

# Appeal of Decision Notice, Environmental Assessment and Finding of No Significant Impact for the Big Sheep Grazing Allotments

*for the MEPA/Oversight Subcommittee of the Environmental Quality Council  
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This paper provides an overview of an appeal filed with the USDA-Forest Service (USFS) by the National Wildlife Federation regarding the adequacy of the Forest Service Environmental Assessment on the Big Sheep Allotments in addressing sage grouse management issues. This paper is being compiled in an effort to assist the Oversight subcommittee of the Environmental Quality Council (EQC) to better understand the use and/or development of guidelines for the management of sage grouse in Montana.

## National Wildlife Federation Appeal

In May 2001, the National Wildlife Federation (NWF) filed an appeal with the USFS Appeals Deciding Officer in Missoula, Montana. This appeal specifically addressed the allotment management decisions that had been adopted regarding the Big Sheep Allotments in the Beaverhead-Deerlodge National Forest.

The NWF requested an administrative review of the decision to implement the "Alternative 3" as the USFS's management direction for the Big Sheep Allotments. NWF requested that:

- *"The Decision Notice, Finding of No Significant Impact (FONSI), and Environmental Assessment (EA) must be withdrawn and any livestock grazing allowed must conform to all past permit conditions, modified to fully meet the "Guidelines to Manage Sage Grouse Populations and Their Habitats" (Connelly et al. 2000). . . ."*
- *"The decision must be remanded for the in-depth and detailed analyses required by federal law, including consideration of the best available and most recent science possible. This review must give full consideration to all pertinent wildlife and vegetation elements of the sage-steppe ecosystem in southwestern Montana. We further ask that you direct the USFS to specifically address the detailed, specific needs of the soils, plants, hydrology, and wildlife indigenous to this area - particularly including population trends of sage grouse as a Management Indicator Species (MIS) for the sage-steppe grasslands- as required under the National Forest Management Act (NFMA). We are confident that such analysis will mandate a management decision that improves wildlife habitat by eliminating upland range improvements that benefit livestock, and by modifying and limiting domestic livestock grazing on the Big Sheep Allotments."*

## **US Forest Service Response**

This appeal was addressed according to 36 CFR 215 which is the NOTICE, COMMENT, AND APPEAL PROCEDURES FOR NATIONAL FOREST SYSTEM PROJECTS AND ACTIVITIES. For further information regarding the process by which the Forest Service addresses appeals, please refer to the Code of Federal Regulations Title 36, Part 215 (36 CFR 215). The final decision on the appeal was made by Mr. David Rittenhouse, Appeal Deciding Officer, Acting Regional Forester, Missoula, MT.

The Appeal Reviewing Officer made the following recommendation:

- *"I find that the EA and DN do not adequately address the direct, indirect, and cumulative effect to sage grouse from the additional fence construction and upland water developments in the Big Sheep Grazing Allotments. I recommend the District Ranger's decision be reversed . . . ."*

The Appeal Deciding Officer agreed with the Reviewing Officer and reversed the District Ranger's decision to implement the Big Sheep Grazing Allotments project.

## **Impact of the Appeal Decision**

The Rescission Act of 1995 (Public Law 104-19) directs that livestock grazing continue as authorized, with the same terms and conditions in the existing term grazing permits, pending completion of a NEPA analysis and decision. Therefore, the management of the Big Sheep Grazing Allotments will remain as it was prior to the District Ranger's decision. Current utilization standards, stocking rates, etc. will remain in place until the revised NEPA analysis, which further addresses sage grouse concerns, is completed for the Big Sheep Allotments.

The decision remanded the case back to the District Ranger for further analyses of sage grouse issues. However, the decision did not require the District Ranger to adopt the *"Guidelines to Manage Sage Grouse Populations and Their Habitats"* that NWF requested.

## **EQC Involvement and/or Role**

The Agency Oversight subcommittee of the EQC has identified sage grouse guidelines as one of its work plan tasks in its draft work plan. One of the issues that the subcommittee is interested in following is the potential adoption of the *Guidelines to Manage Sage Grouse Populations and Their Habitats"*, which are a product of the Western Association of Fish and Wildlife Agencies. The above described appeal does not directly impact whether or not the *"Guidelines to Manage Sage Grouse Populations and Their Habitats"* will be adopted in whole or in part in Montana.

The Montana Department of Fish, Wildlife, and Parks (FWP) is currently in the process of developing a statewide conservation plan for the management of sage grouse in Montana. FWP has convened a sage grouse technical committee with working groups to address sage grouse management issues in Montana. The technical committee and working groups are in the process of holding public meetings and hearings across the state to gather input from interested persons and to develop a state conservation management plan for sage grouse. The relationship that will or may exist between the *"Guidelines to Manage Sage Grouse Populations and Their Habitats"* and any state wide conservation plan that is developed by the FWP and its technical committee for use in Montana is yet to be determined.