



Oregon

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June 10, 2014

TO: Land Conservation and Development Commission

FROM: Jon Jinings, Community Services Specialist

SUBJECT: **Agenda Item 8, July 24-25, 2014, LCDC Meeting**

I. SUMMARY

The Land Conservation & Development Commission will receive an update on the progress of Oregon's Sage Grouse Conservation Partnership (SageCon) and hear about local efforts regarding sage grouse and sage grouse habitat.

For additional information about this report, please contact Jon Jinings at 541-325-6928 or jon.jinings@state.or.us.

II. BACKGROUND

The Greater Sage Grouse is a species common to the western United States. Over time, much of the sagebrush ecosystem needed to maintain a healthy population has suffered. Habitat has eroded as a consequence of the introduction of invasive weeds, juniper encroachment, large-scale development, wildland fire, and intensive agriculture. Strong concerns about the future of the species have resulted in the United States Fish and Wildlife Service (USFWS) receiving multiple petitions to list the Greater Sage Grouse under the Endangered Species Act (ESA).

In April 2010, the USFWS determined that protection of Greater Sage Grouse under the ESA was warranted. The USFWS did not list sage grouse at that time in order to address other species facing greater risk of extinction, but stated its intent to revisit its "Warranted but Precluded" decision. The USFWS must still make a determination whether the species should be proposed for ESA listing or be removed from the candidate list, which would result in no further consideration by the end of the 2015 fiscal year.

In Oregon, sage grouse habitat includes about 11 million acres distributed across five Bureau of Land Management (BLM) management districts in seven central and eastern Oregon counties (Baker, Crook, Deschutes, Harney, Lake, Malheur and Union). Private lands account for about 21 percent of this total while BLM controls about 70 percent. The remaining lands are made up of other public agencies including the Oregon Department of State Lands.

A. Oregon's Sage Grouse Conservation Partnership

In early 2012, the governor's office, BLM, and the Natural Resources Conservation Service convened SageCon to serve as an ongoing venue for interagency and stakeholder coordination on issues related to sage grouse habitat conservation. The group includes local, state, and federal agencies and stakeholder organizations. SageCon has been broadly divided into state and federal teams with the state team directed to begin work on an "All Lands, All Threats" (ALAT) plan for nonfederal lands to complement efforts being conducted by the federal agencies. SageCon's goal is to demonstrate that listing the sage grouse is not necessary.

B. Department Participation

The department regularly attends SageCon meetings and has served as a liaison between state government and our local partners. The department is also a member of the state's core team.

C. Malheur County Information

Malheur County is among the seven eastern Oregon counties identified as containing sage grouse habitat. Please see "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon, April 2011." In fact, with nearly 4.6 million acres of core and low density areas mapped by the Oregon Department of Fish and Wildlife (ODFW), Malheur County is the state's leader in sage grouse habitat. The attached materials provide additional local information. Attachment A is a portion of the Central & Eastern Oregon Land Use Planning Assessment (County Report) funded by DLCD. Attachments B and C are ODFW maps of southeast Oregon.

III. RECENT ACTIVITIES

The state has continued to meet and work with state and local partners, including land owners and nongovernmental organizations since the commission received an update during its regular May 2014 meeting. Possible disturbance cap thresholds and a mitigation framework continue to be at the forefront of most discussions.

On June 30, 2014, several SageCon participants received an e-mail from Paul Henson, state supervisor for the Oregon Fish and Wildlife Office, USFWS. Mr. Henson and his team are leading the federal government's review of Oregon's efforts to protect sage grouse. Their participation with SageCon has been valuable and has shown them to be strong partners. Upon review of the county plan, USFWS communicated that, although Oregon's state and local land use programs provide important conservation benefits, they do not currently appear to provide adequate regulatory mechanisms to guarantee protection of sage grouse habitat. Mr. Henson's recommendation was that local governments continue to work with the state of Oregon "to augment their existing processes under SageCon and ALAT."

Also as of June 30, a subgroup of SageCon met to discuss policy items related to the state's "All Lands, All Threats" approach. DLCD joined other governmental and nongovernmental participants to discuss definitions regarding disturbance and development, as well as how to consider the possibility of future conversions of sage brush habitat to cultivated agriculture. Among other things, the Governor's Office emphasized that the disturbance cap approach was not intended to stop all development. Instead it is best viewed as a tool to help steer important development projects into the best areas.

Upcoming activities include meetings between the Governor's Office, DLCD and several county partners scheduled for July 14, 2014, and the next SageCon meeting scheduled for July 18, 2014. No further indications for commission rulemaking on this subject have been given.

IV. ATTACHMENTS

- A. Malheur County Portion of the "County Report"
- B. ODFW Map of Malheur Resource Area
- C. ODFW Map of Jordan Resource Area

Central & Eastern Oregon Land Use Planning Assessment

Sage-Grouse Habitat

Harney County Grant Project

6/28/2013

This project is funded by Oregon general fund dollars through the Department of Land Conservation and Development. The contents of this document do not necessarily reflect the views or policies of the State of Oregon. Harney County thanks the Oregon Department of Land Conservation and Development for providing a technical assistance grant to fund this project.

Malheur County

Malheur County Land Use Planning Program

Land Use Planning History

Comprehensive planning in Malheur County began in 1966. At that time, Oregon counties were authorized (but not required) to adopt planning and zoning regulations for all or part of their lands. In cooperation with the Bureau of Municipal Research and Service, the Malheur County Planning Commission developed a comprehensive plan for the Ontario-Nyssa-Vale area. However, the plan was never officially adopted by the county.

In 1969 the Oregon State Legislature mandated that all Oregon counties adopt comprehensive plans and zone their lands. In accordance with the provisions of ORS 215.050 and 215.055, the county adopted its first official comprehensive plan and zoning ordinance in 1973.

In 1976 Malheur County and its cities established the Comprehensive Planning Office funded by a combination of LCDC and local moneys. The comprehensive planning staff began by preparing a series of background reports to provide detailed information on which to base the plans. The staff then worked with each of the cities and their citizens advisory committees to develop comprehensive plans for Ontario; Nyssa, Vale, Adrian and Jordan Valley. At the same time, the staff developed a draft comprehensive plan for Malheur County.

After countless work sessions with citizen's advisory committees, major revisions to the plan, at least four series of public hearings, and extensive review sessions with the Planning Commission and County Court, this document has evolved as Malheur County's comprehensive plan.

The plan includes zoning/plan designations for example Exclusive Farm and Range Use, Urban Growth Boundaries and other overlays.

Comprehensive Plan and Zoning

Zoning and Overlays within Sage-Grouse Designated Areas

The majority of lands within Malheur County (not including incorporated areas) are designated as resource or agriculture and forest preservation. These zoning designations are aimed at providing for area-specific appropriate development.

Table 1 summarizes in acres and parcels, County zoning within ODFW's Core Area and Low Density habitat on federal and non-federal (private) lands. It should be noted, as in other county reports, that some parcels overlap both habitat designations and gaps between habitat designations in the GIS layers exist. So, for the purposes of this report these instances have been reported conservatively as Core Area.

Table 1: Malheur County Zoning Within ODFW Core and Low Density Habitat

	Core Area		Low Density		Total Acres	Percent of Sage-Grouse Habitat
	Federal Lands	Non-federal lands	Federal Lands	Non-federal lands		
Exclusive Farm Use, (C-A1)						
Acres	5.08	1,183.65	8.81	347.6	1,545.00	0.03%
Parcels	1	49	1	20		
Exclusive Range Use, (C-A2)						
Acres	2,120,713.12	574,747.00	1,493,908.76	382,551.32	4,571,920.20	99.59%
Parcels	621	1299	513	1076		
Exclusive Farm Forest Use (C-A3)						
Acres	1,442.00	4,240.94	1,121.92	9,983.94	16,788.80	0.37%
Parcels	7	18	6	33		
Rural Service Center (C-RSC)						
Acres	0.00	266.48	0.00	6.79	273.27	0.01%
Parcels	0	117	0	7		
Total	2,122,160.20	580,438.07	1,495,039.49	392,889.51	4,590,527.27	100.00%

Existing Habitat Conservation Measures and Zoning Designations

“Goal 5” and Wildlife Mapping and Protection within Habitat Areas

When Malheur County adopted the Comprehensive Plan and Zoning Ordinance in 1988, official plan maps were approved by Malheur County to outline particular areas of importance. Once such map (map 8) depicts the county’s fish and wildlife habitat areas. Inventories of Malheur County’s fish and wildlife habitats are presented in the “Fish and Wildlife Protection Plan” prepared by ODFW (basis for mapped areas).

Malheur County’s policy is to provide notice and an opportunity to comment on land use applications to ODFW. Adjacent landowner will also be on pending land use actions and allowed and opportunity to comment.

This policy will provide the opportunity for ODFW to assist the county in review of a land use action by comment and/or recommendations on how to either avoid or mitigate impacts on sensitive species habitat areas.

Flood Plain Zone Overlay

Flood Plains in Malheur County consist of a very small area mainly along the Snake, Malheur and Owyhee River. Development is generally discouraged in the 100 year flood plan and not allowed in the flood way. A very small area is located in the low density area.

EFU & ERU Zones

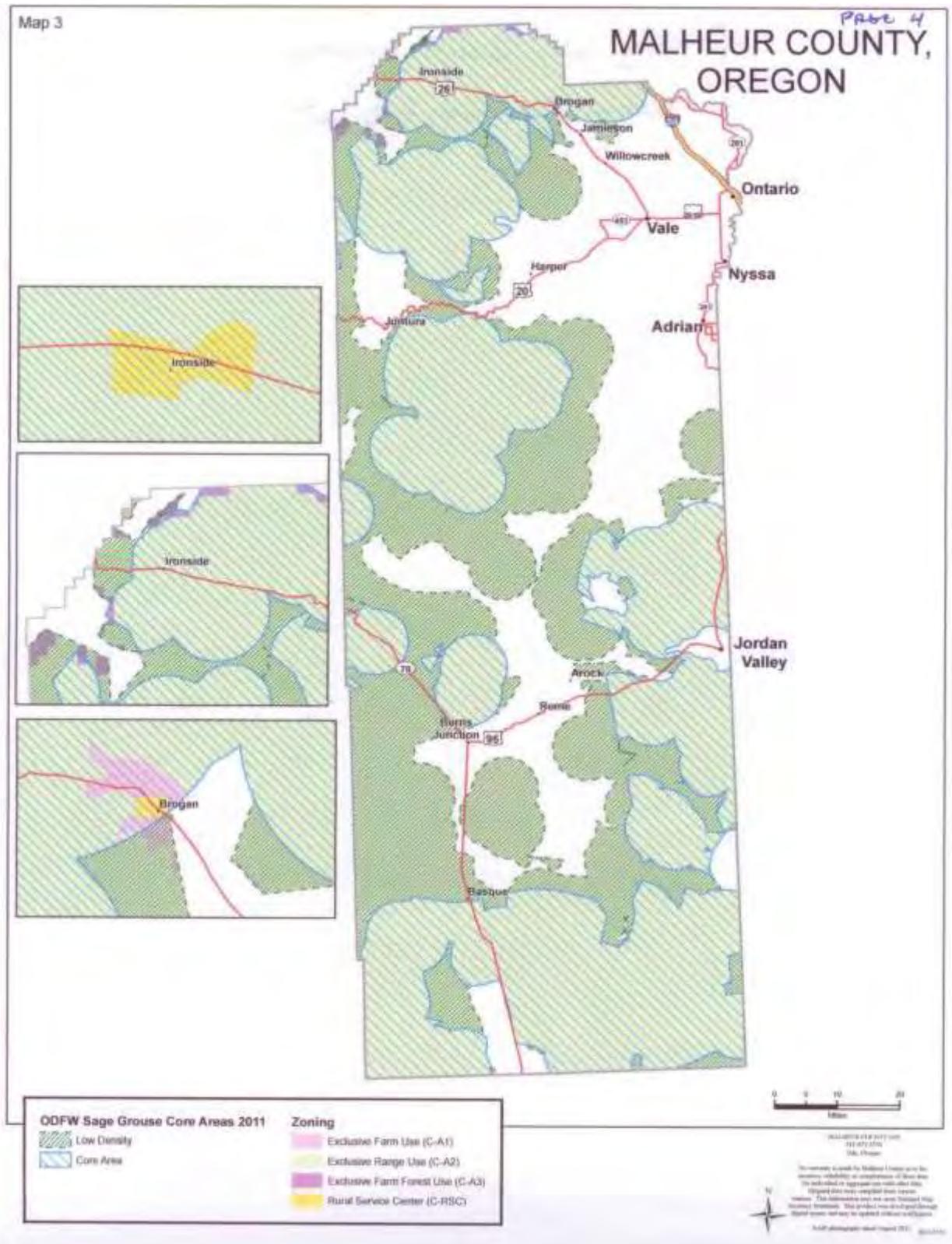
The designated agricultural lands in Malheur County fall under two zoning classifications: Exclusive Farm Use (EFU) and Exclusive Range Use (ERU). The only difference is the size of the parcel that can be partitioned. These designations apply to both private and federal lands.

The EFU and ERU zoning designations follow closely to Oregon Statutory standards and related Oregon Administrative Rules, which are guided by the principles established under the 3rd goal of the Oregon Statewide Planning system (protection of agriculture lands). There are 22 dwelling sites split evenly between the Core Area and Low Density Existing housing in these large areas is predominantly related to farm/range use (dwellings permitted on large private tracts). Non-Farm dwellings are allowed as a Conditional Use, however they must meet a more stringent set of standards and must be found to not inhibit the expansion of existing farming operations in the area. This standard has lessened the possibility for high dwelling density or urban sprawl based on the limited opportunities for dwelling per ownership tract.

EFFU Zone

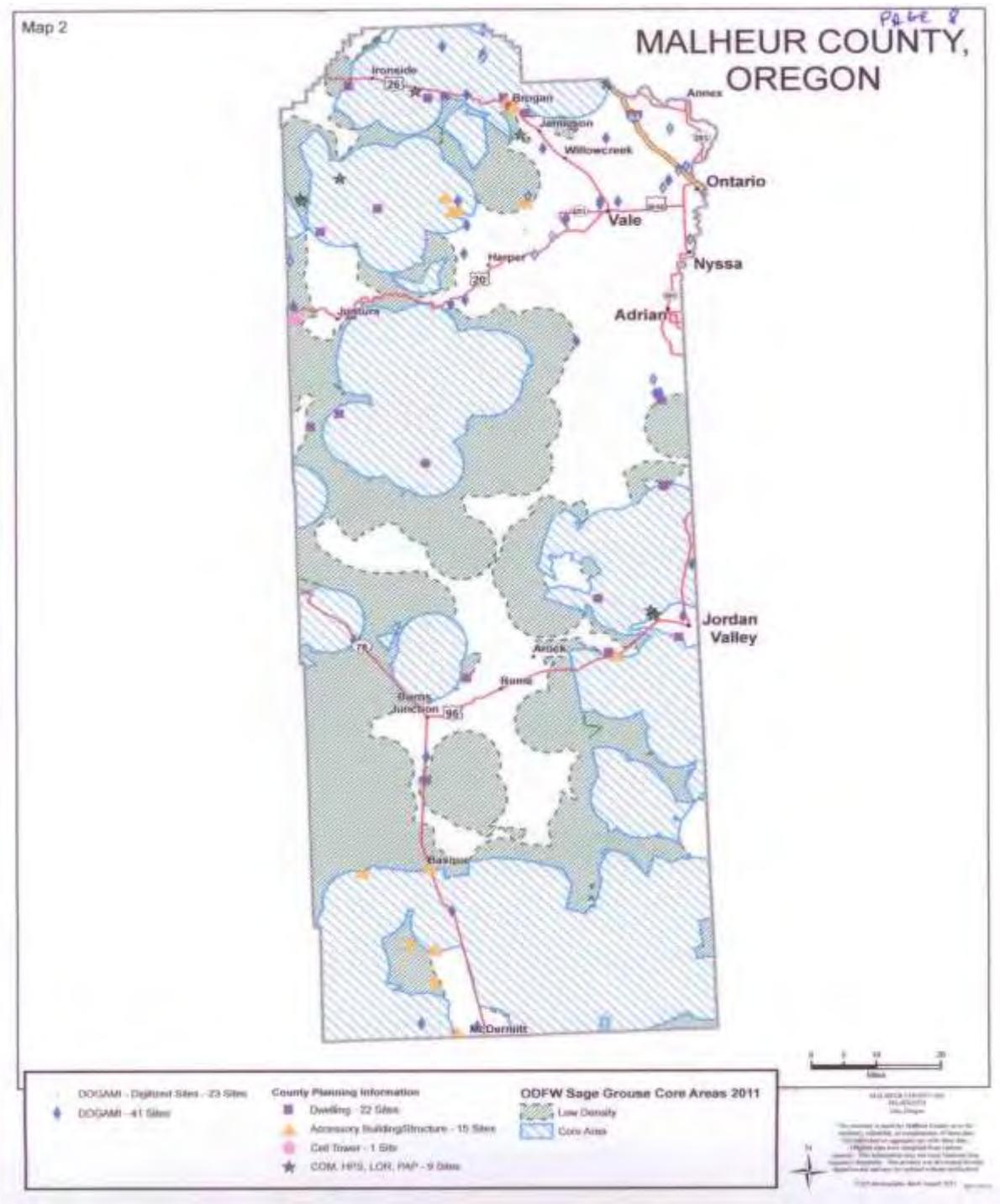
Malheur County has a small amount of what is designated as mixed Farm and Forest Use. Only 0.37% of the EFFU Zone is located in the Sage-Grouse habitat.

Map 1: Malheur County Sage-grouse Core & Low Density



Built Environment and Development Activity

Map 2: Malheur County Permitted Sites in Sage-grouse Habitat



Housing Units/Structural Developments

Malheur County is the most populous of the Southeastern counties within the region, having a population of 30,630 (2012 US Census Bureau). The County's population centers consist mostly of its incorporated cities: Adrian, Jordan Valley, Nyssa, Vale, with its largest being Ontario. A number of unincorporated communities are also located within the county. With the exception of Brogan (unincorporated community) none of Malheur County's population centers is within Core Area or Low Density Sage Grouse habitat ranges. The community of Brogan is within Core Area habitat and has a total of 24 dwelling units within its designated zoning district (see map 1).

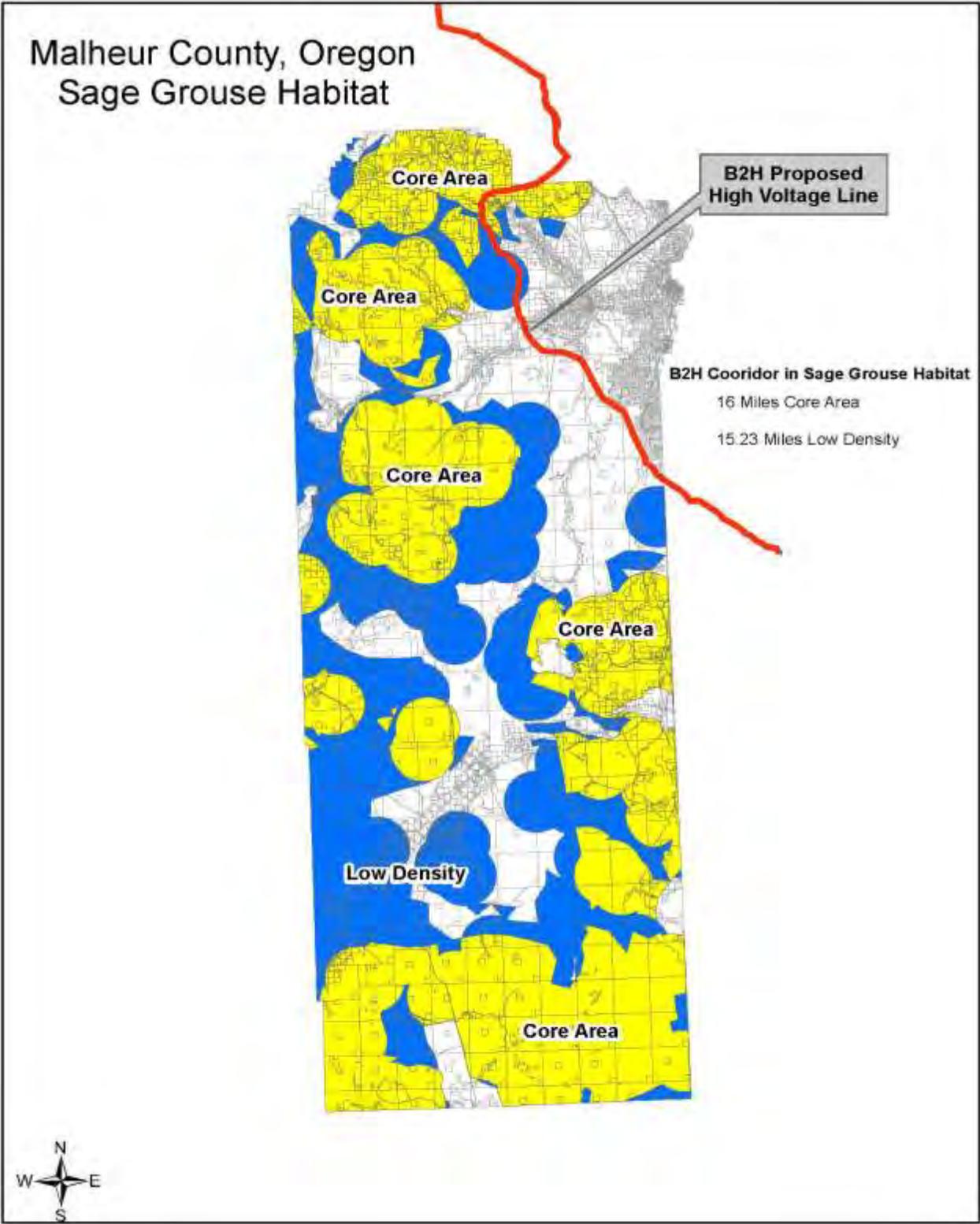
With Brogan aside, local addressing records indicate that there are a total 22 housing units or single-family dwellings within 973,327.72 acres of non-federal lands designated Core Area and Low Density habitat. 14 of those dwellings are within Core Area and 8 are within Low Density. Malheur County also tracks accessory 'agriculture buildings' (e.g., barns, machinery sheds, etc...). A total of 15 such buildings are located in both Core and Low Density. See Map 2 "*Malheur County Permitted Sites in Sage-grouse Habitat.*"

Roads and Utilities

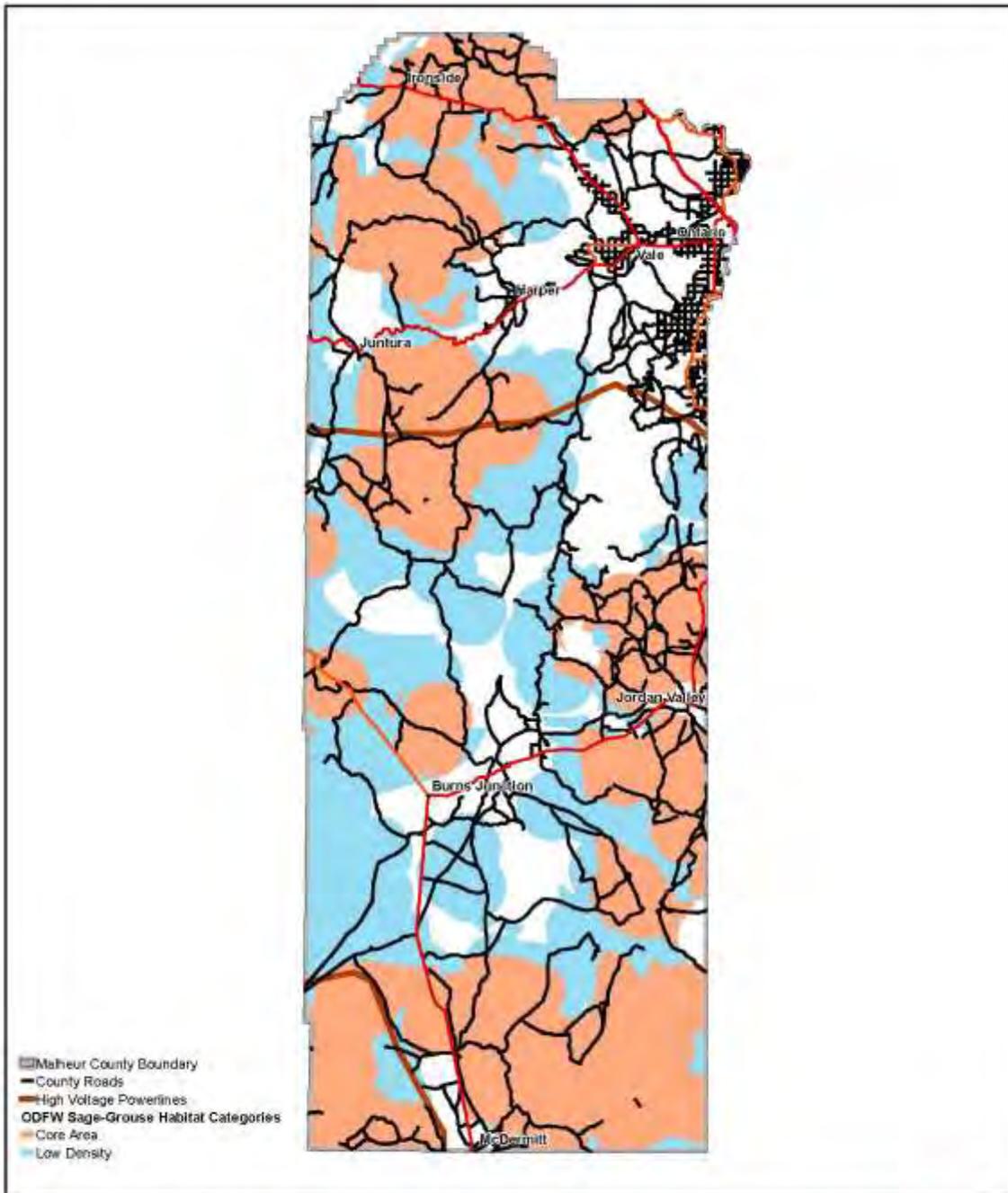
Malheur County's county road system has been constructed principally for the purposes of life safety. These roads are critical for emergency access to federal and private lands throughout the county. Excluding the Federal and State Highway system (*U.S. HWY 20, 26, 95, and interstate 84*) there are 518 county designated roads spanning approximately 2,920 miles within Malheur County. 127 of these roads intersect BLM lands. 1,071 and 604 road miles are in Core Area and Low Density habitat respectively. While alterations have been made to existing roads, no new county roads have been created from 2003-2013.

Existing overhead high voltage transmission lines in Malheur County total 46 miles within Core Area and 32 miles within Low Density. Although not constructed, Idaho Power has proposed a new high voltage power line through habitat areas (see map 3 below) known as the "Boardman to Hemingway" or "B2H" line. The B2H line will cross through 16 miles of Core Area and 15.23 miles of Low Density habitat ranges.

Map 3: Malheur County – B2H line (Proposed Location)



Map 4: Malheur County – County Roads and Transmission Lines



**Malheur County, Oregon
Greater Sage-Grouse Habitat
and
Infrastructure**



ODJ Department of Oregon
Wildlife Management
Vale District
October 29, 2012

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Surface Mining Sites

Table 2 below lists 14 existing surface mining/exploration sites within Core Area and Low Density habitat. Of these sites, only 3 are currently active at this time. Malheur County has approved just one surface mining site within Core Area over the last ten years, however said approval was not acted upon within the timeframe allotted under local standards for a conditional use permit, and therefore is no longer permitted.

Table 2: Surface Mining Sites within Sage Grouse Habitat

Permit Number	Permittee → Type - Status	Habitat Designation
23-0005	ODOT – Aggregate – Not Active	Core Area
23-0050	Paul Vaden – Aggregate – (last active 12/13) – Not Active	Core Area
23-0125	ODOT – Aggregate – Not Active	Core Area
23-0126	ODOT - Aggregate – Not Active	Core Area
23-0140	Oregon Energy LLC – Uranium – Not Active	Core Area
23-0159	ODOT - Aggregate – Not Active	Core Area
23-0176	ODOT - Aggregate – Not Active	Low Density
23-0187	Eldorado Resources LLC – Exploration Only – Not Active	Core Area
23-0224	Seabridge Gold Corp. – Exploration Only – Not Active	Core Area
23-0234	White Mountain Natural Products Inc. – Zeolite – Not Active	Core Area
23-0267	Mineral Valley LLC – Exploration – Not Active	Core Area
23-0269	Three Valleys Ranch LLC – Gold Mine - Active	Core Area
23-0272	Industrial Builders Inc. – Aggregate - Active	Low Density
N/A	Blackburn Family Trust – Aggregate – Active	Low Density

Land Use and Building Permit Activity (2003-2013)

Table 3 shows the land use planning permits & authorizations issued from 2003 to 2013 within Core Area and Low Density habitat. As listed below, there were a total of 8 approved land use permits for new development, all within Core Area. 9 of the authorizations were for replacement of legally existing dwellings, of which 6 are in Core Area and 3 within Low Density. Although not considered a land use decision, Malheur County shows 7 buildings related to existing agriculture operations or “agriculture buildings.” Such buildings are allowed as an out-right use within the C-A1 zoning designation and do not require a permit for development beyond a site plan review for consistency with local siting standards. Building permits follow a nearly identical pattern. All new dwelling sites (newly approved and replacement) received structural permits. One existing telecommunication facility received a structural permit to locate new antennas (not exceeding the previous height). Agricultural buildings do not require structural permits.

Table 3: Land Use Decisions (2003-2013)

Land Use Decisions (2003-2013)	Core Area		Low Density	
	Federal Lands	Non-federal Lands	Federal Lands	Non-federal Lands
<i>All Land Use Approvals Within Exclusive Range Use (C-A1)</i>				
New Dwellings	0	8	0	0
Replacement Dwellings	0	6	0	3
Accessory Building (*not Land Use Decisions)	0	7	0	0

Impact Analysis

Risk Assessment

According to the COT (Conservation Objectives Team) report, Malheur County falls within two areas designated as Management Zones IV (4) and V (5), more specifically the “Northern Great Basin” and “Western Great Basin” Subareas. The Northern Great Basin Subarea which contains large parts of Harney/Malheur County is described as representing one of the largest bird populations of the subarea. *“Within Oregon, this represents one of the largest populations. The delineation of the Northern Great Basin population doesn’t correspond well to any existing assessment for Oregon, but does include almost all of the Vale administrative unit, as well as portions of the Burns administrative unit. In Oregon alone, the spring population in the Northern Great Basin is likely several thousand birds, with 2011 spring lek counts approaching 3,000 males (in the Beulah, Malheur River, Owyhee, and eastern portion of Whitehorse Wildlife Management Units).”* The report goes on to describe wildfire and the proliferation of invasive weed species as the primary and most recent risks to habitat. *“Loss of sagebrush habitat has been and continues to be threat to the population in Oregon. Between 1963 and 1974, 500,000 acres of sagebrush habitat was seeded to crested wheatgrass or sprayed with herbicide, and 1,600 water developments and 463 miles of pipeline were installed in the Vale District BLM’s area for the Vale project. More recently, wildfire is the most significant threat to landscape scale losses of sagebrush habitat as indicated by the previously mentioned 582,000 acre Long Draw fire of 2012. In conjunction with fire, invasive weeds are also one of the greatest risks the 4+ million acres of sagebrush habitat for this population in Oregon.”*

Table 4 lists habitat fragmentation threats and their corresponding levels for the subareas Malheur County falls within (COT report).

Table 4: Southeastern Oregon Sage-Grouse Risk Levels

Land Use Related Risk Levels	Threat Rating
Agriculture Conversion	Present, but localized
Energy	Present, but localized
Mining	Present, but localized
Infrastructure	Present and widespread
Recreation	Unknown
Urbanization	Present and widespread

Findings and Conclusion

As listed in the other county development reports, the COT does not provide a consideration of county land use programs. Malheur County has zoning jurisdiction over a vast area principally reserved for natural resource production (agriculture and forest use). This development report shows that Malheur County is effective in minimizing land use impacts or conflicts within its large regulatory jurisdiction (1,541,299 acres or 24.4% of the County). As reflected in the other county reports, sparse residential population across a vast open landscape, coupled with agriculture and mixed farm and forest zoning have preserved non-federal lands as rural.

While conversation of agriculture lands is not regulated by the county land use program, it is found that on-the-ground changes to actual intense agricultural practices (as found in the ODF report cited earlier in the report) has not occurred and is not projected to expand due to future restrictions in water availability.

Malheur County’s land use program does not pose a risk to sage-grouse populations. Agriculture-designated lands cover the large majority of non-federally managed parcels within the county. This designation is important to the ecological values of the county, and as listed earlier, is the principle factor in the preservation of large tracts with little to no urban developments outside of the county’s population centers.

Looking specifically at the improvement of these lands, the most common structural development is single-family dwellings. This development type is not a significant impact however, as only 22 total dwellings currently exist within Sage Grouse habitat. This translates into 1 single-family dwelling per 44,242.2 acres of Non-Federal Sage Grouse habitat within Malheur County.

The local land use and building programs show that 14 of the 22 dwellings existed prior to 2003. Over a ten year period only eight (8) land use permits/authorizations for new home sites have been approved within designated Core Area, with no approvals within Low Density.

14 total surface mines (or exploratory activities) exist within Sage Grouse Habitat areas in Malheur County. 11 are within Core Area, and 3 within Low Density, however only 3 of those sites are active according to local and state information (see table 2). It is clear that land use approvals over the last decade have proven to be a strong tool for limiting potential developments not related to rural residential developments (see map 2 “Malheur County

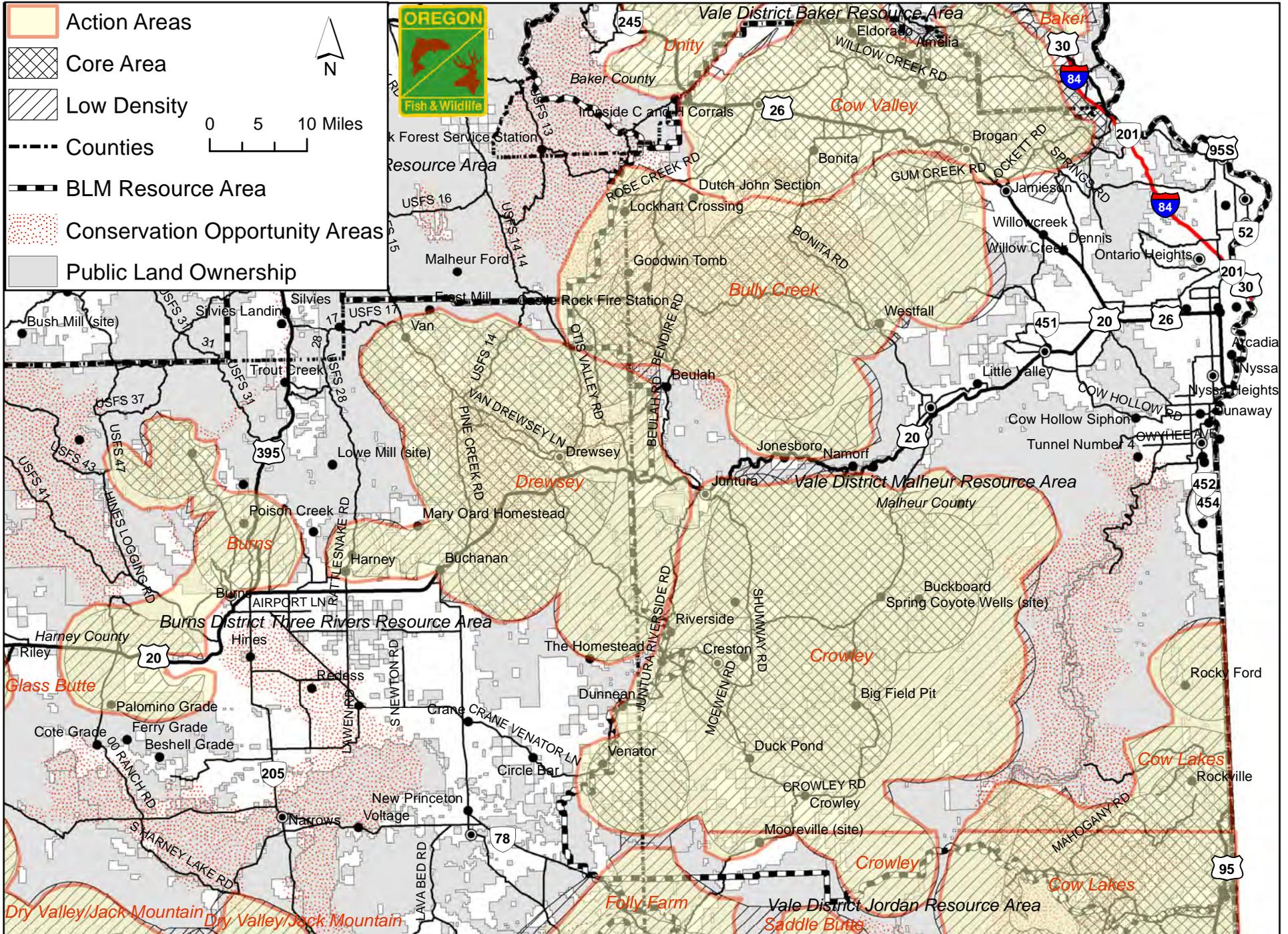
Permitted Sites in Sage-grouse Habitat). Over the study’s 10 year period, no new county roads or surface mining permits have been issued within Core or Low Density habitat ranges.

The COT report categorized Malheur County within two sub areas, one of which (26a) accounts for parts of southern Idaho, NE Nevada, and NW Utah. Malheur County stands apart from this area because of its utilization of local land use controls which have effectively preserved valuable agriculture lands in large tracts while controlling urban sprawl (22 total dwellings over hundreds of thousands of acres). This is in stark contrast to the adjacent area of Southern Idaho. Another important distinction is the disparity of actual jurisdiction area within Malheur County. Only 21.2% (973,327.58 acres) of Sage Grouse habitat is under the County Jurisdiction. The remaining 78.8% (3,617,199.6 acres) is located on Federal lands.

Table 5 – Malheur County Habitat Risk Levels Revisited

Land Use Related Risk Levels	Threat Rating	Harney County Results
Agriculture Conversion	Present, but localized	Unregulated, limited water expansion opportunities, not a significant threat
Energy	Present, but localized	Regulated, limited opportunities, not a significant threat
Mining	Present, but localized	Regulated, not a significant threat
Infrastructure	Present and widespread	Regulated, limited opportunities for growth, not a significant threat
Recreation	Unknown	Not regulated, unknown threat level
Urbanization	Present and widespread	Regulated, not occurring

Sage Grouse Action Areas - Malheur Resource Area



Sage Grouse Action Areas for Jordan Resource Area

