategy for sage-grouse.

However, shifting land management authority completely to the states and negating Federal land management plans, as has been proposed in several recent legislative proposals, is fundamentally flawed and problematic for numerous reasons. There are key differences in how state and Federal governments are mandated to manage their respective lands. First and foremost, states do not manage their lands under a multiple-use mandate, as the Federal agencies are required to by law. State school trust lands are under constitutional mandate to generate, and where possible maximize, revenues for schools, which limits their flexibility and management options in many cases. In contrast, Federal land managers operate under a multiple use sustained yield mandate, giving them far greater flexibility to manage for conservation values in addition to other values. Moreover, at least some states have limited ability to regulate private lands given their current constitutional statutes and in some states, counties have authority over many decisions that may affect sage-grouse habitat (e.g., permitting development). The management stipulations that states apply to non-Federal lands are far more limited in scope than the types of requirements that Federal land managers can apply. As a result, sage-grouse management plans on Federal, public lands can and should be significantly more conservation-oriented than the state plans insofar as development buffers and setbacks from priority sage grouse habitat. State plans, however, must work in conjunction with strong Federal plans for sage grouse conservation to be successful.

STATES ALREADY HAVE MANAGEMENT AUTHORITY OF POPULATIONS AND COOPERATING STATUS

The states, primarily through their respective fish and wildlife agency, already have full management authority of wildlife populations. The Fish and Wildlife Coordination Act (among others) sets the stage for state cooperation with Federal agencies, and the states have "cooperating agency" status under administrative rule set forth by the Federal agencies. For example, the BLM planning Handbook (H-1610 Appendix C, p. 6) requires field offices to:

"Designate priority species and habitats, in addition to special status species, for fish or wildlife species recognized as significant for at least one factor such as density, diversity, size, public interest, remnant character, or age. Identify desired outcomes using BLM strategic plans, *state agency strategic plans*, and other similar sources. Describe desired habitat conditions and/or population for major habitat types that support a wide variety of game, non-game, and migratory bird species; *acknowledging the states' roles in managing fish and wildlife, working in close coordination with state wildlife agencies, and drawing on state comprehensive wildlife conservation strategies*. Identify actions and area wide use restrictions needed to achieve desired population and habitat conditions while maintaining a thriving natural ecological balance and multiple-use relationships."

As mentioned earlier, the states have been engaged since concerns for sage-grouse and loss of sagebrush habitat arose years more than two decades ago. The states remain responsible for managing not only populations but also approximately one-third of the identified priority sage-grouse habitat into the future. Extraordinary effort and coordination has occurred for the past several years and the states are finalizing their plans (or already have done so and have begun implementation; e.g., WY, UT) that will compliment Federal efforts. While we have seen some reluctance and mediocre plans in some states to date, the ongoing process and negotiations should be allowed to play out and be finalized with the goal of a comprehensive, coordinated state and Federal strategy for sage-grouse and sagebrush ecosystems. This is happening, and requires no further congressional action on sage-grouse.

ISSUES WITH LEGISLATING STATE MANAGEMENT ON FEDERAL LANDS

Current proposed Federal legislation under consideration would:

- Eliminate the ability of Federal public land managers to amend or modify Federal resource management plans whether to enable conservation or development, and seeks to retroactively nullify resource management plan amendments already made, a change in policy that would impact millions of acres and hundreds of species of fish and wildlife.
- Halt Federal land-use planning efforts, costing taxpayers tens of millions of dollars, and delaying implementation that is needed immediately. Such action also would increase the uncertainty within SG range associated with this major change in land management policy—unintended consequences?
- Erode the implementation of bedrock conservation statutes—such as the National Environmental Policy Act (NEPA), Endangered Species Act (ESA), Federal Land Policy and Management Act, National Forest Management Act, Administrative Procedures Act, Fish and Wildlife Act of 1956, and others.
- Eliminate judicial review on a sweeping array of long-term land management decision points.

It can be argued that state management authority and practices on private and state lands, or lack thereof, is in part responsible for declines in sagebrush habitat and ultimately populations of sage-grouse. Importantly, state conservation plans and regulatory authority vary dramatically across the 11 states, a situation not necessarily driven by different environmental conditions or threats to the species that warrant flexibility and different approaches. Additionally, some populations of sage-grouse span multiple states that have different habitat designations and management approaches—this would be very problematic for managing such populations.

Numerous questions regarding any such shift in management authority immediately surface. How soon could we possibly expect such a shift in management responsibility to occur? It does not seem possible that halting all efforts by BLM and the USFS and shifting to a state-driven plan is possible in the immediate future—the Federal management plans are nearly finalized and ready for much needed implementation. How will states incorporate the intent of the ESA, existing Federal regulations, and case law into the analysis on a state by state basis? How will the states do their own analysis on plans, or will they employ the 5-factor analysis that the USFWS must employ according to the ESA? How would individual states address the range wide listing petition they are dealing with now? Perhaps most important, how will courts rule on the adequacy of state plans—will this be through Federal or perhaps through 11 different state courts?

Finally, the state plans, even those produced by committees of diverse stakeholders, did not go through a broader public review and input process as the Federal plans have. As such, implementing such state plans on Federal lands owned by the American people with no opportunity to comment is fundamentally and constitutionally flawed.

Given these issues and questions, the state plans themselves cannot stand alone and drive conservation efforts on Federal and state and private lands that would adequately conserve the species.

CONCLUSION

Our organization and many of our partner organizations have been active in the sage-grouse issue and define success as keeping the bird off of the threatened/endangered species list and its continued management by the state wildlife agencies. The threat of an ESA listing for sage-grouse has brought the states, Federal agencies and multiple stakeholders to the table in a meaningful way. The only way to conserve the species, avoid a listing, and sustain state management authority, is

with strong conservation plans and collaboration that is currently ongoing. We have seen unprecedented coordination and planning efforts across 11 western states and we believe the USFWS can get to a “not warranted” decision by the court-ordered deadline in September 2015, and without congressional intervention. The recent “not warranted” decision on the Bi-state population of greater sage-grouse clearly demonstrates that a positive outcome from these current efforts can be achieved. However, we are deeply concerned that current legislative efforts not only represent an unprecedented shift of management responsibility by turning over land use and habitat management authority of publicly-owned, Federal lands to the states, but also unnecessarily delays implementation of management plans that have been years in the making. We need to achieve timely approval of Federal land management plans and begin implementing conservation and habitat management measures that convert “paper birds and habitat” into real results on the ground.

Altering the process at this point via delay and shifts in management authority creates even greater uncertainty for stakeholders and virtually assures a listing down the road. As such, what we need from Congress is simple—adequate and sustainable funding levels that ensure conservation durability in the long term.

Mr. Chairman and members of the committee, on behalf of the TRCP I want to thank you for inviting me to share this information and assist you on this important issue. I would be happy to answer any questions you may have.

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QUESTIONS SUBMITTED FOR THE RECORD BY ROB BISHOP TO DR. ED ARNETT, SENIOR SCIENTIST, THEODORE ROOSEVELT CONSERVATION PARTNERSHIP

Question 1. You stated that after the “not warranted” determination was made in 2004, the state of Utah stopped its activities to protect the sage grouse. Could you provide the committee with specific data to support your statement?

Answer. To clarify, I did not single out Utah when answering the question posed to me during the hearing on this issue. What I said was that after the 2005 decision, many states—perhaps not Utah given what Ms. Clarke noted regarding her state—slowed their activities and expenditures on sage-grouse. I confirmed with the Western Association of Fish and Wildlife Agencies (WAFWA) who tracked expenditures by the states from 2000–2012 on sagebrush and sage-grouse-related activities. They noted that leading up to the 2005 listing decision the rate of expenditures (in other words, the acceleration of expenditures) increased up to around 2004 and then declined after the 2005 decision was made. This was a short-term slowing in that rate of increase and the interpretation was that the urgency/importance of sagebrush and sage-grouse-related expenditures declined to some extent after the “not warranted” finding, but that was not necessarily reflective of all states. According to Ms. Clarke, Utah was not one of those states. WAFWA also noted that as the remand and 2010 decision time frame neared, expenditures began to ramp up again. It is worth noting that these expenditures did not include those from the NRCS Sage-grouse Initiative that has spent nearly ½ a billion dollars since its inception in 2010.

Question 2. Your testimony argues that valid existing rights would protect existing oil and gas leases under pending FWS policy to protect the sage grouse. However, Director Ashe’s October (2014) memorandum proposes new restrictions on development. These additional restrictions constitute the creation of new, would-be greater sage grouse “strongholds.” These “strongholds” will essentially prevent any surface occupancy on approximately 16.5 million acres of land across several states. Please explain how this fact squares with your statement?

Answer. First, the language in the current EISs and what I have heard from DOI indicates that the overlap with fluid and locatable minerals is low (e.g., ~84 percent of oil and gas reserves are located *outside of priority habitat*)—this would include the focal areas or “strongholds.” That percentage is even higher in many of the state-specific EISs.

I’m interpreting the question as having to do with some overlap of existing leases and SFAs, or with the need to develop roads to access leased areas with valid and existing rights. The BLM generally has to balance impacts to other resources while honoring valid existing rights and so has experience handling this situation. To that end, there is explicit language in the current, final draft RMPs that address valid and existing rights. For example, from the Hi-line, MT plan:

“Existing roads, or realignments, would be used to access valid and existing rights. If valid and existing rights cannot be accessed via existing roads, then any new road would be constructed to the absolute minimum standard necessary with appropriate BMPs and mitigation (Appendices C and M; p. 199).

From the Buffalo EIS (p. 138):

“Where a proposed fluid mineral development project on an existing lease could adversely affect Greater Sage-Grouse populations or habitat, the BLM will work with the lessees, operators, or other project proponents to avoid, reduce and mitigate adverse impacts *to the extent compatible with lessees’ rights to drill and produce fluid mineral resources*. The BLM will work with the lessee, operator, or project proponent in developing an APD for the lessee to avoid and minimize impacts to Greater Sage-Grouse or its habitat and will ensure that the best information about the Greater Sage-Grouse and its habitat informs and helps to guide development of such Federal leases.”

From the Buffalo EIS (p. 199):

“In cases where Federal oil and gas leases are or have been issued without stipulated restrictions or requirements that are later found to be necessary, or with stipulated restrictions or requirements later found to be insufficient, consider their inclusion before approving subsequent exploration and development activities. *Include these restrictions or requirements only as reasonable measures or as conditions of approval authorizing APDs or Master Development Plans*. Conversely, in cases where leases are or have been issued with stipulated restrictions or requirements found to be excessive or unnecessary, the stipulated restrictions or requirements may be appropriately modified, excepted or waived in authorizing actions. Both the application of reasonable measures or COAs and the modification, exception, or waiver of stipulated restrictions or requirements must first be based upon site-specific analysis including necessary supporting NEPA.”

These are just a few examples where the EISs clearly honor valid and existing rights while attempting to work with operators to minimize adverse effects.

The CHAIRMAN. Thank you.
Mr. Miller.

STATEMENT OF DUSTIN MILLER, ADMINISTRATOR, STATE OF IDAHO—OFFICE OF SPECIES CONSERVATION, BOISE, IDAHO

Mr. MILLER. Well, good morning, Mr. Chairman and members of the committee. Thank you for holding this important oversight hearing on empowering state management of greater sage grouse. My name is Dustin Miller, and I am the Administrator for Idaho Governor C.L. Butch Otter’s Office of Species Conservation, an agency charged with balancing the conservation and recovery of federally listed and candidate species with the economic vitality of the state. It sure is a pleasure to be here before you this morning.

In Idaho, we are blessed with abundant natural resources, which is why we take conservation over fish and wildlife populations very

seriously. People in our state care deeply about these issues and have a certain tenacity to roll up their sleeves and develop grassroots, proactive solutions to complex natural resource issues; and that is exactly what Idahoans have been doing on the greater sage grouse front.

In 2011, then-Secretary of the Interior Ken Salazar invited 11 western states to partner with the Federal Government and develop state-based conservation plans to preclude the need to list greater sage grouse under the Endangered Species Act. In March of 2012, Governor Otter took the Secretary up on his offer, and created an executive task force charged with developing recommendations on actions needed to accomplish this goal.

The Governor's sage grouse task force was comprised of a diverse group of stakeholders, advised predominantly by our local sage grouse experts and policy advisors. This group worked diligently under a compressed time frame to develop meaningful recommendations leading to the development of a Governor's Sage Grouse Conservation Plan, which was subsequently incorporated as an alternative within the Federal land use planning effort.

In Idaho, we have focused the majority of our conservation planning efforts on addressing the primary threats to greater sage grouse, which are wildfire and invasive species. As such, the Governor's plan centers on an innovative approach to dealing with those primary threats through the application of a three-tiered habitat conservation system and an associated adaptive management strategy. The Governor's plan also implements proactive actions that aim to protect key sage grouse habitat through greater emphasis on wildfire prevention, suppression, and restoration.

The conservation efficacy of the Governor's plan is significant, as it truly is a landscape approach that takes into account the entire life history of greater sage grouse. In fact, the U.S. Fish and Wildlife Service has stated in writing that the foundational elements of the strategy are scientifically sound and consistent with the Service's desired conservation objectives. The Idaho BLM has also given great credence to the Governor's plan, by including it as a co-preferred alternative within the Federal land use planning effort in Idaho.

Months of collaborating with our Federal partners to refine the co-preferred alternatives led us to genuinely believe that our state and Federal collaboration was going to be a success. However, recent top-down direction from the national BLM office has presented us with some unique challenges that, without resolution, stand to undermine our collaborative sage grouse conservation efforts.

The Department of the Interior and the national BLM office are well aware of our concerns, and have engaged us in an effort to resolve these concerns. However, while we have made some progress, we still need a genuine commitment from the Federal Government to work toward a mutually agreeable solution concerning the application of sagebrush focal areas on 3.5 million acres of our core sage grouse habitat in Idaho.

Two years ago, a significant milestone in the collaborative effort initiated by Secretary Salazar was achieved when states, in partnership with the Service, developed a set of objectives for addressing the threats to greater sage grouse. The resulting report titled,

“The Conservation Objectives Team Report,” represents the goalpost for achieving success. One of the cornerstones of this report is the flexibility to tailor conservation actions to local ecological and socioeconomic conditions. Unfortunately, the last-minute, standardized Federal direction erodes this flexibility.

Our sage grouse conservation planning efforts in Idaho demonstrate our commitment to conserving this species across the landscape, balanced with preserving the custom, culture, and economic opportunity in Idaho.

Given that the Federal Government manages 74 percent of the habitat in Idaho, the majority of our efforts have been focused on the Federal lands planning process. However, the state recently completed a conservation plan for state endowment lands that complements the Governor’s plan for Federal lands.

Additionally, the Natural Resources Conservation Service, through the sage grouse initiatives, continues to make significant investments in Idaho by working with private landowners and ranchers on voluntary sage grouse conservation actions.

The state of Idaho holds the notion that local collaboration, local ideas, and local efforts garner the greatest results. The people in Idaho wish to see this iconic western species continue to thrive on the sage-steppe landscape for generations to come, and we believe that our collaborative planning efforts ensures that vision.

Mr. Chairman, that concludes my testimony.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF DUSTIN T. MILLER, ADMINISTRATOR, STATE OF IDAHO—
OFFICE OF SPECIES CONSERVATION

Good morning Mr. Chairman and members of the committee. Thank you for holding this important oversight hearing on “Empowering State Management for Greater Sage-grouse.” My name is Dustin Miller and I am the Administrator for Idaho Governor C.L. “Butch” Otter’s Office of Species Conservation. The Office of Species Conservation is charged with coordinating and implementing policies and programs related to the conservation and recovery of species listed as Threatened, Endangered or Candidate under the Federal Endangered Species Act in Idaho. Our mission enables us to engage partners in conservation actions that strike the appropriate balance between providing for the needs of native fish and wildlife species in Idaho while ensuring that predictable levels of land-use activities continue.

In Idaho, we are blessed with abundant natural resources, which is why we take conservation of our fish and wildlife populations very seriously. People in our state care deeply about these issues and have a certain tenacity to roll up their sleeves and develop grassroots proactive solutions to complex natural resources issues; and that’s exactly what Idahoans have been doing on the greater sage-grouse front. After all, robust and durable conservation actions developed at the local level provides greater assurances that the species will be protected, as those living closest to the resource are typically the most invested in conservation.

In 2011, then-Secretary of the Interior, Ken Salazar, invited the 11 western states across the range of greater sage-grouse to partner with the Federal Government to address the shortcomings identified within the Service’s 2010 warranted but precluded finding. The states were tasked with developing and implementing conservation actions across the landscape that would be adequate to avoid an ESA listing of the species. In March of 2012, Governor Otter took the Secretary up on his offer and created an executive task force charged with providing the Governor recommendations on policies and actions necessary for developing a state-wide regulatory mechanism to preclude the need to list greater sage-grouse. The Governor’s Sage-Grouse Task Force was comprised of a diverse group of stakeholders representing industry, sportsmen and conservation interests, local sage-grouse working groups, and elected officials. The task force was advised predominantly by our local sage grouse scientists at the Idaho Department of Fish and Game, along with other state, Federal, and academic advisors. This group worked diligently to develop a

number of meaningful recommendations for inclusion as an Alternative within the Federal sage-grouse planning effort. Mr. Chairman, a statement from the Governor's Sage-Grouse Task Force is included with my testimony as part of the official record.

In Idaho, we have focused the majority of our conservation planning efforts on addressing the primary threats to greater sage-grouse, which are wildfire and invasive species. With that in mind, the Governor's plan centers on an innovative approach to dealing with those primary threats through the application of a three-tiered habitat conservation system and an associated adaptive management strategy. This approach allows the state to elevate the level of conservation on medial sage-grouse habitat if an adaptive regulatory trigger becomes operative in our Core habitat areas, regardless of land-ownership. The Governor's plan also implements proactive actions that aim to protect key sage-grouse habitat through a greater emphasis on wildfire prevention, suppression and restoration. The creation of Rangeland Fire Protection Associations by the Idaho Legislature, for example, has already proven to be an effective tool in decreasing the response time to wildfires in remote areas of sage-grouse habitat and thus helping to prevent catastrophic wildfire.

The conservation efficacy of the Governor's plan is significant, as it truly is a landscape approach that takes into account the entire life history of the species. In fact, the U.S. Fish and Wildlife Service has stated in writing that the foundational elements of this strategy are scientifically sound and consistent with the Service's desired conservation objectives. This letter from the Service to Governor Otter is included with my testimony as part of the official record. The Idaho BLM has also given great credence to the Governor's plan by including the plan as a "Co-preferred Alternative" within the Federal planning effort.

Months of collaborating with our local Idaho BLM Office and others over the refinements of the co-preferred alternatives led us to genuinely believe that our state-Federal collaboration was going to be a success. The type of collaborative employed for the conservation of sage-grouse in Idaho mirrored that of the Idaho Roadless rule collaborative, where industry groups, conservation organizations, counties, and state and Federal agencies came together to craft a locally derived solution to a top-down one-size fits all approach. Ultimately, that collaborative prevailed. However, top-down direction from the Washington BLM Office in January of this year has presented us with some unique challenges that without resolution will undermine the fragile coalition we've built that is necessary for sustaining long-term and meaningful sage-grouse conservation. The Department of the Interior and the Washington BLM Office are well aware of our concerns, and have engaged us in an effort to resolve those concerns. While we have made some progress, we still need a genuine commitment from the Federal Government to work with us on a mutually agreeable solution concerning the application of Sagebrush Focal Areas on 3.5 million acres of our Core sage-grouse habitat in Idaho.

Two years ago, a significant milestone in the cooperative effort initiated by Secretary Salazar was achieved when the states in partnership with the Service developed a set of objectives for addressing the threats to greater sage-grouse. The resulting report titled the Conservation Objective Team Report, or COT Report represents the goalposts for achieving success. One of the cornerstones of the COT Report is the flexibility provided to create solutions that meet the needs of the species and the local ecological and socioeconomic conditions and thus allowing each state the ability to tailor their own state-specific plans to achieve the COT Report objectives. The state of Idaho has worked in good faith with our stakeholders and our Federal partners to use this framework to reach the identified goalposts. Unfortunately, the last minute range wide standardized requirements imposed by the Washington BLM office deviates from the flexibility afforded by the COT report.

Our sage-grouse conservation planning efforts in Idaho demonstrate our commitment to conserving this species across the landscape balanced with preserving the custom, culture and economic opportunity in Idaho. Given that the Federal Government manages 74 percent of the habitat in Idaho, the majority of our efforts have been focused on the Federal lands planning process. However, the state recently completed a conservation plan for state endowment lands that complements the Governor's Plan. Additionally, the NRCS through the Sage-Grouse Initiative continues to make significant investments in Idaho by working with private landowners and ranchers on voluntary conservation actions that provide benefits to greater sage-grouse, as well as certainty for ranchers and landowners.

The testimony submitted for the record by Katie Kalinowski of the Western Governors Association provides additional information on landscape sage-grouse conservation actions occurring in Idaho and other western states. The information contained in that testimony serves as a summary of the Western Governors Association 2014 Sage-Grouse Inventory Report. Mr. Chairman, Governor Otter wishes to

have this Western Governors Association report and its Appendix entered into the official hearing record.

In closing, Mr. Chairman, the state of Idaho holds to the notion that local collaboration, local ideas, and local efforts garner the greatest results. We have a lot of pride in our state, and we are especially proud of our western heritage and abundant natural resources. The people in Idaho wish to see this iconic western species continue to thrive on the sage-steppe landscape for generations to come, and we believe that our planning efforts ensures that vision. Right now, we are close to having a complete state-based conservation package that provides for the conservation of sage-grouse; but as you've heard, some of the recent top-down directives from Washington, DC have the potential to derail years of positive collaboration. It is our sincere hope that we can come to an agreeable resolution, where the state of Idaho is truly the architect of its own destiny relative to greater sage-grouse conservation.

Attachments:

U.S. Fish and Wildlife Service letter to Governor Otter
Statement from the Governor's Sage-Grouse Task Force

ATTACHMENTS



United States Department of the Interior

Fish and Wildlife Service

Idaho Fish And Wildlife Office

1387 S. Vinnell Way, Room 368

Boise, Idaho 83709

Telephone (208) 378-5243

<http://www.fws.gov/idaho>



April 10, 2013

Hon. C.L. "Butch" Otter
Governor of Idaho
State Capitol
Boise, Idaho 83702

Dear Governor Otter:

Thank you for your letter of March 14, 2013 requesting U.S. Fish and Wildlife Service (Service) "concurrence" in regards to Idaho's Greater sage-grouse (GRSG) conservation strategy (Strategy). Before the Service responds to this request, we would like to express our continued appreciation for your leadership in guiding the collaborative approach in which your staff in the Governor's Office, the Office of Species Conservation and the Idaho Department of Fish and Game has worked with us to refine the State's approach to conserving GRSG in Idaho.

The Service remains impressed with and supportive of the science-based adaptive conservation strategy for GRSG you have crafted collaboratively in Idaho, for Idaho-specific needs. In brief, the foundation of the Strategy and most of the specific elements that complete it, are solid and are grounded in scientific concepts and approach important to both the Service and Department of the Interior. While there is much about the current draft that the Service supports; there remain elements that need refinement, clarification, or need to be incorporated into the Strategy for the Service to conclude the entire strategy is consistent with the Service's Greater sage-grouse Conservation Objectives Team (COT) report.

A detailed response to your inquiry is attached. In summary, the integrated nature of the Strategy makes it difficult to "concur" with specific elements as most are interrelated and depend on other elements of the Strategy to function effectively. Nonetheless, our review revealed that the 4 foundational elements of the Strategy (Habitat Zones, Conservation Areas, Population Objective and Adaptive Triggers) are consistent with the COT as is the Livestock Grazing Management element. Therefore, this determination of consistency with the COT reflects "concurrence" for these elements, with the necessary elements noted in our detailed comments (see attachment), for the purpose of BLM IM 2012-043. This "concurrence" should not be construed as being automatically implementable by the BLM. The Service looks forward to working with your Task Force, and BLM as appropriate, to refine, clarify and add aspects of the Strategy as needed for similar support of, for example, the

Wildfire Management and Infrastructure elements; and the Implementation Team/Commission. The latter, while an element of the Strategy that that needs clarity and refinement is an issue the Service believes is easily addressed. There are numerous examples of such bodies, including as the State has verbally referenced, the process used on the Idaho Roadless Rule. The Service looks forward to assisting the State craft such a process for the Strategy.

Conservation of GRSG is a challenge. It is a challenge due to the geographic scale of the issue; the need of the species for large intact undisturbed geographies of habitat; the difficult nature of the threats in the Great Basin portion of the range; and the relevance of the habitat in questions to myriad conservation and economic needs and interests. Long-term conservation of GRSG will require a strong and sustained commitment by stakeholders across multiple jurisdictions to work together collaboratively. It is for these reasons that the Service commends the State of Idaho for acknowledging and crafting a Strategy that on one hand details proactive conservation actions to address the threats on the landscape, but equally important embraces the uncertainty of how those threats will play out on the landscape and how they will affect GRSG over time by crafting a robust, outcome based scientific strategy that is collaborative and adaptive. This balance between proactive conservation design/actions based on empirical data and assumptions, with a feedback loop from monitoring to inform adaptation in design/action, with stakeholders in the decision loop as an integral part of that process, is a fundamental component of the both the Strategic Habitat Conservation approach the Service employs, and Adaptive Management that the Department of the Interior employs.

We hope this review is helpful. The Service looks forward to continuing our role in this process of on-going refinement of the Strategy, its implementation over time, and as part of the adaptive process it embraces.

Sincerely,

BRIAN T. KELLY,
Idaho State Supervisor.

Enclosure

Purpose of the Service's Comments

We want to be clear regarding the purpose of our comments. First, our comments serve to continue the collaborative and iterative process we have been engaged in with you. We see this review as an important "check-in" and continuation of that process to ensure the Strategy is ultimately best positioned to contribute to a future where listing GRSG under the ESA is unnecessary.

Our comments also provide the requested feedback regarding "concurrence" as referenced in BLM Instructional Memorandum 2012-043. While the Service and BLM are both Department of the Interior Agencies, and we together with the State of Idaho and other partners, are collaborating in the conservation of GRSG; the BLM and Service have different legal authorities and policy requirements. As such, any "concurrence" we may offer on elements of the Strategy should not be construed a priori as being implementable by the BLM. That is a determination BLM must make. The Service acknowledges and respects BLM authority in this regard. The Service stands ready to assist the State and BLM in BLM's approval process where appropriate (e.g., Service review of elements of the Strategy that are modified to be implementable by BLM). Our comments on the Strategy at this juncture are not part of the on-going BLM process to amend and or revise various Resource Management Plans across the range of GRSG. That review process will be completed separately.

Service support of the Strategy in part or whole should not be interpreted as a decision by the Service commensurate with a listing decision under the Endangered Species Act (ESA). That determination will be made when the Service formally reviews the status of the species in 2015. However, our purpose in developing the COT report was to guide the States in the development of conservation actions and strategies so that when we review those efforts in 2015 they would contribute to the conservation of the species in a manner that collectively would address threats such that listing would not be necessary. It is for this reason, our review of the Strategy herein is provided in the context of the COT report.

Components of the Strategy

We frame our review in the context of the three primary elements of the strategy: (1) Foundational Elements, (2) Specific Elements, and (3) Implementation Team/Commission. Foundational elements of the Strategy are those that transcend specific management and conservation actions or reactive adaptive processes once popu-

lation or habitat triggers are tripped. We refer to four Foundational Elements: Thematic Approach, Conservation Areas, Adaptive Triggers, and Population Objective. Specific Elements identified in the Strategy are those that target specific threats including: wildfire, invasive species, and infrastructure, as primary threats; and recreation, West Nile virus, improper livestock grazing management, and livestock grazing infrastructure as secondary threats. The Implementation Team/Commission referenced in the Strategy is meant to ensure proper action is taken when a trigger is tripped. As such, for the purposes of our review, we will evaluate the Implementation Team/Commission as a separate operational element of the strategy.

Foundational Elements

Our review of the Strategy revealed a thoughtful, science-based and outcome-driven adaptive management approach to the conservation of GRSG in Idaho. This approach is consistent with the COT report. The Thematic Approach, Conservation Areas, Adaptive Triggers, and Population Objectives are consistent with the COT report and the Service strongly supports these aspects of the State's Strategy.

Examples of how the four Foundational Elements of the Strategy are consistent with the General Conservation Objectives and Specific Conservation Objectives related to Priority Areas for Conservation (PACs) in the COT report include:

1. The designation of a Core Habitat Zone (CHZ) of approximately 5.5 million acres which by itself is currently home to approximately 73% of the male GRSG in Idaho. The CHZ captures the COT report intent of avoiding development in priority areas for conservation (PACs). The Strategy reflects that the development of infrastructure (a primary threat to GRSG) is prohibited in CHZ; with a process for limited exceptions. The Service commends the State for ensuring that any exceptions to the prohibition to infrastructure in CHZ, must meet the conservation standard in the Important Habitat Zone (IHZ; see discussion in next paragraph). While we support the configuration and intent of the CHZ, we look forward to working with the State to clarify how exceptions are determined and specific mitigation strategies if exceptions occur are implemented (see Specific Elements and Implementation Team/Commission headings, below).
2. The designation of an Important Habitat Zone (IHZ), of approximately 4 million acres which by itself is currently home to 22% of the male GRSG in Idaho. The IHZ also captures the COT report intent of stopping the population decline in that while infrastructure is permitted; it is permitted in a way that must demonstrate it will not affect the population trend for the Conservation Area in question. IHZ serves an equally important role in the Strategy as it can serve to buffer loss of habitat due to fire (see #5).
3. The Strategy's use of a measureable population objective, and utilizing monitoring to ensure that objective is met; and setting metrics that trigger changes in practices or review of current practices to ensure the Strategy's conservation objective is met long-term.
4. The use of four separate Conservation Areas in which the adaptive triggers are individually applied adds an increased level of sensitivity to change, that we expect to translate to more timely changes in management if necessary, which will translate to an enhanced ability to ensure the population objective of the Strategy is met state-wide (the Service appreciates and concurs with the State's desire to have additional peer review of the adaptive triggers).
5. The use of a "hard trigger" that, if tripped, requires IHZ be managed as CHZ, with infrastructure development subject to the same standards in both zones. In essence, if applied to all Conservation Areas, the CHZ would almost double in size. This would add the conservation benefit of CHZ to IHZ until no longer necessary.
6. The COT report also references the importance of incentive-based conservation actions in developing a conservation strategy. The foundational elements of the Strategy provide a context for incentivizing actions to maintain population numbers and intact habitat; and help ensure the conservation and restoration of GRSG in Idaho. The structure of these foundational elements of the Strategy (and specific elements consistent with the COT report and others as they are refined) will help provide stakeholders predictability with regard to GRSG conservation needs.

Specific Elements

Livestock Grazing Management: This specific element of the Strategy is consistent with the COT report. The Service supports this aspect of the Strategy because it requires Idaho Rangeland Health Standards (IRHS) be met and it does so in the context of the Strategy. The COT report identifies that if the riparian (IRHS 2) and upland (IRHS 4) rangeland health standard is met, that is the minimum needed to address the threat of grazing on GRSG based on our expertise under the ESA. To achieve this, the Strategy provides an adaptive management process by which adjustments in grazing based on ecological site potential and habitat characteristics would be prioritized as needed outside of normally scheduled permit renewals based on population triggers and cause of declines within each Conservation Area in the Strategy. Additionally, the adaptive management approach the Strategy provides an important framework for deciding what, in addition to IRHS 2 and 4, might be required under IRHS 8 (Threatened, Endangered or Sensitive Species) for GRSG conservation.

As noted above, the COT also references the importance of incentive-based conservation actions in developing a conservation strategy. The Service believes the Livestock Grazing Management Element address the conservation needs of GRSG while providing an important incentive to permittees to be good stewards.

An additional important benefit to the Service of the Livestock Grazing Management element is that the regulation of improper grazing as a threat to GRSG when permits had not yet been analyzed by BLM to meet IRHS for GRSG (IRHS 2, 4; and 8 as needed) would be accomplished through the Strategy on an as needed basis based on population status. This approach is in contrast to requiring all individual permits be conditioned to meet IRHS 2, 4 and 8 (as needed), by the time the Service makes its listing determination—a goal that is likely not achievable. To be clear, the Service supports adherence to IRHS. Our support for the approach of this element is due to it being a wise approach for regulating the appropriate conservation action for the secondary threat of improper grazing to GRSG where needed, until IRHS necessary for GRSG conservation are achieved at the management area scale. This adequacy of regulatory mechanisms under ESA is an important consideration. Pending more clarity in how the Implementation Team/Commission is staffed and operates once a trigger is tripped; the Service would expect to fully support this element of the Strategy. While we would defer to the BLM on their permit-specific application of these triggers in the context of requirements to enhance and restore rangelands under Federal Lands Policy and Management Act (FLPMA), the Service supports the Livestock Grazing Element in the interim as long as no triggers have been tripped within a Conservation Area.

Infrastructure: The specific actions in the infrastructure element are consistent with the COT pending a clearer understanding how the Implementation Team/Commission operates to determine exceptions to CHZ development, development in IHZ, and how referenced mitigation of impacts will work.

Mitigation: Mitigation is referenced in multiple elements in the Strategy but there is no explanation of the how mitigation for impacts in CHZ, IHZ and potentially GHZ will work. The Service is aware of preliminary work by your Task Force and the work of the Idaho Sage-grouse Advisory Council and this element and encourages the State to build on these efforts for this element of the Strategy.

Restoration: The Service recognized in our letter of August 1, 2012, that one of the many strengths of the Strategy is that habitat in need of restoration was included in and adjacent to CHZ as a priority commitment for restoration and to expand Core habitat. However, the Strategy is largely silent on the important relationship between mitigation and restoration for restoration to occur; what constitutes habitat that is lost versus gained back; and restoration monitoring. The need for how direct and indirect loss of habitat is quantified and what constitutes restored habitat is a missing component of the habitat trigger as well.

Wildfire Management: Wildfire and invasive species associated with fire are the greatest threat to long-term persistence of GRSG in the Great Basin and the threat most difficult to manage. The Strategy has been refined to help manage this threat in a significant way. The addition of legislative changes and funding to support the creation of Rural Fire Districts (RFDs) is a significant addition to the Strategy and one the Service supports and that is consistent with the COT report. Viewing wildfire management in the context of Prevention, Response and Restoration and tailoring actions within each is likewise an important refinement. The Service looks forward to working with the State and other partners to help establish more RFDs; and to identify more specific actions under each category of Prevention, Response and Restoration.

One aspect of the strategy that is not a specific fire management action but that the Strategy notes and the Service likewise acknowledges as one of the strongest attributes of the Strategy is how the overarching construct of the Strategy is designed with fire in mind. The conservation objective of maintaining between 95% and 73% of the males on leks, the establishment of refined habitat triggers that catch declines and adapt practices earlier and by Conservation Area, the identification of areas in need of restoration, the commitment to IRHS are all mechanisms to reduce fire, buffer the effects of fire, and provide for refinement in management in an adaptive construct to reduce the effects of fire in the long term.

Management on non-Federal Property: The Strategy to date has focused on Federal properties. This is understandable due to the ongoing Resource and Land Use Management Plan revisions and amendments underway by BLM and the U.S. Forest Service. The Service looks forward to working with the State to ensure the Strategy applies where necessary and appropriate to all properties with adequate state or local regulatory mechanisms.

Implementation Team/Commission

Many of the specific elements of the Strategy are in the Service's view conditionally consistent with the COT pending more clarity how the Implementation Team/Commission is staffed and operates; and how it interacts with scientific support. Because the Strategy is an outcome-based, adaptive strategy, its efficacy is achieved through a balance between proactive actions and reactive steps to adapt and or change actions if necessary. Therefore, the Service needs to understand in more detail how the Implementation Team/Commission functions to evaluate data and inform decisions to adapt management that ensure the Strategy objective is met (e.g., see Infrastructure, above).

Summary

In summary the Strategy is a robust approach to conserving GRSG in the Great Basin. Many components of the Strategy are strong, in particular the underlying foundational elements and grazing management; with wildfire and infrastructure similarly strong pending additional clarity and refinement as noted. The State of Idaho and the stakeholders on the Governor's Task Force have done remarkable work in a compressed timeframe as these aspects of the plan address threats to GRSG in the Great Basin in a way that gives the Service more regulatory certainty, stakeholders more operational certainty, and provides for the conservation of GRSG and sage-brush in Idaho that helps ensure more resiliency to large wildfires. The elements of the Strategy that the Service would welcome more conversations with the State to refine, add or clarify in the Strategy include non-federal properties, restoration, mitigation, and the operation of the Implementation Team/Commission.

Three Cs for Sage-grouse

Cooperation, Collaboration, and Conservation the Keys to Saving Sage-grouse

The State of Idaho has shown itself to be a leader among the western states in conserving the greater sage-grouse. The State and its stakeholders have been proactively working on sage-grouse management and conservation efforts since the early 1950s. As the timeline for the sage-grouse listing decision became clear, Governor Otter established a 15-member task force in early 2012 to take an even closer look at addressing both short and long-term solutions to the threats to the species and its habitat. The task force was comprised of a wide cross-section of Idaho's public including ranchers, sportsmen, conservation groups, energy representatives, interested public, and federal and state agency officials. Our assignment was to develop a detailed, science-based strategy for conserving the species alongside land uses aimed at avoiding the need to list sage-grouse under the Endangered Species Act (ESA). We involved and incorporated the advice of top sage grouse biologists and sagebrush habitat scientists.

As members of the Idaho Sage-grouse Task Force, it has been our mission since inception to ensure the species' long-term viability in Idaho. We were brought together to develop a regulatory plan to address the priority threats to the species' welfare. The intent of our efforts was that this plan could become a standard for

resource managers as they sought to wisely manage habitat in a way that facilitated a more secure, resilient sage-grouse population.

The Idaho sage-grouse plan was quickly recognized as a worthy effort. Two years ago, the U.S. Fish & Wildlife Service (FWS), the federal agency charged with determining whether or not the species would be listed, wrote a letter to Governor Otter stating that the foundation of the Idaho Plan was “solid and grounded in scientific concepts . . .” Further progress was made last year when the Bureau of Land Management and U.S. Forest Service listed the Idaho strategy as a co-preferred alternative in their draft land use plan amendments. In the months that followed, the state worked intensively with the federal agencies to narrow the remaining issues and ensure that our strategy both meets the needs of the species and federal requirements. It was acknowledged by the federal agencies that not only did the state plan address the correct threats but it also put forward a strong, collaborative, and meaningful effort toward conserving sage-grouse.

Our plan contains three elements most essential to conservation of the species: collaboration, cooperation, and conservation. Importantly, this was done collaboratively with a majority of interested parties represented on the task force so the product could be embraced and implemented by all. This has been the hallmark of the sage-grouse conservation work done in Idaho, since the inception of the first local working group in the 1990s. Working together in an organized collaborative and cooperative way, we believe, is the only avenue for success in a situation as huge and complex as this.

Though the work has been difficult, the federal agencies engaged with the State of Idaho in a productive effort to reach a consensus conservation plan. However, in the last four months, the Department of Interior (DOI) appears to have advanced positions that depart significantly from earlier federal input. U.S. Senator James Risch recently asked Secretary Jewell in a Senate committee hearing why the “goal-post was being moved” when we were so close to finalizing our plan. We are very concerned that these recent shifts will diminish the broad support for the Idaho Plan that we worked so hard to achieve. When collaboration fails, we believe that efforts to conserve the species will suffer.

We recognize that contentious issues remain between the federal agencies and the State of Idaho. We call on the Department of the Interior to resolve these remaining issues in a way that conserves sage-grouse *and* fits Idaho’s all lands-all hands approach. The work of the Idaho task force gives witness to the fact that, all of us, collectively, are the best hope for sage-grouse. Working together we can get this done.

Many of us are very concerned about the severe impacts that an Endangered Species Act (ESA) listing could have on our industries and on land uses in the state. We also firmly believe that conservation efforts are most effective when they are based on sound biological principles and applied with support of people at the local level. We ask that the federal agencies recognize the creativity and cooperative spirit that we demonstrated through our task force efforts as positive elements to build upon, not deficiencies. We as Idahoans are ready to take the actions needed to conserve sage-grouse and the rangelands upon which we all rely.

Members of the Idaho Governor's Sage Grouse Task Force:

Will Whelan
The Nature Conservancy

Brett Dumas
Idaho Power

John Robison
Idaho Conservation League

Richard Savage
Idaho Cattle Association

Chuck Jones
J.R. Simplot Co.

Randy Vranes
Monsanto

Scott Bedke
Idaho House Speaker

Senator Bert Brackett
Idaho State Senate

Gene Gray
Local Working Group Rep.

Rochelle Oxarango
Public at Large

Russ Hendricks
Idaho Farm Bureau Federation

Jerry Hoagland
Owyhee County Commissioner

Dr. Robert Cope
Lemhi County Commissioner

Bill Meyers
Renewable Energy

Jack Oyler
Sportsmen for Fish and Wildlife

QUESTIONS SUBMITTED FOR THE RECORD BY ROB BISHOP TO MR. DUSTIN MILLER,
ADMINISTRATOR, IDAHO OFFICE OF SPECIES CONSERVATION

Mr. Miller did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Question 1. During the hearing, the recent PEW study was referred to. Has your state had a chance to review the study including the methodology used?

Do you support the study's conclusion and if not, why not?

Do you have data to suggest that the conclusions in the PEW study are incorrect? If yes, please provide any data to the committee.

Question 2. Please explain the activities of your state to work with private landowners in your efforts to create/expand habitat for the sage grouse.

Will the draft RMP revisions enhance your efforts in that regard or make such tasks harder?

Question 3. Are the goals of Director Ashe's October (2014) memo consistent with your analysis of the problems facing the sage grouse?

If yes, please explain. If these proposals miss the mark, please explain.

The CHAIRMAN. Thank you.

Now we will turn to Mr. Swartout. Not that you are last, but you have the last letter in the alphabet that we have here today. So, you are recognized.

**STATEMENT OF JOHN SWARTOUT, SENIOR POLICY ADVISOR,
OFFICE OF GOVERNOR JOHN HICKENLOOPER, STATE OF
COLORADO, DENVER, COLORADO**

Mr. SWARTOUT. Thank you, Mr. Chairman, for this opportunity to provide our perspective on how the state of Colorado has worked to conserve and protect the greater sage grouse. I thank you and your colleagues for your thoughtful consideration and your efforts to gather the information necessary to properly evaluate these matters.

Colorado has a proud record of collaboration with landowners, wildlife managers, ranchers, conservation groups, and state and

Federal agencies; and together we have made stewardship of the species a priority. The state's wildlife management agency, Colorado Parks and Wildlife—we call it CPW—has exceptionally strong in-house capabilities to develop research and science. Colorado puts an enormous amount of resources into that development of research and capabilities for the agency, and they have developed site-specific science regarding the greater sage grouse.

Relying on that expertise, CPW has collected and analyzed Colorado-specific data to assess habitat quality, threats to habitat, and the impacts of various changes to habitat for greater sage grouse. In 2008, working with landowners, stakeholders, Federal agencies, and other state agencies and conservation groups, our biologists developed a comprehensive management plan for the greater sage grouse, which was designed to increase the abundance and viability of the species and its habitat.

In 2013 and 2014, Colorado updated the plan. Additionally, Colorado's regulatory framework for energy development proactively engages our important oil and gas industry in helping to protect the greater sage grouse and its habitat. The Colorado Oil and Gas Conservation Commission's 1200-series rules require consultation with CPW whenever an operator seeks to develop energy resources in sensitive wildlife habitat.

Concerted cooperation among our agricultural producers and our wildlife agency has resulted in the "Ranching for Sage Grouse" program. This program provides landowners with the best-available science and management tools for grazing in habitat areas, and protecting the greater sage grouse populations. The effectiveness of these broad-based conservation efforts are borne out by data.

Since 2003, Colorado Parks and Wildlife has protected over 80,000 acres of sage grouse habitat through fee title purchase or conservation easement at a cost of just over \$52 million.

Additionally, the land trust community in Colorado has protected an additional 154,000 acres of private land in greater sage grouse habitat areas through conservation easements, including some of the best sage grouse habitat and largest leks in the state.

Since 2005, CPW has expended more than \$9.2 million to conduct annual operations in support of greater sage grouse conservation.

Just last week, the governor of Colorado issued an executive order that calls on state agencies to take further actions to reduce impacts on greater sage grouse.

I must say that the Western Governors continue to work with each other and Interior Secretary Jewell within the National Sage Grouse Task Force to create robust state and Federal plans that protect the greater sage grouse. It has been a tremendous effort, and we want to thank Secretary Jewell and her team for partnering with us and working on these plans. It hasn't been easy.

In closing, let me just stress this point: Colorado has worked closely with many partners across the spectrum, including local governments, landowners, conservationists, and my friend, Ed Arnett, sitting next to me. A decision by the Fish and Wildlife Service to list the greater sage grouse puts all this cooperation at risk, and threatens to pull apart the coalitions that we built in Colorado.

To close, I would just like to say that despite all of the above and despite our concern about a listing, the governor of Colorado thinks that congressional action at this time, to delay a listing, doesn't provide the state with the kind of regulatory certainty that we need.

And we continue to work with Secretary Jewell and her team. There are difficulties—this is a negotiation—but we continue to work with them, and we think we are very close to reaching an agreement that will allow us to get to a not-warranted decision, that will justify a not-warranted decision by the U.S. Fish and Wildlife Service. It has been a difficult effort. There are issues that the states have, but we continue in earnest to work with the Secretary and her team.

Thank you, Mr. Chair. That concludes my testimony.
[The prepared statement of Mr. Swartout follows:]

PREPARED STATEMENT OF JOHN SWARTOUT, SENIOR ADVISOR TO GOVERNOR JOHN W. HICKENLOOPER, STATE OF COLORADO

Mr. Chair, thank you for this opportunity to provide our perspective on how the state of Colorado has worked to conserve and protect the greater sage grouse. I thank you and your colleagues for your thoughtful consideration and your efforts to gather the information necessary to properly evaluate these matters.

Colorado has a proud record of collaboration with landowners, wildlife managers, ranchers, conservation groups and state and Federal agencies, and together we've made stewardship of this species a priority. All of us have worked tirelessly, using the best available, site-specific science to protect both the species and its habitat. Today I want to briefly describe to you what we've accomplished.

The state's wildlife management agency, Colorado Parks and Wildlife (CPW), has exceptionally strong in-house research capabilities, and its biologists have played a critical role in developing and updating state-specific science regarding greater sage-grouse.

Relying on that expertise, CPW has collected and analyzed Colorado-specific data to assess habitat quality, threats to habitat, and the impact of various changes in habitat on greater sage-grouse populations. In 2008, working with dozens of stakeholders from state and Federal agencies, as well as private landowners and conservation groups, CPW biologists developed a comprehensive management plan (Conservation Plan) for the greater sage-grouse which was designed to increase the abundance and viability of the species and its habitat.

Following feedback from the U.S. Fish and Wildlife Service (FWS), in 2013 CPW completed the "Colorado Package," a comprehensive update and status review to the Conservation Plan. The state updated the Conservation Plan once again in 2014 in its "Synthesis Report," providing additional information on the implementation and effects of conservation efforts. These conservation efforts have been designed to address the threats initially identified by CPW in its analyses of Colorado-specific data, and subsequently mirrored in the Federal Government's Conservation Objective Team and National Technical Team reports.

Additionally, Colorado's regulatory framework for energy development proactively engages our important oil and gas industry in helping to protect the greater sage-grouse and its habitat. The Colorado Oil and Gas Conservation Commission's 1200-series rules require consultation with CPW whenever an operator seeks to develop energy resources in sensitive wildlife habitat. Typically, where greater sage-grouse habitat has been implicated, these consultations lead to site visits and detailed, site-specific recommendations. An independent study of the consultation process showed that industry has complied with recommendations received from CPW 97 percent of the time when seeking to develop projects in sensitive wildlife habitat.

Concerted cooperation among agriculture producers and CPW has resulted in the "Ranching for Sage-grouse" program, which provides landowners with the best available science and management tools for grazing in habitat areas and protecting greater sage-grouse populations. Local efforts to conserve the greater sage-grouse have also been robust, as detailed in the Colorado Package and the Synthesis Report. For example, local governments in northwest Colorado have reviewed their zoning regulations to better accommodate greater sage-grouse habitat conservation objectives. With 164 grazing and multiple use leases in habitat areas, the Colorado

State Land Board (SLB) has management authority over 393,269 acres of greater sage-grouse habitat. Currently, SLB is pursuing a detailed inventory of state trust lands located in greater sage-grouse habitat, and will apply site-specific adjustments to its management regime based on the results of the inventory. The effectiveness of these broad-based conservation efforts is borne out by the data.

Since 2003, CPW has protected over 80,600 acres of greater sage-grouse habitat through fee title purchase or conservation easement at a cost of approximately \$52.8 million.

Additionally, the land trust community in Colorado has protected an additional 154,181 acres of private land in greater sage-grouse habitat areas through conservation easements, including some of the best sage-grouse habitat and largest leks in the state. CPW has completed four Wildlife Mitigation Plans with oil and gas operators covering a total of 57,697 acres in the Parachute-Piceance-Roan greater sage-grouse population, incorporating avoidance measures and best management practices for minimizing impacts.

Since 2005, CPW has expended more than \$9.2 million to conduct annual operations in support of greater sage-grouse conservation.

Just last week, Colorado Governor John Hickenlooper issued an executive order that calls on state agencies to take further actions to reduce impacts to the greater sage grouse. Those actions include: increasing coordination with Colorado Parks and Wildlife, launching a market-based habitat exchange, taking inventory of—and improving habitat within—state lands with grouse populations and strengthening the role of the Oil and Gas Conservation Commission.

It's also worth mentioning the same kind of collaborative work we've conducted for the Gunnison sage grouse, a sub-species with a narrower habitat range than the greater. CPW has invested more than \$40 million on conservation and management of the Gunnison sage grouse since 2005. Our partners have contributed an additional \$10 million.

Since 2003, state wildlife managers have protected more than 30,000 acres of Gunnison sage grouse habitat (primarily via conservation easements). About 68,000 additional acres are managed by other conservation interests such as The Nature Conservancy.

Between lands in public ownership and private lands secured by conservation easements, about 55 percent of Gunnison sage grouse's mapped range has some level of protection from development. Despite our proactive and extensive and ongoing range-wide conservation measures to protect greater sage-grouse, in 2010, FWS determined that the species was "warranted but precluded" for listing under the Endangered Species Act (ESA) throughout its entire 11-state range.

FWS must determine by September 30, 2015 whether the sage-grouse still warrants protection under the ESA and if so, whether to propose an "endangered" or a "threatened" listing for the species.

Western Governors continue to work with each other and Secretary of the Interior, Sally Jewell, within the National Sage Grouse Task Force to create robust state and Federal plans to protect the greater sage-grouse. It has been a tremendous effort on everyone's part. We want to thank Secretary Jewell and her team for their efforts.

Colorado firmly believes that state-led efforts provide the most effective approach to protecting and conserving the species and its habitat. The listing of the greater sage-grouse under the ESA would have a significant and detrimental economic impact on the state. Given the limited resources available to the Federal agencies charged with managing a federally listed species, the state is concerned that the health and vitality of the greater sage-grouse population may also decline as a result of a listing, setting back the conservation gains made to date under the our Conservation Plan.

In closing, let me stress this point: Colorado has worked closely with many partners across the spectrum, including local governments, landowners and conservationists.

A decision by Fish and Wildlife to list the greater sage grouse puts at risk all this cooperation and threatens to pull apart the very coalitions that—to date—have made enormous progress in conserving the sage grouse and its habitat. Our partners will be left wondering: What was the point of all this effort? We've taken enormous steps to avoid a listing and the accompanying Federal intervention only to have our efforts answered with a listing. That kind of outcome not only jeopardizes our progress with the sage grouse, but any other work we're doing to conserve these treasured species in Colorado and the Rocky Mountain West.

QUESTIONS SUBMITTED FOR THE RECORD BY ROB BISHOP TO MR. JOHN SWARTOUT,
SENIOR POLICY ADVISOR, OFFICE OF GOVERNOR HICKENLOOPER, STATE OF COLORADO

Mr. Swartout did not submit responses to the Committee by the appropriate deadline for inclusion in the printed record.

Question 1. During the hearing, the recent PEW study was referred to. Has your state had a chance to review the study including the methodology used?

Do you support the study's conclusion and if not, why not?

Do you have data to suggest that the conclusions in the PEW study are incorrect?

If yes, please provide any data to the committee.

Question 2. Please explain the activities of your state to work with private landowners in your efforts to create/expand habitat for the sage grouse.

Will the draft RMP revisions enhance your efforts in that regard or make such tasks harder?

Question 3. Are the goals of Director Ashe's October (2014) memo consistent with your analysis of the problems facing the sage grouse?

If yes, please explain. If these proposals miss the mark, please explain.

The CHAIRMAN. Thank you. We will now turn to the committee for questions. I will always go last, in an effort to make sure that Rep. Hardy actually gets to ask some questions here today. Stick around, we will see what happens.

Turning to Mr. McClintock, do you have any questions?

Mr. MCCLINTOCK. Thank you, Mr. Chairman. The first question I have relates to an experience I had a few years ago on the Klamath, where they are trying to tear down four perfectly good hydroelectric dams because of a catastrophic decline on the salmon population. I asked them, "Well, why doesn't somebody build a fish hatchery?"

Well, it turns out somebody did build a fish hatchery. It produces 5 million salmon smolts every year. Seventeen thousand return as fully grown adults to spawn in the Klamath. The problem is, they don't let us include them in the population counts. I, for the life of me, don't understand why we don't allow such things as captive breeding programs to meet the ESA requirements. None of us want to see a species go extinct because of human activity, but there are so many more flexible ways of accomplishing that.

Ms. Clarke, what are your thoughts?

Ms. CLARKE. I am somewhat familiar with the predicaments on the Klamath, and have great empathy for those who have been impacted by the listings that are involved there.

I believe we have to find better ways to do things; and I think, as the Chairman said, part of what we hope to accomplish in this hearing is to consider innovation and new ideas to break some of the traditional fixes that have not proved to be effective. I don't think we have to sacrifice human activity—

Mr. MCCLINTOCK. I hate to interrupt, but my time is short. That is precisely my point. To add insult to insanity, when they tear down the Iron Gate Dam, the Iron Gate fish hatchery goes with it; then you do have a catastrophic decline.

Ms. CLARKE. That is right.

Mr. MCCLINTOCK. Mr. Miller, aren't there better ways of doing things than what we are doing to achieve the ESA goals?

Mr. MILLER. Yes, Congressman, there are, and that is through our state-led planning efforts. We are closest to the ground, sir. Our local biologists and scientists know more about the species than our Federal partners do. So I believe, really, in the state-led effort to implement our conservation strategies on the ground.

Mr. MCCLINTOCK. I don't have a lot of sage grouse in my district, but in our region, in the Sierra Nevada, we have had similar experiences with critical habitat designations.

For example, sound forest management practices were prevented over vast tracts of our forests to preserve spotted owl habitats. The irony of that is the forests, because of that, became dangerously overgrown and ultimately were incinerated by two catastrophic wildfires that also took out nearly 50 spotted owl habitats. It reminds me of the Vietnam War maxim, "We have to destroy these habitats to save them," and that is exactly what these policies have done.

We now have 2.2 million acres of the Sierra declared critical habitat for the Yosemite toad and the Sierra yellow-legged frog, despite the fact that the national Fish and Wildlife Service admits that human activity is not the principal reason for the decline in these populations—it is non-native predators that just love to eat the little things, and a virus that is decimating amphibian populations throughout the Southwest. It is not human activity, and yet 2.2 million acres of the Sierra—essentially, the entire footprint on that range—is now subject to additional restrictions that make forest management all the harder, and are setting the stage for another catastrophic event.

What would the states do differently, Mr. Miller?

Mr. MILLER. Obviously there are things, Congressman, that are concerning to us about the current implementation of the Endangered Species Act. We do need to see some modifications to that statute to ensure that state-led efforts are a priority. Again, I can't emphasize enough the local science and the local actions from our stakeholders are very important in driving forward sound policies that balance the appropriate level of conservation of our fish and wildlife populations with maintaining economic vitality—

Mr. MCCLINTOCK. Let me ask you this question. How much of the problem is the law, and how much of it is ideological zealotry by those who are currently administering the law?

Mr. MILLER. Congressman, I feel that, obviously, there are—we do need to see some changes to the Act; but I think the courts have interpreted the Act in a fashion that is contrary to what the writers of the Act back in 1974 intended. I think we have gone too far from the original intent of the Endangered Species Act.

Mr. MCCLINTOCK. OK, thank you.

The CHAIRMAN. Thank you. Do you want some sage grouse in your area?

[Laughter.]

The CHAIRMAN. We can arrange that.

Mr. MCCLINTOCK. As long as there aren't any strings attached.

The CHAIRMAN. Well, you can't get that one.

All right. Mrs. Dingell.

Mrs. DINGELL. Thank you, Mr. Chairman. And thank you to all of our witnesses today.

I want to take a step backward from the discussion that we have been having, because I think despite some of the tension in the room, I really think that there is some agreement about the importance of protecting the greater sage grouse and the significant role that the bird plays in local ecosystems and economies.

I, like you, have never seen the sage grouse; but I am married to a man that has, and knows its importance. So, I think I want to go back, if I can get through my questions, to ask you a question about the original intent of the Endangered Species Act. But first, I would like—because we do have different views and ideas about how to get there—I would like to explore that a bit further.

Dr. Arnett, I found your testimony very interesting, at 2:00 a.m. this morning, as you tried to bring the Federal and the state level together. I think everyone in this room wants to avoid a listing of the greater sage grouse under the Endangered Species Act. What do you think the best way to accomplish that is?

Dr. ARNETT. Thank you for the question, Congresswoman. I believe, in both the written testimony and in my oral comments, we think this is a comprehensive view of Federal and state collaboration and strong conservation plans on both Federal and state lands, in conjunction with these voluntary efforts and, quite frankly, easements, which are contractual agreements with private landowners to conserve habitat and manage their lands differently.

Again, it is not an either/or. We need all of the above in managing the landscapes. These are diverse landscapes across a wide range of conditions, and it requires all of the above approach, in my opinion, with multiple tools—that includes mitigation and some pretty creative mitigation tools in the toolbox these days that have been brought forth in the form, not only of the traditional conservation banking, but also in these exchange programs. These are all tools that we need to put collectively forward.

But the science is clear that we do need the habitat, first and foremost, and we need to manage that habitat. That has been brought out very clearly, quite frankly, with my state colleagues, as well.

Mrs. DINGELL. So your testimony, your written and your oral here, talks about the partnership between the state and the Federal level. Yet the testimony and discussion we have heard this morning—and in the written last night—alleges the states have not been involved in the process.

Can you give us background, and maybe expand a little on the role that state agencies have played in that effort? Again, as you just said, the critical role of both of them playing together, can the Federal not be involved in any way? How would that work? Do you agree that the states haven't been, and that they are the best in—it is really a difference of opinion between the two of you sitting next to each other.

Dr. ARNETT. I am not convinced we are that far apart. But I think, clearly, it has been stated by everyone that the states have been engaged.

And a little bit of history—this is nothing that just popped up last month or 10 years ago, or even 5 years ago. This is something

that has been of concern to biologists, wildlife professionals in the state agencies and the academic world, and those that are out on the ground for some number of years—decades, quite frankly. WAFWA established a monitoring program back in—Western Association of Fish and Wildlife Agencies; my apologies for the Acronese—the WAFWA group led efforts back in the 1950s, put together monitoring to track sage grouse, and started some of the research endeavors.

Back in the 1990s, the concern began to increase. And, actually, it was state biologists that were considering the petition to list. This didn't come from the green groups; this came from biologists that were really concerned about a number of different things: loss of habitat, declining numbers of birds. The states have led many of these efforts—the state biologists, as Dustin pointed out very clearly, have direct authority of wildlife populations. They always have had authorization to manage populations, whereas the state, the overall state governments, manage state lands, state-owned lands, and the Federal Government manages the habitat.

The states have always had cooperating agency status. They have always been engaged. I am not going to try to speak, especially for the three states here, or any other state, as to what that cooperation has looked like or if it could have been better—my guess is I suspect it can, it can always be better in terms of collaboration; but the states have always been at the table. In my opinion, the wildlife agencies have, in fact, been there. Their advice hasn't always been heeded, necessarily.

So, the biologists have had concerns for some time. They put together the original strategy—whoops, am I over? Sorry.

The CHAIRMAN. You are.

Dr. ARNETT. It is a 5-minute response to each question, isn't it? I just realized that.

So, I think my conclusion is that the states definitely have been engaged, they have cooperating status, and they have been partnering with the Feds, and we are very close to getting to a consensus.

The CHAIRMAN. Thank you.

Mr. Benishek.

Dr. BENISHEK. Thank you, Mr. Chairman. Thank you all for being here this morning. I appreciate your questions, Mrs. Dingell—my colleague from Michigan, by the way.

I would like to ask you all about the working relationship that you have with the Federal Government on conservation issues. Now, we have talked about the state's efforts to do this management; and, frankly, I agree with you, because I think that the Feds just don't have the intimate knowledge of the states that local conservation people do. They know the areas that are involved, so I am on board with you.

But I want to know what level of cooperation exists at this point in time? Could maybe each of you kind of clue me into that briefly, so that I could ask another question?

Ms. CLARKE. Would you like me to go?

Dr. BENISHEK. Sure.

Ms. CLARKE. Thank you for the question. We have had a very good working relationship with our Federal partners in the state

of Utah. It started out, I think, as a real partnership. We worked closely together. We had a task force of higher-level officials that met periodically, and we continued to meet.

But at a couple of different stages in the process in the evolution of this we started getting top-down directives which seemed to contradict the conservation objectives that we had all agreed to. Most recently, we have had some additional ones that are very—

Dr. BENISHEK. What do you mean by a top-down directive, then?

Ms. CLARKE. Well—

Dr. BENISHEK. Explain that to me.

Ms. CLARKE. We are getting a new overlay of constraints that are going to be imposed upon the land use plans that, at least in the case of Utah, we believe do not address the threats. What they do is constrain human activity, and they threaten the economic stability of our state, and our educational incomes to support our students; so it is troublesome.

Dr. BENISHEK. I appreciate that answer. Mr. Miller, could you give me an answer?

Mr. MILLER. Yes, Congressman, real quick. To echo Ms. Clarke's statement, we, in Idaho, have engaged with our local Federal partners at a very high level. I mean this has been a collaborative from the start—with the Idaho BLM office, the local Fish and Wildlife Service office, and the Forest Service. We built a really good, cohesive strategy together by blending our two co-preferred alternatives: the Governor's alternative with the internal BLM and Forest Service alternative; a solid plan that addresses the needs for greater sage grouse, but balances that with maintaining predictable levels of land use activity in our state.

And, again, to echo Ms. Clarke's statements, the frustration lies with this recent top-down direction from the national BLM office that occurred in January for insertion of additional requirements into these specific land use plan amendments, environmental impact statements. There are things within that national direction that are very concerning to the states.

We have engaged with the Department of the Interior to resolve those issues, and I truly believe that there are folks at Interior and the national BLM office that want to find a solution to some of these complex remaining issues, one being the sagebrush focal area map and associated rule set. That was never vetted with the state—

Dr. BENISHEK. Let me ask Mr. Swartout if he agrees with that assessment, that there is some top-down directive in changing the plan that doesn't seem to be effective in the management of the grouse.

Mr. SWARTOUT. Thank you for the question, Congressman. In Colorado we have been dealing with these issues for a long time. And I think the real issue, where the Endangered Species Act becomes adversarial to some degree, is in the structure of the role that U.S. Fish and Wildlife Service, where they are required to measure regulatory measures, right?

They have to take those regulatory measures, and they are often litigated. And that is their primary focus, whereas states have put enormous value on cooperation and partnerships. We work with the

Cattlemen and the Farm Bureau and local landowners, conservation groups, industry; and states put the weight on those activities.

The key issue is finding the balance between those two things within a listing decision. So, have things been added as Idaho and Utah described? Yes. But that is a part of what we deal with, with the Endangered Species Act, is that—trying to find the balance between regulatory measures and state cooperative partnerships is really what the struggle is all about; and we are hopeful to get that balance right and get to a not-warranted decision.

Dr. BENISHEK. Thank you. Well, we are out of time. Thank you—

The CHAIRMAN. Thank you.

Mr. Polis.

Mr. POLIS. Thank you. I want to begin by thanking our friends at the American Museum of Natural History for the wonderful preserved heath hen, which, again, used to commonly roam from Virginia to Massachusetts. They are now extinct. They are a related species to the greater sage grouse, and, of course, we hope that Congress itself does not cause the greater sage grouse to go the way of the heath hen and the dodo.

I want to go to Dr. Arnett. Two legislative proposals have recently emerged that would delay an Endangered Species Act listing decision on the greater sage grouse through legislative action. What, from your perspective and expertise, would a 6- or a 10-year delay in listing mean for the greater sage grouse? And do you think the bird would be in better shape or worse shape?

Dr. ARNETT. Well, of course, being a scientist, I have to say it depends on what actions that are taken.

In 2005, during the not-warranted listing decision, Utah may have taken a lot of progressive, proactive steps and continued that conservation effort. But my colleagues, the Western Association of Fish and Wildlife Agencies, have noted to me that a lot of those proactive conservations came to an end; and I think that, without a little bit of crisis involved here to push the effort, I am not sure that the foot would stay on the gas, personally.

Quite frankly, this is a concern, if we get to a not-warranted, which is what we define as success, and I think everyone here defines as success, is that we need long-term sustainability for the management—

Mr. POLIS. In your opinion, if the listing was legislatively delayed 10 years, do you think a listing at that time would be even more likely, given the likely state of the bird and the withdrawal of some of the state efforts that they are engaging in?

Dr. ARNETT. We think it is likely, and keep in mind that the bird is still—is warranted, but precluded. That would seemingly give a lot of uncertainty to a business owner or someone else trying to plan out into the future. I think we are better off getting the plans done now, with some long-term commitment goals and objectives, and giving them more certainty than waiting 6 years to see what happens.

Mr. POLIS. Mr. Swartout, you spoke about the significant success Colorado has seen in sage grouse habitat conservation through the efforts of state, local, and private players. You also mentioned how important site-specific variables are in management of the grouse.

That being said, what are your thoughts on attempts made by this body, here in Washington, to give national directives through bills like the Defense bill, in terms of how sage grouse is managed?

Mr. SWARTOUT. Thank you, Representative Polis. As you know, we have invested enormous resources, but these issues concern all of our constituents in the 11 states; and Congress certainly has the freedom to intervene as they choose, because they also represent those constituents.

But we have, as I mentioned in my testimony, we have been working very diligently with Secretary Jewell, her team, the BLM, on trying to come to a successful conclusion in our BLM plans and our state-led conservation efforts to protect sage grouse. We continue to focus on that, and we have a path forward to get there. It is difficult, and it has been difficult, as described by Utah and Idaho in their testimony; but the Governor's goal is to still find a path forward to get to a not-warranted decision.

Mr. POLIS. Thank you.

Dr. Arnett, as you know, last month the Fish and Wildlife Service announced it would not list the bi-state population of the greater sage grouse in Nevada and California under the ESA because adequate safeguards to conserve the species were put in place by the state and Federal managers. Do you see any reason why a similar outcome can't be reached for the range-wide population of greater sage grouse, and is that a good model?

Dr. ARNETT. We do not. We believe that we can get there. We believe there are investments that have been put forward by the states, strong conservation plans that complement those state efforts on Federal properties, and private landowner engagement that is unprecedented.

Mr. POLIS. And do you think that Congress not politically or artificially delaying or taking this out for 10 years and making sure that that pressure exists is an important part of reaching the kind of arrangement that was done in Nevada and California for the greater sage grouse?

Dr. ARNETT. Our position is that a delay is not necessary, unless, and I will say this again—if the Fish and Wildlife Service came to us and said, "There is some timeline that we know we will get to a not-warranted"—I suspect we can support that; but we haven't heard that yet.

Mr. POLIS. Great. Well, I—

Dr. ARNETT. And just real quickly, sorry to interrupt you—

Mr. POLIS. Yes.

Dr. ARNETT. The track record issue is an important one, because track records have to be established by all of these players. But, again, that should be driven by the Service saying that we don't have it, and if we had this amount of time to see it. I don't know that we need the life cycle of the species to see—one cycle of a generation to see that happen.

Mr. POLIS. Thank you, and thanks again to the American Museum of Natural History. I yield back the balance of my time.

The CHAIRMAN. Too bad they didn't breed that thing for you.

Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. Just real quick, I think what I hear and what I read is that wildfire and invasive species

are the largest threat. But it seems like the environmentalist movement is wanting to threaten the development of energy, oil and gas, in the sage grouse region. I have concern about that. How do we address that wildfire and invasive species ought to be the focus.

I don't have a dog in the fight. I am going to yield my time to the gentleman from Montana, Mr. Zinke.

Mr. ZINKE. Thank you, Mr. Chairman. I guess the collaborative process is an enormous effort. It takes experts sitting together at a table, and when the Federal Government, or a higher authority, intervenes and say they know best, it concerns me. It concerns me in Montana that I have talked to the Director of the BLM. Nowhere do I see what a healthy population number is in Montana, and we are talking about Montana, where the CMR is larger than most states.

So, when I don't know what a target number is, when the plan doesn't have anything constructive, other than habitat, when it doesn't address wildfire, it doesn't address predators, and yet, locally, the farmers, the ranchers, the people that live on the land have expressed a considerable desire to save the species in a constructive manner that looks at predators, looks at wildfire, looks at weather—and so, I guess my question to Ms. Clarke is that you have been around this process. Other than perhaps a taxidermy, or the Smithsonian Institute, is there an example of the sage grouse within the DC area, living?

Ms. CLARKE. I am not aware that there are any sage grouse in the DC area.

Mr. ZINKE. Well, why then would Washington, the bureaucracy, given there are no sage grouse here—in your view, why would they decide what is best for Montana or the western states, that have a deep, traditional concern for wildlife management? Why would the bureaucracy here think that they have a better management plan than the western states?

Ms. CLARKE. I think it is the culture in Washington. I think not just the agencies at Interior, but so much of Washington gets removed from reality. I think it is a matter of respect, and showing the due respect to the local people out in the West. Sometimes it is the farmers and the ranchers, who aren't scientists, that get it the best. They understand the land and the resources, and what is going on.

Mr. ZINKE. So we agree. We need more scientists and less lawyers out in the field.

But also, what is the effect? You have gone through this process much more than I. And I am a Teddy Roosevelt conservationist. I love the land, and I think species are absolutely critical that we maintain; but what is the effect of going through a collaborative process, and then disrupting that? What is the frustration and what is the effect of not having the value in respecting the process of a collaborative effort in the state?

Ms. CLARKE. Well, I think part of the response is what you are seeing from Congress. There are those who say that collaboration is not working, it is becoming heavy-handed, the state's input is being devalued, and so we have to find another solution.

We hope we can find a workable solution with or without congressional intervention. We do not need a listing. The states are incredibly capable and committed to conserving the sage grouse, the habitat. These are our homes, this is where we live. We want it taken care of, not just to avoid a listing, but because we want that land and those species to be viable for our children and our grandchildren.

Mr. ZINKE. You are an expert in this area. Would you not say that predator control, wildfire management, as well as habitat should be a part of the solution, other than just concentrating on habitat?

As an example, I sat down with the Director, and I asked him, "Why is the population—Why is it down in Montana?" He mentioned oil and gas exploration. Now, Montana is a pretty big state. In this committee I have often said Montana is between Washington, DC and Chicago, plus 2 miles.

Now, I went and reviewed how many active-duty oil rigs we have in the great state of Montana. We had one at the time. Now we have zero. So I don't think oil and gas exploration has been a significant cause of the diminishing stock. But, again, you go out to the farmers, the ranchers, those who live on the land, it is predators.

So, do you agree that we should be looking at predators, rather than cutting down juniper trees?

Ms. CLARKE. I think predators are an important issue. In Utah, they certainly are. And I do think we need better stewardship of Federal lands.

Mr. ZINKE. Thank you. Thank you, Mr. Chairman.

Mr. DUNCAN. I yield back.

The CHAIRMAN. Thank you.

Mr. Grijalva.

Mr. GRIJALVA. Thank you.

Doctor Arnett, something that I think we need to clear up in this hearing. Is it true that activities relating to existing energy leases, mining claims, grazing permits, and other existing legal arrangements will not be affected in any way by Federal land management plans now under consideration for the sage grouse conservation, particularly even in the strongholds? It has caused all this unnecessary consternation at this point. Can you explain to the committee that point?

Dr. ARNETT. That is correct, Congressman. Valid and existing rights do not apply to the conservation efforts that are ongoing. To my knowledge—and I have not had the luxury of seeing the final Bureau of Land Management plans, but the focal areas in question, I would assume, have been developed without—in areas that do not have certain valid and existing rights, I would assume.

Mr. GRIJALVA. Thank you. One quick question, Mr. Miller. Mr. Swartout mentioned that a delay is unnecessary, and that adequate conservation measures could be put in place to reach a non-warranted decision for the greater sage grouse. Do you agree that a delay is unnecessary?

Mr. MILLER. Well, Congressman, as I indicated in my statement, we still have remaining issues that we are trying to work through Interior to get to a mutual agreement on what our final conserva-

tion strategy between the state and the Federal Government should look like.

We, obviously, are running out of time. The final environmental impact statements are slated to be released later this month or early June. We don't want to sell ourselves short on time, and our ability to negotiate further with the Interior Department on these remaining issues.

Mr. GRIJALVA. OK. So, you don't know if a delay is necessary or not.

Mr. MILLER. Well, Congressman, Governor Otter is definitely supportive of an extension if we need more time to resolve these remaining issues. And, like Dr. Arnett said, if there is a need to demonstrate a track record here, there has been a delay with the release of these Federal EISs.

Mr. GRIJALVA. Would you consider significant progress as also a part of the criteria for an extension?

Mr. MILLER. We have made significant—

Mr. GRIJALVA. No, I am asking. Would that be part of the criteria?

Mr. MILLER. Well, yes.

Mr. GRIJALVA. OK. Dr. Arnett, early on, the comparison was made between the northern spotted owl and the sage grouse, and how that comparison is valid or not. How fair is this comparison?

Dr. ARNETT. I think there are definitely parallels. But it is also a very different situation. One parallel of interesting note, the biologists that I worked with for years in the timber industry warned the timber industry of the northern spotted owl in the 1970s, and it took a long time for that to manifest, until the bird was actually listed—getting back to the point about having the specter of ESA in front.

It is a different situation. Obviously, covers a broader range of conditions. And one of my feelings is that a failure in the spotted owl plan wasn't relied too heavily on a system of Federal reserves, and needed to better integrate with private lands and state lands—

Mr. GRIJALVA. The collaboration issue that we have been talking about today, states and the Federal agencies, how did that nexus work with regard to the spotted owl, or—

Dr. ARNETT. Well, it was driven by President Clinton, his forest plan and the forest summit. It came from that. Again, that generated the forest plan that was then later applied in that late successional reserve program, and then the states managed private lands. But I think there needed to be a better integration of the private sector and state lands in a broader, comprehensive strategy. That would have been helpful.

Mr. GRIJALVA. Would you compare the job, in terms of collaboration on the sage grouse process as we are now, better than or—

Dr. ARNETT. I don't think we have seen anything like what we have seen with the sage grouse issue in my career.

Mr. GRIJALVA. Thank you, I yield back.

The CHAIRMAN. Thank you.

Mr. LaMalfa.

Mr. LAMALFA. Thank you, Mr. Chairman. I appreciate this. This is also very critical in my northeast California district that borders

Nevada and Mr. Amodei's district, where the sage grouse, or otherwise known as sage hen, is quite an issue. The bi-state situation was a good sign.

The problem is, with the threat of any kind of list, some are referring to it as a good pressure. But what we have are Federal agencies that are unable to keep up with the management of their lands, whether it is BLM or the Forest Service. So, we have this proliferation of juniper, big-time, in our area here, and a listing just takes options off the table. I imagine the juniper eradication is going much more slowly because we are pussy-footing around. There might be sage hen habitat out there that is a problem, but we don't nearly keep up with the juniper or—Mr. Zinke mentioned predators, too. That is a bigger consideration we ought to be looking at. Maybe not as much in my area as his, but—all the options.

What are the things that you would actually do to really improve the situation? We move so slowly with EISs and studying and talking, and all this, when it is the farmers, the ranchers, it is the people that live in the area that actually know and understand what it takes, where the species is, what it would take to help make it a little better, you know?

I mean the regulation, the threat of listing, has gotten everybody's attention. Farmers and ranchers are willing. These landowners, the ones that are adjacent to the Federal lands, they are willing to do things. Maybe in the past there were some stiff-necked folks, I certainly get that. But they are willing to step forward and do it.

When we have these listings—as Mr. McClintock mentioned with the Yosemite toad, yellow-legged frog and all that, 2 million acres are—who knows? By the time they are done implementing their plan, their proposal, it will probably mean people can do less things in the area to manage timber, to manage the lands, to do things that would dovetail well with the species and its recovery. It will just be off limits, instead. The whole forest will burn. In the case we are talking about here, more and more juniper grows because we are afraid we might disturb a nesting grouse, instead of doing things that are going to improve it.

It is a big frustration. So, I don't think any more pressure to go through with a listing, especially since so many listings these days come from a deal cut by government with a bunch of environmental groups that have a long Christmas wish list of species they want to list, and there is no time to go through all those processes, because they take so long, so they get sued, they just cut a deal, list them anyway. That is the great frustration I see out in districts like mine and neighboring ones.

So, Ms. Clarke, again, up there in Utah, have you seen that the sage grouse are actually using the treated areas that the state is creating? Is it something—

Ms. CLARKE. It is amazing. They absolutely are. Often, they move into them almost immediately. Within months we see sage grouse moving into restored habitat. So, absolutely, it is effective.

Mr. LAMALFA. Because you have had the ability to move a little more quickly and efficiently in getting these areas set up.

Ms. CLARKE. That is right. We have a 10-year plan to go out and remove pinyon juniper throughout the state in sage grouse

management areas. We need to get past the timely problems of getting an EA done, so that we can do that on Federal land, as well. We want to work with the Feds as well as private landowners to move quickly and remove that PJ and improve habitat.

Mr. LAMALFA. So, are the Federal folks, do you feel like they are just hand-tied to be able to move things as quickly as—efficiently as—

Ms. CLARKE. Our local players in the BLM and the Forest Service are so eager to participate because they like the vision and the capacity they see in the state of Utah, but sometimes they are hog-tied by regulations. And they—

Mr. LAMALFA. So they want to do it, but they don't—

Ms. CLARKE. They are not nimble.

Mr. LAMALFA. They don't have the ability. Washington is not giving them the ability to do that by—

Ms. CLARKE. They are constrained.

Mr. LAMALFA. Yes, OK. That has to be highly frustrating for everybody wanting to do that.

Mr. MILLER, in Idaho—coming back to the wildfire piece there—I imagine you have a pretty big problem with that, as well. What success is the state of Idaho having on addressing wildfire and lessening that?

Mr. MILLER. Congressman, thank you for the question. And, real quickly here, I would say one of the most significant actions we have taken in the state of Idaho has been the creation of rangeland fire protection associations, comprised of landowners and ranchers in very remote areas of sage grouse habitat that play a crucial role in initial attack in keeping fires—

Mr. LAMALFA. Now, as we are running out of time, how is this interfacing with Federal lands, or Federal agency cooperation, or lack of? How is that going?

Mr. MILLER. Congressman, there is a lot of collaboration with these range and fire protection associations—Federal resources and state resources. These members of these RFPAs are trained pursuant to Federal and state wild and fire-fighting protocols.

Mr. LAMALFA. The Chairman is using some timber up there. I thank you.

[Laughter.]

Mr. MILLER. Thank you, sir.

The CHAIRMAN. About to throw it at you all.

Mr. WESTERMAN.

Mr. WESTERMAN. Thank you, Mr. Chairman. Looking at the photograph here of the sage grouse, it is obviously a very beautiful bird, much like the heath hen. We don't have any of those in Arkansas. Matter of fact, if we were to see one, someone might assess that a bobwhite quail got too friendly with a dominecker hen. But, although we don't have sage grouse, we do have endangered species.

Ms. Clarke, you mentioned in your testimony that people manage species and regulations manage people. Do you feel that the threat of a listing is being used to micro-manage state policies and land use decisions?

Ms. CLARKE. At this point I feel like it is—that the motivation is more to manage land, and to restrict human uses of land, rather than to manage species.

Mr. WESTERMAN. Are these efforts directed to avoiding the threat of extinction, or based on the actions of Federal regulators?

Ms. CLARKE. Well, I think it is the Federal regulators. What their motivations are, I am not going to pretend to know. But at this point, the way we assess the threats in Utah, this latest round of land management restrictions do not address the threats that the sage grouse face in the state of Utah.

Mr. WESTERMAN. And you referred to this earlier, but I have seen the same instance in my state, where the Federal employees who work for the Forest Service or Fish and Wildlife are really there on the ground, wanting to do the right thing, but yet it is regulations out of DC—

Ms. CLARKE. That is right.

Mr. WESTERMAN [continuing]. That are—

Ms. CLARKE. And sometimes it is policy out of DC.

Mr. WESTERMAN. All right. Mr. Miller, your state has been the jurisdiction of choice for groups who prefer to manage sage grouse through Federal court decisions. Has it been your observation that the litigation is making a positive difference on the ground? Or is it just more paralysis by analysis?

Mr. MILLER. Congressman, I would agree with the latter. The volume of litigation in our state regarding land use activities is high. It is significant, and oftentimes the problem is that the resource suffers as a result. When those land managers that should be out there working with the resource users and working to ensure a balance is struck between conservation and multiple-use activities, when they are stuck in their offices working on FOIA requests or trying to figure out how to address these litigation challenges, the resource suffers and the users of our public lands suffer.

Mr. WESTERMAN. As we have talked about a little bit, the Idaho sage grouse habitat is particularly vulnerable to wildfire and invasive species. Does the Governor's plan recognize and address these threats?

Mr. MILLER. Absolutely, Congressman. And, in fact, that is where our task force put the majority of their effort.

Wildfire and invasive species are the primary threats in Idaho and other Great Basin states. If we did nothing to address those threats, then this bird would be in trouble; but we do have a suite of robust conservation actions within our strategy to adequately deal with those threats.

Mr. WESTERMAN. So is it your assessment that the sage grouse is doing better on state-controlled lands or federally-controlled lands?

Mr. MILLER. Well, the majority of the habitat in Idaho is managed by the Federal Government, about 74 percent. And another 6 percent is on our state endowment lands. It is tough to tell you which—you know, the majority of the populations are on Federal land, as a result. So that is a difficult question to answer.

Our state lands are managed differently than the Federal lands. We have a constitutional mandate to maximize revenue generation on those state lands, which includes utilizing livestock grazing. Our

plan also utilizes and recognizes livestock grazing as part of the solution, from a fuels reduction standpoint. So, that is a difficult question to answer, how the populations are doing on state lands, compared to the Federal lands. But again, the user groups are part of the solution in Idaho on dealing with our threats.

Mr. WESTERMAN. Ms. Clarke, do you have any data in Utah on the state versus Federal lands?

Ms. CLARKE. No. In Utah, about half of our sage grouse habitat is on private land. And, interestingly, I don't think the Feds can conserve sage grouse on Federal lands alone, because the settlers in Utah were smart folks, and they settled prime lands that are now a critical part of the habitat of year-round live habitats for the grouse. So we have to have a landscape-level integrated plan to make it work.

Mr. WESTERMAN. Thank you.

The CHAIRMAN. Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman. Thank you all for being here. I appreciate you offering testimony and perspective.

Ms. Clarke, I apologize that I missed your oral testimony, but I did have a chance to read through your written testimony, and I see a number of statements here regarding frustrations.

Let me ask. Do you think the sage grouse—and I am sure I am asking you to repeat yourself—is worth protecting?

Ms. CLARKE. I think the sage grouse is worth protecting. I—

Mr. GRAVES. Mr. Miller?

I am sorry.

Ms. CLARKE. Go ahead.

Mr. GRAVES. Mr. Miller, I assume—

Mr. MILLER. Absolutely. Without question.

Mr. GRAVES. OK. All right, I—

Mr. MILLER. No question.

Mr. GRAVES. Great, thank you. In reading this, it seems that there appears to be some frustration. I don't want to put words in your mouth, but the disconnect, perhaps, between the Federal Government coming in and taking a one-size-fits-all approach, as compared to giving you the ability to develop more prescriptive plans in your states to manage these species.

Ms. Clarke, in your written testimony, there is a dichotomy developing between the state of Utah's collaborative planning process and growing Federal unilateralism. It is becoming increasingly imbalanced and adversarial. Results have been stunning and directly contradict the recent gloom and doom predictions concerning sage grouse. Of course, that is pertaining to the efforts that Utah has undertaken.

Then, last, you are experiencing numerous frustrations working with the Federal land management agencies. Federal agencies are focusing most of their effort on finding new ways to regulate human activity, relentless efforts to force more standardized and irrelevant mandates on the use of land not only threatens the conservation of species, but unnecessarily imposes hardship on the hardworking citizens of the West.

You have indicated your willingness and your belief that the species should be protected. It sounds like, in this case, that the state believes that it can develop a more prescriptive approach that may

result in better results than, again, the one-size-fits-all approach of the Federal land management agencies. Is that accurate?

Ms. CLARKE. That is absolutely true.

Mr. GRAVES. Mr. Miller, do you care to offer any additional comments in regard to that line of questioning, and the ability of the state to develop a tailored plan, based on your actual habitat, as compared to having the Federal Government come in?

Mr. MILLER. Yes, Congressman, and I will read the first sentence of my closing paragraph.

Mr. GRAVES. Yours is a little thicker; I didn't get all the way through it.

Mr. MILLER. "The state of Idaho holds to the notion that local collaboration, local ideas, and local efforts garner the greatest results." We believe that we have done that through our collaborative planning effort. Our local scientists have done one heck of a job in Idaho on providing us with the necessary data and the conservation actions necessary to conserve this species in concert with our multitude of land use activities in the state.

Mr. GRAVES. Thank you. Ms. Clarke, your perspective is unique, in that you have had both Federal and state experience. I am sure that must be very helpful in your efforts here.

Mr. Chairman, I can't help but think I have seen this before, and I am not real sure where, but a situation where the states and the Federal Government probably have the same objective in regard to the sustainable management of species, where the states can develop more tailored plans that are better equipped, based upon their constituents and the habitat that they are specifically facing, yet the Federal Government is coming in and managing unilaterally.

Mr. Chairman, I can't tell you how much I appreciate you having this hearing today. I can't tell you how much I agree with you that this is exactly how species should be managed. And I just want to congratulate you for your great work. Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you, Mr. Graves. As you leave, maybe we can get some sage grouse down in Louisiana, so you can complement that with the red snapper. Is that what you are talking about?

Mr. GRAVES. That is right. For those that aren't drawing the parallels, that would be with red snapper. Thank you.

[Laughter.]

The CHAIRMAN. I got it, yes. OK.

Mr. Newhouse.

Mr. NEWHOUSE. We did draw the parallel, thank you. Thank you, Mr. Chairman. Thank you all for being here this morning. Very interesting testimony, and appreciate your taking the time to enlighten us.

Particularly, Ms. Clarke, I found your testimony interesting, considering your background, your work at the Federal level and now at the state level. I think I could get from your testimony the feeling of being burdened by regulations toward your efforts at saving the greater sage grouse.

I live in central Washington. In my district we have the Yakima Training Center, which is a 327,000-acre training site for our

military. Of that, there are 77,000 acres that are currently designated sage grouse protection area. The Army has already taken various steps and spent a lot of money to operate in a manner that minimizes its impact on these species, things like seasonal management and habitat protection.

If ESA further, under a listing, would further impact and, really, take a lot of the training center out of being operable, and very severely limit its ability to carry out its mission. So, with that kind of a perspective for me, I would like you to elaborate, Ms. Clarke, a little bit further on your testimony that Federal regulators' focus is increasingly unilateral and somewhat dismissive of the state conservation action.

Ms. CLARKE. I think it goes back to my statement that I really don't believe regulation is going to conserve the species, and that is at the core of the listing. It is a very severe regulatory move. I appreciate the members of the panel here and their general agreement that we don't have to go there.

But we are starting to see this regulatory heavy hand on the plans of our Federal partners, and that is the BLM and the Forest Service. I have great concerns that those plans may become so detrimental to our ability to access, enjoy, and utilize the lands in our states, such as Yakima, that the plans may be, in fact, more dangerous than a listing.

So, what we are all struggling for right now—and it is what I have heard from my companions here—is that we are holding out hope that we can negotiate with the Department of the Interior and with the Department of Agriculture and the Forest Service to get to a point where the plans are responsible, that they acknowledge that the states have a very significant role in conservation, and that, together, we don't need to list; but we don't need to shut down the public lands, either.

Mr. NEWHOUSE. I appreciate that. And I was trying to scribble down your quotations, if I can use that at some point, with your permission.

So, further question for you, Mr. Miller. I think everybody on the panel has brought up in some reference to wildfire prevention, suppression, restoration as keys to protecting the greater sage grouse.

You may or may not know that this committee has been working hard to spearhead efforts, legislation that will help support states in targeting wildfire prevention. So, in your view, what is the ideal role of the Federal Government in wildfire mitigation? And how do these efforts tie in with supporting ongoing state-level sage grouse protection measures?

Mr. MILLER. I appreciate that question, Congressman, and it truly comes down to a collaborative, and recognizing where we can come together to do the most good on the wildfire front in Idaho and other Great Basin states.

I do appreciate the Secretary of the Interior releasing a Secretarial Order on wildland fire in, I believe, February of this year that redirects resources and prioritizes activities in sage grouse habitat. Of course, human life and property is always a priority. But now, the Interior Department has allowed sage grouse to be a priority within their wildland fire-fighting system.

So, it truly is a partnership with the Federal Government. We have a vast landscape in Idaho, predominantly managed by the Federal Government. So I do appreciate the Interior Department taking that step forward to reprioritize their actions in sage grouse habitat on Federal lands.

Mr. NEWHOUSE. Thank you very much. Too short a time. So, thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you. Crescent, we did it.

Representative Hardy.

Mr. HARDY. Thank you, Mr. Chairman. I almost feel guilty going ahead of Mr. Tipton. In Nevada, 15 of the 17 counties are—sage grouse is involved in those areas. I guess this would both go to Ms. Clarke and Mr. Miller. With the process of knowing that, let's see—165 million acres of land are basically sage grouse range throughout the West, and 64 percent of that is Federal lands. In the state of Nevada, it is 17.6 million acres, and 87 percent of that—

Ms. CLARKE. Is Federal.

Mr. HARDY. From my standpoint, I have some real challenges. I grew up in Nevada my whole life, and have watched what has happened throughout the state with the growth of the pinyon juniper and the lack of—or the mismanagement of what I call the Federal Government and what they are doing.

Ms. Clarke, in your testimony you talked about you guys actually clearing the pinyon juniper. That is on state or private lands, is that correct?

Ms. CLARKE. That is on whatever lands need the treatment. We look at the landscape and we work with all partners and landowners.

Mr. HARDY. You were able to clear Federal lands?

Ms. CLARKE. Yes, where they have the appropriate NEPA, we have gone ahead and cleared lands.

Mr. HARDY. Where they had the appropriate NEPA. Have you had any challenges being able to clear Federal lands?

Ms. CLARKE. Yes. If they are not NEPA-cleared, we can't touch them.

Mr. HARDY. Thank you. In Nevada none of that land has been touched with any type of clearing process, to my knowledge, to date. And I have been over that state many times throughout my life—hunted sage grouse. Do you see any correlation between these clearing areas and your private areas? Because what I see when I travel throughout the state—and even Utah—hunting, I see that these private lands actually hold greater amount of sage grouse than the so-called Federal lands, public lands. Do you see any of the same—

Ms. CLARKE. Absolutely. The Deseret Land and Livestock is a beautiful example in northern Utah. That is a privately managed area. Sage grouse populations thrive; they have robust grazing. It is an area that has had oil and gas activity. So, it is land that is stewarded. We need more stewardship on public land.

Mr. HARDY. I agree. With that being said, another place I have been a number of times is the Kennecott Copper Mine.

Ms. CLARKE. Yes.

Mr. HARDY. Which is, without question, I think, one of the largest mines in the United States. It has large amounts of wildlife:

sage grouse, deer, all kinds of elk, everything; and it is because it is managed. It is mined, but it is managed, and they do well there.

A question I have for you, Ms. Clarke, with your experience being in the state and the Federal level, is there anything that has changed in this Administration from when you were there?

Ms. CLARKE. I have found that this Administration has curtailed access to public lands in a pretty dramatic way. Early on in this Administration there was a paper that was leaked that suggested that they wanted about half of the BLMs in conservation status, about half of the acreage. Through various means, it seems we are getting there.

I am concerned that a listing would certainly take more of that land out of play, but so would severe land use plan restrictions. So, it is a troubling pattern that I have seen.

Mr. HARDY. Is there anything you see that we can do, legislatively, to fix the problem between the states and the Federal Government?

Ms. CLARKE. I would love to see the Federal Congress take a good, hard look at the regulatory process in the agencies. I think right now they run pretty much with a free hand; and I think some of these regulations that have such tremendous impact should have to come before Congress and be approved, rather than be allowed to be adopted by the agency.

Mr. HARDY. OK. Mr. Miller, just one quick question for you. Can you elaborate on your rural fire districts in Idaho, and how that was established to fight wildfire on the range, sage grouse habitat?

Mr. MILLER. Yes, sir. There was legislation by the Idaho State legislature that set up these rangeland fire protection associations, and for years there had been problems, mainly a liability issue with having ranchers and other landowners on the fire line on Federal land. Through a partnership with the Federal Government now, we do have ranchers that are trained pursuant to these protocols, that can play an active role in initial attack and anchor these fires a whole lot better and a lot faster, oftentimes, than the agencies can.

Mr. HARDY. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. I appreciate the opportunity to be with the committee. I would like to thank our panel for taking time to be able to be here. Great to see a fellow Coloradoan, Mr. Swartout, here, as well.

Incredibly important issue, I think, for the state of Colorado and for the western United States. A blanket question for all four of you: What is the number that the Department of the Interior has established as recovery for the greater sage grouse?

Ms. Clarke?

Ms. CLARKE. I am not aware that they have given us a population number. The state itself has objectives, but we have not been given a goal.

Mr. TIPTON. Mr. Miller?

Mr. MILLER. We have not seen a population objective from the Federal Government.

Mr. TIPTON. Mr. Arnett?

Dr. ARNETT. That has not been established by the Federal Government. It should be established by the state agencies. Some have population objectives and some don't.

Mr. TIPTON. Mr. Swartout?

Mr. SWARTOUT. No, we haven't seen a number from the Federal Government; but our biologists work on thresholds of what they think the carrying capacity of the land is, trying to improve that, and move trend line numbers up in an upward direction for the sage grouse.

Mr. TIPTON. Well, you are joined by Secretary Jewell. Before this committee, when I asked her the question, they don't have an identifiable number. Wouldn't it be a good idea, if we are going to actually have recovery, to be able to have a number when we know that we win?

But I have a greater problem, as well, and I think that you have spoken to this in some of your testimony, when we have 11 states that are going to be included in designation of the sage grouse for critical habitat. If we have full recovery, Mr. Swartout, in the state of Colorado, if we had a number—which we do not, because the Department of the Interior has not established that—but if we did have full recovery, would we still be listed in the state of Colorado?

Mr. SWARTOUT. Congressman Tipton, I am not sure I understand the question. Would—

Mr. TIPTON. With an 11-state listing, where we are all grouped in with 11 states, if we get full recovery in the state of Colorado, if we had a number—which we don't—we wouldn't be taken off listing, would we?

Mr. SWARTOUT. No, not likely.

Mr. TIPTON. Does that make good sense to you?

Mr. SWARTOUT. No. But I would say, Congressman Tipton—and I compliment you on your long efforts on these issues in working with the Governor and our two great Senators from the state of Colorado in a proactive way on these issues—that the key to this is our landowners in Colorado, many of whom are your constituents, as you know. These landowners have taken unprecedented amount of effort to allow our scientists from Colorado Parks and Wildlife to come on their property and actually track these birds, so that we have a good sense of the management actions that are most effective in dealing with trying to bring these species back.

Mr. TIPTON. At the state and at the local level.

Mr. SWARTOUT. Right.

Mr. TIPTON. Let's talk a little bit about science, since you brought that up. You went and did a scientific survey. Did you expand or decrease the estimated acreage that the Federal Government is suggesting becomes critical habitat?

Mr. SWARTOUT. I think, as we went from the national models that measure vegetation and other things, and developed through an enormous investment from the state of Colorado in science, we have been able to actually—

Mr. TIPTON. So was it greater or less than what the Federal Government was—

Mr. SWARTOUT. It is less, Congressman.

Mr. TIPTON. It is less. That has been supplemented, hasn't it, in counties like Garfield County, to where they actually make massive

reductions in what was going to be critical habitat, simply because the terrain wouldn't support the population? Is that accurate?

Mr. SWARTOUT. Yes. Our Colorado Parks and Wildlife—

Mr. TIPTON. So the Federal Government has faulty science that they are trying to use when they are getting ready to try and impose a listing of the sage grouse.

Mr. SWARTOUT. I wouldn't call it faulty science, Congressman.

Mr. TIPTON. Aspirational science?

Mr. SWARTOUT. I would say that they are taking a broader model; and what the state does, often in partnership with them, is put it on the ground and actually measure what the behavior of these—in this case, sage grouse—to better inform our management decisions on what actions have the highest leverage to keep the trend line moving up for the species—

Mr. TIPTON. But there seems to be pretty much consensus on this panel that those local conservation efforts, the state conservation efforts—Ms. Clarke, you were pointing specifically, I think, in some of your comments also, we are seeing private property rights now being infringed on in regulatory fashion by the heavy hand of government coming in.

But we ought to be able to give these an opportunity to be able to succeed. We have some legislation that I am co-sponsoring. Mr. Stewart on this committee is carrying a companion piece by Cory Gardner out of Colorado to be able to allow our state efforts, our local efforts, to be able to develop over a 6-year period, to be able to actually revive the species. Would that, just in a conceptual basis, would that be an admirable goal for us to really reach for, when we are talking about legislative solutions?

Mr. SWARTOUT. As I said earlier, Congress has every right to pursue working with their constituents.

The CHAIRMAN. You are out of time. Say yes in 2 seconds.

Mr. SWARTOUT. Yes.

The CHAIRMAN. Thank you.

[Laughter.]

The CHAIRMAN. All right.

Mr. Hice.

Dr. HICE. Thank you, Mr. Chairman, and thank you for holding this hearing. For each of the witnesses again, I, as my other colleagues, thank you for being here.

I am a Member from the state of Georgia. And, obviously, my district is not directly impacted by the sage grouse, but certainly all of us are impacted in various ways from the Endangered Species Act and so forth.

Ms. Clarke, let me begin with you. You have provided some contrast between natural threats and the human impact of rural development, oil, gas, some of these other things, drilling. As it relates to the U.S. Fish and Wildlife Service and the Bureau of Land Management, do you believe that the focus has been on the most important challenges of the sage grouse conservation?

Ms. CLARKE. In Utah, I do not believe the Federal plan is focused on the most important issues. More importantly, it is not focused on solutions to deal with those threats—the main ones in Utah, fire and invasives, pinyon juniper and sagebrush—or, excuse me, not

sagebrush—grass, cheatgrass. Cheatgrass is terrible, problematic, terribly problematic.

Dr. HICE. OK. So are you saying then, the natural threats are the greatest threat?

Ms. CLARKE. Yes, absolutely.

Dr. HICE. OK. What significance would you say is human threat?

Ms. CLARKE. Well, in the state of Utah we did a very careful analysis, and it is about 3 percent.

Dr. HICE. OK. So a fairly insignificant—

Ms. CLARKE. Very insignificant.

Dr. HICE [continuing]. Amount, all together. All right. Let me expand this to each of you a little bit more.

One of the legal requirements of NEPA is that participation by the states and the public must be meaningful in order to provide the Federal Government the best information possible that they need for actions that impact the environment.

With that in mind, do you believe that your states have had the best chance to have meaningful participation in land use under NEPA? And we will just kind of go down the line with this.

Ms. CLARKE. We have had a lot of participation, a lot of exchange. I think sometimes we are heard, but nothing changes as the Feds listen to our perspective. So we have had some very good experiences and some very disappointing ones. As this has evolved, we feel like it is becoming much more federally driven, and less of a partnership.

Dr. HICE. OK, Mr. Miller.

Mr. MILLER. Yes, Congressman. I believe that our collaborative effort has been very, very strong in Idaho, and we have had that high level of participation with the Idaho BLM, local Fish and Wildlife Service and the Forest Service. We have been at the table, as cooperators, with our cooperating agency status. As a result, we have built a pretty robust and solid plan to conserve this species.

Dr. HICE. If we can go rather quickly, I have another question I want to put out to you.

Dr. ARNETT. Well, very quickly, I don't represent any one of the states. But, broadly, I would say that the vast majority of the state plans that I have personally reviewed have been developed with stakeholder input, but without public review process, as is NEPA, and that is a little bit of a different situation.

Dr. HICE. OK, good point. All right, thank you.

Mr. SWARTOUT. Congressman, I would call the effort unprecedented with our local governments and other stakeholders, and with the two Federal agencies. It has been unprecedented, in terms of the amount of work and effort that our folks have put into it, working with the Federal Government.

And, as I said in my testimony, are these processes difficult? Absolutely, they are; but we feel that we have been given adequate ability to comment and work with the Federal Government toward what we hope is a balanced solution.

Dr. HICE. OK. I think my time is going to expire here real quickly. I will go back, Ms. Clarke, to you.

As far as the flexibility between state plans and the Federal plans, what is the comparison?

Ms. CLARKE. I think the states can be much more nimble and adjust quickly. Federal plans, once in place, are very, very difficult to modify. Going through plan amendments can take years.

Dr. HICE. Can they override the state plans?

Ms. CLARKE. On Federal land, absolutely.

Dr. HICE. OK, thank you very much.

I see my time is about to go, Mr. Chairman. Thank you, and I yield back.

The CHAIRMAN. Thank you. All right. I get to ask some questions now, and they have to be brief answers. I have to get out of here, too.

So, just simply yes or no. Ms. Clarke, does the Utah plan deal in some way with wildfire?

Ms. CLARKE. Yes.

The CHAIRMAN. Idaho plan? Does it deal with wildfire?

Mr. MILLER. Yes, sir.

The CHAIRMAN. The Colorado plans, do they deal with wildfire?

Mr. SWARTOUT. Yes.

The CHAIRMAN. Thank you. All right. So, Ms. Clarke, in the Utah plan, does it maintain the status quo or actually increase the amount of habitat?

Ms. CLARKE. It increases habitat and populations.

The CHAIRMAN. All right. So, even the Secretary and the Interior Department say they don't want to list the sage grouse; so none of us are talking about listing as the goal.

There is also some kind of concept here, when we are talking about delaying listing. I just want to be very clear that the legislation that was actually passed by the House the other day doesn't delay listing of the sage grouse. It actually implements the state management plans of the sage grouse. It is an entire difference.

There is also a difference here. Mr. Miller, you mentioned this, too. If, indeed, it is listed or not, if BLM or the others come up with a regional management plan that has this criteria for the sage grouse, whether it is listed or not, that is a moot issue, then, isn't it?

Mr. MILLER. Yes, sir.

The CHAIRMAN. And your concern is that they are going forward with this without consultation.

Mr. MILLER. Well, at a high level, sir, the top-down directives still need to be vetted and worked out with the state.

The CHAIRMAN. So, if those regional management plans were then taken into account, it wouldn't matter whether the bird was listed or not. It would be the same net effect, which is the concept of why we are dealing with those issues, especially in the NDAA.

Mr. Swartout, last November Governor Hickenlooper called the sage grouse Gunnison listing "discouraging, and complicates our good-faith efforts to work with local stakeholders on locally driven approaches." What did Colorado do about that issue?

Mr. SWARTOUT. We have continued to work with our coalition of counties and—

The CHAIRMAN. Now, come on. What did you do?

Mr. SWARTOUT. Oh, I am sorry.

The CHAIRMAN. You sued.

Mr. SWARTOUT. We filed litigation.

The CHAIRMAN. OK. You sued.

[Laughter.]

Mr. SWARTOUT. Sorry.

The CHAIRMAN. That is the concern I have. Gunnison sage grouse—if the hope is that eventually the Federal Government will actually work with the states and work fairly—the Gunnison sage grouse does not give me a whole lot of warmth that that actually will take place.

Ms. Clarke, a 6- or a 10-year period of time to try and evaluate the effectiveness of the state plan, do you need time to see if these plans work or not?

Ms. CLARKE. Given the cycle of the bird, absolutely. You are not going to see the total effectiveness for a period of—

The CHAIRMAN. So, in Utah, at least, from 2007 to 2013, there was a decline in the population of the bird, we say, which has been quoted by a lot of special interest groups. But if you go back to 1968 and use that as the base, our population is—

Ms. CLARKE. It is on the rise.

The CHAIRMAN. Like about 350 percent higher than it was—

Ms. CLARKE. Yes, absolutely.

The CHAIRMAN [continuing]. Back in 1968?

Ms. CLARKE. It is stunning.

The CHAIRMAN. Which is one of the reasons why, in the plan, once again, in the NDAA, to allow the state plans to have 10 years to work, so you find out if it does work without BLM putting other regional management plans and taking away the actual application of litigation.

Ms. CLARKE. Correct.

The CHAIRMAN. OK. I am running down here as quickly as I can.

Since my language in the military bill has been called into question by a few people, let me state that for you, the states who don't think the Federal Government has been in consultation with you, feel yourselves lucky they have done what you had, because the military is stating that they do have a problem with the potential listing of sage grouse on their ranges. And they will clearly tell you the Fish and Wildlife Service has done no consultation at all with the military, which is why they are caught unaware.

Mr. Newhouse is correct. His range is spending \$1.5 million a year to conserve and protect 250 birds, 80 of which were brought in from Idaho. And that is why every branch of the military said this is a concern. It is a military issue. There has been no consultation with Interior as to what will happen on the military issues, even though it was supposed to take place. So, if you compare yourselves to the Department of Defense, you guys have been blessed with all sorts of consultation.

But the question is, where do we go forward? Is there a possibility that the Federal Government will supersede your plans? And that is the question, and that is why you are here to talk about what the states can do. I think each of you has shown, in your individual states, the states are prepared, they are ready to move up; and, if we are going to be successful on this issue, we have to think things differently than we have done in the past, and that is why it is extremely important that the states be allowed to go forward with their plans. I appreciate your testimony here.

I am showing you how to do this. I have 26 seconds left, and I yield back my time. A second round of questioning for anyone who has it.

Mr. Grijalva.

Mr. GRIJALVA. Thank you very much, Mr. Chairman. Let me, if there is no objection, place into the record this statement from the Department of Defense. Mark Wright, their spokesman, essentially indicates, "While some of the management actions we have instituted have necessitated changes in when and how we use certain areas of our installation—especially during breeding season—none have resulted in unacceptable limits on our military readiness activities," and it goes on.

[The remainder of the statement from Mark Wright, DoD submitted for the record by Mr. Grijalva is as follows: "Because we have already undertaken these actions voluntarily, and expect to need to manage for the sage-grouse indefinitely, we do not believe the listing decision—regardless of the outcome—will affect our mission activities to any great degree."]

Mr. GRIJALVA. I want to ask Mr. Arnett. Some of the comments that were made, maybe you could comment quickly on them. Is the heavy regulatory hand of the Federal Government, some of the conclusions, the lack of cooperation with states, and human development not a threat to the sage grouse, only natural threats. State, Federal, and local have worked on collaborative efforts. Do they take into account other threats? If you could, sir.

Dr. ARNETT. Certainly. The depiction of wildfire and invasive species being a major threat in the western portion of the range is true. There is no question. But there definitely are threats from anthropogenic disturbance, and that is a primary threat in the eastern portion of the range. That has been very well documented with a strong body of science on impacts of energy development and other disturbance.

But it can be managed. There is no question that this can be managed. We think the development of these conservation plans, by defining where conservation areas need to occur, and development areas need to occur, it can be managed. In fact, some of these focal areas and the core habitats are mostly outside of oil and gas reserves, to the best of my knowledge.

I would like to point out one thing that I have heard a lot about, the top-down approach and the last-minute nature of this. Keep in mind that these were draft plans that we all commented on through a public process. The Federal Government has addressed those comments, and they are addressing it based on the science. So, whether some of these things were vetted with the states, and at what point in time, I am not clear on; but there was a public review process, and the BLM has yet to release final plans. They have to address those public plans, and ultimately, they have to address the science.

Mr. GRIJALVA. Mr. Arnett, it seems the underlining theme, the efforts, legislative proposals, both at the Federal and state level, would give away the authority to manage U.S. public lands to the states. Do you believe it is sound policy to go in that direction? Do the states have the resources to adequately manage such land, that

much land? And how would such a policy set back the topic today, which is the sage grouse and other species, in terms of the future?

Dr. ARNETT. Well, another thing to keep in mind, the state plans, again, were developed under the mandates of state plans. Most states can't regulate private lands, and they have a mandate, as Mr. Miller pointed out earlier, to maximize revenues on state lands. So, they were developed in a different context. I agree that the states can be more nimble, but they were all developed under a different context.

I think the Federal plans are an important component of this. As I said, it is not one or the other, it is all of the above.

Mr. GRIJALVA. Thank you. And if I may, Mr. Chairman, my experience back home in Tucson, where I was a county commissioner, was the pygmy owl. It was listed as a threatened species. A lot of pressure. Everybody in the community was screaming that the sky was going to fall, and that this pygmy owl was the end of growth, development, and ruining the economy of the county of Pima.

With collaboration with Fish and Wildlife, Forest, and other Federal agencies, a management plan was developed with the county and accepted. The consequence has been that you have managed growth, and detailed managed growth, as to how the county grows. You have two bond elections that have been passed overwhelmingly by the public to continue to pursue and purchase open space to continue to preserve the corridor, the habitat corridor, for the pygmy owl.

I mention that because it was a collaborative effort, but that there was a regulatory guidance and a listing that prompted local government and state government to begin to work in earnest with the Federal Government to come up with an acceptable plan. That was the impetus; and, without an impetus, I don't see this happening. Thank you, and I yield back.

The CHAIRMAN. OK. Before I recognize Mr. Tipton and ask Mr. LaMalfa if he will take the chair for a second—let me, because I have to run here, thank all four of you for actually being here and taking the time to testify.

Mr. Grijalva asked for unanimous consent for a statement by a DoD spokesman. Anybody is a DoD spokesman—I even have a military fellow here who could qualify as a DoD spokesman. And I won't put in the slides that the Army, Air Force, and Navy gave us when they told us this is a problem, nor will I put in the record the statement on the Army in which they asked not to have this provision taken out of the NDAA. But that is beside the point, isn't it?

Before I actually—let me thank you for being here one more time. I apologize for leaving you very quickly, but I am late for another engagement. I just appreciate your testimony.

Mr. LaMalfa, you will take over. And, Mr. Tipton, you are recognized for questions.

Mr. TIPTON. Thank you, Mr. Chairman. I did appreciate, by the way, your amendment to the NDAA. Statistics show we have 35 different Army installations that are going to be impacted. The Air Force, Navy, Marine Corps have a combined 12 installations, and they are continuing to work to be able to actually resustain that habitat, and be able to grow the population of the sage grouse.

When we look at the Yakima Training Center, they have significantly improved the numbers and genetic diversity in the Columbia Basin, based off of their own studies.

I just have just a couple of follow-up questions. I think Mr. Swartout can probably have some empathy for this. In the state of Colorado, we have two very diverse economic situations. We have pockets of prosperity in our metropolitan areas; but in the third congressional district that I represent, we continue to see a real unemployment level that, in far too many of our counties, happens to be double-digit.

But we also have responsible energy development. I put forward legislation, "Planning for America's Energy Future Act," which literally calls for all of the above.

Mr. Arnett, a statement that you have made caught my attention, saying that all valid and existing rights in regards to responsible energy development will be respected with a listing. Does that imply that there will be no expansion?

Dr. ARNETT. Expansion of?

Mr. TIPTON. Of any other development rights.

Dr. ARNETT. My understanding, as part of the development of these conservation plans, any existing valid and—

Mr. TIPTON. But no new ones.

Dr. ARNETT [continuing]. Will be honored.

Mr. TIPTON. If it hasn't already been identified, or somebody hasn't filed, nothing new will be added. Is that correct?

Dr. ARNETT. It would be managed according to what the—

Mr. TIPTON. So if something is withdrawn, then that is lost.

Dr. ARNETT. Something has been withdrawn—

Mr. TIPTON. Nothing new?

Dr. ARNETT. I can see some of those kinds of stipulations. There will be stipulations as part of the plan.

Mr. TIPTON. So that—

Dr. ARNETT. For non-existing valid—

Mr. TIPTON. That could potentially have a very negative impact in a suffering economic region in the third congressional district. Couldn't it, Mr. Swartout?

Mr. SWARTOUT. This is part of the balance that we are trying to achieve by having local government participation in these plans, and many of the counties that you represent, as part of your congressional district, as you know.

I think the more critical issue is the interplay of both Federal and state and private lands. One of the things we worked really hard on with the BLM in our plan was to make sure that if they weren't allowing the activity on Federal land, we weren't pushing it onto private land, where it would have even a bigger impact on the grouse. So we worked tirelessly with Colorado Parks and Wildlife and our counties to figure out a mosaic—a holistic approach that avoided areas with sage grouse, and tried to put the impacts where it would have the least impact on the sage grouse. That is what we are struggling to maintain in these plans that we sent to Washington, DC, and that is where the tension is.

Mr. TIPTON. I do want to let you know I appreciate your efforts and the Governor's efforts in regards to standing up for these rural areas, and understanding a lot of the challenges that we face.

I would like to extend this out. Ms. Clarke, maybe you can speak to this. When we start talking about regulating private land—I think Mr. Arnett had just noted that states don't have the right to regulate private land. Thank God. If we have this plan implemented, let's say we have a resource that we can responsibly develop on private land. If we have listing, private land is encompassed in on this. Could that resource, that family's fortunes, and the jobs that could be created, could those be perhaps unintended consequence of not being able to be developed?

Ms. CLARKE. They certainly could be, depending on the way the critical habitat is designated; but once listed, they are listed on private and public lands. So doesn't matter.

Mr. TIPTON. Well I appreciate, again, all of you taking time to be able to be here. I think that our common ground is this: We would like to make sure that the right thing is done, that we are able to rehabilitate the species. I appreciate very much the comments that were being made, that the efforts like we are seeing in Colorado, the private-public partnerships on the ground, are yielding some of the best results. We hope and encourage the Department of the Interior to be able to recognize that, and to be able to work with us, and to be able to protect our private-sector jobs in communities right now that are suffering.

Thank you so much, and I yield back, Mr. Chairman.

Mr. LAMALFA [presiding]. Thank you, gentleman from Colorado. The gentleman from Idaho.

Mr. LABRADOR. Thank you, Mr. Chairman. We started this hearing, I guess, talking about the dodo bird. Does anybody know when the dodo bird became extinct?

Dr. ARNETT. Long time ago.

Mr. LABRADOR. Long time ago. It was, I think, late 1600s, early 1700s. And, apparently, society has not been able to thrive since the dodo bird became extinct, right? We have had no progress in life or in humanity since then. Obviously, I am being a little facetious; but this is a very important hearing today. I want to thank you all for being here.

Mr. Miller, in 2011, when Secretary Salazar invited western states to partner with the Federal Government to work on solutions related to sage grouse, how did Governor Otter respond?

Mr. MILLER. Congressman Labrador, Governor Otter is a states rights advocate. So he said, "This worked very well with our Idaho Roadless collaborative; I am going to do the same thing on sage grouse." So he set up a very diverse, 15-member task force to advise him on recommendations necessary for incorporation into a plan that would address the needs for sage grouse, balanced with the economic vitality of our state.

Mr. LABRADOR. What are the Governor's concerns about the recent top-down direction that has come from the BLM's national office?

Mr. MILLER. Congressman, for quite some time we were moving down a very good path with our local Federal partners. We developed a very strong strategy blending the two co-preferred alternatives, the Governor's alternative and the BLM's internal alternative.

We thought we were about to cross the finish line together, until in January of this year, the national BLM office imposed national direction on all BLM planning units that included the carve-out of sagebrush focal areas across 16 million acres of priority habitat in the West, of which 3.5 million acres are in Idaho. It is a carve-out of our core habitat areas. The Interior Department included a new, more restrictive rule set for management of land use activities in those focal areas.

What is concerning to the Governor is that that was never negotiated or vetted with the state or his task force. We thought we were there, like I said, Congressman, but this last-minute top-down directive on these sage grouse focal areas stands to erode this strong partnership that we have developed.

We are hopeful we can get there with Interior. As I said earlier, there is a willingness from individuals in the Interior Department and the national BLM office to continue working through these remaining elements with us.

Mr. LABRADOR. So were you under the impression from the Federal agencies that you were working with, that if the state produced a thoughtful plan, that it would be a preferred alternative?

Mr. MILLER. Yes, sir.

Mr. LABRADOR. OK. In 2013, Fish and Wildlife Service's Idaho State Supervisor Brian Kelly wrote a letter to Governor Otter in which he stated that, "Our review revealed that the four foundation elements of the strategy—habitat zones, conservation areas, population objective, and adaptive triggers are consistent with the conservation objectives team, as is the livestock grazing management element." What were your expectations after seeing this letter?

Mr. MILLER. Congressman, that further validated our conservation planning efforts. The COT report does represent the goalpost, what we are shooting for. It contains a suite of conservation objectives that allows the states and the local planning units to develop those strategies to achieve the goalpost there. That letter from the Fish and Wildlife Service was an indication that we were almost there, that we were developing a—

Mr. LABRADOR. So your expectations were that your plan would be approved, correct?

Mr. MILLER. Yes, sir.

Mr. LABRADOR. And have those expectations been met?

Mr. MILLER. They have been met at the local level, sir, with Idaho BLM and Fish and Wildlife Service in Idaho; but not at the national level.

Mr. LABRADOR. So a final decision, you are not sure it is going to go along with what you expected.

Mr. MILLER. That would be accurate.

Mr. LABRADOR. Does the state of Idaho have the capacity to manage sage grouse?

Mr. MILLER. Absolutely, sir.

Mr. LABRADOR. Do Fish and Game and OSC have the proper biologists, scientists, and other policy staff?

Mr. MILLER. Absolutely.

Mr. LABRADOR. Do Fish and Game and OSC have the support of the Governor and the legislature to properly manage the species?

Mr. MILLER. Yes, they do.

Mr. LABRADOR. OK. So what would you like—as your last opportunity to tell the Federal Government, what would you like us to know?

Mr. MILLER. I can't emphasize enough the value of the collaborative and the partnership used in building our strategy. We had industry, conservation partners, local and state-elected officials advising the Governor, along with state and local Federal agencies on developing a robust strategy for conserving the species.

We feel we are there. We just need to overcome these last-minute obstacles with the Interior Department.

Mr. LABRADOR. Thank you very much. I yield back.

Mr. LAMALFA. All right. Thank you, gentleman from Idaho. I ask unanimous consent to enter into the record the testimony of the Western Governors' Association.

[No response.]

Mr. LAMALFA. OK.

[The prepared statement of the Western Governors' Association follows:]

PREPARED STATEMENT OF JAMES D. OGSBURY, EXECUTIVE DIRECTOR,
WESTERN GOVERNORS' ASSOCIATION

Mr. Chairman and members of the committee, I appreciate the opportunity to submit written testimony on behalf of the Western Governors' Association (WGA) in connection with the oversight hearing on "Empowering State Management of Greater Sage-Grouse." My name is James D. Ogsbury and I am WGA's Executive Director. WGA is an independent, non-partisan organization representing the Governors of 19 western states and 3 U.S.-flag islands.

Western Governors support implementation of reasonable management efforts to conserve species and preclude the need to list species under the Endangered Species Act (ESA). Western states proactively work on species conservation and possess knowledge and experience to manage species within the region. This is particularly true with the greater sage-grouse, a bird found in 11 western states—California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming—that is a candidate for listing under the ESA.

All 11 greater sage-grouse states have developed state conservation plans for the bird and invested millions of dollars in conservation and research. Western Governors appreciate this forum for states to highlight what has been accomplished through state leadership of greater sage-grouse management and to explain why states should continue in this leadership role going forward.

WGA has released an annual report of the voluntary conservation measures that states and local governments have implemented for greater sage-grouse since 2011. Our fourth annual report (http://westgov.org/images/dmdocuments/2014_WGA_Sage_Grouse_Inventory_Final_lo-res.pdf) includes conservation efforts of Federal agencies, conservation districts, industry and nonprofits, as well as states. The report's appendix (http://westgov.org/images/dmdocuments/2014_WGA_Sage_Grouse_Appendix_lo-res.pdf) is a compilation of all state and local government efforts reported over the last 4 years.

I commend your attention to the following highlights from the 2014 report:

- Colorado, Nevada, North Dakota and South Dakota either completed or updated state plans for sage-grouse conservation during 2014.
- Montana Gov. Steve Bullock issued an Executive Order in 2014 establishing a statewide greater sage-grouse habitat conservation program and requiring state agency compliance.
- Colorado, Idaho and Montana have collectively protected nearly 350,000 acres of greater sage-grouse habitat through purchase or conservation easements.
- Idaho wildlife and land agencies have spent \$4 million improving and restoring habitat.
- Utah has completed nearly 85 percent of a 560,000-acre project to ameliorate conifer encroachment in sage-grouse management areas.

- Nevada Gov. Brian Sandoval and Idaho Gov. C.L. “Butch” Otter are directing almost \$6 million toward greater sage-grouse conservation, and Wyoming’s legislature awarded approximately \$2 million for additional greater sage-grouse research.

Western Governors helped create a state-Federal Sage-Grouse Task Force in 2011 that has fostered a dialog between states and Federal land management agencies regarding management strategies, conservation tools and related policies. At task force meetings, states have clearly stated that, while conservation plans may differ from one state to another to reflect primary threats to greater sage-grouse and institutional dynamics, taken collectively the plans provide the comprehensive structure needed to conserve greater sage-grouse and their habitat. The Federal agencies on the task force have acknowledged that a diverse but cohesive approach that achieves the desired conservation outcomes can, if structured carefully, meet the requirements of ESA for a “not warranted” decision.

Conservation easements are one mechanism states are using to protect habitat on private lands. The permanency and durability of easements render them a vital part of successful sage-grouse conservation. Private landowners are central to voluntary conservation efforts, and their contributions should be given full consideration by the U.S. Fish and Wildlife Service (FWS) in determining whether to list the greater sage-grouse under the ESA. A great amount of land is being protected at a substantial cost. In Colorado, for example, over 80,600 acres of greater sage-grouse habitat has been protected by Colorado Parks and Wildlife through either fee title purchase or conservation easements at a cost of approximately \$52.8 million. The states’ significant contribution to permanent conservation is in addition to parallel work being performed by the Natural Resources Conservation Service (NRCS) through its Sage Grouse Initiative on private lands. NRCS has put more than 450,000 acres of conservation easements into place in the last 5 years. NRCS invested \$165 million, with another \$85 million in partner match, for a total conservation easement investment of \$250 million.

State conservation leadership also comes in the form of people power. Montana, South Dakota and Colorado hired staff that cooperate with the Natural Resources Conservation Service’s Sage Grouse Initiative to promote private land conservation. Nevada hired a new rangeland health program coordinator to assist landowners with rangeland health assessments and monitoring.

Moving from planning to implementation, states have invested heavily in habitat improvements beneficial to greater sage-grouse and other species dependent on sagebrush habitat. They have spent millions on improving riparian habitat, restoring habitat burned by wildfires, and removing invasive conifer trees that crowd out sagebrush.

Investments also extend to research and education. The legislatures in Idaho and Wyoming contributed \$2.5 million toward research and lek monitoring. Utah is studying lek use after juniper removal and Colorado has a research unit working on multiple research efforts.

Innovative management tools are also being utilized by states to bolster sage-grouse habitat. Nevada’s Sagebrush Ecosystem Council adopted the Nevada Conservation Credit System to offset impacts from human-caused disturbances through enhancements and protections that result in a net benefit for greater sage-grouse habitat. Extensive fence-marking and fence-removal work has been performed by states and their partners, reducing collision risk and eliminating perches for predators.

A major threat to greater sage-grouse is rangeland fire. Burned sagebrush areas take decades to recover. Utah updated its conservation plan to address wildfire and Nevada created a Wildland Fire Protection Program to provide improved access to firefighters and implement pre-suppression activities. Idaho increased its number of Rangeland Fire Protection Associations from three to five. These associations facilitate coordination between public and private partners to improve initial attack on wildfires, with faster response times translating into reductions in acres burned.

All of this is only what states have accomplished through the end of 2014; much more is planned for 2015 and beyond:

- Montana Gov. Steve Bullock recently signed into law the Montana Greater Sage Grouse Stewardship Act. The bill establishes an oversight team and calls for conservation easements and a conservation fund. The state is hiring five new employees to oversee its sage grouse program.

- Nevada Gov. Brian Sandoval requested legislative approval in his FY15–17 biennial budget for over \$5.1 million for Sagebrush Ecosystem Program efforts, including a commitment of \$1 million each year for critical habitat protection and restoration projects in sage-grouse management areas.
- Washington Department of Fish and Wildlife is working with the FWS and agricultural and livestock operators to develop a Candidate Conservation Agreement with Assurances (CCAA) for greater sage-grouse.
- Idaho is conducting numerous research projects and adding another Rangeland Fire Protection Association.
- North Dakota will complete a fully funded cooperative monitoring project and provide recommendations on best management practices for grazing livestock in greater sage-grouse habitat.

The success of collaborative, locally led conservation is illustrated by the recent determination that the bi-state distinct population segment of greater sage-grouse in California and Nevada does not require protection under the ESA. Interior observed that a key factor in the decision not to list the bird was the development of the Bi-State Action Plan, a conservation plan developed by partners in the Bi-State Local Area Working Group over the past 15 years and secured with \$45 million in funding. Western Governors encourage support for similar efforts throughout the sage-grouse range.

As captured in WGA's 2014 Sage-Grouse Inventory report, the efforts described here represent just one piece of the greater sage-grouse conservation puzzle. Over 60 percent of greater sage-grouse habitat is on Federal lands. Federal agencies, as partners, should do their share by proactively addressing habitat needs such as invasive species control, rangeland fire preparedness, and site restoration and rehabilitation. Implementing such measures allows Federal agencies and others to better protect the landscape under a range of circumstances and conditions.

This is a significant point. The states have taken substantial actions, at significant cost, to protect and enhance greater sage-grouse habitat. These actions, however, affect only that portion of the greater sage-grouse's habitat over which states have authority. States cannot compel the Federal Government to protect and enhance habitat on federally owned lands. That is a management decision left to the Federal Government.

It is important to note that the states view several areas of Federal action—or lack of action—as counterproductive to the protection of greater sage-grouse habitat. For example, Western Governors have been very concerned that the budgetary tactic of “fire borrowing” redirects funding from activities that would otherwise mitigate fire hazards in greater sage-grouse habitat, among other areas. Western states are also concerned about the insufficiency of Federal action to combat invasive species. Invasives can have a dramatic impact on sage-grouse habitat and the severity of fire in rangeland areas. The Federal Government has a responsibility to: properly maintain Federal lands; protect and enhance forest health; minimize the severity of catastrophic wildfire; and provide a vibrant habitat for the greater sage-grouse and other important species.

FWS should fully recognize the voluntary conservation efforts of states together with local governments, Federal agencies, conservation districts, private landowners, industry and nonprofits. These efforts, if allowed to run their course, will provide greater sage-grouse with the necessary habitat to live and thrive.

Thank you for the opportunity to provide written testimony. Please feel free to contact me if you have any questions about the content of these remarks or require further information.

Mr. LAMALFA. I will just have one last bit of questions here, and I think that will be it for today.

So, Mr. Miller, listening to Mr. Labrador and your exchange, do you really need the Federal Government in partnership with you at all?

Mr. MILLER. Well—

Mr. LAMALFA. I mean, really. Do you really need the help? If it was completely put back to your state, do you think you would have a more successful program of recovery and maintenance of sage grouse, as well as other species?

Mr. MILLER. Mr. Chairman, the state of Idaho is the manager of all fish and wildlife in the state. Of course, that is why we jumped out ahead of this and said, "We have the best scientists, the best biologists, at the state level to drive this conservation strategy." This is an issue of state sovereignty over wildlife, and we intend to maintain state sovereignty over the species.

Because of the majority of sage grouse habitat in Idaho being managed by the Federal Government, about 74 percent, we needed to engage with BLM on the habitat portion of our conservation strategy.

Mr. LAMALFA. Of course. They have the jurisdiction; but if they turned it over to you, do you think you would see a better result? "Listen, hey, we are going to contract with you. You manage it for us, we will just stay in Washington." What do you think the result would be?

Mr. MILLER. Well—

Mr. LAMALFA. I mean, obviously, you would have to set aside NEPA and other types of things; but just in the realm of what is good for the creature.

Mr. MILLER. I think, if managed by the state, those resources would continue, or would be managed in a more appropriate fashion to address the needs for sage grouse.

Fuel loading in Idaho is significant, and we want to implement tools through our strategy to deal with fuel loading on public lands. That is why our industry groups are a huge, huge partner in this endeavor.

Mr. LAMALFA. OK, thank you.

So, Mr. Arnett, during today's hearing, I have heard you kind of take a position that is more defending of the Federal role, where the others on the panel have kind of expressed—you know, Ms. Clarke, Mr. Miller—that they have had more success at the local level.

So, what looks to me is like a much slower, much more difficult process to get through and even—as was testified; that once the Federal Government makes a law, makes a decision on it, it is much, much harder to wade through that in order to try and tweak that, or go in a different direction. How do you defend this current process, versus some of the success stories we have heard here today with local state-level input and control?

Dr. ARNETT. Well, again, I would like to start with the fact that Federal lands are owned by the public, the American people. And they are managed by these Federal agencies under a variety of bedrock—

Mr. LAMALFA. Managed being a pretty loosely used term from—

Dr. ARNETT. Fair enough. I understand the frustration from the states. We have seen that, in terms of the expeditious nature of getting things permitted. We would like to believe that once we get these conservation strategies—both state and Federal—in place, we will have some certainty and some understanding of where energy can be developed and where habitat can be managed.

Mr. LAMALFA. It is the year 2015. Where have these strategies been for the last 30 or 40 years?

Dr. ARNETT. That is a very good question.

Mr. LAMALFA. OK.

Dr. ARNETT. I mean the states have been engaged in this for a long time. And I think—

Mr. LAMALFA. It is a moving target for the states, though, too. It is a moving target for the private landowners that have to live next to these areas. So, well, thank you.

Mr. Swartout, I will finish up with you here. Do you think a listing of the sage grouse under the ESA would have helped or hindered the establishment of sage grouse conservation easements?

Mr. SWARTOUT. I think that, in the status before a listing, it has created pressure that has actually helped us to develop and work with private landowners.

Mr. LAMALFA. How about an actual listing, though?

Mr. SWARTOUT. What would an actual listing—what effect would that have? It would have a detrimental effect, without question.

Mr. LAMALFA. What is the impact you have seen with already-listed Gunnison sage grouse, on willingness of landowners to enter into the conservation agreements now?

Mr. SWARTOUT. In some degrees it has made it more difficult. But Colorado's 30-year history working with landowners and building that partnership between agriculture and our Department of Wildlife in Colorado is fairly robust, and it is stretched. It has been stretched by the Gunnison listing, but it hasn't broken because of the governors—the last three governors of Colorado have had this commitment to—

Mr. LAMALFA. So it hasn't broken because of a previous momentum and engagement and strategy to do so, but it has put a damper on it, you would say.

Mr. SWARTOUT. It has made it a little more difficult.

Mr. LAMALFA. A little more difficult. OK. Well, I appreciate it.

To everybody on our panel here today, thank you for your travel, for your valuable testimony. We do appreciate what it takes to get here and be part of this.

Since there are no other members of the committee left, I will say there might be additional questions that committee members may submit, and we would ask you to respond to those in writing. Under Committee Rule 4(h), the hearing record will be held open for 10 business days after these responses.

So, if there is no further business, without objection this committee is adjourned.

[Whereupon, at 12:27 p.m., the committee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

PREPARED STATEMENT OF THE HON. NIKI TSONGAS, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF MASSACHUSETTS

Thank you, Chairman Bishop, for holding this hearing before the Full Committee on Natural Resources. I regret that I was not able to attend due to a prior family commitment.

Right now, there are unprecedented and proactive partnerships throughout the West working to conserve sage brush habitat, encourage predictability for economic development, and prevent listing of the greater sage grouse as endangered or threatened under the Endangered Species Act. There exists tremendous momentum to complete the Federal land management plans and strengthen state conservation efforts.

These significant investments by Federal agencies such as the Bureau of Land Management, the Fish and Wildlife Service, the U.S. Forest Service, 11 states, and private partners including sportsmen, ranchers, farmers, and conservationists, are making a difference in sage-grouse conservation and in preserving the rural character of key western landscapes that strengthen the economies of farms, ranches, and forests, which are all threatened by ongoing urbanization and suburban sprawl.

Rather than helping communities, legislation that delays conservation actions and prohibits the Fish and Wildlife Service from making an Endangered Species Act determination creates uncertainty and only undermines the immense progress already underway.

There is no denying that states do work hard and have been serious and engaged partners in the effort to prevent the sage grouse from being listed under the Endangered Species Act, but states do not have the right to unilaterally set policy on public lands that belong to and are managed on behalf of all Americans. It is great that they have been key partners and we would like to see a situation in which state agencies and Federal partners continue to work hand-in-hand.

This type of collaborative approach has been shown to work. The Secretary of the Interior, Sally Jewell, recently announced that the bi-state sage grouse, a distinct population of the bird that lives on the California-Nevada border, will not need to be listed on the endangered species list thanks to the work of Federal, state, and private partners. As Secretary Jewell stated in the announcement, “the collaborative, science-based efforts in Nevada and California are proof that we can conserve sagebrush habitat across the West while we encourage sustainable economic development.”

Republican Governor of Nevada Brian Sandoval stated that “this approach can co-exist in both the bi-state area and across the range of the greater sage grouse.” So as you can see, there is bipartisan support for this collaborative, science-based approach. This is the kind of work that can keep the greater sage grouse off the endangered species list, which is what we all want to see happen.

The time to address the threats to sagebrush habitat is now—not 5 or 10 years from now, when the West is more fragmented, wildfires are more intense, or invasive species have gained more ground. Federal agencies, states, ranchers, sportsmen, and industry stakeholders are all working together with the shared goal of keeping the greater sage grouse off the Endangered Species list. We should give the ongoing collaborative partnerships the opportunity to succeed and provide much-needed certainty for all stakeholders.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE
COMMITTEE’S OFFICIAL FILES]

- Letter from the Specialty Equipment Market Association, Diamond Bar, CA, June 2, 2015, in response to the hearing.
- Statement from Dr. Clait E. Braun, Grouse Inc., Tucson, AZ, responding to the hearing testimony by Kathleen Clarke.
- Statement of John W. Connelly, Ph.D. and Edward O. Garton, Ph.D., responding to written testimony of Kathleen Clarke.

