

**THE OFFICE OF THE GOVERNOR**

**EXECUTIVE DEPARTMENT  
STATE OF IDAHO  
BOISE**

**EXECUTIVE ORDER NO. 2015-04**

**ADOPTING IDAHO'S SAGE-GROUSE MANAGEMENT PLAN**

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*WHEREAS, in December 2011, the U.S. Department of the Interior invited the eleven (11) western states impacted by a potential Endangered Species Act (ESA) listing of the greater sage-grouse to develop state- specific conservation plans that would conserve the species and its habitat while maintaining predictable levels of land use; and*

*WHEREAS, Governor Otter accepted the federal government's invitation, and by and through Executive Order 2012-02 established the Governor's Sage-grouse Task Force (Task Force) to collaboratively develop science-based recommendations for inclusion in Idaho's sage-grouse conservation plans; and*

*WHEREAS, in September 2012, and based on recommendations from the Task Force, I submitted the Federal Alternative of Governor C.L. "Butch" Otter for Greater Sage-grouse Management in Idaho (Governor's Alternative) as an alternative for inclusion in the National Greater Sage-grouse Land Use Planning Strategy. This national planning strategy amends some 68 U.S. Bureau of Land Management (BLM) planning units and 20 U.S. Forest Service (USFS) National Forest Plans by including objectives, habitat conditions and management actions for sage-grouse; and*

*WHEREAS, in February 2013, the U.S. Fish and Wildlife Service (FWS) published the Greater Sage- Grouse Conservation Objectives Team Final Report (COT Report). The purpose of the COT Report, which was developed in conjunction with state wildlife agencies, was to establish the ESA goals by identifying Primary Areas of Conservation (PAC) and the threats to the species throughout its range, as well as to develop conservation measures, based on the best available science, to address those threats. The COT Report provides the flexibility to create solutions that meet the needs of greater sage-grouse and the local ecological and socioeconomic conditions; and*

*WHEREAS, Governor Otter requested the FWS to evaluate the Governor's Alternative for consistency under the COT Report, and in April 2013, the FWS concluded that the foundational elements, and some individual components, within the Governor's Alternative were consistent with the COT Report. (App. 2); and*

*WHEREAS, based on the strength of FWS's recommendation, the BLM and USFS selected the Governor's Alternative as a co-preferred alternative within Idaho's portion of the national planning strategy (see Alternative E in the Idaho and Southwestern Montana Greater Sage-Grouse Draft Land Use Plan Amendments and Draft Environmental Impact Statement, 78 Fed. Reg. 65,703 (Nov. 1, 2013)); and*

*WHEREAS, the State has continued refining individual components of the Governor's Alternative, including but not limited to: (1) Idaho Code § 38-104B developing rangeland fire protection associations; (2) the State Board of Land Commissioners on April 21, 2015, adopting the Land Board's Greater Sage-grouse Conservation Plan (Land Board Plan) for State endowment lands complementary to the Governor's Alternative (App. 3); (3) the State Oil and Gas Conservation Commission on April 23, 2015, adopting portions of the Land Board Plan applicable to oil and gas programs (App. 3, p. 38); (4) working collaboratively with the local federal agencies' representatives and Task Force members to better clarify the Governor's Alternative; and (5) increasing state funding for enhanced lek monitoring, habitat restoration projects, and wildfire suppression; and*

*WHEREAS, it is vital to the interests of the State to continue these efforts as the listing of the species and/or overly restrictive federal land-use plan amendments would adversely impact Idaho's sovereign interest in managing its wildlife pursuant to Idaho Code § 36-103 and § 68-818, its customs, culture and way of life, and the State's ability to generate revenues from private property and endowment lands;*

*NOW, THEREFORE, I, C.L. "BUTCH" OTTER, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho do hereby order the following:*

That all executive agencies, to the extent consistent with existing state law, for relevant permits and policies, adopt the Governor's Alternative and all supporting documentation, incorporated in its entirety into this Executive Order by this reference, hereinafter known as "Idaho's Sage-grouse Management Plan," which includes:

**I. Application of the foundational elements of Idaho's Sage-grouse Management Plan (Idaho's Plan) to all landownerships.** These foundational elements are consistent with the COT Report and apply across all land ownerships.

- a. **Habitat Zones** – Idaho's Plan includes three distinct management zones: Core Habitat Zone (CHZ), Important Habitat Zone (IHZ), and General Habitat Zone (GHZ). The COT Report identified the most important habitat areas for maintaining sage-grouse representation, redundancy, and resiliency across the landscape. These areas (or PACs) closely align with CHZ and IHZ. The three management zones within the Sage-grouse Management Area (SGMA) represent a management continuum that includes, at one end, a relatively restrictive approach aimed at providing a high level of protection to the species within the CHZ, and on the other end, a relatively flexible approach for the GHZ allowing for more multiple-use activities. The zones are reflected in the attached map. (App. 1, p. 24).
  - i. **Core Habitat Zone (CHZ)** – The CHZ includes approximately sixty-five percent (65%) of the known active leks and is occupied by approximately seventy-three percent (73%) of sage-grouse males. CHZ supports the highest breeding densities of sage-grouse in Idaho, and maintenance of these populations ensures that Idaho has a viable and robust population of sage-grouse. Management in CHZ is the most restrictive to protect what local data shows as the "best of the best" habitat.
  - ii. **Important Habitat Zone (IHZ)** – The IHZ includes approximately twenty-five percent (25%) of the known active leks and is occupied by approximately twenty-two percent (22%) of sage-grouse males.
  - iii. **General Habitat Zone (GHZ)** – This management zone includes five percent (5%) of sage-grouse males, and generally includes few active leks and fragmented or marginal habitat.
- b. **Population Objectives** – In conjunction with the habitat zones, these population goals: (1) measure the efficacy of the State plan; and (2) ensure that there is an appropriately tailored response to significant fluctuations in habitat and populations.
  - i. **Objective 1** – Implement regulatory mechanisms that maintain and enhance sage-grouse habitats, populations, and connectivity within CHZ. Recognizing the impact of wildfire, the IHZ provides important management flexibility and a strategic conservation buffer.
  - ii. **Objective 2** – Stabilize sage-grouse habitats and populations by monitoring the effectiveness of the regulatory measures over time. A primary objective is to minimize habitat lost within CHZ, and to a lesser extent, IHZ.
- c. **Conservation Areas** – Idaho's Plan divided the SGMA into four Conservation Areas (CA) across the state: the Mountain Valleys, Desert, West Owyhee, and Southern. Each CA is divided into Core, Important, and General management zones. (App. 1, p. 8).
- d. **Adaptive Regulatory Triggers** – Given the unpredictability of wildfire, these triggers provide a regulatory backstop to manage loss within a CA. An adaptive trigger is employed when dramatic shifts in the population or habitat occurs based on an average over a three year period compared to the 2011 baseline.
  - i. The adaptive triggers are based on the severity of habitat or population loss (i.e. a "soft trigger" or a "hard trigger"). (App. 1, pp. 11, 69-71).
  - ii. When monitoring information indicates that a soft trigger may be tripped, the Implementation Commission<sup>1</sup> – aided by technical expertise from Idaho Department of Fish and Game and other relevant State agencies – will assess the factor(s) leading to the decline and recommend potential management actions. (App. 1, p. 69).

<sup>1</sup> Should the BLM and USFS adopt the Governor's Alternative, or an alternative consistent with the Governor's Alternative, for incorporation into relevant Land and Resource Management Plans, the Governor shall execute a companion Executive Order establishing an Implementation Task Force as outlined in Appendix 1, pages 21, 67-71.

- iii. *If the hard trigger becomes operative, management changes no longer are discretionary and will be implemented by the Implementation Task Force.*
- e. *Rangeland Fire Protection Associations (RFPAs) – RFPAs act as a regulatory mechanism across all landownerships ensuring quicker initial attack on wildfires in the CHZ and IHZ through the deployment of additional trained firefighters and resources located in rural parts of the SGMA.*
  - i. *Idaho Code § 38-104B provides for the creation and funding of RFPAs in Idaho.*
  - ii. *RFPA members work collaboratively with federal land management agencies and Idaho Department of Lands (IDL) to protect more than 2.9 million acres of federal and state rangeland and 675,000 acres of private land. These numbers are expected to grow as additional RFPAs become operational in the near future.*
  - iii. *The success and effectiveness of RFPAs in Idaho is considered a model by other western states.*

**II. Applicability of Idaho's Plan to Lands Managed by the Federal Government** (as more fully described in Alternative E of the Draft Environmental Impact Statement)<sup>2</sup>

- a. **Fire** – *Idaho's Plan for wildfire on federal lands focuses efforts on prevention, suppression, and restoration. The objective within Idaho's Plan is to implement actions necessary to manage fire within the normal range of fire activity and maintain and restore healthy, native sage-steppe plant communities within CHZ and IHZ.*
- b. **Invasive species** – *In addition to the wildfire restoration efforts, Idaho's Plan calls for the aggressive management of exotic undesirable plant species within the CHZ and IHZ.*
- c. **Infrastructure** – *Infrastructure means discrete, large-scale anthropogenic features, including but not limited to, highways, high voltage transmission lines, commercial wind projects, energy development (e.g. oil and gas development, geothermal wells), airports, mines, cell phone towers, landfills, residential and commercial subdivisions. (App. 1, p. 32).*
  - i. *Permitted activities in specific habitat designations*
    - 1. *Infrastructure in CHZ – Infrastructure development in areas designated as CHZ is prohibited, except if conducted pursuant to a valid existing right, incremental upgrade and/or capacity increase of existing development, or if a project-level exemption is obtainable by meeting the criteria outlined in Appendix 1, including compensatory mitigation. (App. 1, pp. 35-36).*
    - 2. *Infrastructure in IHZ – Infrastructure development in areas designated as IHZ is permissible subject to meeting the criteria specified within Idaho's Plan and approved by the BLM State Director. (App. 1, p. 42)*
  - ii. *Best Management Practices (BMPs) for proposed infrastructure development within CHZ and IHZ.*
    - 1. *Infrastructure development should reflect unique localized conditions including soils, vegetation, development type, predation, climate, and other local realities and should utilize best management practices as described in Idaho's Plan. (App. 1, pp. 43-45).*
    - 2. *A lek buffer of 1 km (0.6 miles) from occupied leks will be applied to essential public services, including but not limited to distribution lines, domestic water lines, and gas lines. This will enable development in a manner that maintains populations, habitats, and essential migration routes where possible. (App. 1, pp. 43-45).*

<sup>2</sup> Governor Otter encourages the adoption of Alternative E in the final EIS as it is consistent with the laws, programs, and policies of the State of Idaho. However, the Governor recognizes that the BLM and USFS may adopt a different alternative (or revised alternative) in the record of decision (ROD) and such action may necessitate a revision to this Executive Order.

3. *No Surface Occupancy (NSO) within 1 km of an occupied lek will be applied to oil and gas development. (App. 1, pp. 46-47)*
- iii. *Nothing in Idaho's Plan shall revoke, suspend, or modify any project or activity decision made prior to the effective date of the ROD.*
- d. **Improper livestock grazing (secondary threat)** –*This section of Idaho's Plan requires that the Idaho Rangeland Health Standards (IRHS) be met and is consistent with the COT report. While no studies exist directly relating livestock grazing systems or stocking rates to sage-grouse abundance or productivity, Idaho's Plan addresses improper livestock grazing within CHZ and IHZ through adaptive management according to the following process:*
  - i. *Sage-grouse habitat characteristics will be incorporated into relevant Resource Management Plans as desired conditions, recognizing that these desired conditions may not be achievable due to the existing ecological condition of an allotment, the ecological potential of the area, or causal events unrelated to livestock grazing. (App. 1, pp. 14-20).*
  - ii. *Based on these habitat characteristics, habitat assessments will be conducted to help inform grazing management in conjunction with scheduled term grazing permit renewals or if an adaptive regulatory trigger has been tripped. (App. 1, p. 73-75).*
  - iii. *In conjunction with scheduled term grazing permit renewals, livestock grazing will be assessed through the IRHS (primarily Standards 2, 4, and 8), as informed by the COT Report with respect to sage-grouse. (see Idaho Standards for Rangeland Health and Guidelines for Livestock Grazing Management (1997)).*
    1. *Assuming no adaptive regulatory trigger has been tripped, there is a rebuttable presumption that current grazing systems within a particular CA are adequate to maintain viable sage-grouse populations.*
    2. *This does not preclude adaptive changes to grazing permits based on the other standards contained in the IRHS.*
  - iv. *If an adaptive regulatory trigger has been tripped within a CA, and after a more thorough analysis of those allotments within a relevant CA determines that improper livestock grazing is a potential limiting factor, modifications to permits will be determined based on ecological site potential and will be selected from the suite of management options outlined in Idaho's Plan. (App. 1, pp. 48-50).*

### III. **Applicability of Idaho's Plan on State and private lands**

- a. *In April 2015, the State Board of Land Commissioners and the Idaho Oil and Gas Conservation Commission contingently approved the Land Board Plan. (App. 3). The Land Board Plan, consistent with the constitutional mandate (IDAHO CONST. ART. IX, § 8), includes enforceable regulatory stipulations for inclusion into certain leases, permits, and easements on State endowment lands. Adoption and implementation of the Land Board Plan is contingent upon the incorporation of Idaho's Plan into the federal land-use plan amendments for sage-grouse.*
- b. *Certain permit holders on private lands can voluntarily agree to add BMPs into their permit, which would then become binding. However, private land comprises less than twenty percent (20%) of sage-grouse habitat in Idaho (and less than 6% of the CHZ).*
- c. *Existing land uses and landowner activities are vital to the State of Idaho. Idaho's Plan recognizes changes in sage-grouse populations and habitats on private lands could influence land management on public lands as adaptive triggers can become operative within a CA regardless of landownership. To offset any impacts, SGMAs have been designed to provide flexibility in order to allow for the continuation of land uses and valid existing rights. In addition, Idaho continues to encourage voluntary conservation efforts on private land for the conservation of sage-grouse.*



*IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 27th day of May in the year of our Lord two thousand and fourteen, and of the Independence of the United States of America the two hundred thirty-eight and of the Statehood of Idaho the one hundred twenty-second.*

Handwritten signature of C.L. "Butch" Otter in blue ink.

C.L. "BUTCH" OTTER  
GOVERNOR

Handwritten signature of Lawrence Denney in blue ink.

LAWRENCE DENNEY  
SECRETARY OF STATE