

1 OAR 660-023-0115
2 Greater Sage-Grouse

3 (1) Greater Sage-Grouse (hereafter "sage-grouse") habitat is a unique wildlife resource because it is
4 subject to a variety of threats across a broad, multi-state region. Nearly all of Oregon's sage-grouse
5 habitat is located on public land managed by the federal government. Managing private and other non
6 federal land for the best possible outcomes requires partnership and cooperation among many
7 stakeholders. Engagement on the part of county government is critical to Oregon's efforts to arrest the
8 decline of this species.

9 (2) For purposes of this division, the definitions in OAR 635-140-0015 shall apply. In addition, the
10 following definitions shall apply:

11 (a) "Candidate Conservation Agreement with Assurances" is a formal agreement between the United
12 States Fish and Wildlife Service and one or more parties to address the conservation needs of proposed
13 or candidate species, or species likely to become candidates, before they become listed as endangered
14 or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore
15 the species with the goal that listing will become unnecessary.

16 (b) "Core areas" are mapped sagebrush types or other habitats that support greater sage-grouse annual
17 life history requirements that are encompassed by areas: a) of very high, high, and moderate lek density
18 strata; b) where low lek density strata overlap local connectivity corridors; or c) where winter habitat
19 use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat."
20 Core area maps are maintained by the Department.

21 (c) "Developments" are anthropogenic disturbances to sage-grouse habitats which may or may not
22 impact the habitat to support sage-grouse.

23 (d) "Direct impacts" are the removal or conversion of sage grouse habitat to a non-useable state or
24 activity which immediately affects sage-grouse due to anthropogenic activities.

25 (e) "Disturbance" is natural and anthropogenic activities that can negatively affect sage-grouse use of
26 habitat either through changing the vegetation type/condition or displacement of sage-grouse use of an
27 area.

28 (f) "Indirect impacts" are effects from anthropogenic disturbances which render otherwise intact habitat
29 un-useable to sage-grouse.

30 (g) "Large-scale development" means uses that are either over 50 feet in height, have a direct
31 disturbance in excess of five acres, generate more than 50 vehicle trips per day, or create noise levels
32 of at least 70 dB at zero meters. Uses that constitute large-scale development also require review by
33 county decision makers and are listed in one of the following categories identified in the table attached
34 to OAR 660-033-0120.

35

36 A. Commercial Uses.

37

38 B. Mineral, Aggregate, Oil and Gas Uses.

1 C. Transportation Uses.

2 D. Utility/Solid Waste Disposal Facilities.

3 E. Parks/Public/Quasi-Public.

4 (h) "Low density areas" are mapped sagebrush types or other habitats that support greater sage-grouse
5 that are encompassed by areas where: a) low lek density strata overlapped with seasonal connectivity
6 corridors; b) local corridors occur outside of all lek density strata; c) low lek density strata occur outside
7 of connectivity corridors; or d) seasonal connectivity corridors occur outside of all lek density strata."
8 Low density area maps are maintained by the Department.

9 (i) "Mitigation hierarchy" is the approach used to consider whether or not to approve large-scale
10 development and is comprised of a three step process:

11 (A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain
12 development action or parts of that action. If avoidance is not possible the action must demonstrate
13 minimization.

14 (B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the
15 degree or magnitude of the development action and its implementation. Any direct or indirect impacts
16 to sage-grouse habitat remaining after minimization are subject to compensatory mitigation
17 requirements.

18 (C) "Compensatory mitigation" means the replacement or enhancement of the function of habitat to
19 support sage-grouse in greater numbers than was lost.

20 (j) "Other habitat" is mapped areas of sage grouse habitats outside areas of core and low density
21 habitats. Other habitat area maps are maintained by the Department.

22 (k) "Priority Areas for Conservation" (PACs) are key areas identified by the USFWS and documented in
23 the 2013 Conservation Objectives Team Report that have been determined to be crucial to ensure
24 adequate conservation of sage-grouse. PACs are groupings of core areas equivalent to those identified
25 in the 2011 Greater Sage-grouse Conservation Assessment and Strategy.
26

27 (3) Private and other nonfederal lands are strongly encouraged to participate in a Candidate
28 Conservation with Assurances (hereafter "CCAA") program. Voluntary conservation efforts of this nature
29 are recognized by the state of Oregon as a critical part in recovering the breeding population targeted by
30 Oregon's Conservation Strategy for Sage-Grouse. Uses identified in individual CCAA agreements are
31 relieved from the provisions of this rule except that conflicting uses will be subject to OAR 660-023-0115
32 (9) thru (11) in all instances regardless of enrollment status.

33 (4) Local governments may develop a program to achieve consistency with OAR 660-023-0115 by
34 following the standard process in OAR 660-023-0030, OAR 660-023-0040 and 660-023-0050 and
35 submitting the amendment to the Commission in the manner provided for periodic review under ORS
36 197.628 to 197.650 and OAR 660-025-0175. Until a county amends its comprehensive plan and land use
37 regulations to achieve consistency with OAR 660-023-0115 the provisions of subsections (5) thru (11)

1 shall apply directly to land use decisions affecting significant sage-grouse habitat . When a local
2 program has been acknowledged by LCDC to be in compliance with Goal 5 and equivalent to OAR 660-
3 023-0115 with regard to protecting sage-grouse habitat, that program becomes the controlling county
4 land use document and compliance with this rule is no longer necessary.

5 (5) Quality, Quantity and Location. For purposes of this rule, sage-grouse habitat is present in Baker,
6 Crook, Deschutes, Harney, Lake, Malheur and Union Counties. The location of sage-grouse habitat
7 within these counties shall be determined by following the map produced by ODFW included as Exhibit
8 A.

9 (6) Determination of Significance. Significant sage-grouse habitat includes only lands protected under
10 statewide planning goals 3 or 4 as of July 1, 2015 that are identified as:

11 (a) Core habitat areas;

12 (b) Low density habitat areas; and

13 (c) Lands within an occupied habitat area located within 3.1 miles of an occupied or occupied-pending
14 lek.

15 (d) The exact location of sage-grouse habitat may be refined during consideration of specific projects
16 but must be done in consultation with ODFW.

17 (7) Conflicting uses. For purposes of protecting significant sage-grouse habitat conflicting uses are:

18 (a) Large-scale development; and

19 (b) Other activities requiring conditional use review that are proposed in a core area within 4.0 miles of
20 an occupied or occupied-pending lek or proposed on other significant habitat within 3.1 miles of an
21 occupied or occupied-pending lek. .

22 (c) Farm use as defined in ORS 215.203(2), including livestock grazing is specifically not considered a
23 conflicting use for purposes of protecting significant sage-grouse habitat and is not subject to the
24 provisions of this rule.

25 (8) Pre-Application Conference. A county should convene a pre-application conference prior to
26 accepting an application for a conflicting use in significant sage-grouse habitat. The pre-application
27 conference should include, at a minimum, the applicant, county planning staff and local ODFW staff.

28 (9) Program to achieve the goal of protecting significant sage grouse habitat in a core area.

29 (a) A county may approve a large-scale development in a core area upon applying the mitigation
30 hierarchy as follows:

31
32 (A) Avoidance. If the proposed conflicting use can occur in another location that avoids both direct and
33 indirect impacts within core area habitat, then proposal must not be allowed unless it is moved to that

1 other location. Before proceeding with conflicting use activity that impacts core area habitat, the
2 proponent must demonstrate that reasonable alternatives have been considered and that the activity or
3 other action cannot avoid impacts within core area habitat by altering the proposed location based on
4 the following reasons:

5 (i) It is not technically feasible to locate the proposed conflicting use outside of a core habitat area
6 based on accepted engineering practices, regulatory standards or some combination thereof. Costs
7 associated with technical feasibility may be considered, but cost alone may not be the only consideration
8 in determining that development must be located such that it will have direct or indirect impacts on
9 significant sage-grouse areas; or

10
11 (ii) The proposed conflicting use is dependent on a unique geographic or other physical feature(s) that
12 cannot be found on other lands; and

13 (iii) If the proposal is for a large-scale development and either (9)(a)(A)(i) or (9)(a)(A)(ii) is found to be
14 satisfied the county must also find that it will provide important economic opportunity, needed
15 infrastructure or public safety benefits for local citizens or the entire region.

16 (B) Minimization. If the proposed use cannot be sited by avoiding a core area altogether, including
17 direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or
18 indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the
19 development adjacent to existing development and at the edge of the core area when possible. Uses
20 should minimize impacts through micro-siting, limitations on the timing of construction and/or use, and
21 methods of construction. Costs associated with minimization may be considered, but cost alone may
22 not be the only consideration in determining that location of development cannot further minimize
23 direct or indirect impacts to core areas.

24 (C) Compensatory Mitigation. To the extent that a proposed conflicting use will have direct or indirect
25 adverse impacts on a core area or low density habitat after application of the avoidance and
26 minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and
27 indirect adverse effects of the development to any core area and any low density habitat. The required
28 mitigation must comply with the supplemental Sage Grouse mitigation policy adopted by the Oregon
29 Fish and Wildlife Commission.

30 (b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

31 (A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to
32 significant sage-grouse habitat or the way sage-grouse use that habitat; or

33 (B) Conditioning the approval based on ODFW recommendations, including minimization techniques and
34 compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.

35 (10) Program to achieve the goal of protecting significant sage grouse habitat in a low density area.

36 (a) A county may approve a large-scale development in a low density area upon applying the mitigation
37 hierarchy as follows:

38

1 (A) Avoidance. If the proposed conflicting use can occur in another location that avoids both direct and
2 indirect impacts within core area and low density habitat, then proposal should not be allowed unless it
3 is moved to that other location. Before proceeding with a conflicting use activity that impacts a low
4 density habitat area, the proponent must demonstrate that reasonable alternatives have been
5 considered and that the activity or other action cannot avoid impacts within low density habitat by
6 altering the proposed location based on the following reasons:

7 (i) It is not technically or financially feasible to locate the proposed use outside of significant sage-grouse
8 habitat based on accepted engineering practices, regulatory standards or some combination thereof; or

9 (ii) The proposed conflicting use is dependent on geographic or other physical feature(s) found in low
10 density habitat areas that are less common at other locations, or it is a linear use that must cross
11 significant sage grouse habitat in order to achieve a reasonably direct route.

12
13 (iii) In addition to (i) and (ii) above, a county may find this test satisfied if there is sufficient evidence in
14 the record to demonstrate that project proponents seriously considered a location on core area habitat
15 but elected to pursue a site on low density habitat after an evaluation of alternatives showed that a
16 location on core area habitat was not necessary.

17 (B) Minimization. Required consistent with the provisions of subsection (9)(b) above.

18 (C) Compensatory Mitigation. Required consistent with the provisions of subsection (9)(c) above.

19 (b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be
20 consistent with the provisions of subsection (10)(b).

21 (11) Program to achieve the goal of protecting significant sage-grouse habitat on other habitat

22 (a) A county may approve a large-scale development on significant sage-grouse habitat on other habitat
23 upon applying the mitigation hierarchy consistent with the provisions of subsection (10)(a) above.

24 (b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be
25 consistent with the provisions of subsection (10)(b).

26 (12) Balancing. A county may approve a large-scale development proposal that does not meet the
27 avoidance test for significant sage-grouse habitat if the county determines that the overall public
28 benefits of the proposal outweigh the damage to significant sage-grouse habitat. The county shall make
29 this balancing determination only when the proposal involves an economic opportunity that will provide
30 a number of jobs paying at least 150 percent of average county wages sufficient to increase the amount
31 of private nonfarm employment numbers by at least 1.0 percent over the number included in the most
32 recent data available from the United State Census Bureau. The applicant has the burden to show that
33 the overall public benefits outweigh the damage to the significant sage-grouse habitat, and the burden
34 increases proportionately with the degree of damage to significant sage-grouse habitat

1 (13) Lands including significant sage-grouse habitat that are upzoned to a greater development potential
2 than otherwise allowed under goals 3 and 4 after July 1, 2015 shall be counted as disturbance pursuant
3 to Subsection (15) below.

4 (14) Subsections (5) thru (12) of this rule become applicable on July 1, 2017 rather than as otherwise
5 specified by OAR 660-023-0250.

6 (15) Landscape-Level Disturbance. The standards in subsections (9), (10) and (11) above, are designed
7 to minimize the amount of future disturbance from anthropogenic sources to significant sage-grouse
8 habitat areas. Consistent with available science concerning the relation between human disturbance
9 and sage grouse population levels, the department will monitor direct disturbance in core areas in each
10 of the priority areas for conservation (PAC) shown in Exhibit B. These rules are intended to ensure that
11 disturbance levels do not exceed three percent in any priority area, and that the overall amount of
12 direct disturbance in any priority area does not increase by more than 0.10 percent in any ten-year
13 period following the effective date of these rules. If either of these thresholds is exceeded, then the
14 department must report that exceedance to the commission along with a proposal to amend these rules
15 to adapt the standards and criteria such that the thresholds are met. Any proposal to amend these rules
16 undertaken by the department shall be developed in coordination with all affected counties and other
17 stakeholders.

18 (16) The department will work with ODFW, the BLM and USFWS to maintain a central registry, tracking
19 disturbance from existing (baseline) and all new development affecting core areas and low density
20 habitat. Counties must report all development permits for all uses within a core area or within low
21 density habitat to the department. The registry will include baseline calculations of direct disturbance
22 as of the date of the proposed listing of Sage Grouse, in 2010.

23 (17) State agency coordination programs. All state agencies that carry out or that permit large-scale
24 development in core area or in low density habitat, including but not limited to OWRD, ODOT, DSL,
25 DOGAMI, ODOE and the EFSC, and DEQ must report the proposed development to the department,
26 along with an estimate of the direct disturbance of the development. In addition, to the extent not
27 regulated by a county, such development, other than the issuance of water rights and the expansion of
28 cultivation, must meet the requirements of subsection (10)(a)(C) of this rule.

29 (18) Scheduled review and update, if necessary, to commence on or before June 30, 2025.

1 OAR 660-023-0115
2 Greater Sage-Grouse

3 (1) Greater Sage-Grouse (hereafter "sage-grouse") habitat is a unique wildlife resource because it is
4 subject to a variety of threats across a broad, multi-state region. Nearly all of Oregon's sage-grouse
5 habitat is located on public land managed by the federal government. Managing private and other non
6 federal land for the best possible outcomes requires partnership and cooperation among many
7 stakeholders. Engagement on the part of county government is critical to Oregon's efforts to arrest the
8 decline of this species.

9 (2) For purposes of this division, the definitions in OAR 635-140-0015 shall apply. In addition, the
10 following definitions shall apply:

11 (a) "Candidate Conservation Agreement with Assurances" is a formal agreement between the United
12 States Fish and Wildlife Service and one or more parties to address the conservation needs of proposed
13 or candidate species, or species likely to become candidates, before they become listed as endangered
14 or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore
15 the species with the goal that listing will become unnecessary.

16 (b) "Core areas" are mapped sagebrush types or other habitats that support greater sage-grouse annual
17 life history requirements that are encompassed by areas: a) of very high, high, and moderate lek density
18 strata; b) where low lek density strata overlap local connectivity corridors; or c) where winter habitat
19 use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat."
20 Core area maps are maintained by the Department.

21 (c) "Developments" are anthropogenic disturbances to sage-grouse habitats which may or may not
22 impact the habitat to support sage-grouse.

23 (d) "Direct impacts" are the removal or conversion of sage grouse habitat to a non-useable state or
24 activity which immediately affects sage-grouse due to anthropogenic activities.

25 (e) "Disturbance" is natural and anthropogenic activities that can negatively affect sage-grouse use of
26 habitat either through changing the vegetation type/condition or displacement of sage-grouse use of an
27 area.

28 (f) "Indirect impacts" are effects from anthropogenic disturbances which render otherwise intact habitat
29 un-useable to sage-grouse.

30 (b) "Core habitat" is the most productive populations and habitats that meet all life history needs
31 necessary to conserve 90% of Oregon's greater sage-grouse population with emphasis on highest
32 density and important use areas which provide for breeding, wintering and connectivity corridors. Core
33 habitat areas are identified on maps developed and maintained by ODFW as described in OAR 635-140-
34 0015, which show all sagebrush types or other habitats that support greater sage-grouse that are
35 encompassed by areas:

36
37 (A) Of very high, high and moderate lek density strata;

38
39 (B) Where low lek density strata overlap local connectivity corridors; or

1
2 ~~(C) Where winter habitat use polygons overlap with either low lek density strata, connectivity corridors,~~
3 ~~or occupied habitat.~~

4 ~~(c) "Disturbance" is natural and anthropogenic activities than can negatively affect how sage-grouse use~~
5 ~~their habitat. For purposes of this rule, only anthropogenic disturbances are addressed~~

6 ~~(d) "Direct disturbance" means the actual, physical footprint of large scale development~~
7 ~~development-~~

8 ~~(f) "Indirect disturbance" means on-site and off-site impacts that extend beyond the actual, physical~~
9 ~~footprint of large scale development~~~~large-scale development~~ ~~that are known to affect essential~~
10 ~~behavioral aspects of sage grouse life stages as set forth in _____ (supplemental ODFW sage grouse~~
11 ~~policy).~~

12 (g) "~~Large Scale Development~~Large-scale development" means uses that are either over ~~_____~~ 50 feet
13 in height, have a direct disturbance in excess of five acres, generate more than 50 vehicle trips per day,
14 or create noise levels of at least 70 dB at zero meters. Uses that constitute ~~large-scale~~
15 ~~development~~large-scale development also require review by county decision makers and are listed in
16 one of the following categories identified in the table attached to OAR 660-033-0120:

17 A. Commercial Uses.

18
19 B. Mineral, Aggregate, Oil and Gas Uses.

20 C. Transportation Uses.

21 D. Utility/Solid Waste Disposal Facilities.

22 E. Parks/Public/Quasi-Public.

23 ~~(h) "Low density areas" are mapped sagebrush types or other habitats that support greater sage-grouse~~
24 ~~that are encompassed by areas where: a) low lek density strata overlapped with seasonal connectivity~~
25 ~~corridors; b) local corridors occur outside of all lek density strata; c) low lek density strata occur outside~~
26 ~~of connectivity corridors; or d) seasonal connectivity corridors occur outside of all lek density strata."~~
27 ~~Low density area maps are maintained by the Department.~~

28
29 ~~(i)(h) "Low density habitat" is habitat which provides breeding, summer, and migratory habitats of the~~
30 ~~Oregon statewide greater sage-grouse population. Low density habitat is identified on maps developed~~
31 ~~and maintained by ODFW as described in OAR 635 140 0015, which show all sagebrush types or other~~
32 ~~habitats that support greater sage-grouse that are encompassed by areas where~~

33 ~~(A) low lek density overlapped with seasonal connectivity corridors;~~

34 ~~(B) local corridors occurred outside of all lek density strata;~~

1 ~~(C) low lek density strata occur outside of connectivity corridors; or~~

2 ~~(D) seasonal connectivity corridors occur outside of all lek density strata.~~

3 (i) "Mitigation hierarchy" is the approach used to consider whether or not to approve ~~large scale~~
4 ~~development~~large-scale development and is comprised of a three step process:

5 (A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain
6 development action or parts of that action. If avoidance is not possible the action must demonstrate
7 minimization.

8 (B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the
9 degree or magnitude of the development action and its implementation. Any direct or indirect impacts
10 to sage-grouse habitat remaining after minimization are subject to compensatory mitigation
11 requirements.

12 (C) "Compensatory mitigation" means the replacement or enhancement of the function of habitat to
13 support sage-grouse in greater numbers than was lost.

14 ~~(j) "Other habitat" is mapped areas of sage grouse habitats outside areas of core and low density~~
15 ~~habitats. Other habitat area maps are maintained by the Department.~~

16 ~~(k) "Priority Areas for Conservation" (PACs) are key areas identified by the USFWS and documented in~~
17 ~~the 2013 Conservation Objectives Team Report that have been determined to be crucial to ensure~~
18 ~~adequate conservation of sage-grouse. PACs are groupings of core areas equivalent to those identified~~
19 ~~in the 2011 Greater Sage-grouse Conservation Assessment and Strategy.~~

20
21 ~~_(k)(h) "Structure" means a building or other major improvement that is built, constructed, or installed,~~
22 ~~not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system~~
23 ~~components that are not customarily regulated through zoning ordinances.~~

24 (3) Private and other nonfederal lands are strongly encouraged to participate in a Candidate
25 Conservation with Assurances (hereafter "CCAA") program. Voluntary conservation efforts of this nature
26 are recognized by the state of Oregon as a critical part in recovering the breeding population targeted by
27 Oregon's Conservation Strategy for Sage-Grouse. Uses identified in individual CCAA agreements are
28 relieved from the provisions of this rule except that conflicting uses will be subject to OAR 660-023-
29 0115~~(8)~~ and (9) thru (11) in all instances regardless of enrollment status.

30 (4) Local governments may develop a program to achieve consistency with OAR 660-023-0115 by
31 following the standard process in OAR 660-023-0030, OAR 660-023-0040 and 660-023-0050 and
32 submitting the amendment to the Commission in the manner provided for periodic review under ORS
33 197.628 to 197.650 and OAR 660-025-0175. Until a county amends its comprehensive plan and land use
34 regulations to achieve consistency with OAR 660-023-0115 the provisions of subsections ~~(53)~~ thru ~~(119)~~
35 shall apply directly to land use decisions affecting ~~significant sage-grouse habitat one or more core areas~~
36 ~~or low density areas~~. When a local program has been acknowledged by LCDC to be in compliance with
37 Goal 5 and equivalent to OAR 660-023-0115 with regard to protecting sage-grouse habitat, that program
38 becomes the controlling county land use document and compliance with this rule is no longer necessary.

1 (5) Quality, Quantity and Location. ~~For purposes of this rule, sage-grouse habitat is present in Baker,~~
2 ~~Crook, Deschutes, Harney, Lake, Malheur and Union Counties.-~~ The location of ~~sage-grouse habitat~~
3 ~~and low density habitat~~ within these counties shall be determined by following the ~~map~~
4 ~~produced by ODFW final core area map published by the Oregon Department of Fish and Wildlife~~
5 ~~(ODFW) dated August 24, 2011~~ included as Exhibit A. ~~Lands removed from the final core area map, as it~~
6 ~~may be updated or amended from time to time, are no longer required to abide by the provisions of this~~
7 ~~rule unless identified on a different map acknowledged as part of a local comprehensive plan. However,~~
8 ~~lands newly identified as core or low density habitat on an updated version of the ODFW map are not~~
9 ~~subject to the provisions of this rule unless it is amended to require such consideration. The exact~~
10 ~~location of core areas and low density areas may be refined during consideration of specific projects but~~
11 ~~must be done in consultation with ODFW.~~

12 (6) Determination of Significance. Significant sage-grouse habitat includes only lands protected under
13 statewide planning goals 3 or 4 as of July 1, 2015 that are identified as :

14 (a) Core habitat areas; ~~and~~

15 (b) Low density habitat areas; ~~and~~

16 (c) Lands within an occupied habitat area located within 3.1 miles of an occupied or occupied-pending
17 lek protected under statewide planning goals 3 or 4 as of July 1, 2015.

18 (d) The exact location of sage-grouse habitat may be refined during consideration of specific projects
19 but must be done in consultation with ODFW.

20 (7) Conflicting uses. For purposes of protecting significant sage-grouse habitat conflicting uses are:

21 (a) ~~Large scale development~~ Large-scale development; and

22 (b) Other activities requiring conditional use review that are proposed in a core habitat area within 2
23 feet- 4.0 miles of an occupied or occupied-pending lek or proposed on other significant habitat within
24 3.1 miles of an occupied or occupied-pending lek. Prior to accepting a complete application for a
25 proposal in core or low density habitat areas a county shall require information developed in
26 consultation with ODFW regarding the proximity of the nearest leks.

27 (c) Farm use as defined in ORS 215.203(2), including livestock grazing is specifically not considered a
28 conflicting use for purposes of protecting significant sage-grouse habitat and is not subject to the
29 provisions of this rule.-

30 (8) Pre-Application Conference. A county should convene a pre-application conference prior to
31 accepting an application for a conflicting use in significant sage-grouse habitat. The pre-application
32 conference should include, at a minimum, the applicant, county planning staff and local ODFW staff.

33 (9)(8) Program to achieve the goal of protecting significant sage grouse habitat in a core habitat area.

34 (a) A county may approve a large-scale development conflicting use in a core habitat area upon applying

1 the mitigation hierarchy as follows:

2 ~~(a) Pre-Application Conference. A county should convene a pre-application conference prior to~~
3 ~~accepting an application for a conflicting use. The pre-application conference should include, at a~~
4 ~~minimum, the applicant, county planning staff and local ODFW staff.~~

5
6 ~~(Aa)(b)~~ Avoidance. If the proposed conflicting use can occur in another location that avoids both direct
7 and indirect impacts within core area habitat, then proposal must not be allowed unless it is moved to
8 that other location. Before proceeding with conflicting use activity that impacts core area habitat, the
9 proponent must demonstrate that reasonable alternatives have been considered and that the activity or
10 other action cannot avoid impacts within core area habitat by altering the proposed location based on
11 the following reasons:

12 ~~(iA)~~ It is not technically feasible to locate the proposed conflicting use outside of a core habitat area
13 based on accepted engineering practices, regulatory standards or some combination thereof. Costs
14 associated with technical feasibility may be considered, but cost alone may not be the only consideration
15 in determining that development must be located such that it will have direct or indirect impacts on
16 significant sage-grouse areas; or

17
18 ~~(iiB)~~ The proposed conflicting use is dependent on a unique geographic or other physical feature(s) that
19 can not be found on other lands, ~~such as significant energy resources or rare mineral deposits, or it is a~~
20 ~~linear use that must cross core area habitat in order to achieve a reasonably direct route; and~~

21 ~~(iiiC)~~ If the proposal is for a large-scale development ~~and either (9)(a)(A)(i) or (9)(a)(AB)(ii) is found to~~
22 ~~be satisfied the county must also find that~~ it will provide important economic opportunity, needed
23 infrastructure or public safety benefits for local citizens or the entire region.

24 ~~(Bb)(c)~~ Minimization. If the proposed use cannot be sited by avoiding a core area ~~sage-grouse habitat~~
25 altogether, including direct and indirect impacts, it shall be located to minimize the amount of such
26 habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by
27 locating the development adjacent to existing development and at the edge of the core area when
28 possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction
29 and/or use, and methods of construction. Costs associated with minimization may be considered, but
30 cost alone may not be the only consideration in determining that location of development cannot
31 further minimize direct or indirect impacts to core areas.

32 ~~(Cc)(d)~~ Compensatory Mitigation. To the extent that a proposed conflicting use will have direct or
33 indirect adverse impacts on a core area or low density habitat after application of the avoidance and
34 minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and
35 indirect adverse effects of the development to any core area and any low density habitat. The required
36 mitigation must comply with the supplemental Sage Grouse mitigation policy adopted by the Oregon
37 Fish and Wildlife Commission.

38 (b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

39 (A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to
40 significant sage-grouse habitat or the way sage-grouse use that habitat; or

1 (B) Conditioning the approval based on ODFW recommendations, including minimization techniques and
2 compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.

4 (10)(9) Program to achieve the goal of protecting significant sage grouse habitat in a low density ~~habitat~~
5 area.

6 (a) A county may approve a ~~large-scale development~~ large-scale development conflicting-use in a low
7 density ~~habitat~~ area upon applying the mitigation hierarchy as follows:

9 ~~(a) Pre-Application Conference. A county should convene a pre-application conference prior to~~
10 ~~accepting an application for a conflicting use. The pre-application conference should include, at a~~
11 ~~minimum, the applicant, county planning staff and local ODFW staff.~~

13 (A)(b) Avoidance. If the proposed conflicting use can occur in another location that avoids both direct
14 and indirect impacts within core area and low density habitat, then proposal should not be allowed
15 unless it is moved to that other location. Before proceeding with a conflicting use activity that impacts a
16 low density habitat area, the proponent must demonstrate that reasonable alternatives have been
17 considered and that the activity or other action cannot avoid impacts within low density habitat by
18 altering the proposed location based on the following reasons:

19 (i)(A) It is not technically or financially feasible to locate the proposed use outside of significant sage-
20 grouse habitat based on accepted engineering practices, regulatory standards or some combination
21 thereof; or

22 (ii)(B) The proposed conflicting use is dependent on geographic or other physical feature(s) found in low
23 density habitat areas that are less common at other locations, or it is a linear use that must cross
24 significant sage grouse habitat in order to achieve a reasonably direct route.

26 (iii)(C) In addition to ~~(A)-(i)~~ and ~~(B)-(ii)~~ above, a county may find this test satisfied if there is sufficient
27 evidence in the record to demonstrate that project proponents seriously considered a location on core
28 area habitat but elected to pursue a site on low density habitat after an evaluation of alternatives
29 showed that a location on core area habitat was not necessary.

30 (B)(c) Minimization. Required consistent with the provisions of subsection ~~(8)(c)(9)(b)~~ above.

31 (C)(d) Compensatory Mitigation. Required consistent with the provisions of subsection ~~(8)(d)(9)(c)~~
32 above.

33 (b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be
34 consistent with the provisions of subsection (10)(b).

35 (11) Program to achieve the goal of protecting significant sage-grouse habitat in an occupied on other
36 habitat area.

1 | ~~(a) A county may approve a large scale development~~large-scale development on significant sage-grouse
2 | habitat in an occupied on other habitat area upon applying the mitigation hierarchy consistent with the
3 | provisions of subsection (10)(a) above.

4 | (b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be
5 | consistent with the provisions of subsection (10)(b).

6 | ~~(12)(10)~~ Balancing. A county may approve a large-scale development proposal that does not meet OAR
7 | 660-023-0115(8)(a) or (9)(a) if the county determines that the overall public benefits of the proposal
8 | outweigh the damage to significant sage-grouse habitat. The county shall make this balancing
9 | determination only when the proposal involves an economic opportunity that will provide a number of
10 | jobs paying at least 150 percent of average county wages sufficient to increase the amount of private
11 | nonfarm employment numbers by at least 1.0 percent over the number included in the most recent
12 | data available from the United State Census Bureau. The applicant has the burden to show that the
13 | overall public benefits outweigh the damage to the significant sage-grouse habitat, and the burden
14 | increases proportionately with the degree of damage to significant sage-grouse habitat

15 | ~~(13)(11)~~ Lands including significant sage-grouse habitat that are upzoned to a greater development
16 | potential than otherwise allowed under goals 3 and 4 after July 1, 2015 shall be counted as disturbance
17 | pursuant to Subsection ~~(153)~~ below.

18 | ~~(14)(12)~~ Subsections ~~(7) thru (9)~~ ~~(5) thru (12)~~ of this rule become applicable on July 1, 2017 rather than
19 | as otherwise specified by OAR 660-023-0250.

20 | ~~(15)(13)~~ Landscape-Level Disturbance. The standards in subsections ~~(8) and (9)~~, ~~(10) and (11)~~ above, are
21 | designed to minimize the amount of future disturbance from anthropogenic sources to ~~core and low~~
22 | ~~density significant sage-grouse habitat~~ areas. Consistent with available science concerning the relation
23 | between human disturbance and sage grouse population levels, the department will monitor direct
24 | disturbance in core areas in each of the priority areas for conservation (PAC) shown in Exhibit B. These
25 | rules are intended to ensure that disturbance levels do not exceed three percent in any priority area,
26 | and that the overall amount of direct disturbance in any priority area does not increase by more than ~~==~~
27 | 0.10 percent in any ten-year period following the effective date of these rules. If either of these
28 | thresholds is exceeded, then the department must report that exceedance to the commission along with
29 | a proposal to amend these rules to adapt the standards and criteria such that the thresholds are met.
30 | Any proposal to amend these rules undertaken by the department shall be developed in coordination
31 | with all affected counties and other stakeholders.

32 | ~~(16)(14)~~ The department will work with ODFW, the BLM and USFWS to maintain a central registry,
33 | tracking disturbance from existing (baseline) and all new development affecting core areas and low
34 | density habitat. Counties must report all development permits for all uses within a core area or within
35 | low density habitat to the department. The registry will include baseline calculations of direct
36 | disturbance as of the date of the proposed listing of Sage Grouse, in 2010.

37 | ~~(17)(15)~~ State agency coordination programs. All state agencies that carry out or that permit large-scale
38 | development in core area or in low density habitat, including but not limited to OWRD, ODOT, DSL,

- 1 DOGAMI, ODOE and the EFSC, and DEQ must report the proposed development to the department,
- 2 along with an estimate of the direct disturbance of the development. In addition, to the extent not
- 3 regulated by a county, such development, other than the issuance of water rights and the expansion of
- 4 cultivation, must meet the requirements of subsection ~~(108)(a)(C)~~ of this rule.
- 5 ~~(18)(16)~~ Scheduled review and update, if necessary, to commence on or before June 30, 20~~25~~¹⁹ ~~???~~

Lek Status definitions:

Conservation status: Based on its annual status, a lek is assigned to one of the following categories for conservation or mitigation actions:

Occupied lek: A regularly visited lek that has had ≥ 1 male counted in one or more of the last seven years. Designate and protect surrounding area as Category 1 habitat (see Hagen 2005 for lek count protocols).

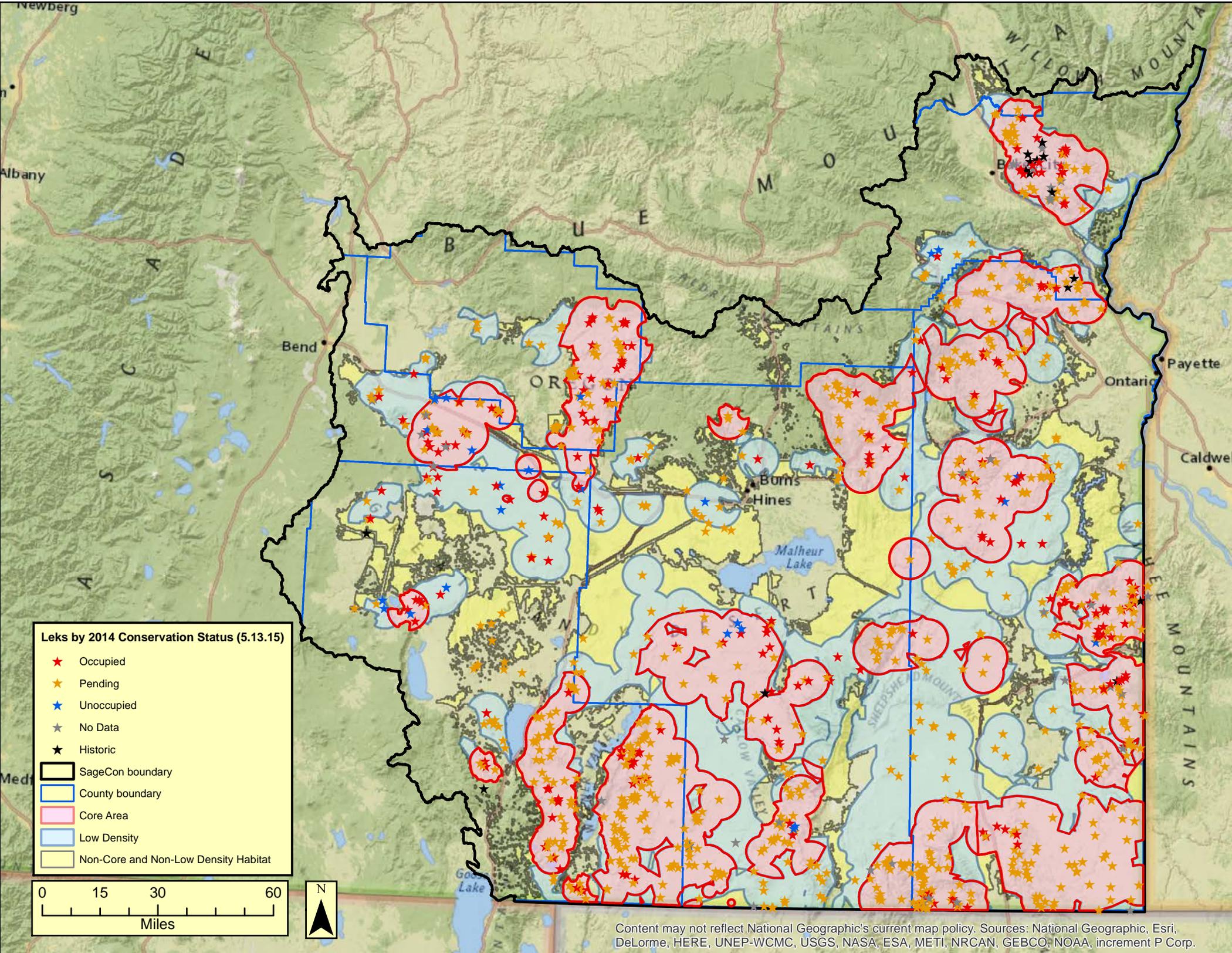
Occupied-pending- A lek not counted regularly in the last seven years, but birds were present at last visit. Designate and protect surrounding area as Category 1 habitat. These leks should be resurveyed at a minimum of two additional years to confirm activity.

Unoccupied lek: A lek that has been counted annually and has had ZERO birds for eight or more consecutive years. Mitigation category based on habitat type and condition.

Unoccupied-pending: A lek not counted regularly in a seven year period, but birds were NOT present at last visit. Designate and protect surrounding area as Category 1 habitat. These leks should be resurveyed at a minimum of two additional years to confirm activity.

Historic lek: A lek that has been unoccupied prior to 1980 and remains so. Mitigation category based on habitat type and condition.

a. 1980 serves as the baseline for evaluating population objectives under ODFW's Sage-grouse Conservation Strategy, thus leks unoccupied prior to 1980 are not included in the baseline for population abundance and distribution.



Leks by 2014 Conservation Status (5.13.15)

- ★ Occupied
- ★ Pending
- ★ Unoccupied
- ★ No Data
- ★ Historic

- SageCon boundary
- County boundary
- Core Area
- Low Density
- Non-Core and Non-Low Density Habitat



Content may not reflect National Geographic's current map policy. Sources: National Geographic, Esri, DeLorme, HERE, UNEP-WCMC, USGS, NASA, ESA, METI, NRCAN, GEBCO, NOAA, increment P Corp.