Gary Richard Herbert

Governor

EXECUTIVE ORDER

Implementing the Utah Conservation Plan
For Greater Sage-Grouse

WHEREAS, the proper stewardship of Greater Sage-Grouse by wildlife managers, private landowners, ranchers, federal land management agencies and others, has caused the State of Utah to currently enjoy robust populations of Greater Sage-Grouse; and

WHEREAS, the State of Utah has management authority over Greater Sage-Grouse populations in Utah; and

WHEREAS, in 2010, the United States Fish and Wildlife Service determined that listing the Greater Sage-Grouse as a threatened or endangered species under the provisions of the Endangered Species Act was "warranted" over its entire 11 state range, including the naturally fragmented populations in Utah, but also that the listing was "precluded" by higher priorities; and

WHEREAS, the listing of the Greater Sage-Grouse would have a significant adverse effect on the economy, custom and culture of the State of Utah; and

WHEREAS, the U.S. Fish and Wildlife Service agreed, as part of the settlement of litigation, to determine whether the listing is warranted or not warranted by September 30, 2015; and

WHEREAS, in December 2011, Ken Salazar, Secretary of the Interior, invited Utah and the 10 other western states within the range of the Greater Sage-Grouse to develop state-specific programs to conserve Greater Sage-Grouse, and thereby preclude the need to list the species; and

WHEREAS, the Utah State Legislature and state agencies have dedicated significant state resources to the conservation of Greater Sage-Grouse in Utah, beginning in the mid 1990s; and

WHEREAS, the State of Utah, in 1996, through a cooperative agreement with Utah State University Extension, has facilitated an on-going community-based conservation program that has continuously engaged thousands of Utah stakeholders in sage-grouse Local Working Groups to develop, implement, and evaluate the effectiveness of local conservation actions based on knowledge generated from long-term research which have increased both the sage-grouse habitat base and populations; and

WHEREAS, the State of Utah, through researchers at Utah State University and Brigham Young University, has assembled and continues to add to a database of knowledge and research concerning the Greater Sage-Grouse that spans the last 20 years, which database is the best and only consistently reliable data set within the range of the species; and

WHEREAS, this research has led to the publication of numerous scholarly, peer-reviewed scientific papers, which have enriched and focused scientific knowledge about the bird; and

WHEREAS, based on these data sets, the State completed and implemented plans for the conservation of sage-grouse in 2005, 2009, and most recently, completed an updated Conservation Plan for Greater Sage-Grouse (Conservation Plan), as requested by Secretary Salazar, in 2013, which Plan is based upon the best scientific and commercial information available; and

WHEREAS, the U.S. Fish and Wildlife Service issued the final report of the Conservation Objectives Team (COT) in early 2013, which Report creates Priority Areas of Conservation (PAC) to focus conservation efforts, and contains recommendations to address each of the threats to the species mentioned in the Service's 2010 listing decision; and

WHEREAS, the State's Conservation Plan responds to the COT Report by focusing conservation efforts upon identified habitat and habitat-improvement areas within 11 specifically defined Sage-Grouse Management Areas (SGMAs), which correspond to the PAC identified in the COT Report, and which SGMAs protect about 94% of the birds in Utah; and

WHEREAS, the State's Conservation Plan contains five specific, measurable goals relating to population numbers and habitat, all of which have been met the first year, and is designed to address and ameliorate the threats to the species that were identified in the COT Report; and

WHEREAS, the Bureau of Land Management and the U.S. Forest Service have proposed various amendments to agency land management plans designed to promote the conservation of the species in a balanced manner, and the process to finalize those amendments is expected to conclude in early 2015; and

WHEREAS, the State, Bureau of Land Management, U.S. Forest Service and U.S. Fish and Wildlife Service have cooperatively created population and habitat triggers for each of the 11 SGMAs, which triggers will advise the need to consider future adjustments to management within each SGMA; and

WHEREAS, Utah is part of both the Great Basin and the Rocky Mountain Regions identified by the Bureau of Land Management and U.S. Forest Service as part of their sage-grouse plan amendment processes; and

WHEREAS, the Bureau of Land Management and the U.S. Forest Service are working to find solutions to the principal threat within each Region, which has been identified as wildfire and the resulting invasion of noxious or undesirable plant invasive species in burned areas in the Great Basin Region, and energy development in the Rocky Mountain Region; and

WHEREAS, the State has engaged in a detailed examination of the implementation of its Conservation Plan in relation to the threats identified in the COT Report, and has identified the actual scope and extent of the identified threats within the State, including the two principal threats identified for each Region; and

WHEREAS, more than 75% of all wildfires in Utah are suppressed before they exceed 10 acres, and 99.8% are suppressed before they exceed 10,000 acres; and

WHEREAS, in December 2013 the State finalized an overall review of wildfire suppression and management, and approved a wildfire plan, entitled the "*Catastrophic Wildfire Reduction Strategy*;" which Strategy established the protection of sage-grouse habitat as a priority; and

WHEREAS, the State has amended its Forestry Action Plan to include the SGMAs as part of the prioritization of forestry projects to reduce fuel load and the potential for large fires; and

WHEREAS, the State of Utah, through the Division of Forestry, Fire and State Lands, has executed a "*Master Cooperative Wildland Fire Management and Stafford Act Response*

Agreement" (Agreement) in cooperation with the Bureau of Land Management, the U.S. Forest Service, and the U.S. Fish and Wildlife Service, among others; and

WHEREAS, the annual Operating Plan under the provisions of the Agreement provides for "Special Management Considerations" which allows fire suppression activities to be consistent with pre-planned objectives for an area; and

WHEREAS, under the terms of the Agreement, the State is responsible for the coordination of the counties' initial fire-attack capabilities "for the purpose of coordinated wildland fire management services within and beyond the boundaries of the State of Utah;" and

WHEREAS, pursuant to Utah Code, uncontrolled fire on unincorporated land is a "public nuisance," requiring the respective counties and the Division of Forestry, Fire and State Lands to abate the public nuisance on unincorporated private and state lands within the State; and

WHEREAS, fuel-treatment projects have been demonstrated to be very effective in stopping or significantly slowing the movement of fires, so that suppression activities can become effective more quickly, while also improving habitat for the benefit of the Greater Sage-Grouse and other species; and

WHEREAS, the State has identified specific pre-suppression fuel-treatment and habitat-improvement areas designed to maximize protections for the Greater Sage-Grouse habitat; and

WHEREAS, the State's SGMAs contain minimal amounts of oil and gas development and mining activity, and all such development and activities are properly authorized by and managed under federal or state permit; and

WHEREAS, the State collects a conservation fee from the production of oil and gas to implement the State's permitting program, and this fee collection schedule has been in place for over 10 years; and

WHEREAS, some of these fees are allocated to employ biologists within the Division of Wildlife Resources dedicated to minimize the effects of oil and gas operations upon wildlife, specifically including the Greater Sage-Grouse; and

WHEREAS, these coordination efforts have directly led to modifications to oil and gas projects to the benefit of Greater Sage-Grouse; and

WHEREAS, the U.S. Fish and Wildlife Service has indicated the State's Conservation Plan will be evaluated against the Service's Policy for the Evaluation of Conservation Efforts (PECE); and

WHEREAS, PECE requires a determination of the certainty of implementation and the certainty of effect of the conservation efforts; and

WHEREAS, a directive from the chief executive to state agencies has value in focusing the efforts and priorities of the state agencies toward coordinated conservation of the species, in order to satisfy the Service's PECE evaluation; and

WHEREAS, to reinforce and restate the State's longstanding commitment to the conservation of Greater Sage-Grouse;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual state agency, including those obligations found in Title 63L, Chapter 3 of the Utah Code, otherwise cited as the Private Property Protection Act, I, Gary R. Herbert, Governor of the State of Utah, do hereby issue this Executive Order providing as follows:

1. State agencies whose operations affect Greater Sage-Grouse (State Agencies) will coordinate implementation of the Conservation Plan, as it may be amended by its own terms, with the Public Lands Policy Coordinating Office, Office of the Governor. The

Division of Wildlife Resources will assist the Public Lands Policy Coordinating Office in this effort.

2. Management and policy decisions by State Agencies will maintain, improve and enhance Greater Sage-Grouse habitat, opportunity areas and the species' populations within the 11 SGMAs established by the Conservation Plan. It is expected that activities and facilities existing within the SGMAs prior to adoption of the Conservation Plan will be allowed to continue.

3. State Agencies will work with federal agencies, including the Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service and the Natural Resources Conservation Service, to identify the continuing conservation needs of Greater Sage-Grouse, and to seek necessary actions by the federal agencies to assure implementation of the conservation strategies, objectives and goals identified in the Conservation Plan.

4. Funding, legal assurance contracts, mapping, scientific research, habitat enhancement, improvement and reclamation efforts and other proactive efforts to assure viability of Greater Sage-Grouse in Utah will be focused and prioritized to take place within or near SGMAs, or be designed to facilitate implementation of the State's Conservation Plan.

5. Existing rights established on private, county, city, state and federal lands should be recognized and respected.

6. On-the-ground enhancements, monitoring and ongoing planning relative to Greater Sage-Grouse populations and habitat shall be coordinated through the existing Local Working Groups, whenever possible, and through the Division of Wildlife Resources.

7. The Division of Oil, Gas and Mining shall coordinate with the Division of Wildlife Resources on all regulatory actions proposed for issuance by the Division of Oil Gas and Mining within the SGMAs to assure compliance with the requirements of the State's Conservation Plan. The Division of Oil, Gas and Mining shall implement the recommendations of Wildlife Resources, subject to the statutory requirements to avoid waste of the mineral resource and protect correlative rights on private property during resource production. Both Divisions shall report the results of the coordination annually.

8. The Division of Parks and Recreation and the Office of Outdoor Recreation shall coordinate with the Division of Wildlife Resources to assure that recreational activities or recreational facilities sponsored or supported by each agency within the SGMAs will comply with the State's Conservation Plan.

9. The Departments of Natural Resources and Agriculture and Food shall coordinate all projects to improve, restore or enhance lands within the SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. The Departments should coordinate these efforts with the Utah Conservation Commission, and the relevant Local Working Groups. The Departments shall prioritize Greater Sage-Grouse habitat or opportunity areas within the SGMAs, to the maximum extent possible under the relevant funding authority. No state funding shall be approved for projects that materially eliminate sagebrush within SGMAs without consulting the Division of Wildlife Resources, and a finding that such a project will have a net conservation gain for the species.

10. The Department of Natural Resources shall expedite the completion and implementation of mitigation standards and conditions, including a conservation banking program, based upon such terms as the Department believes necessary. The Department should consult with interested parties as necessary.

11. The Division of Forestry, Fire, and State Lands will prioritize fuels-mitigation activities within or near SGMAs, and in consultation with federal land-management agencies, include SGMAs as a priority during pre-attack planning, second only to the protection of human life and structures. In cooperation with all other federal and local fire-suppression

partners throughout the State, the Division will effectuate the pre-attack plans, subject to the need to adjust based on local tactical conditions at the time of a fire or series of fires.

12. The Department of Transportation will coordinate its plans for new or upgraded facilities and roads within SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. Existing roads and facilities shall not be subject to this review.

13. The Division of Wildlife Resources shall keep a record of all its consultations related to the proposed siting of activities or projects within SGMAs.

14. State Agencies shall coordinate the collection and storage of digital Greater Sage-Grouse habitat and population information, and work toward useful digital platforms to make the information accessible to the federal partners in Greater Sage-Grouse conservation, and the public, subject to the requirements of the Utah Government Records Access and Management Act (Utah Code Title 63G, Chapter 2). The Division of Wildlife Resources shall head the effort.

15. State Agencies shall work collaboratively with local governments and private landowners to maintain, improve and enhance Greater Sage-Grouse habitats and populations in a manner consistent with the provision of the Utah Conservation Plan and this Executive Order. The Division of Wildlife Resources shall keep track of and participate, or cause the participation by Local Working Group members, in relevant local government meetings affecting the land within SGMAs, to assure that the provisions of the Conservation Plan are presented for consideration by the relevant local authority.

16. State Agencies shall strive to maintain consistency with the items outlined in this Executive Order and the Utah Conservation Plan, subject to any necessary adjustments based upon local conditions and limitations, recognizing the objective of minimizing future disturbance within SGMAs by locating proposed disturbance in areas already disturbed or naturally unsuitable.

17. The Public Lands Policy Coordinating Office and the Division of Wildlife Resources will reevaluate the protective stipulations outlined in the State's Conservation Plan periodically as new science, information and data emerge regarding the SGMAs and the habitats and behaviors of the Greater Sage-Grouse.

18. State Agencies shall report to the Public Lands Policy Coordinating Office within 60 days after this Order is signed and annually thereafter detailing their actions to comply with this Executive Order.

19. This Executive Order shall remain in effect until June 30, 2017, at which time this order will expire and all provisions of this Executive Order shall be reevaluated.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of February, 2015.

Gary R. Herbert
Governor

Spencer Cox
Lieutenant Governor

ATTEST:

EO/2015/001