

**COMMENTS ON PROPOSED LISTING AND DESIGNATION OF CRITICAL
HABITAT FOR GUNNISON SAGE-GROUSE**

Proposed listing and designation documents (Federal Register notices) can be found at:

<http://www.fws.gov/mountain-prairie/species/birds/gunnisonsagegrouse>

Federal Register Notice on Endangered Species for Gunnison Sage-grouse

Federal Register Notice on Designation of Critical Habitat for Gunnison Sage-grouse

COMMENT DEADLINE: MARCH 12, 2013

Comments may be made electronically or by regular mail as follows:

Electronically:

<http://www.regulations.gov>

Search Box: Docket No. FWS-R6-ES-2011-0111

Regular Mail:

Public Comments Processing

Attn: FWS-R6-ES-2011-0111

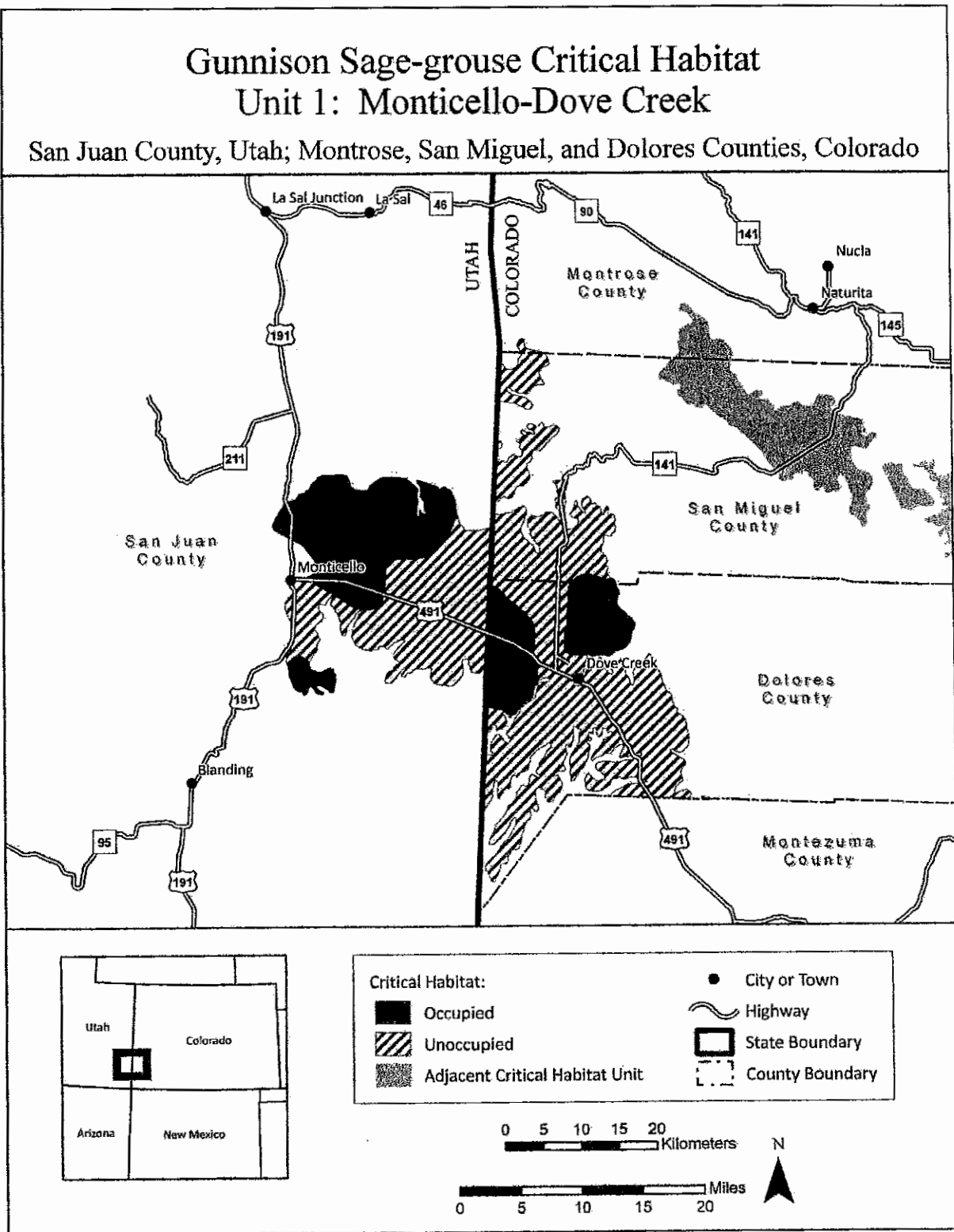
Division of Policy and Directives Management

U.S. Fish and Wildlife Service

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MS 2042-PDM

Arlington, VA 22203



(7) Unit 2: Piñon Mesa: Grand County, Utah, and Mesa County, Colorado.

(i) *General Description:* 99,220 ha (245,179 ac); 14.4 percent of all critical habitat.

(ii) Map of Unit 2, Piñon Mesa: Grand County, Utah, and Mesa County, Colorado, follows:

*Occupied and unoccupied habitat to be designated as critical habitat.
San Juan County: approximately 145,500 acres occupied and unoccupied.
(approx. 35% of total private land in San Juan County)*

ITEMS FOR CONSIDERATION in PROPOSED GUNNISON SAGE-GROUSE LISTING AND CRITICAL HABITAT DESIGNATION

USFWS has no say on the use of your private lands unless federal funds or federal permitting are involved. Then Section 7 consultation between the federal agency administering the funds/permit and USFWS comes into play. This could result in approval, denial or modification of a project.

Comments

1. Emotional statements of approval or disapproval won't carry weight. USFWS must consider impacts based on best scientific data, economic and other relevant impacts.
2. Be specific to your private land operation. Add detailed figures, estimates, documents etc. to support anticipated impacts to your operation.

Regulatory Items Relevant to Listing and Designation of Critical Habitat

Exclusions (Section 4(b)(2) of the Endangered Species Act)

1. Economic Impacts – The Secretary may exclude habitat from designation based on economic impacts. USFWS will be preparing an analysis (by 3rd party contract) of the economics of designation of critical habitat. This will be open to public comment. *Private landowners should identify the potential or expected economic impacts to their operations. Decreased property and mineral right values? Restrictions on grazing and farming practices? Be as specific as possible.*
2. Other Relevant Impacts – FWS will consider other factors including whether landowners have developed any management plans or conservation partnerships. *Impacts to landowner's lifestyle and vocation may fall under this exclusion.*

Regulatory Flexibility Act

USFWS may prepare a regulatory flexibility analysis describing the effects of the proposed rule on small entities (small businesses). *Small businesses are farm and ranch operations. It is unclear whether USFWS will prepare this analysis for the proposed rule. We should insist that this analysis be completed and be available for public review.*

Regulatory Planning and Review

Executive Order 13563 calls for improvements in the regulatory system to promote predictability, reduce uncertainty and to use the best, most innovative and least burdensome tools. It orders agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where relevant, feasible and consistent with objectives. *Critical habitat designation would likely increase uncertainty as to actions a private landowner could exercise on his property i.e. farming practices, grazing practices, vegetation conversion, mineral leases etc. Section 7 consultation would add another time-consuming step with possible denial or modification consequences to federally-assisted project planning.*

Energy Supply, Distribution, or Use (Executive Order 13211)

This E.O. requires agencies to prepare Statements of Energy Effects. USFWS does not believe the impacts of listing or designation would rise to the level of significant although the proposed critical habitat includes areas with high potential for oil and gas occurrence and development. They plan to evaluate this issue in their economic analysis. *Mention known or potential mineral right leases that could be precluded or severely modified (timing, controlled surface use/occupancy of mineral development operations) and the impact to your income.*

Takings – Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights)

USFWS has analyzed the potential takings implications of designating critical habitat in a takings assessment. They concluded that designation would not pose significant takings implications. *Provide information on how designation could affect your ability to exercise your private property rights. What rights might be lost or modified?*

National Environmental Policy Act (NEPA)(42 U.S.C.A. 4321)

USFWS will conduct a NEPA analysis (per 10th Circuit Court ruling) for critical habitat designation. The use of NEPA would more fully open the door for the County (and SWOG?) to be more actively involved as a cooperating agency and for the County to assert its right for “coordination” (Sec. 4331 of the National Environmental Policy Act). *Environmental documents would be available for public review and comment. This is another opportunity to let your comments be known.*