AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
11.Ratification of Signature; Conservation Agreement for the Gunnison Sage-grouse; US Fish and Wildlife Service, States of Colorado and Utah, the Boards of County Commissioners of Gunnison, Saguache, Dolores, Montezuma, Delta, Montrose, Hinsdale, Mesa, San Miguel and Ouray Counties, and San Juan County, Utah; Establish a Culture of Cooperation, Collaboration and Partnership that Foster Gunnison Sage-grouse so that the Species is Stable and Growing, Healthy and Likely to Persist in the Long Term

Action Requested: Other Ratify Chair Signature

Parties to the Agreement: USFWS; State of CO & 11 counties

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Identify & implement strategies and measures to help reach the goal of increasing the current abundance and validity of the Gunnison Sage-grouse and their habitat.

Fiscal Impact: n/a

Submitted by: B. Lucero for B. Wiseman **Submitter's Email Address:** Bwiseman@gunnisoncounty.org

Finance Review: ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

County Attorney Review: ◉ Required ○ Not Required

Comments:

ok db 7/12/13

Reviewed by: DBaumgarten Discharge Date: 7/12/2013 Certificate of Insurance Required Yes ○ No ◉

County Manager Review:

Comments:

Reviewed by: MBirnie Discharge Date: 7/16/2013

◉ Consent Agenda ○ Regular Agenda ○ Worksession Time Allotted:

Agenda Date: 7/23/2013 Follow Up Agenda Date: N/A

Revised April 2013

CONSERVATION AGREEMENT FOR
THE GUNNISON SAGE-GROUSE

1.0 INTRODUCTION.

This Conservation Agreement is among:

- the U.S. Fish and Wildlife Service ("FWS"),
- the State of Colorado ("State of Colorado"),
- the State of Utah ("State of Utah"),
- the Board of County Commissioners of Gunnison County, Colorado ("Gunnison County"),
- the Board of County Commissioners of Saguache County, Colorado ("Saguache County"),
- the Board of County Commissioners of Dolores County, Colorado ("Dolores County"),
- the Board of County Commissioners of Montezuma County, Colorado ("Montezuma County"),
- the Board of County Commissioners of Delta County, Colorado ("Delta County"),
- the Board of County Commissioners of Montrose County, Colorado ("Montrose County"),
- the Board of County Commissioners of Hinsdale County, Colorado ("Hinsdale County"),
- the Board of County Commissioners of Mesa County, Colorado ("Mesa County"),
- the Board of County Commissioners of San Miguel County, Colorado ("San Miguel County"),
- the Board of County Commissioners of Ouray County, Colorado ("Ouray County"), and
- the Board of County Commissioners of San Juan County, Utah ("San Juan County").

(collectively the "Parties").

The Parties intend to establish a culture of cooperation, collaboration and partnership that foster Gunnison Sage-grouse so that the species is stable and growing, healthy and likely to persist in the long term.

The Parties jointly and individually state their commitment to assist with and participate in the implementation of this Conservation Agreement. Specific commitments made hereby are as follows:

1. Each Party will exercise its independent judgment to implement as it deems appropriate resolutions, regulations and guidelines ("Institutional Controls") within the constraints of existing laws, policies and management plans to enhance species and its habitat;
2. Each Party will exercise its independent judgment to work with the other Parties, private landowners, other entities and the public in an open and collegial manner to foster reasonable and necessary conservation actions to conserve the species and its habitat ("Voluntary Efforts").

2.0 GUIDING PRINCIPLES AND PHILOSOPHY, AUTHORITIES.

2.1 Purpose.

The purpose of this Conservation Agreement is to identify and implement measures and strategies to help reach the goal of increasing the current abundance and vitality of Gunnison Sage-grouse and their habitat by providing coordinated guidance, recommendations and a Rangewide perspective as well as analysis of threats, and specific Rangewide and local assessment goals, strategy goals, implementation tools, and targets.

2.2 Guiding Principles And Philosophy.

The guiding principles of this Conservation Agreement are to (1) encourage and support conservation actions that meet the needs of Gunnison Sage-grouse and that promote economic communities or minimize impacts to communities; (2) manage for a health sagebrush steppe ecosystem so that other sagebrush obligate species in the system will benefit; (3) create a plan that will be flexible enough to incorporate Gunnison Sage-grouse research findings and successful management practices into conservation actions; (4) acknowledge the pivotal role private landowners and local work groups play in conservation efforts; and (5) maintain an atmosphere of cooperation, participation and commitment among all levels of government, wildlife managers, landowners, public and private land managers, other stakeholders, and interested public in development, continuation and implementation of conservation actions.

A guiding philosophy of this Conservation Agreement is that conservation works best when implemented at the most local level possible, coordinated collegially among all the impacted and governing entities.

2.3 Authorities.

2.3.1 Overview of the Endangered Species Act.

The purpose of the Endangered Species Act ("ESA") is to protect and recover imperiled species and the ecosystems upon which they depend. Under the ESA,

species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. When evaluating a species for listing, the FWS considers five factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. When one or more of these factors imperils the survival of a species, the FWS may take action under ESA Section 4 to protect it.

The ESA protects endangered and threatened species and their habitats by prohibiting the "take" of listed animals. Section 9 of the ESA prohibits "take" of any federally endangered wildlife species (16 United States Code (USC) § 1538(a)). As defined by the ESA, "take" means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 USC § 1532(19)). "Harm" is further defined by FWS regulations as "an act which actually kills or injures wildlife and may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding or sheltering." 50 CFR § 17.3. "Harass" in the definition of take is defined by FWS regulations as "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering." *Id.*

The Endangered Species Act at Sections 4(a)(1) and 4(b)(1)(A), and 50 C.F.R. 424.11(f), require the FWS to consider any local regulations, programs or other specific conservation measures that positively affect a species status. 50 C.F.R. 424.11(f) states: "The secretary (of Interior) shall take into account, in making (listing determinations) those efforts, if any, being made by ... any political subdivision of a state ... to protect such species, whether by ... protection of habitat, or other conservation practices, within any area under its jurisdiction..."

2.3.2 Legal and Regulatory Framework.

There are many federal, state and county statutes and regulatory mechanisms that offer protection to Gunnison Sage-grouse. Federal agencies including the United States Fish and Wildlife Service ("USFWS"), United States Bureau of Land Management ("BLM"), United States Forest Service ("USFS"), United States National Park Service ("NPS") and United States Natural Resources Conservation Services ("NRCS") have laws, regulations, policies and funded programs that authorize and support conservation actions for habitat and population management. Both Colorado and Utah have state laws and regulations to protect, preserve and manage wildlife. In Colorado and Utah, counties have regulatory authorities for wildlife and/or Gunnison Sage-grouse conservation.

2.3.3 Federal Authority.

a. United States Fish and Wildlife Service. Among other authorities, the USDI USFWS has authority for conservation of the GUSG through: (1) the ESA of 1973, as amended; (2) the Fish and Wildlife Act of 1956, as amended; and (3) the Fish and Wildlife Coordination Act, as amended. Congress, in Section 2 of the ESA, declares that there is value in having incentives for conservation, and Section 5 of the Act, as amended in 1978, provides authority for agencies to engage in conservation activities for the protection of candidate species. Section 6 of the ESA directs that the "Secretary shall cooperate to the maximum extent with the states ..." (16 U.S.C. 1535(a)). The Secretary of Interior may also authorize states for monitoring the status of candidate species (16 U.S.C. 1535(c)). The Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as amended, give authorities to the USFWS for enhancement of all fish and wildlife species and mitigation of impacts to fish and wildlife, particularly from Federal water development projects. The Federal Aid and Wildlife Restoration Act of 1937 (Pittman-Robertson Act), as amended, serves as the principal mechanism for providing federal assistance to states for the acquisition, restoration, and maintenance of wildlife habitat, for the management of wildlife areas and resources, and for research into problems of wildlife management (16 U.S.C. 669-669i).

2.3.4 State Law.

a. Colorado Division of Parks and Wildlife. The CPW, a branch of the Colorado Department of Natural Resources, has responsibility for the management and conservation of wildlife resources within state borders, including the conservation and management of threatened and endangered species, as defined and directed by state laws (i.e. Colorado Revised Statutes, Title 33 Article 1). Title 33 Article 1-101, Legislative Declaration states: "It is the policy of the State of Colorado that the wildlife and their environment are to be protected, preserved, enhanced and managed for the use, benefit, and enjoyment of the people of this state and its visitors. It is further declared to be the policy of this state that there shall be provided a comprehensive program designed to offer the greatest possible variety of wildlife-related recreational opportunity to the people of this state and its visitors and that, to carry out such program and policy, there shall be a continuous operation of planning, acquisition, and development of wildlife habitats and facilities for wildlife-related opportunities."

b. Utah Division of Wildlife Resources. Title 23 of the Utah Code is the Wildlife Resources Code of Utah and provides the UDWR the powers, duties, rights, and responsibilities to protect, propagate, manage, conserve, and distribute wildlife throughout the state. Section 23-13-3 declares that wildlife existing within the state, not held by private ownership and legally acquired, is property of the state. Sections 23-14-18 and 23-14-19 authorize the Utah Wildlife Board to prescribe rules and regulations for the taking and/or possession of protected wildlife. The hunting season for GUSG in Utah has been closed since 1989.

UDWR's wildlife management philosophies are reflected in its Mission Statement and Strategic Plan. The mission of the UDWR is to assure the future of protected wildlife for its intrinsic, scientific, educational, and recreational values through protection, propagation, conservation, and distribution throughout the state of Utah. The UDWR Strategic Plan calls for focusing efforts on increasing the abundance, distribution, and range for species of conservation need by sustaining and restoring habitat functions. A ten-year comprehensive wildlife conservation plan for Utah will be developed and implemented to address species/habitats of conservation need, their priorities, and the necessary actions and future changes.

2.3.5 County Authority/County Institutional Controls.

a. County Authority. A Colorado county has the authority to protect and promote the health, welfare and safety of the people within its jurisdiction, the authority to regulate land use planning and environmental quality and protection, and the express authority to protect lands "from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species." See: C.R.S. 29-20-104(1)(b).

A Utah county has the authority to provide for the health, safety and welfare, and promote the property and aesthetics of each county and its present any future inhabitants and businesses, and provide fundamental fairness in land use regulation. See: U.C.A. §§17-27a-102.

3.0 BACKGROUND.

Gunnison Sage-grouse Rangewide Conservation Plan, April 2005 ("Rangewide Conservation Plan") (attached hereto as Appendix A) was the culmination of almost 2 years of effort by the U.S. Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service, U.S. National Park Service, the Natural Resources Conservation Service, the Colorado Division of Wildlife, the Utah Division of Wildlife Resources, North American Mediation Associates and others.

The Rangewide Conservation Plan provided a "conservation assessment," an analysis of threats, and conservation strategies. The Rangewide Conservation Plan provided the then best available, accurate description of the Gunnison Sage-grouse and Gunnison Sage-grouse habitat. The Rangewide Conservation Plan is the bench mark document on which this Conservation Agreement is based.

4.0 DESCRIPTION OF THE AREA TO BE COVERED.

This Conservation Agreement is intended to address conservation strategies for Gunnison Sage-grouse and Gunnison Sage-grouse occupied habitat for all currently existing populations:

a. Gunnison Basin, Colorado

b. Cerro Summit – Sims Mesa, Colorado

c. Crawford, Colorado

d. Dove Creek, Colorado

e. Piñon Mesa, Colorado

f. Poncha Pass, Colorado

g. San Miguel Basin, Colorado

h. Monticello, Utah

5.0 CURRENT PROGRAMS.

5.1 Local.

5.1.1 Individual Counties.

i. Gunnison County, Colorado (See: Appendix B).

ii. Saguache County, Colorado (See: Appendix C).

iii. Dolores County, Colorado (See: Appendix D).

iv. Montezuma County, Colorado (See: Appendix E).

v. Delta County, Colorado (See: Appendix F).

vi. Montrose County, Colorado (See: Appendix G).

vii. Hinsdale County, Colorado (See: Appendix H).

viii. Mesa County, Colorado (See: Appendix I).

ix. San Miguel County, Colorado (See: Appendix J).

x. Ouray County, Colorado (See: Appendix K).

xi. San Juan County, Utah (See: Appendix L).

5.2 State (See: Appendix M).

5.3 Federal (See: Appendix N).

5.4 Joint Efforts Among Various Parties.

Significant efforts to enhance the species and its habitat already have been initiated among several of the Parties; the Parties intend to continue and expand those efforts which include:

a. Gunnison Sage-grouse Rangewide Conservation Plan, April 2005 ("Rangewide Conservation Plan"). See: Section 3.0 above, and Appendix A. The purpose of the Rangewide Conservation Plan is to identify measures and strategies "to help reach the goal of increasing the current abundance and vitality of Gunnison Sage-grouse and their habitat "by providing guidance, recommendations, and a Rangewide perspective" as well as analysis of threats, and specific Rangewide and local "assessment goals," "strategy goals" and targets.

b. Gunnison Basin Strategic Committee. The Gunnison Sage-grouse efforts were first organized under the Gunnison Basin Local Working Group, founded in 1994, and later incorporated into the Gunnison Basin Sage-grouse Strategic Committee (GBSC), created in 2005, by the Gunnison County Board of County Commissioners, to implement programs and steps that would aid in the preservation of the Gunnison Sage-grouse. They have created both local and regional conservation plans (Gunnison County Sage-grouse Local Working Group 1997, Gunnison Sage-grouse Rangewide Steering Committee 2005, Gunnison Basin Sage-grouse Strategic Plan 2009, Gunnison Basin Sage-grouse Habitat Prioritization Tool 2012), invested over $30 million in direct conservation actions and passed county-level land use regulations." The Charter of the Gunnison Basin Strategic Committee is attached as Appendix Q.

c. Candidate Conservation Agreement with Assurances for Gunnison Sage-grouse (*Centrocercus minimus*) between the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service.

In July, 2006 the U.S. Fish and Wildlife Service (FWS) and the Colorado Division of Wildlife (currently, Colorado Parks and Wildlife (CPW)) entered into a Candidate Conservation Agreement with Assurances (CCAA) for the Gunnison Sage-grouse across the range of the species in Colorado. Participating landowners may also be included under the CCAA by signing a Certificate of Inclusion (CI), subject to approval by CPW and concurrence by the FWS.

The purpose of this CCAA is for the FWS to join with the CPW and participating private landowners to implement conservation measures for Gunnison Sage-grouse in a manner consistent with the FWS' policy on CCAA's w (64 FR 32726) and applicable regulations. The conservation goal of the CCAA is to achieve the protection and management necessary to preclude listing by obtaining agreements for grouse habitat protection and/or enhancements on private lands. The conservation goals will be met by giving the State of Colorado and private landowners incentives to implement conservation measures. Landowners will be provided with regulatory certainty concerning land use restrictions that might otherwise apply should the Gunnison Sage-grouse become listed under the Endangered Species Act (ESA).

The CCAA pertains to non-federal lands in Colorado encompassed by the current distribution of Gunnison Sage-grouse, and to those non-federal lands that provide potential habitat that may be occupied by the species in the future, referred to in the Rangewide Conservation Plan as "vacant/unknown" and "potentially suitable" habitats.

Landowners may participate in the CCAA by signing an agreement referred to as a Certificate of Inclusion (CI). CI's are of two basic types: 1) Type 1 – CI's maintain existing conditions and broad management actions; 2) Type 2 – CI's that enhance habitat conditions through changes or additions to existing management actions.

Goals for habitat protection in populations without seasonal habitats mapped were identified in the CCAA Agreement as:

Table 2. Targets for Habitat Protection in populations without seasonal habitats mapped. Population Name	Utilized habitat w/in Occupied Habitat (ac.) (All Ownerships)	Utilized habitat w/in Occupied Habitat (ac.) on Federal Lands	Utilized Habitat in Private Ownership (ac.)	Cons. Easements on pvt. Land in Utilized habitat (ac.) (considered protected)	Remaining pvt land needing protection (ac.)	Utilized Habitat w/in Occupied that is not included in target for protection (*1)(ac.)	Target for CCAA Protection: (Remaining Pvt land minus non-targeted acres) See footnote 2
Crawford	34,908	26,775	8,186	552	7,634	3,491	**4,143**
Dove Creek	86,483	3,725	23,588	997	22,591	8,648	**13,943**
Pinon Mesa	24,185	11,595	15,059	4,005	11,054	2,419	**8,635**
Poncha Pass	14,781	15,092	4,054	0	4,054	1,478	**2,576**
San Miguel	85,999	37,078	47,110	821	46,289	8,599	**37,690**

As of April 24, 2013, CPW provided the following CCAA enrollment information:

Gunnison Basin Population	
16 properties with approved CI's	17,679 acres
7 properties with CI's in process	14,863 acres
2 properties with baseline reports	214 acres
4 new properties awaiting baseline reports	7,585 acres
10 new properties needing additional time	27,485 acres
Potential Gunnison Basin CCAA enrollment	67,826 acres (122% of CCAA goal)
Crawford Population	
1 property with approved CI	2479 acres
1 property with CI in process	1391 acres
1 property with baseline report needed	161 acres
Crawford population CCAA Enrollment	4031 acres (97% of CCAA goal)

d. Gunnison Basin Candidate Conservation Agreement ("CCA"). Beginning in January, 2010, federal land management agencies and the Gunnison Basin Sage-grouse Strategic Committee developed a draft Candidate Conservation Agreement ("CCA") to promote conservation of the Gunnison Basin Population of the Gunnison Sage-grouse. The CCA addresses three categories of threats to Gunnison Sage-grouse habitat on federal lands in the Gunnison Basin, as identified in the 2010 FWS status review: development, recreation and grazing. The CCA will apply to such actions on the approximately 395,000 federal acres of occupied habitat, or approximately 2/3 of the total 590,000 acres of occupied Gunnison Sage-grouse in the Basin.

It is intended that signatories be:

- USFS: Gunnison Range District of the Grand Mesa, Uncompahgre and Gunnison National Forest.
- USNPS: Black Canyon of the Gunnison National Park and Curecanti National Recreation Area.

- USBLM: Gunnison Field Office.
- USFWS: Western Colorado Field Office.
- USDA Natural Resources Conservation Service, Colorado.
- State of Colorado – Department of Natural Resources, Colorado Parks & Wildlife: Gunnison Service Center.
- Board of County Commissioners of Gunnison County, Colorado.
- Board of County Commissioners of Saguache County, Colorado.

e. Memorandum of Understanding. A memorandum of understanding ("MOU") has been executed among of the governing boards of all of the counties that may have either Gunnison Sage-grouse, occupied habitat, or both, in their respective jurisdictions. These counties are:

- Gunnison County, Colorado
- Saguache County, Colorado
- Dolores County, Colorado
- Montezuma County, Colorado
- Delta County, Colorado
- Montrose County, Colorado
- Hinsdale County, Colorado
- Mesa County, Colorado
- San Miguel County, Colorado
- Ouray County, Colorado
- San Juan County, Utah

The intent of the MOU is that the counties, individually and collectively, ensure that reasonable and adequate work is being conducted, and shall continue to be conducted, to reach the goal of increasing the current abundance, viability and vitality of Gunnison Sage-grouse and their habitat. The purpose of (the) MOU is to identify measures and strategies to achieve this goal. This will be accomplished by sharing data, strategies, plans and tools, engaging in dialogue, providing among the parties to the MOU and others recommendations and critique and fostering a Rangewide perspective on Gunnison Sage-grouse and their habitat.

The parties to the MOU memorialized:

1. Their intent to continue informally their joint discussions;
2. Their intent formally to schedule and conduct regular coordination meetings;

3. Their intent to take specific coordinated actions to reach the goal of increasing the current abundance, viability and vitality of Gunnison Sage-grouse and their habitat;
4. Their intent, when reasonable, to enter into formal intergovernmental agreements to implement actions that result from the MOU;
5. The fact that the parties to the MOU, individually and in combinations, already have accomplished significant efforts to foster the Gunnison Sage-grouse.

A copy of the MOU is attached as Appendix R.

f. Gunnison Sage Grouse Conservation Trust. Gunnison County Sage-grouse Conservation Trust ("Landfill Mitigation Fund For Gunnison Sage-Grouse"). In 1999 the Gunnison County Landfill property was transferred from the Bureau of Land Management to Gunnison County. A requirement of that transfer was mitigation for possible impacts to Gunnison Sage-grouse. A mitigation fund, the *Gunnison Sage-grouse Conservation Trust,* was established by the Gunnison County Board of County Commissioners to hold and disburse funds for Gunnison Sage-grouse projects.

The Gunnison Sage-grouse Conservation Trust commonly referred to as the "landfill mitigation fund" mission statement and guiding principles, as adopted by the Gunnison County Board of County Commissioners, are:

MISSION STATEMENT AND GUIDING PRINCIPLES

The mission of the Gunnison Sage Grouse Conservation Trust is to develop pilot projects, which will preserve Sage Grouse habitat and associated wildlife habitat within a two mile radius of the Gunnison County Landfill. The goal is to increase the number of Gunnison Sage Grouse within this defined area; to address the goal of the Gunnison Sage Grouse Conservation Plan; to increase the knowledge of Sage Grouse ecology; and to raise the awareness of the public regarding the importance of this species to our ecosystem.

Efforts to fulfill this mission will be guided by the following principles:

- *The primary emphasis is to use these funds to develop pilot projects within the defined area, which have the potential of being replicated in other Gunnison Sage Grouse habitat areas in the County. This will involve the development of standards and goals to measure the success of these projects. A secondary emphasis is focused on acquiring basic biological data through monitoring and research necessary to predict management actions and consequences to achieve the goals of the Sage Grouse Conservation Plan.*
- *The primary funding strategy is to cooperate with partners in order to match and maximize all available financial resources. Partners may include the municipalities, government agencies and programs, educational institutions, conservation groups, and trusts and private individuals.*

- *Available resources are spent in a manner to achieve a balance between urgent, immediate demands and farsighted, long-range goals.*
- *To cooperate with the County's agricultural community in sharing information regarding the success or failure of pilot projects in order to retain and continue production on large tracts of farm and ranchlands when preserving sage-grouse habitat.*

In 2006 the Gunnison County Board of County Commissioners expanded the area of consideration for funding from the Trust Fund to include all areas of Gunnison Sage-grouse Occupied Habitat in Gunnison County.

Over $250,000 has been expended from the Trust Fund for Gunnison Sage-grouse Projects (Table 24).

6.0 DURATION.

6.1 This Conservation Agreement is a dynamic document designed to change and adapt to the needs of the Gunnison Sage-grouse as they are identified. It is the intent of the Parties that this Conservation Agreement be formally reviewed every second year after its execution, and will terminate when the Gunnison Sage-grouse is removed from the Colorado Species of Concern List in Colorado and the Utah Sensitive Species List in each State's respective discretion.

7.0 PROPOSED ACTIONS.

7.1 Covered Geographic Areas and Anticipated Activities.

It is the intent of the Parties that the Gunnison Sage-grouse continue to be healthy, robust, stable and likely to persist in the long term. To that end, the Parties shall review and update the Rangewide Conservation Plan to identify each geographic area and each ongoing or reasonably anticipated activity for which a Rangewide conservation strategy or a local conservation strategy should be adopted and implemented by the appropriate governmental entity.

The Parties shall:

i. Review and amend the existing Rangewide Conservation Plan, no later than _____, to include current information and analysis of population sizes, threats to the species, strategies, and goals;

ii. Formally adopt the amended Rangewide Conservation Plan, no later than _____;

iii. Expand the current County MOU group to include the other Parties to be a Conservation Agreement Group which shall meet no less than every six months;

iv. The local governments create and continue "local population" strategic committees;

v. Each Party in its discretion shall implement local strategies consistent with the Rangewide Conservation Plan as amended – individually or with other Parties – (both regulatory and nonregulatory) in its own jurisdiction (defined for the federal and state governments by agency, and for local governments by their legal, jurisdictional boundary);

vi. Each local government shall develop a "habitat prioritization tool" (similar to that developed by Gunnison County) in its respective jurisdiction;

vii. The Parties to work in collaboration to export and import strategies based on the needs of each Gunnison Sage-grouse population;

viii. Monitor for performance of Rangewide Conservation Plan (as amended) goals;

8.0 ADDITIONAL ACTIONS.

The Parties will explore:

1. Additional conservation partners:

a. United States Department of Interior Bureau of Land Management ("BLM").

The United States Department of Interior (USDI) BLM has authority for conservation of GUSG through: (1) the Federal Land Management Policy Act (FLMPA) of 1976 (43 U.S.C. 1701 et seq.; 90 stat. 2743; PL 94-579; (2) the Sikes Act, Title II (16 U.S.C. 670 et seq.), as amended; and (3) the BLM Manual 6840, Special Status Species Management. Specifically, the FLMPA guidance on sensitive species authorizes that "the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air, and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals... (43 USC 1701 Sec. 102 (a) (8))."

Section 06 (C) of the 6840 Manual gives the following guidance on candidate species: "Consistent with existing laws, the BLM shall implement management plans that conserve candidate species and their habitats and shall ensure that actions authorized, funded, or carried out by the BLM do not contribute to the need for the species to become listed." Specific BLM guidance is outlined in the 6840 Manual. Section .12 of the 6840 Manual states: "Actions authorized by BLM shall further the conservation of federally listed and other special status species and shall not contribute to the need to list any special status species under provisions of the ESA, or designate additional sensitive species under provisions of this policy." The Department of Interior Fish and Wildlife Policy: State-Federal Relationships (43CFR Part 24.4 (c)) states in part that "...the Secretary of Interior is charged with the responsibility to manage non-wilderness BLM lands for multiple uses, including fish and wildlife conservation. In addition, the RCP is consistent with the BLM National Conservation Strategy for Sage-grouse (Bureau of Land Management 2004b).

b. United States Department of Agriculture Forest Service ("USFS").

The United States Department of Agriculture (USDA) Forest Service (USFS) has authority for conservation of the GUSG through: 1) the Multiple Use-Sustained Yield Act (MUSY) of 1960 (P.L. 86-517, 74 Stat. 215, 16 U.S.C 528(note), 528-531); 2) the Sikes Act of 1960 (P.L. 86-797, 74 Stat. 1052, 16 U.S.C. 670 et seq., as amended); 3) the Forest and Rangeland Renewable Resources Planning Act (RPA) of 1974 (P.L. 93-378, 88 Stat. 476, as amended; 16 U.S.C. 1600(note), 1600-1614); 4) the National Forest Management Act (NFMA) of 1976 (P.L. 94-588, 90 Stat. 2949, 16 U.S.C. 472 et seq.) and its implementing regulations (36 CFR 219); 5) Public Rangelands Improvement Act of 1978 (P.L. 95-514, 92 Stat. 1806, 43 U.S.C. 1901-1908); and 6) USDA Regulation 9500-4 and the Forest Service Manual (FSM) Chapter 2600. MUSY directs the USFS to administer the National Forests for outdoor recreation (including wilderness), range, timber, watershed, and wildlife and fish purposes, in cooperation with interested State and local governmental agencies and others. "Multiple use" means the harmonious and coordinated management of the various surface renewable resources so that they are utilized in the combination that will best meet the needs of the American people. The Sikes Act provides authority for cooperative planning, habitat improvement, and providing adequate protection for threatened or endangered species under the Endangered Species Act of 1973 or species considered to be threatened, rare, or endangered by the State agency. RPA and NFMA provide for comprehensive, integrated planning that will provide for the diversity of plant and animal communities to meet overall multiple-use objectives. USDA Regulation 9500-4 directs the USFS to manage "habitats for all existing native and desired nonnative plants, fish and wildlife species in order to maintain at least viable populations of such species." USFS policy states: "To preclude trends toward endangerment that would result in the need for federal listing, units must develop conservation strategies for those sensitive species whose continued existence may be negatively affected by the forest plan or a proposed project." (FSM 2621.2).

c. United States Department of Interior National Park Service ("NPS").

The USDI NPS has authority for conservation of the GUSG through the 1916 NPS Organic Act (16 USC 1) which charges the NPS with management of parks to "... conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Additional authorities that guide the NPS are found in the General Authorities Act of 1970 (16 USC 1c (a)) and the Redwood Act of 1978 (16 USC 1a-1). Furthermore, the Presidential Proclamation establishing Black Canyon of the Gunnison National Monument (Proclamation No. 2033; March 2, 1933; 17 Stat. 2558), and the Memorandum of Agreement between the NPS and Bureau of Reclamation dated February 11, 1965, provide authorities for protection of the GUSG at Black Canyon of the Gunnison National Park and Curecanti National Recreation Area.

NPS Management Policies and the NPS-77 Natural Resources Management Guideline state that the NPS will seek to perpetuate the native animal life as part of the natural ecosystem of parks. They further define Species of Concern as all native animal species within a park that face an immediate danger of losing their natural role in an ecosystem because of human-induced change. Regarding Species of Concern, NPS-77 states that the NPS should also look for opportunities to enter into cooperative and interagency agreements and memoranda of understanding with other federal and state agencies on research, monitoring, and management of the Species of Concern, and, where appropriate, promulgate regulations. The NPS must strive to protect the natural conditions and processes and the ecosystem integrity to the greatest extent possible for Species of Concern.

NPS-77 further states, "Management of Candidate species should, to the greatest extent possible, parallel the management of federally listed species." The NPS Management Policies identifies the management of threatened or endangered plants and animals as follows: "The Service will survey for, protect, and strive to recover all species native to national park system units that are listed under the ESA. The Service will fully meet its obligations under the NPS Organic Act and the ESA to both proactively conserve listed species and prevent detrimental effects on these species."

d. United States Department of Agriculture Natural Resources Conservation Service ("NRCS").

The USDA NRCS has authority for conservation of GUSG through: (1) the Soil Conservation and Domestic Allotment Act of 1936, as amended (PL 74-46; (2) the Department of Agriculture Reorganization Act of 1994 (PL 103-354; 7 U.S.C. 6962); and (3) the Farm Security and Rural Investment Act (Farm Bill) of 2002 (PL 107-171).

e. United States Farm Services Administration ("FSA").

The FSA, under the Conservation Reserve Program, establishes contracts with agricultural producers to retire highly erodible and other environmentally sensitive cropland and pasture for improvement of surface water quality, creation of wildlife habitat, preservation of soil productivity, and reduction of offsite wind erosion damages.

2. NRCS and Other Private Lands Conservation Programs (E.g. EQIP, WHIP, FRPP).

3. Non-agricultural CCAA's.

4. Mitigation Agreement.

5. Habitat Conservation Funding.

9.0 SEPARATE ACTIVITIES AND RESOURCES.

Each of the Parties retains its sole discretion to conduct its own activities and utilize its own resources, including expenditure of its own funds, in implementing this Agreement. Nothing in this Conservation Agreement shall commit a Party to obligate

or transfer funds. Specific work projects or activities that involve the transfer of funds, services or property will require separate agreements and be contingent upon the availability of appropriated funds. Each Party will carry out its separate activities as expeditiously as possible in a coordinated and mutually beneficial manner.

10.0 SIMILAR ACTIVITIES.

This Conservation Agreement in no way restricts a Party from participating in similar activities with other public or private agencies, organizations or individuals.

11.0 REMEDIES LIMITED.

This Conservation Agreement does not, and shall not be construed to, create any cause of action in law or equity. The sole remedy for breach or nonperformance shall be termination of the Conservation Agreement.

FOR U.S. FISH AND WILDLIFE SERVICE

By: _____
Name
Title

FOR THE STATE OF COLORADO

By: _____
John W. Hickenlooper
Governor, State of Colorado

FOR THE STATE OF UTAH

By: _____
Gary R. Herbert
Governor, State of Utah

FOR THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

By: _____
Paula Swenson, Chairperson

FOR THE BOARD OF COUNTY COMMISSIONERS OF SAGUACHE COUNTY, COLORADO

By: _____
Linda Joseph, Chairperson

FOR THE BOARD OF COUNTY COMMISSIONERS OF DOLORES COUNTY, COLORADO

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F. Mike Fedel, Chairperson

APPENDICES.

A. Gunnison Sage-grouse Rangewide Conservation Plan

B. Gunnison County, Colorado

C. Saguache County, Colorado

D. Dolores County, Colorado

E. Montezuma County, Colorado

F. Delta County, Colorado

G. Montrose County, Colorado

H. Hinsdale County, Colorado

I. Mesa County, Colorado

J. San Miguel County, Colorado

K. Ouray County, Colorado

L. San Juan County, Utah

M. State

N. Federal

O. Candidate Conservation Agreement with Assurances for Gunnison Sage-grouse (Centrocercus minimus) between the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service

P. Candidate Conservation Agreement on Federal Lands in the Gunnison Basin

Q. Strategic Committee Charter

R. Memorandum Of Understanding Among The Board Of County Commissioners Of Gunnison County, Colorado, The Board Of County Commissioners Of Saguache County, Colorado, The Board Of County Commissioners Of Dolores County, Colorado, The Board Of County Commissioners Of Montezuma County, Colorado, The Board Of County Commissioners Of Delta County, Colorado, The Board Of County Commissioners Of Montrose County, Colorado, The Board Of County Commissioners Of Hinsdale County, Colorado, The Board Of County Commissioners Of Mesa County, Colorado, The Board Of County Commissioners Of San Miguel County, Colorado, The Board Of County Commissioners Of Ouray County, Colorado And The Board Of County Commissioners Of San Juan County, Utah

S. Habitat Prioritization Tool Documentation