

DRAFT
Environmental Assessment
Marc Lewis Property Conservation Easement Proposal
Fergus and Petroleum Counties, Montana
Montana Sage Grouse Oversight Team
July 5, 2019

I. Introduction

The Montana Sage Grouse Oversight Team (MSGOT) is preparing an Environmental Assessment (EA) to analyze effects associated with the Marc Lewis Property Conservation Easement Project.

The Program invited submission of complete applications by May 13, 2019. The Montana Land Reliance (MLR) sponsored and submitted a grant application request for funding from the Stewardship Account to support the purchase of a perpetual conservation easement on the Marcus Lewis Ranch. MLR is an IRS 501(c)(3) non-profit organization and is qualified private organization.¹ MLR is formally requesting \$176,788 from the Stewardship Account to put towards purchasing the easement on parcels A and B. State funds would be matched with \$150,000 from The Conservation Fund (a private source).

MLR is also requesting an additional \$38,000 in project costs that are directly related to the purpose of the grant to create mitigation credits. Additional project costs include a market appraisal, the resource documentation report, title commitment, the mineral remoteness report, recording costs and a contribution to MLR's stewardship account to pay for monitoring and long-term site stewardship. MLR's total request from the Stewardship Account is \$214,788. See Appendix 1. The estimated value of the proposed easement is \$326,788. Before MSGOT considers the project, the completion of an EA under the Montana Environmental Policy Act (MEPA) is necessary.

II. Authority and Direction

The authority and direction under which this project is being proposed is provided by the Montana Greater Sage Grouse Stewardship Act (Act),² Administrative Rules of Montana 14.6.101 through 106, and MSGOT Grant Procedures 01-2016. Indeed, the Act and associated appropriations are key pillars of Montana's Sage Grouse Conservation Strategy.

The 2015 Montana Legislature created the grant program when it passed the Greater Sage Grouse Stewardship Act and created a special revenue account (Stewardship Fund or Fund). The purpose of the Act is to provide competitive grant funding and establish

¹ MCA § 76-6-204.

² MCA § 76-22-101 et seq.

ongoing free-market mechanisms for voluntary, incentive-based conservation measures that emphasize maintaining, enhancing, restoring, expanding, and benefiting greater sage grouse (*Centrocercus urophasianus*) habitat and populations on private lands, and public lands as needed, that lie within core areas, general habitat, or connectivity areas.³ Implementation of Montana's Conservation Strategy through expenditures from the Fund is an important step in demonstrating Montana's commitment to ameliorate threats and take affirmative actions to conserve important habitats.

Another important aspect of habitat conservation entails mitigating for impacts of disturbance to habitat due to development in habitats designated for conservation as core areas, general habitat, or a connectivity area.⁴ Montana's Conservation Strategy recognizes the mitigation hierarchy of avoidance, minimization, restoration / reclamation, and replacement through compensatory mitigation.⁵ The majority of the Fund dollars must be awarded to projects that generate credits that are available for compensatory mitigation.⁶

Organizations or agencies are eligible to receive grant funding if they hold and maintain conservation easements or leases or that are directly involved in sage grouse habitat mitigation and enhancement activities approved by MSGOT.⁷

A project is eligible if it is located, at least in part, on land identified as Core Area, General Habitat, or Connectivity Area.⁸ Maps delineating these areas are available on the Program's website.⁹ A project is eligible if it will maintain, enhance, restore, expand, or benefit sage grouse habitat and populations for the heritage of Montana and its people through voluntary, incentive-based efforts.¹⁰ Eligible projects may include:

- Reduction of conifer encroachment;¹¹
- Maintenance, restoration, or improvement of sagebrush health or quality;¹²
- Incentives to reduce the conversion of grazing land to cropland;¹³
- Restoration of cropland to grazing land;¹⁴
- Modification of fire management to conserve sage grouse habitat or populations;¹⁵
- Demarcation of fences to reduce sage grouse collisions;¹⁶
- Reduction of unnatural perching platforms for raptors;¹⁷

³ MCA § 76-22-102(2).

⁴ Executive Orders 12-2015 and 21-2015.

⁵ Executive Order 12-2015; Montana Greater Sage Grouse Stewardship Act, MCA §76-11-101 et seq.

⁶ MCA § 76-22-109(4).

⁷ MCA § 76-22-110(3); 14.6.101(1), (5), ARM.

⁸ MCA § 76-22-102(2)(Establishing grant funding for sage grouse conservation measures on lands that "lie within core areas, general habitat, or connectivity areas.").

⁹ See <http://sagegrouse.mt.gov>.

¹⁰ MCA § 76-22-110(1).

¹¹ MCA § 76-22-110(1)(a).

¹² MCA § 76-22-110(1)(c).

¹³ MCA § 76-22-110(1)(e).

¹⁴ MCA § 76-22-110(1)(f).

¹⁵ MCA § 76-22-110(1)(g).

¹⁶ MCA § 76-22-110(1)(h).

¹⁷ MCA § 76-22-110(1)(i).

- Reduction of unnatural safe havens for predators;¹⁸
- Reduction of the spread of invasive weeds that harm sagebrush health or sage grouse habitat;¹⁹
- Purchase or acquisition of leases, term conservation easements, or permanent conservation easements that conserve or maintain sage grouse habitat, protect grazing lands, or conserve sage grouse populations;²⁰
- Sage grouse habitat enhancement that provides project developers the ability to use improved habitat for compensatory mitigation under MCA § 76-22-111;²¹
- Establishment of a habitat exchange to develop and market credits consistent with the purposes of the Act so long as other requirements of the Act are met;²² and
- Other project proposals that MSGOT determines are consistent with the purposes of the Act.²³

A project is ineligible if it seeks grant funding:

- For fee simple acquisition of private land;²⁴
- To purchase water rights;²⁵
- To purchase a lease or conservation easement that requires recreational access or prohibits hunting, fishing, or trapping as part of its terms;²⁶
- To allow the release of any species listed under MCA § 87-5-107 or the federal Endangered Species Act, 16 U.S.C. 1531, et seq;²⁷
- To fund a habitat exchange that does not meet the requirements of MCA § 76-22-110(1)(l);
- For a project involving land owned by multiple landowners, including state and federal land, in which the majority of the involved acres are not privately held or the proposed project does not benefit sage grouse across all of the land included in the project;²⁸
- To supplement or replace the operating budget of an agency or organization, except for budget items that directly relate to the purposes of the grant;²⁹
- For a lease or conservation easement in which:
 - The state will not be named a third-party beneficiary to the lease or easement with the contingent right to enforce the terms of the lease or easement if the grantee fails to do so

¹⁸ MCA § 76-22-110(1)(j).

¹⁹ MCA § 76-22-110(1)(b).

²⁰ MCA § 76-22-110(1)(d).

²¹ MCA § 76-22-110(1)(k).

²² MCA § 76-22-110(1)(l).

²³ MCA § 76-22-110(1)(m).

²⁴ MCA § 76-22-109(5)(a).

²⁵ MCA § 76-22-109(5)(b).

²⁶ MCA § 76-22-109(5)(c).

²⁷ MCA § 76-22-109(5)(d).

²⁸ MCA § 76-22-110(2).

²⁹ MCA § 76-22-110(4).

- The agreement will not provide that the lease or easement may not be transferred for value, sold, or extinguished without consent of the department.
- Attempts to preclude the State from taking legal action to enforce the terms of the lease or easement or to recover from the proceeds of the transfer for value, sale, or extinguishment the state's pro rata share of the proceeds based on the funds the state provided pursuant to this Act for the creation of the lease or easement;³⁰
- To fund a project that does not meet the criteria of MCA § 76-22-110; or
- Through a late, incomplete, or improperly submitted application.³¹

When considering grant applications, MSGOT may consider proposals involving land owned by multiple land owners, but the majority of the involved acres must be privately held and the benefits of the grant must extend across all of the land included in the proposal.³²

The Act requires that the State retain a 3rd party contingent right to enforce the terms of the easement. Otherwise MLR is the holder of the easement.

III. Description of the Proposed Action

MLR is proposing to purchase two parcels totaling 2,011 acres for a perpetual conservation easement on two separate parcels (A and B), with the intent of protecting greater sage grouse from long-term threats. If this project is selected for funding, the landowners are interested in donating a conservation easement on the remaining 1,732 acres, shown as parcels C and D in Appendix 1. All four parcels are located in a designated Core Area. The Marc Lewis Property is located about nine miles north of Grass Range area in Fergus and Petroleum counties.

The property consists of primarily grassland and rangeland. Parcels A and B are adjacent to the 44 Ranch, upon which MLR already holds a conservation easement that was funded through the Stewardship Account. Nearby and adjacent public lands also contribute to the scale of land conservation and connectivity of sage grouse habitats offered by this project. Portions of Parcels A and B adjoin large blocks of U.S. Bureau of Land Management land, and the ranch also adjoins two State School Trust Land sections. The lands are managed primarily for livestock production.

The proposed easement area has a minimum of 32 sage grouse leks located within 12 miles, 14 of which are located within four miles. No active leks have been documented on the property. See Appendix 1.

Marc Lewis Property easement form and substantive terms would be similar to the MLR 44 Ranch conservation easement from the first cycle of grant applications. The southern parcel, if included in the easement, will allow for a 5-10 acre building envelope where the

³⁰ MCA § 76-22-112.

³¹ 14.6.102(1)-(3), ARM.

³² MCA § 76-22-110(3).

current residential building is located. The terms of the current draft conservation easement under negotiation are summarized below.

The terms of the conservation easement would permit the following:

- Agricultural activities. The provisions of the draft easement limit the types of agricultural operations that can occur on the property to those that maintain, restore, and conserve the sage brush and other grasslands on the property consistent with sage grouse conservation purposes and related Conservation Values.³³
- Grazing and livestock production: A Grazing Management Plan must be approved by the Grantee, and all future Grazing Management Plans shall be incorporated by reference into this draft easement. The Grantor may graze, hay, harvest for hay and non-crop activities, and conduct common grazing practices, including cultural practices, provided that such activities be conducted consistently with the conservation purposes of this conservation easement. The production, processing and marketing of livestock compatible with restoration and conservation of sage brush and other grassland, grazing uses, and related conservation values are allowed provided such activities are conducted in a manner consistent with the terms of this draft easement. Temporary non-native cover crops are permitted in native prairie and rangeland restoration activities.
- Cropland production. The Marc Lewis Property retains the right to continue farming and cultivating those areas of the property currently in crop production.³⁴
- Recreational use. The Marc Lewis Property retains the right to continue undeveloped non-commercial recreation and undeveloped commercial recreation including, but not limited to, hunting, fishing, hiking, and wildlife viewing, provided that all such activities remain consistent with the terms of the draft easement.
- Water resources. The Marc Lewis Property retains the right to restore, enhance, and develop water resources, including ponds, for permitted agricultural uses, livestock uses, fish and wildlife uses, domestic needs, and private recreation.
- Structures and building envelopes. There are presently no residential buildings located on the 2,011 acres of land proposed for funding, and no building envelopes will be reserved on parcels A and B. If parcel C is donated to the conservation easement, a building envelope will permit construction within this area. Agricultural structures not on permanent foundations may be located anywhere on the property, but not within a 0.6-mile radius of an active sage grouse lek, provided they are consistent with protection of the Conservation Values, including the scenic resources preserved by this draft easement.
- Minerals. Subject to approval of Grantee and to the extent that the Grantor owns the mineral rights on or under the property, the Grantor may explore for and extract oil, gas, and other subsurface minerals with certain conditions, pending a final conservation easement agreement.

³³ MCA § 76-22-110(3).

³⁴ See Appendix 1 for details.

- Transfer of land. Transfer of land is subject to restrictions. All transfers are expressly subject to all terms, conditions, rights, restrictions, and obligations contained in the draft easement.
- Timber removal. Personal use of timber resources, and permission to deal with natural occurrences such as disease. Selective harvest and removal of conifers to restore sage grouse nesting habitat is permitted.
- Utilities and other infrastructure. The Marc Lewis Property retains the right to install utility, communication, and all related structures on or beneath the property, as permitted by the draft easement. Installation within two miles of a lek must be buried if financially feasible and replanted to enhance sage grouse habitat. If not financially feasible, new infrastructure may not be located within 0.6 miles of an active sage grouse lek. Fences may be constructed, maintained, and repaired, but not within 0.6 miles of an active sage grouse lek. Existing or new roads may be constructed, repaired, maintained, and improved. Any new roads must be located outside of the No Build Areas.
- Renewable energy production for use on the property. The Marc Lewis Property retains the right to construct solar generation facilities within any building envelope for such uses as are permitted by this draft easement. Any associated distribution facilities must be buried whenever feasible.
- Residence-based business. The Marc Lewis Property reserves the right to conduct businesses within their residential dwelling unit, with the exception of sales or services business involving regular visits to the property by the general public or delivery trucks, or the retail sale of goods produced on the property.
- Guest ranching business. The Marc Lewis Property retains the right to use the property, or lease the property to a third party, for a commercial guest ranching business, expressly subject to the terms of the draft easement.

The terms of the draft conservation easement would prohibit the following:

- Sagebrush eradication and treatment. Farming, irrigation, cultivating and “sodbusting” outside of the “Farmed and Irrigated Areas” are prohibited, except to restore native species. Sodbusting is defined as any cultivation, discing, plowing, or disturbance of native soils and vegetation by mechanical means, including without limitation engine powered machinery and horse- or mule-drawn plows and discs.
- Subdivision. Except as provided under terms of this draft easement, the division, subdivision, or de facto subdivision of the property is prohibited. The property may be leased for agricultural purposes under the terms and purposes of this draft easement.
- Mineral removal. Exploration, removal, or extraction of any mineral substance including but not limited to oil, gas, hydrocarbons, sand, and gravel is prohibited, except as provided in this draft easement.
- Commercial facilities. The establishment of any commercial or industrial facilities is prohibited.

- Dumping. The dumping or disposal of non-compostable refuse on the property, except non-hazardous wastes as permitted in the terms of this draft easement, is prohibited.
- Construction. The construction or placement of any buildings, except for those permitted in the terms of this draft easement, is prohibited.
- Campers, trailers, and recreational vehicles. Placing or use of these vehicles on the property, other than the Grantor's personal vehicles or guest's thereof, is prohibited. Grantor or guest's vehicles may be used on the property on a temporary basis, outside of the No Build Areas delineated in the terms of this draft easement.
- Billboards. The construction, maintenance, or erection of any billboards is prohibited. Signage may be used only for posting of public access information, property sale, any business on the property, or notification of this draft easement.
- Roads. Constructions of roads and granting road rights-of-way across or upon the property is prohibited, except as permitted by the terms of this draft easement.
- Utilities. The granting of utility transmission lines and utility transmission line corridor right-of-way easements, or the expansion of existing utility transmission lines and utility transmission line right-of-way easements is prohibited, except when granted by mutual agreement of the Grantor, Grantee, and the State, and only in cases of eminent domain statutes.
- Game, fur, or fish farms. The raising or confinement for commercial purposes of "alternative livestock", "game animals", native or exotic fish (except private fish ponds), game birds, furbearers including mink and fox, other "wild animals", or "non-game wildlife", is prohibited.
- Commercial timber harvest. The harvest of timber on the property for commercial purposes, including commercial timber harvests or thinning, is prohibited.

These requirements are consistent with the best available information pertaining to habitat threats and habitat conservation for sage grouse,³⁵ and they are consistent with key requirements of the Policy for Evaluation of Conservation Efforts³⁶ (PECE) of the USFWS when making listing decisions in that the proposed action has a strong likelihood of eliminating key threats to sage grouse.

The State of Montana may, in a reasonable manner and at reasonable times, enter and inspect the Property to determine compliance with the terms of the draft easement as a third-party beneficiary, and to calculate and verify in the future any compensatory mitigation credits associated with the easement. These inspections may include sage grouse lek surveys, surveys of sage grouse habitat, and verification of credits made available for compensatory mitigation. If the State determines that an immediate entry is required because of non-enforcement by MLR, the State may make reasonable efforts to contact the landowner and MLR prior to entry, but such notice is not required to enter.

³⁵ Davies et al. 2011, Smith et al. 2016, and 80 FR 59858 (October 2, 2015).

³⁶ 68 FR 15100 (March 28, 2003).

Certain of the uses and practices, as permitted by the draft conservation easement, are identified as being subject to specified conditions or to the requirement of and procedures for prior approval by MLR.

Notice and approval requirements are:

- Notice. For activities for which MLR's prior approval is not expressly required, the landowner agrees to notify MLR in writing fifteen days before exercising any reserved or retained right under this conservation easement that may have an adverse impact on the Conservation Values.
- Approval. When MLR's approval is required prior to the landowner engaging in any activity, the landowner's request for approval will be in writing and contain detailed information regarding the proposed activity. Such a request must be delivered to MLR at least sixty days prior to the anticipated start date of such activity.

The State of Montana will receive notice from MLR of any requests for approval received from the landowner pertaining to mineral development. MLR will also provide the State of Montana with copies of the annual conservation easement monitoring report documenting the state of the Property.

IV. The Habitat Quantification Tool and Application to the Marc Lewis Property

The Program calculated and will make credits available for compensatory mitigation in the future, pending funding of this project. All compensatory mitigation credits created based on the ecosystem services provided to sage grouse on the Marc Lewis Property belong to the State. Any proceeds generated from their eventual sale is statutorily required to be deposited back into the Sage Grouse Stewardship Fund for reimbursement.³⁷

All Montana compensatory mitigation must be taken in consideration of applicable United States Fish and Wildlife Service sage grouse policies, state law, and any rules adopted pursuant to compensatory mitigation.³⁸ Federal guidance indicates that the landowner's lands would be eligible for compensatory mitigation by eliminating the threat of agricultural conversion through purchase of this easement using funding from the Montana Sage Grouse Stewardship Fund and private matching funds secured by MLR.³⁹ In this case, eliminating the agricultural conversion threat will conserve habitat through perpetual legal protection and maintenance of high standards for land stewardship.

MSGOT and the Program are required to apply the current designated Habitat Quantification Tool (HQT) to any project that is selected for funding from the Stewardship Account.⁴⁰ The HQT is the scientific method used to evaluate vegetation and environmental conditions related to quality and quantity of sage grouse habitat and to quantify and

³⁷ MCA §§ 76-22-109, 110, 111.

³⁸ MCA § 76-22-111(2).

³⁹ USFWS, *Greater Sage –Grouse Range-Wide Mitigation Framework*, 13-14 (2014); available at https://www.fws.gov/greatersagegrouse/documents/landowners/USFWS_GRSG%20RangeWide_Mitigation_Framework20140903.pdf.

⁴⁰ MCA § 76-6-109(4).

calculate the number of credits created by a conservation project⁴¹. MSGOT approved the current version of the HQT and accompanying Policy Guidance Document in October, 2018.

The HQT considers the many biophysical attributes of Greater sage-grouse seasonal habitats to estimate habitat functionality across multiple spatial and temporal scales. The HQT also accounts for existing human disturbances (e.g. roads, cropland, energy development, etc.). These measures of habitat, expressed as functional acres, are used for calculating conservation benefits (i.e., credits) from mitigation projects. Using habitat quality, expressed as functional acres, provides a common “habitat currency” that can be used for both credit and debit projects to ensure accurate accounting of habitat gains and losses and allows comparisons across projects using a common metric that is calculated in the exact same way.

The HQT starts with a baseline map of habitat quality, or presently existing functional acres on the landscape. Next, the HQT calculates the number of functional acres that would be created (or gained) because of the proposed conservation easement. Applicable policy modifiers are applied, based on the number of functional acres gained and calculated by the HQT. Once a conservation project is implemented, the total functional acres created (after application of policy modifiers) is converted to credits at a 1:1 ratio.

High HQT scores correspond to areas of high quality sage grouse habitat and are shown in warm, red colors on HQT maps. These will typically be areas with high levels of intact sagebrush, good brood-rearing habitat, high densities of breeding male sage grouse (i.e., many leks with high numbers of males displaying on them), and low levels of human disturbance. Higher numbers of functional acres gained translates to more credits created per physical acre of conservation.

For purposes of considering the number of credits that might be created by each conservation project proposed for funding from the Stewardship Account, the Program has run the HQT using the spatial data provided by MLR (the grant applicant) for the proposed conservation easement on the Marc Lewis Property. Results do not include non-deed lands within the perimeter of the proposed easement (i.e. federal, state, and private land inholdings owned by entities other than the Marc Lewis Property are excluded from results and from the easement itself).

The HQT results show that the proposed easement on Parcels A and B would conserve good quality habitat. The functional acres gained per physical acre of the project per year for Parcels A and B is 0.408. Higher numbers indicate more functional acres would be conserved and the habitat is of higher quality for the physical acres included in the proposed project.

A perpetual easement on Parcels A and B would generate 32,865.59 total credits after the 40% baseline. This equates to 0.163 credits created per physical acre of the project per year. Higher numbers indicate more credits are created per year for each physical acre included in the proposed project. Higher numbers are more favorable, and more credits would be created per dollar expended from the Stewardship Account. See Appendix 1.

⁴¹ MCA § 76-6-103(9).

In addition to the credits generated, the resource values associated with this land parcel (for sage grouse) are significant. The amount of existing disturbance assessed by the Density Disturbance Calculation Tool is 11.61% which indicates a high level of existing anthropogenic disturbance even before the easement's restrictive terms.⁴² This DDCT result will be considered by peer reviewers along with maps independently created by the Program in conjunction with the habitat quantification tool. See Section VII below (Public Involvement During the Grant Application Process and During Preparation of this Environmental Assessment) and Appendix 1.

V. Project Location

The conservation easement associated with this project would cover activities on a ranch owned by the Lewis Family in Fergus and Petroleum counties in Montana. The proposed easement property is located entirely in sage grouse Core Area about nine miles north of Grass Range area. See Appendix 1.

Montana's core areas approach underlying the Conservation Strategy suggests that conservation efforts should be targeted and prioritized for implementation in core areas, where the vast majority of Montana's breeding birds reside.

VI. Purpose and Need for the Proposed Action

One of the keys to conserving sage grouse in Montana is private lands, where most of Montana's sage grouse live. Through their stewardship, Montana landowners have played an important role in conserving sage grouse and sage grouse habitat. They will continue to play an important role in the future by helping to avoid a future listing under the federal Endangered Species Act.

Montanans recognize that it is in the best interest of our state, its economy, and our quality of life to maintain state management of sage grouse. Effective conservation requires an "all hands, all lands" approach where we work together collaboratively across all lands and address all threats to the sage grouse, including habitat loss and fragmentation.

Because loss and fragmentation of habitat is the key issue for sage grouse conservation, the 2015 Montana Legislature appropriated funds through the Stewardship Act to address threats to habitat. The purpose of the Act is to provide competitive grant funding and establish ongoing free-market mechanisms for voluntary, incentive-based conservation measures that emphasize maintaining, enhancing, restoring, and expanding and benefitting sage grouse habitat and populations on private lands, and public lands as needed. A grant-funded project is eligible if it will maintain, enhance, restore, expand, or benefit sage grouse and populations for the heritage of Montana and its people through voluntary, incentive based efforts.

The purpose and need for the proposed action to provide Stewardship Fund dollars to assist MLR to enter a conservation easement stems from the fact that the USFWS identified

⁴² The DDCT total analysis area is the easement parcel buffered by 4 miles + a four mile buffer around any leaks within that.

habitat loss and fragmentation as key threats in Montana. Approximately 64% of sage grouse habitat in Montana is in private ownership.⁴³ Montana's Sage Grouse Conservation Strategy proactively addresses this threat in a myriad of ways, but the Stewardship Fund is a key element in providing voluntary incentives to conserve sage grouse habitat and promote beneficial management practices on private lands.

The proposed easement area has a minimum of 32 sage grouse leks within 12 miles, 14 of which are located within four miles. No active leks have been documented on the property. Conversion of native range to cultivated cropland has been identified as a key threat to sage grouse habitat and population persistence by USFWS.⁴⁴ It was recently shown that lek density may be reduced by more than 50% in the face of a 10% increase in cropland within 12.4 miles.⁴⁵ Importantly, if one parcel of land is converted, lek persistence in a "landscape ten times the size" of the parcel itself could be "strongly" reduced.⁴⁶ Therefore, efforts which conserve intact sagebrush landscapes already having little or no existing cropland contribute favorably to sage grouse persistence, particularly where the risk of conversion exists.

Sage grouse are a landscape scale species. "At distances of up to about 240 kilometers, individual [sage grouse] exhibit greater genetic similarity than expected by chance, suggesting that the cumulative effect of short-range dispersal translates to long range connectivity."⁴⁷ Even though dispersal distances for sage grouse are relatively short, "the cumulative effect of these [short range dispersals of 7-9 kilometers] translates into long-range connectivity."⁴⁸ Habitat conservation efforts such as conservation easements maintain sagebrush cover and distribution at finer scales, thereby maintaining opportunities for population connectivity, and in turn, population persistence at larger scales.⁴⁹

⁴³ Montana's Greater Sage Grouse Habitat Conservation Advisory Council. 2014. Greater Sage Grouse Habitat Conservation Strategy. Jan. 29, 2014.

⁴⁴ 80 Fed. Reg. 59858 (Oct. 2, 2015); Smith, J.T., J.S. Evans, .B.H. Martin, S. Baruch-Mordo, J.M. Kiesecker, D.E. Naugle. Reducing cultivation risk for at-risk species: predicting outcomes of conservation easements for sage grouse. 201 Biological Conservation 10-19 (June 2016).

⁴⁵ Smith, J.T., J.S. Evans, .B.H. Martin, S. Baruch-Mordo, J.M. Kiesecker, D.E. Naugle. Reducing cultivation risk for at-risk species: predicting outcomes of conservation easements for sage grouse. 201 Biological Conservation 10-19, 16 (June 2016).

⁴⁶ Smith, J.T., J.S. Evans, .B.H. Martin, S. Baruch-Mordo, J.M. Kiesecker, D.E. Naugle. Reducing cultivation risk for at-risk species: predicting outcomes of conservation easements for sage grouse. 201 Biological Conservation 10-19, 16 (June 2016).

⁴⁷ Cross, Todd B., David E. Naugle, John C. Carlson, and Michael K. Schwartz. 2016. Hierarchical Population Structure in Greater Sage-Grouse Provides Insight into Management Boundary Delineation. Conserv. Genet. DOI 10.1007/s10592-016-0872-z (available at <http://link.springer.com/article/10.1007/s10592-016-0872-z>).

⁴⁸ Cross, Todd B., David E. Naugle, John C. Carlson, and Michael K. Schwartz. 2016. Hierarchical Population Structure in Greater Sage-Grouse Provides Insight into Management Boundary Delineation. Conserv. Genet. DOI 10.1007/s10592-016-0872-z (available at <http://link.springer.com/article/10.1007/s10592-016-0872-z>).

⁴⁹ 80 Fed. Reg. 59858, 59867 (Oct. 2, 2015).

Sage grouse are sensitive to habitat loss and fragmentation caused by development. Sage grouse are also sensitive to disrupting activities and noise near leks during the breeding season. Population declines have been associated with habitat loss and fragmentation.⁵⁰ Accordingly, mitigation for unavoidable impacts of development is an important aspect of not only Montana's Conservation Strategy, but of conservation efforts by other states and federal land management agencies throughout the range.⁵¹ Indeed, mitigation efforts ameliorate or prevent threats to sage grouse and sagebrush habitats.

Another purpose and need for the proposed action to enter a grant agreement with MLR is implement Montana's mitigation framework. Mitigation addresses direct, indirect, and residual impacts of development. In Montana, implementation of the mitigation hierarchy is called for in Executive Order 12-2015 and by the Greater Sage Grouse Stewardship Act.⁵² Montana implements mitigation in the following sequential order: avoidance, minimization, restoration or reclamation, and lastly compensation or replacement. Compensatory mitigation is required only if impacts remain after measures are taken to avoid, minimize, and restore disturbed habitats. MSGOT reviews proposed compensatory mitigation plans.⁵³

The Act sets forth that Montana can implement compensatory mitigation either through establishment of habitat exchange⁵⁴ and/or a conservation bank.⁵⁵ Either way, the common thread for compensatory mitigation is that developers can offset impacts of activities that eliminate or fragment habitat through a free-market where parties conduct transactions. For example, conservation credits are created through efforts to conserve habitat and ameliorate or remove threats to sage grouse or sagebrush habitat. Development debits are created if a project that is implemented in designated sage grouse habitat incurs permanent impacts. Developers can offset impacts by purchasing credits.

A key purpose of the Stewardship Fund grant program is to begin creating a pool of conservation credits, in anticipation of future demand. The Act requires MSGOT to prioritize projects that maximize the amount of credits generated per dollars of funds awarded from the Stewardship Fund.⁵⁶ Further, MSGOT is required to calculate and make

⁵⁰ 80 FR 59858, 59870-71 (Oct. 2, 2015).

⁵¹ 80 FR 59858 (Oct. 2, 2015).

⁵² See MCA § 76-22-111(1) ("After complying with the sequencing provisions required of this Conservation Strategy (avoid, minimize, reclaim), a project developer may proceed with a proposed project which will cause adverse impacts to sage grouse if the developer provides compensatory mitigation for the debits of a project.").

⁵³ MCA §§ 76-22-105(1)(g), 111(1)(b).

⁵⁴ MCA § 76-22-103(8) defines habitat exchange as "a market-based system that facilitates the exchange of credits and debits between interested parties."

⁵⁵ MCA § 76-22-103(2) defines conservation bank as "a site or group of sites established through an agreement with the U.S. Fish and Wildlife Service to provide ecological functions and services expressed as credits that are conserved and managed for sage grouse habitat and populations and used to offset debits occurring elsewhere."

⁵⁶ MCA § 76-22-109(4).

available credits for leases and conservation easements purchased with funds disbursed after May 7, 2015.⁵⁷

All compensatory mitigation (framework and habitat quantification tool) is statutorily required to consider the USFWS's Service's 2014 Greater Sage Grouse Range-wide Mitigation Framework.⁵⁸ By entering this grant agreement and executing a conservation easement, this project will generate conservation credits that will be calculated and made available, in compliance with the Act.

VII. Public Involvement During the Grant Application Process and During Preparation of this Environmental Assessment

The Act directed MSGOT to promulgate administrative rules to administer a grant program.⁵⁹ MSGOT adopted final rules and Procedures 01-2016 on February 19, 2016, consistent with the Montana Administrative Procedures Act. Three hearings were held and public comment was solicited on the proposed rules. All MSGOT meetings are publicly-noticed and comment sought. The final rules took effect March 5, 2016. Additional formal rulemaking related to the Habitat Quantification Tool and Stewardship grants was completed in 2018-2019. Final administrative rules took effect in January, 2019.

On May 13, 2019, MSGOT offered the second grant cycle opportunity. This enabled the Program to begin soliciting applications. Public involvement opportunities were offered during the actual application process. The timeline is as follows:

- March 5: the Program issued a media release announcing the second grant cycle and the pre-application deadline of March 30, 2019 at 5:00 p.m.;
- March 30: eight total pre-applications were received (five proposals for permanent conservation easements and three proposals for term leases, two of which include restoration).;
- April 21: grant pre-applicants were notified of preliminary results for use in deciding whether to submit a complete application and continue in the selection process. The Program established an application deadline of May 13, 2019 at 5:00 p.m.;
- May 13: six total complete applications were received (three proposals for permanent conservation easements and three proposals for term leases, two of which include restoration).;
- June 6: a scoping notice summarizing each grant application was published to the Program's website and made available for public review; and
- June 7: the Program issued a media release announcing a public scoping comment opportunity to review all applications; comment period closed June 24, 2019 at 8:00 a.m.

⁵⁷ MCA §§ 76-22-104(2), 105(3).

⁵⁸ Available at

https://www.fws.gov/greatersagegrouse/documents/Landowners/USFWS_GRSG%20RangeWide_Mitigation_Framework20140903.pdf.

⁵⁹ MCA §76-22-104(1)-(7).

All applications will be reviewed by the Program and an independent peer review committee. Independent peer reviewers have expertise and unique knowledge of the proposed project areas, sage grouse and sagebrush habitats, mitigation, and/or land conservation.

The Program also compiled independent statistics on variables such as number of leks, number of displaying males on leks, amount of existing disturbance using the Density and Disturbance Calculation Tool (DDCT), breeding habitat potential, conservation status of nearby lands, risk of cultivation, and lek vulnerability. The statistics were compiled for the proposed project area, the project area buffered by four miles, and the project area buffered by twelve miles. Four and twelve-mile buffers have biological relevance for nesting distances from leks and response distance to cultivation (see Section VI Purpose and Need for the Proposed Action for a detailed explanation of distance buffers).

These statistics allowed comparison of consistent metrics for sage grouse resource values across all applications to identify those with the greatest benefit and to assist in prioritization and ranking. See Appendix 1.

The Program solicited public scoping comments to initiate this EA, beginning on June 6, 2019 and ending on June 24, 2019. A specific project scoping notice was sent to individuals and organizations likely to have an interest in the proposal and project area (the Program's electronic "interested parties" list). Scoping notices were also available on the Program's website. Accommodations were also made for the public to submit comments electronically through the public comment web application tool located on the Grants webpage at <https://sagegrouse.mt.gov/Grants.html>. Interested parties could submit comments electronically or via postal mail.

No electronic or written public scoping comments were received specific to the proposed Marc Lewis Property Conservation Easement Project.

In accordance with the Montana Environmental Policy Act, public concerns about the project and potential environmental impacts must be considered and analyzed prior to making the decision of whether to grant the funding to MLR.

VIII. Other Cooperators, Partners and/or Agencies with Jurisdiction

Partners involved in this project include the private landowners, MLR, The Conservation Fund, and MSGOT. BLM also manages lands near the proposed project area boundary. There are also large blocks of Montana State Trust Lands near the proposed project area boundary. Montana's core area approach underlying the Conservation Strategy calls for approaching conservation using an "all hands, all lands, all threats" approach that engages all landowners—both private and public land managing agencies. Executive Order 12-2015 seeks alignment between the state's efforts and those of federal land managing agencies, particularly because of Montana's checkboard ownership patterns.

IX. Description of Reasonable Alternatives Considered

During development of this project, two distinct alternatives were considered, which were the Proposed Action Alternative and the No Action Alternative.

Proposed Action Alternative – Under the Proposed Action Alternative, MSGOT would authorize disbursement of funds from the Stewardship Fund Account to facilitate acquisition of the Marc Lewis Property Conservation Easement, for the purpose of sage grouse conservation in Montana. This easement by MLR would generate credits available later to be used as compensatory mitigation for other projects that impact sage grouse and sagebrush habitats. The Marc Lewis Property Conservation Easement analyzed in this EA was one proposal from six total applications for conservation-related projects seeking Stewardship Grant funding through a peer review process. As described in detail in Description of the Proposed Action section above, measures and terms would be required under the conservation easement that would provide measurable contributions for sage grouse conservation in perpetuity. Various easement terms are still being negotiated between the private landowner, MLR, and the state. They will be made available in the future. Preliminary terms are known and referenced in this Draft EA.

No Action Alternative – Under the No Action Alternative, MSGOT would not authorize disbursement of funds in the Stewardship Fund Account to facilitate acquisition of the Marc Lewis Property Conservation Easement by MLR for the purpose of sage grouse conservation in Montana. Project mitigation credits generated under the easement would not be realized and would not be available at a later time to be used as compensatory mitigation for other projects around the state involving energy or agricultural development etc., which incurred permanent adverse impacts to designated sage grouse habitats. Land use restrictions that would be required under the conservation easement providing measurable contributions for sage grouse habitat conservation in perpetuity would not be required or implemented.

V. Evaluation of Impacts on the Physical Environment and Mitigation

A. Land and Soil Resources

1. Proposed Action – Under the Proposed Action no direct effects to land and soil resources would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. The easement itself would contain prohibitions on soil-impacting activities over the long term such as, limits on construction of human developments.

The production, processing and marketing of livestock compatible with restoration and conservation of sage brush and other grassland, grazing uses, and related conservation values are allowed provided such activities are conducted in a manner consistent with the terms of this easement. Temporary non-native cover crops are permitted in native prairie and rangeland restoration activities. Farming, irrigation, cultivating and “sodbusting” outside of the existing disturbance areas, are prohibited, except to restore native species. Sodbusting is defined as any cultivation, disking, plowing, or disturbance of native soils and vegetation

by mechanical means, including without limitation engine powered machinery and horse- or mule-drawn plows and discs.

A mineral remoteness test has not been completed but will be if the project is awarded funding. In Montana, it is possible for surface lands and the mineral estate to be owned by two separate entities (i.e. split estate). While the law is well settled that the mineral estate is the dominant right and reasonable use of the surface is allowed, split estate does not automatically disqualify a conservation easement from becoming a credit site for mitigation. In other words, the presence of a credit site is not mutually exclusive of mineral development and the two uses can coexist.

In the instance of split estate situations, the mineral estate has the prior existing legal right to reasonable use of the surface lands of a credit site, pursuant to laws governing split estates in Montana. Based on Executive Order 12-2015 guidance, establishing a conservation easement for mitigation credit generation and development of mineral rights are not mutually exclusive, and can be conducted in such a way as to be consistent with the terms of the conservation easement.

Buildings and structures are permitted within the Building Envelope. See maps in Appendix 1. No buildings may be constructed within a 0.6-mile radius of an active sage grouse lek. Other surface-disturbing activities are prohibited, including surface mining, commercial gravel operations, wind and solar development, and conversion of rangeland to cropland. Thus, lower risk of adverse indirect and cumulative effects to soil and land resources would be expected under this alternative.

2. No Action – Under the No Action Alternative, funding support for the Marc Lewis Property Conservation Easement Project would not be provided. Restrictions on potential soil and land-disturbing activities would not be implemented under the easement terms, and greater risk of indirect and cumulative impacts to soil and land resources over time would be present.

B. Air Resources

1. Proposed Action – Under the Proposed Action no direct, indirect or cumulative effects to air quality or other resources would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement.
2. No Action – Under this alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. However, no direct, indirect or cumulative effects to air quality or other air-related resources would be anticipated.

C. Water Resources

1. Proposed Action – The project is located in the Musselshell River watershed and the South Fork of Bear Creek Drainage. The Marc Lewis Property may restore, enhance, and develop water resources, including ponds, for permitted agricultural uses, livestock uses, fish and wildlife uses, domestic needs, and private recreation. No exploration or extraction may take place in a water body, nor may any water quality be degraded by actions undertaken on the property. Under the Proposed Action no direct, indirect or cumulative effects to water quality, streams or other aquatic resources would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement.
2. No Action – Under this alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. However, no direct, indirect or cumulative effects to water quality, streams or other aquatic resources would be anticipated.

D. Vegetation Resources

1. Proposed Action – A data query of endangered, threatened and sensitive plants for the conservation easement area with one-mile buffer was conducted by the Program. The search turned up no results. Under the Proposed Action no direct effects to existing vegetation on the project area would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. However, over the long term, appreciable indirect and cumulative beneficial effects associated with protection and conservation of native vegetation communities would be realized by authorizing funding to secure the conservation easement.

Temporary non-native cover crops are permitted in native prairie and rangeland restoration activities. Farming, irrigation, or cultivation outside of the existing disturbance are prohibited, except to restore native species. Intentional conversion of native vegetation to exotic species or the introduction of non-native plant species through farming, plowing or any type of cultivation is prohibited.

Specific measures addressed in the easement that would provide protections for vegetation communities include:

- Limits on the number of allowable additional residential dwelling units and associated outbuildings;
- Easement standards required for the grazing management plan developed in coordination with the Natural Resource Conservation Service;

- A 0.6-mile no-surface-occupancy buffer requirement around leks;
- Prohibition on commercial timber operations, while allowing for the personal use of timber resources including management actions for natural occurrences such as disease, and selective harvest and removal of conifers to restore sage grouse nesting habitat;
- Sagebrush eradication and treatment stipulations of Executive Order 12-2015;
- Prohibition of surface mining;
- Prohibition of commercial gravel operations;
- Prohibition of rangeland conversion to cropland;
- Prohibition of new road construction other than for residential access;
- Prohibition of turbine-style wind energy development; and
- Prohibition of commercial wind and solar development.

This suite of measures would minimize the potential for destruction, disturbance, removal, and conversion of sagebrush and grassland vegetation communities in perpetuity, which would provide considerable protection and certainty.

2. No Action – Under this alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no protective restrictions would be established under the easement at this time. Over time, greater risk of adverse indirect and cumulative effects to existing vegetation communities would be present due to numerous land uses and choices made by the present and future landowners and public land managers.

E. Fish and Wildlife Resources

1. Proposed Action -- A data query of endangered, threatened and sensitive species for the conservation easement area with one-mile buffer was conducted. There are no records for federally listed endangered or threatened species located for this area. Records were obtained for eight sensitive species associated with sagebrush, shrubland, grassland-prairie habitats, and large mountain rivers, as described in Table 1. The easement area also provides habitat for numerous other terrestrial and avian species endemic to central Montana. No direct effects to existing habitats on the project area would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. However, over the long term, appreciable indirect and cumulative beneficial effects associated with protection and conservation of native sagebrush /grassland habitat would be realized by authorizing funding to secure the conservation easement.

Marc Lewis Ranch Species of Concern Report										
FISH (ACTINOPTERYGII)										
Scientific Name Common Name	Family (Scientific) Family (Common)	Global Rank	State Rank	USFWS	USFS	BLM	FWP Swap	% of Global Breeding Range in MT	% of MT that's in Breeding Range	Habitat
<i>Chrosomus eos</i> x <i>Chrosomus neogaeus</i> Northern Redbelly X Finescale Dace	Cyprinidae Minnows	G5	S3				SGCN3	4%	27%	Large mountain rivers
BIRDS (AVES)										
Scientific Name Common Name	Family (Scientific) Family (Common)	Global Rank	State Rank	USFWS	USFS	BLM	FWP Swap	% of Global Breeding Range in MT	% of MT that's in Breeding Range	Habitat
<i>Lanius ludovicianus</i> Loggerhead Shrike	Laniidae Shrikes	G4	S3B	MBTA; BCC10; BCC17		Sensitive	SGCN3	4%	100%	Shrubland
<i>Centrocercus urophasianus</i> Greater Sage - Grouse	Phasianidae Upland Game Bird	G3G4	S2		Sensitive - Known on Forests(BD) Sensitive - Suspected on Forests(CG,HLC)	Sensitive	SGCN2	17%	75%	Sagebrush
<i>Anthus spragueii</i> Sprague's Pipit	Motacillidae Pipits	G3G4	S3B	MBTA; BCC11; BCC17		Sensitive	SGCN3	18%	67%	Grasslands
<i>Centronyx bairdii</i> Baird's Sparrow	Passerellidae New World Sparrows	G4	S3B	MBTA; BCC11; BCC17		Sensitive	SGCN3	27%	67%	Grasslands
<i>Spizella breweri</i> Brewer's Sparrow	Passerellidae New World Sparrows	G5	S3B	MBTA; BCC10; BCC17		Sensitive	SGCN3	12%	100%	Sagebrush
<i>Numenius americanus</i> Long Billed Curlew	Scolopacidae Sandpipers	G5	S3B	MBTA; BCC10; BCC11; BCC17		Sensitive	SGCN3	19%	100%	Grasslands
<i>Buteo regalis</i> Ferruginous Hawk	Accipitridae Hawks /Kites /Eagles	G4	S3B	MBTA; BCC10; BCC17		Sensitive	SGCN3	11%	95%	Sagebrush Grassland

Table 1: Results of a Species of Concern Animal Records search (June 2019).

Specific measures addressed in the easement that would provide protections for fish and wildlife, and sage grouse in particular include:

- Limits on the number of allowable additional residential dwelling units and associated outbuildings;
- Easement standards required for the grazing management plan developed in coordination with the Natural Resource Conservation Service;
- A 0.6-mile no-surface-occupancy buffer requirement around leks;
- Prohibition on commercial timber operations, while allowing for the personal use of timber resources including management actions for natural occurrences such as disease, and selective harvest and removal of conifers to restore sage grouse nesting habitat;
- Sagebrush eradication and treatment stipulations of Executive Order 12-2015;
- Prohibition of surface mining;
- Prohibition of commercial gravel operations;
- Prohibition of rangeland conversion to cropland;
- Prohibition of new road construction other than for residential access;
- Prohibition of turbine-style wind energy development; and
- Prohibition of commercial wind and solar development.

This suite of measures would minimize the potential for destruction, disturbance, removal, and conversion of sagebrush and grassland vegetation communities in perpetuity, which would provide considerable protection and certainty for sage grouse and other associated sagebrush/rangeland species into the future.

2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no protective restrictions would be established under the easement at this time. Over time, greater risk of adverse indirect and cumulative effects to existing sagebrush and grassland-prairie habitats would be present due to numerous land uses and choices made by present and future landowners and public land managers.

F. Adjacent Lands

1. Proposed Action --In general, land uses outside of the proposed conservation easement area would not be affected. Lands adjacent to the project area are comprised primarily of other private lands, as well as state trust lands and lands managed by the BLM. Under the Proposed Action no direct effects to management of neighboring lands within, or in the nearby vicinity of the project area, would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement on private land.

However, in the future, land uses may be indirectly influenced on some neighboring lands due to conservation restrictions in the proposed easement area, such as limitations on new road construction through the easement parcels themselves. The extent that restrictions would limit or influence other land uses on nearby non-easement lands is uncertain and would depend on the resource development potential of each parcel and management objectives of each individual land owner over time.

As with cumulative conservation benefits obtained by funding and granting the conservation easement, some indirect cumulative restrictions on future resource development would occur on the parcel itself and to some extent the neighboring lands. Alternatively, in the future, neighboring lands may be viewed as having greater conservation opportunity potential, and become a priority for combining additional conservation lands, given the presence of this easement and investment in this block of habitat.

2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no protective restrictions would be established under the easement

at this time, and no direct, indirect or cumulative effects associated with adjacent or nearby lands would occur.

VI. Evaluation of Impacts on the Human Environment

A. Noise

1. Proposed Action -- Under the Proposed Action no direct, indirect or cumulative effects associated with noise or similar disturbance would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement.
2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. No direct, indirect or cumulative effects associated with noise or similar disturbance would occur.

B. Land Use

1. Proposed Action – Under the Proposed Action the easement terms would allow and promote traditional agricultural and ranching uses of the project area. The production, processing and marketing of livestock compatible with restoration and conservation of sage brush and other grassland, grazing uses, and related conservation values are allowed, provided such activities are conducted in a manner consistent with the terms of this easement. Temporary non-native cover crops are permitted in native prairie and rangeland restoration activities. Farming, irrigation, or cultivation outside of the existing disturbance are prohibited, except to restore native species. Intentional conversion of native vegetation to exotic species or the introduction of non-native plant species through farming, plowing or any type of cultivation is prohibited.

Restrictions on construction of new roads, sagebrush reduction or eradication, no surface occupancy, prohibition of mining etc. are aimed at providing high quality sagebrush/grassland habitat for wildlife into the future. However, several other land uses such as wind development, commercial gravel mining, oil and gas development to the extent the surface owner owns the mineral estate, range conversion, and real estate subdivision would be prohibited on these lands. Impacts related to implementation of these restrictions on the easement-covered lands would be cumulative at the local and statewide level. At the statewide level cumulative increases in easement lands and indirect reductions in other potential land uses would be offset through implementation of a conservation credit/banking program as envisioned under Executive Order 12-2015. In this manner, conservation protections would be afforded the sage grouse while allowing important land uses and resource development in Montana in a regulated, responsible manner.

2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no direct, indirect or cumulative effects associated with current or future land uses would occur.

C. Human Health and Safety

1. Proposed Action -- Under the Proposed Action no foreseeable direct, indirect or cumulative effects associated with human health or safety would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement.
2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. No direct, indirect or cumulative effects associated with health and human safety would occur.

D. Community – Social

1. Proposed Action -- Under the Proposed Action no foreseeable direct, indirect or cumulative effects involving the disruption of native or traditional lifestyles or communities would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. Ultimate approval and acquisition of the conservation easement would, over time, be expected to foster the maintenance of traditional ranching land uses and lifestyles in the local area.
2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no direct, indirect or cumulative effects associated with the alteration of native or traditional lifestyles or communities would occur.

E. Taxes and Local Services

1. Proposed Action -- Under the Proposed Action no foreseeable direct, indirect or cumulative effects involving changes in state and federal taxes are anticipated on the easement property. Future tax rates would be assessed based on market land values for the land use terms required by the easement agreement.
2. No Action -- Under the No Action Alternative, state and federal taxes for the 2,011-acre parcel would continue to be assessed at the present value without the easement. Thus, no direct, indirect or cumulative effects would occur.

F. Aesthetics and Recreation

1. Proposed Action -- Under the Proposed Action there would be no foreseeable direct, indirect or cumulative effects in aesthetics or

recreational opportunities would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. Ultimate approval and acquisition of the conservation easement would over time, be expected to foster the maintenance of existing open space views and aesthetics in the local area, and potentially contribute to hunting and wildlife watching activities on adjacent properties.

2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. Thus, no direct, indirect or cumulative effects involving changes in aesthetics or recreational opportunities would occur.

G. Cultural / Historic Resources

1. Proposed Action – Under the Proposed Action no foreseeable direct, indirect or cumulative effects involving changes in cultural or historic resources would occur in association with authorizing the grant funds for the purchase of the 2,011-acre conservation easement. A cultural resource evaluation was not conducted for this easement. Considering the non-ground disturbing nature of this project, no additional archaeological investigative work will be required. The easement will not modify current land use, and therefore will have no potential to physically or visually impact any kind of cultural or paleontological resources that may be present within the Area of Potential Effects (APE).
2. No Action -- Under the No Action Alternative, grant fund authorization for the purchase of the 2,011-acre conservation easement would not occur. The project area is largely semi-arid, sagebrush covered steppe/foothills, and the topography is characteristically gentle to moderately steep, therefore the cultural and paleontological resources will continue to persist in the rather dry and stable environment. No direct, indirect or cumulative effects involving cultural resources would be anticipated.

X. Summary Evaluation of Significance and Mitigation

Under the proposed action, none of the impacts are severe, enduring, geographically widespread, or frequent. The quantity and quality of the natural resources, including any that may be considered unique or fragile, will not be adversely affected to a significant degree. There would be no precedent for the actions that would cause significant impacts, and there are no conflicts with local, State, or federal laws, requirements, or formal plans. Adverse impacts would be avoided, controlled, or mitigated by the design and implementation of the project to an extent that they are not significant.

XI. Evaluation of Need for an EIS

Based on the above assessment, which has not identified any significant negative impacts from the proposed action, an EIS is not required and an EA is the appropriate level of review. The overall impact from the successful completion of the proposed action would provide substantial long-term benefits to both the physical and human environment.

XII. Name, Contact Information of Preparers

- Anna Christman, Carolyn Sime
Sage Grouse Habitat Conservation Program Manager, Department of Natural Resources and Conservation. PO Box 201601, 1539 11th Ave, Helena, MT 59620.
E-mail: csime2@mt.gov; Work: (406) 444-0554.

XIII. Public Involvement

The public comment period will run July 8, 2019 through July 29, 2019.

Submit comments electronically and attach documents through the public comment web application tool located on the MSGOT webpage at <https://sagegrouse.mt.gov/Grants>. Electronic comments must be received by 11:59 p.m. on July 29, 2019.

Mail written comments to:

Montana Department of Natural Resources and Conservation
Montana Sage Grouse Habitat Conservation Program
Attn: Proposed Marc Lewis Property Conservation Easement
1539 11th Ave.
Box 201601
Helena, MT 59620

Written comments must be postmarked and mailed on or before July 29, 2019.

XIV. Next Steps

After the close of the public comment period, the Program will take the following next steps:

- Public comments on the Draft EA will be reviewed;
- The Program will incorporate public comments and then prepare a final EA;
- At the September 18, 2019 MSGOT meeting, MSGOT will review:
 - Final Marc Lewis Property Conservation Easement Proposal Environmental Assessment;

MSGOT is expected to make a final decision during their meeting on September 18, 2019. If approved by MSGOT, MSGOT would execute a grant agreement with MLR. Stewardship funds in the award amount of \$176,788 would be placed into escrow with a neutral, independent closing agent. The parties would provide closing instructions to the closing agent. The actual conservation easement closing is expected to occur by December 31, 2019.

Appendix 1

List of Maps

- Location
- Aerial Imagery
- Surrounding Public Lands
- Conserved Lands within 4 Miles
- Lek Proximity
- Existing Disturbance
- HQT Results Map: Local and Regional Scales


List of Tables

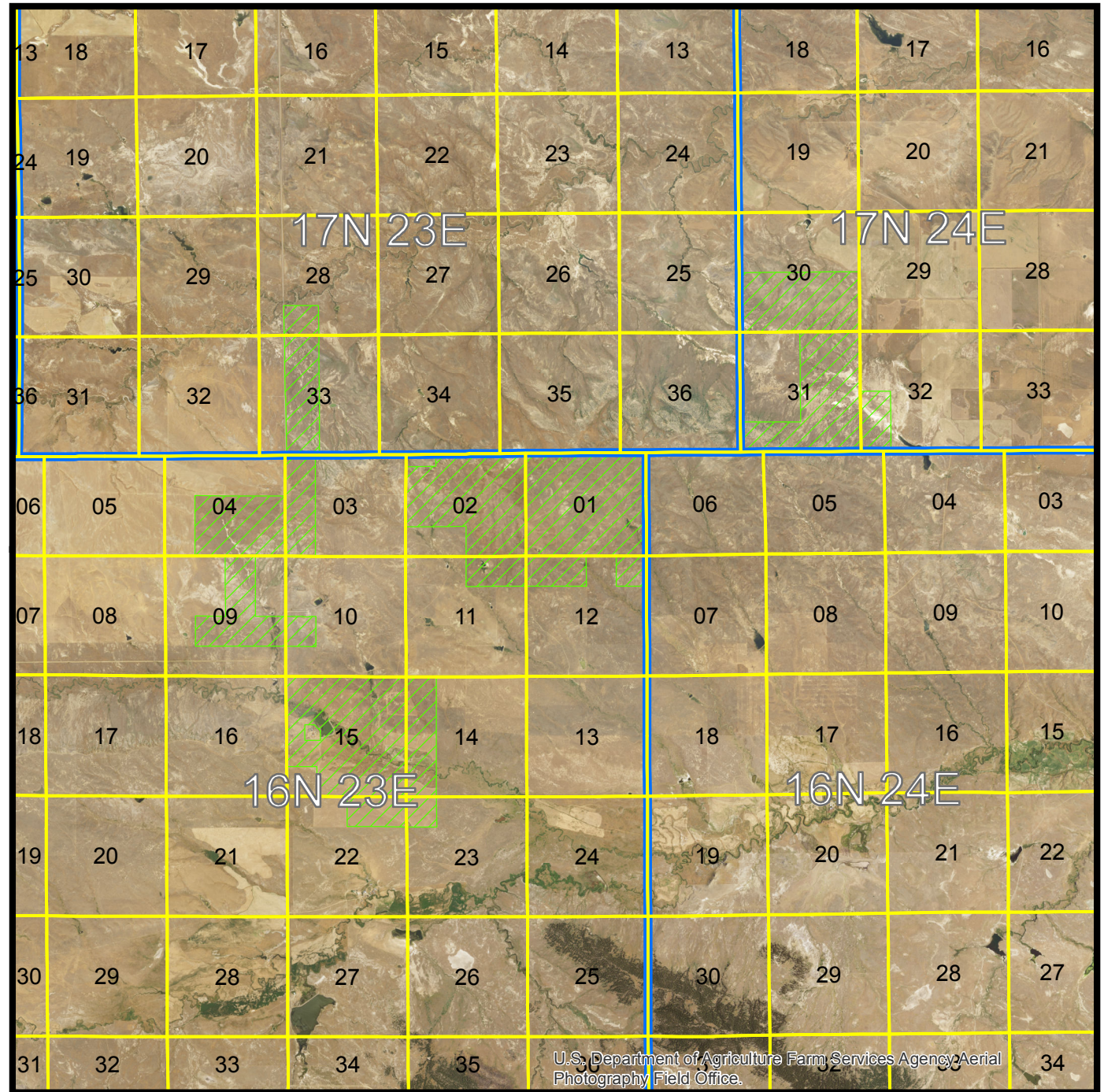
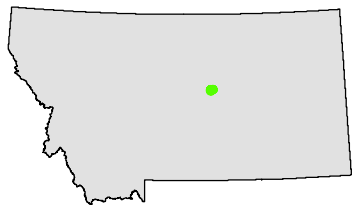
- HQT Metrics
- Overall Project Statistics

Marc Lewis Ranch Conservation Easement Location



MONTANA SAGE GROUSE
Habitat Conservation Program

-  **Project Area**
-  **Township, Range**
-  **Section**



Project Information:




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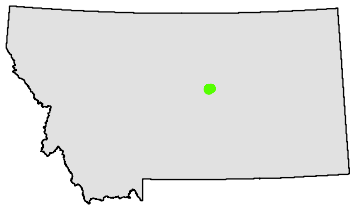
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Marc Lewis Property - Aerial Imagery of Project Area



MONTANA SAGE GROUSE
Habitat Conservation Program

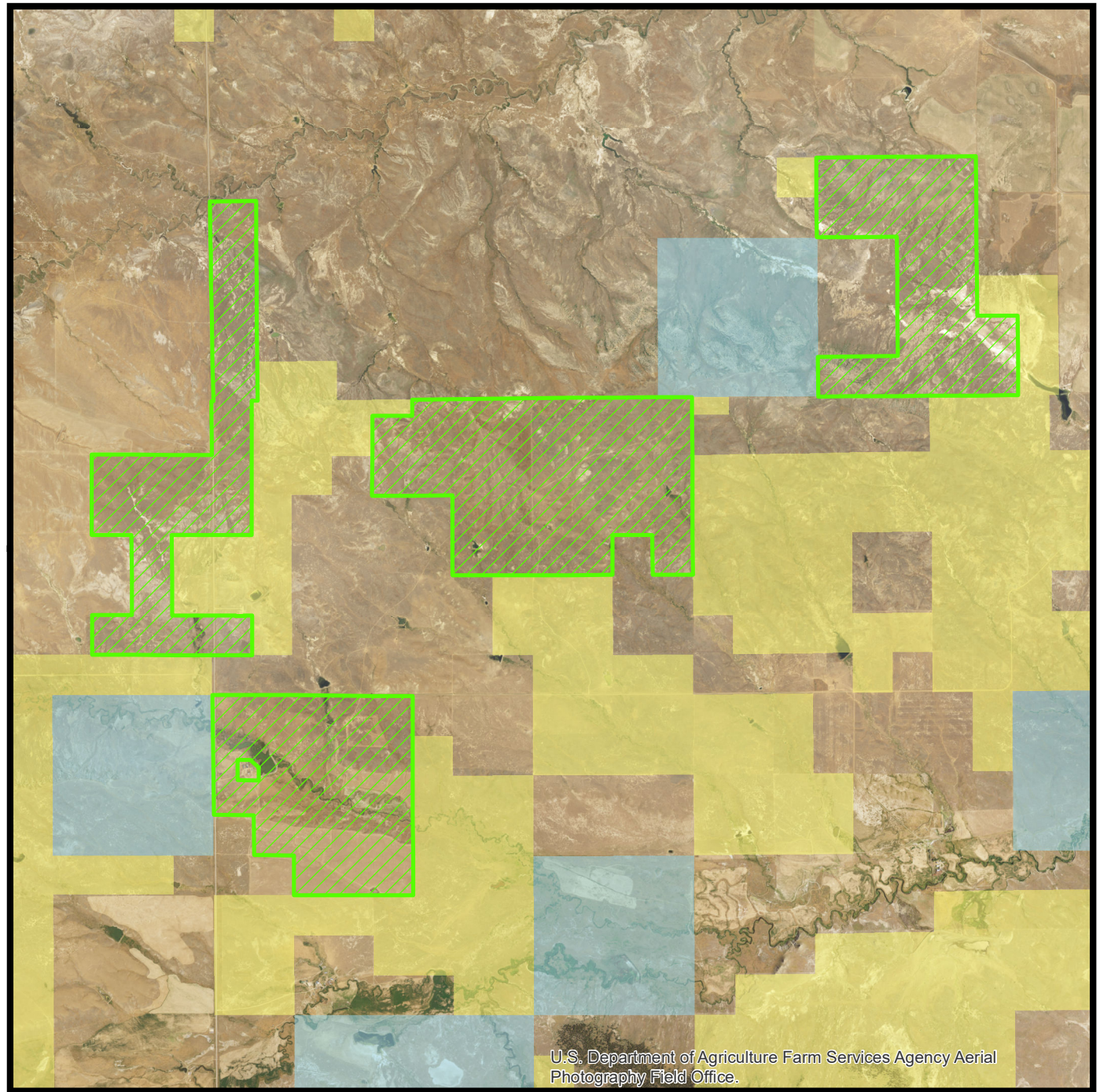
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-  **US Bureau of Land Management**
-  **Montana State Trust Lands**



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Applications due May 13\ArcMapFiles

Service Layer Credits: U.S. Department of Agriculture Farm Services Agency
Aerial Photography Field Office.



U.S. Department of Agriculture Farm Services Agency Aerial
Photography Field Office.

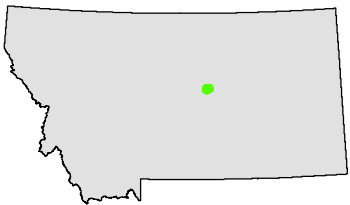
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Marc Lewis Property - Surrounding Public Lands



MONTANA SAGE GROUSE
Habitat Conservation Program

-  **Project Area**
-  **US Bureau of Land Management**
-  **US Fish and Wildlife Service**
-  **US Forest Service**
-  **State of Montana**
-  **Montana State Trust Lands**
-  **County Government**

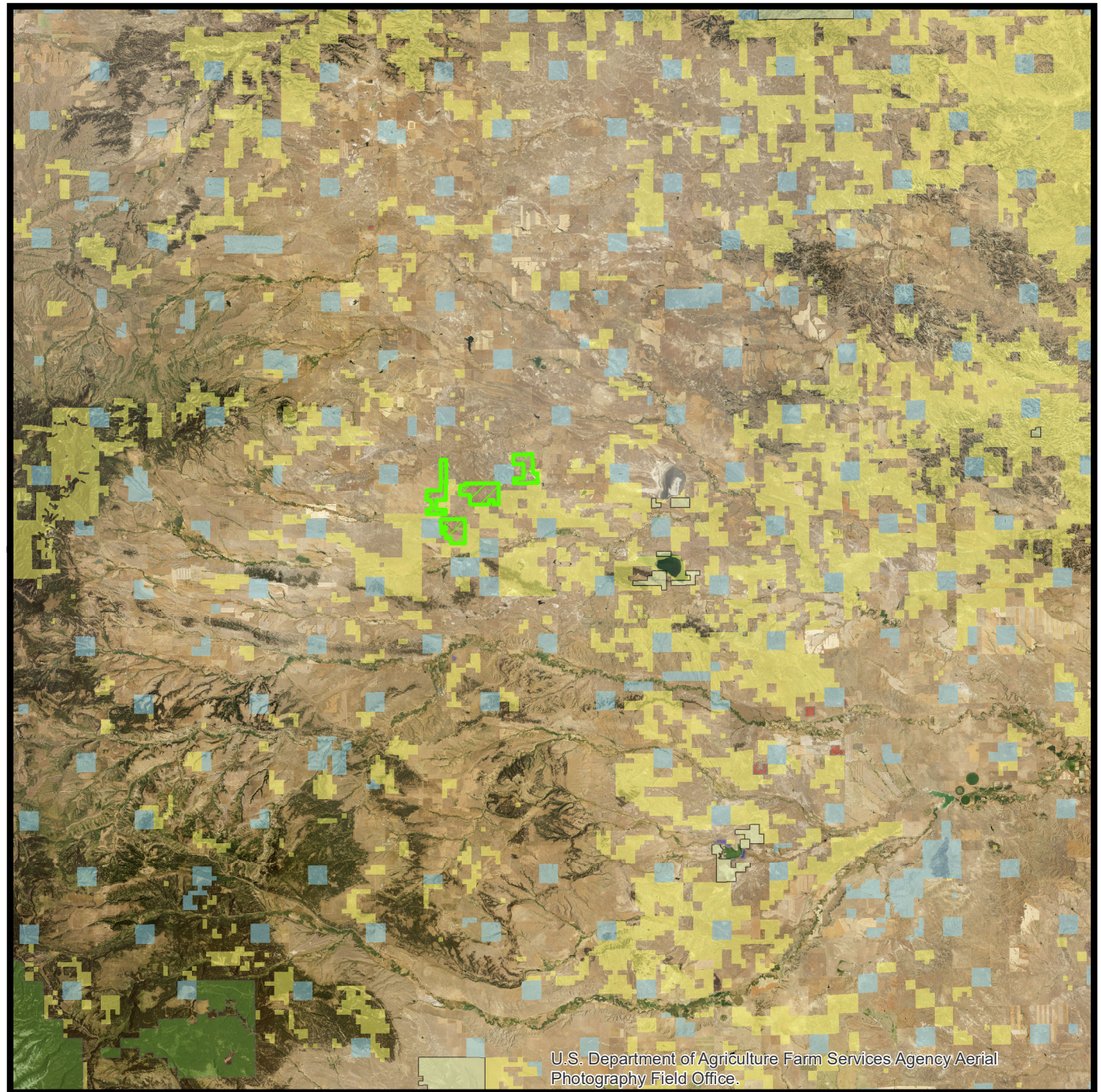


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Applications due May 13\ArcMapFiles

Service Layer Credits: U.S. Department of Agriculture Farm Services Agency
Aerial Photography Field Office.



U.S. Department of Agriculture Farm Services Agency Aerial
Photography Field Office.

0 10 20 Miles

Percentage Conserved Lands within 4 Miles of the Marc Lewis Ranch Conservation Easement (Montana Land Reliance)













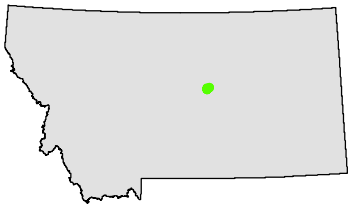
MONTANA SAGE GROUSE
Habitat Conservation Program

Project Information

-  Direct Project Footprint
-  Conserved Lands

Percent of Conserved Lands within 4 Miles of Project Area

-  0% - 10%
-  10.1% - 20%
-  20.1% - 30%
-  30.1% - 40%
-  40.1% - 50%
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-  80.1% - 90%
-  90.1% - 100%

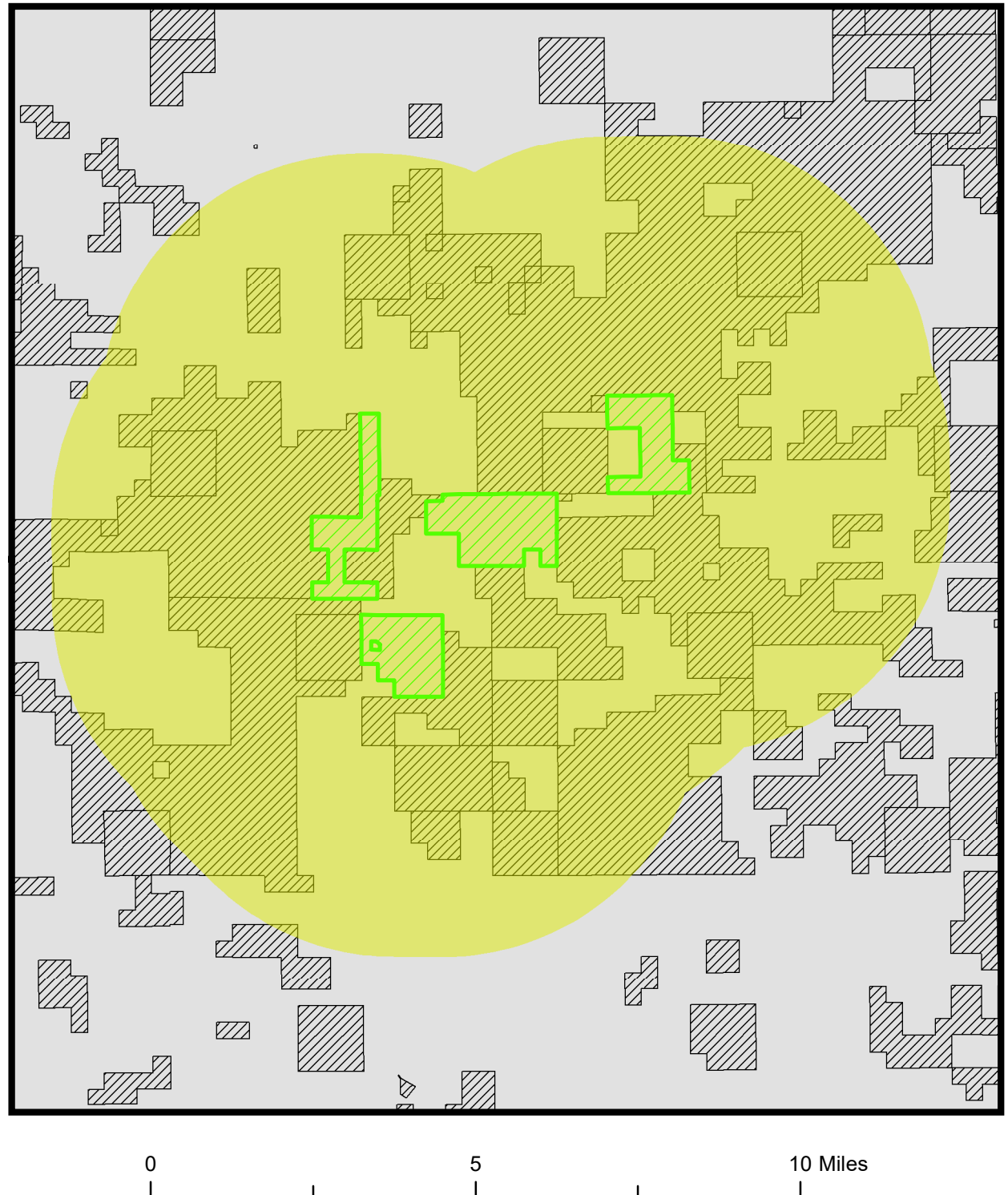


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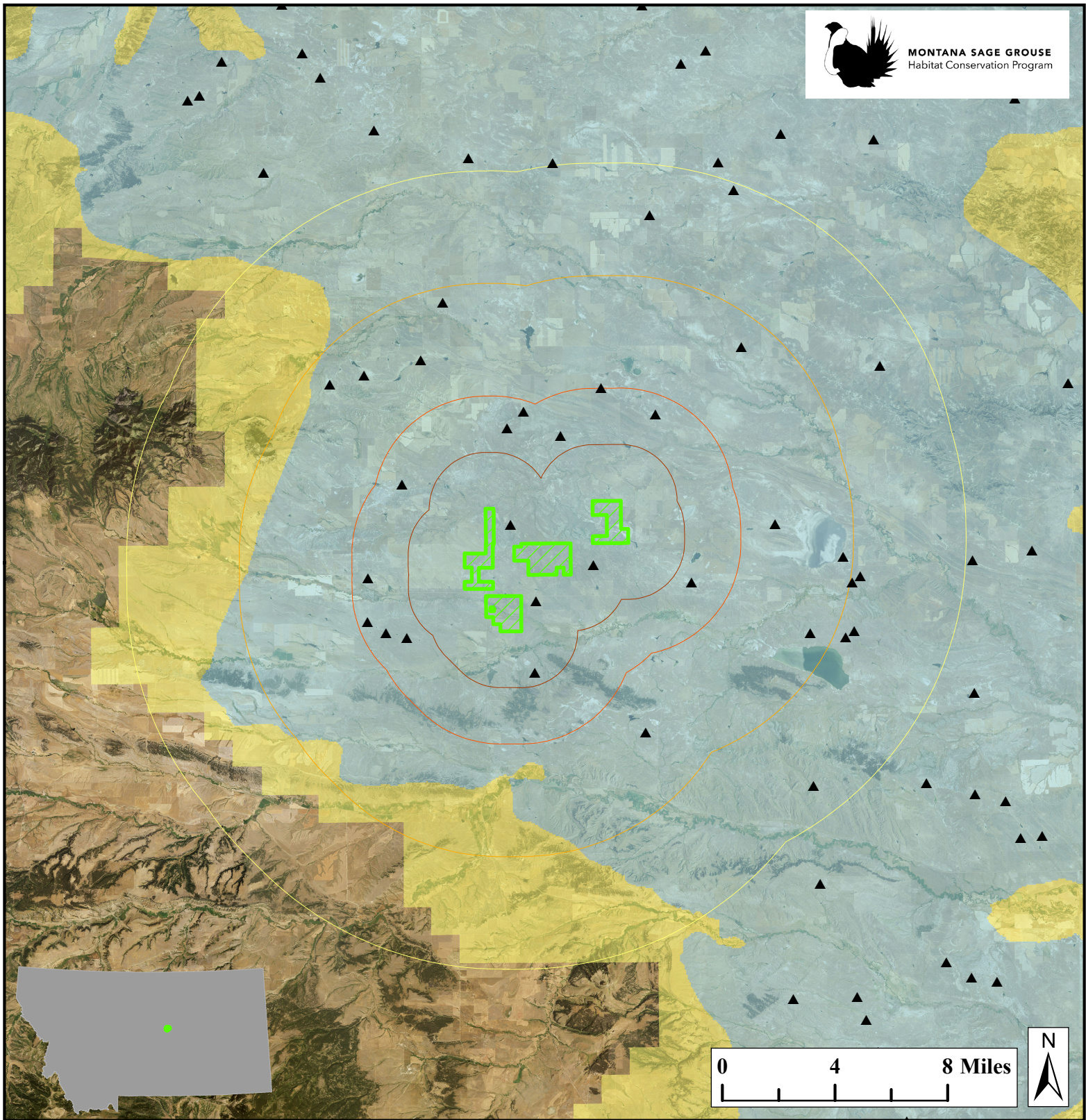
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Marc Lewis Ranch Conservation Easement - Lek Proximity



MONTANA SAGE GROUSE
Habitat Conservation Program



Project Information:

Map Date: 06 June 2019
PathFile: G:\CARD\10 Sage Grouse
HCP\Grant Program\Second Cycle
2019\Complete Applications due May
13\ArcMapFiles\ProximityToSGLeks

Service Layer Credits: U.S. Department of Agriculture Farm Services
Agency Aerial Photography Field Office.



Project Footprint



2 Mile Buffer



4 Mile Buffer



8 Mile Buffer



12 Mile Buffer



Core Area



General Habitat



Connectivity Area



Sage Grouse Leks

Leks Within Buffer

2 Mile: 4

4 Mile: 14

8 Mile: 24

12 Mile: 32




Marc Lewis Conservation Easement - Surrounding Existing Disturbance



















MONTANA SAGE GROUSE
Habitat Conservation Program

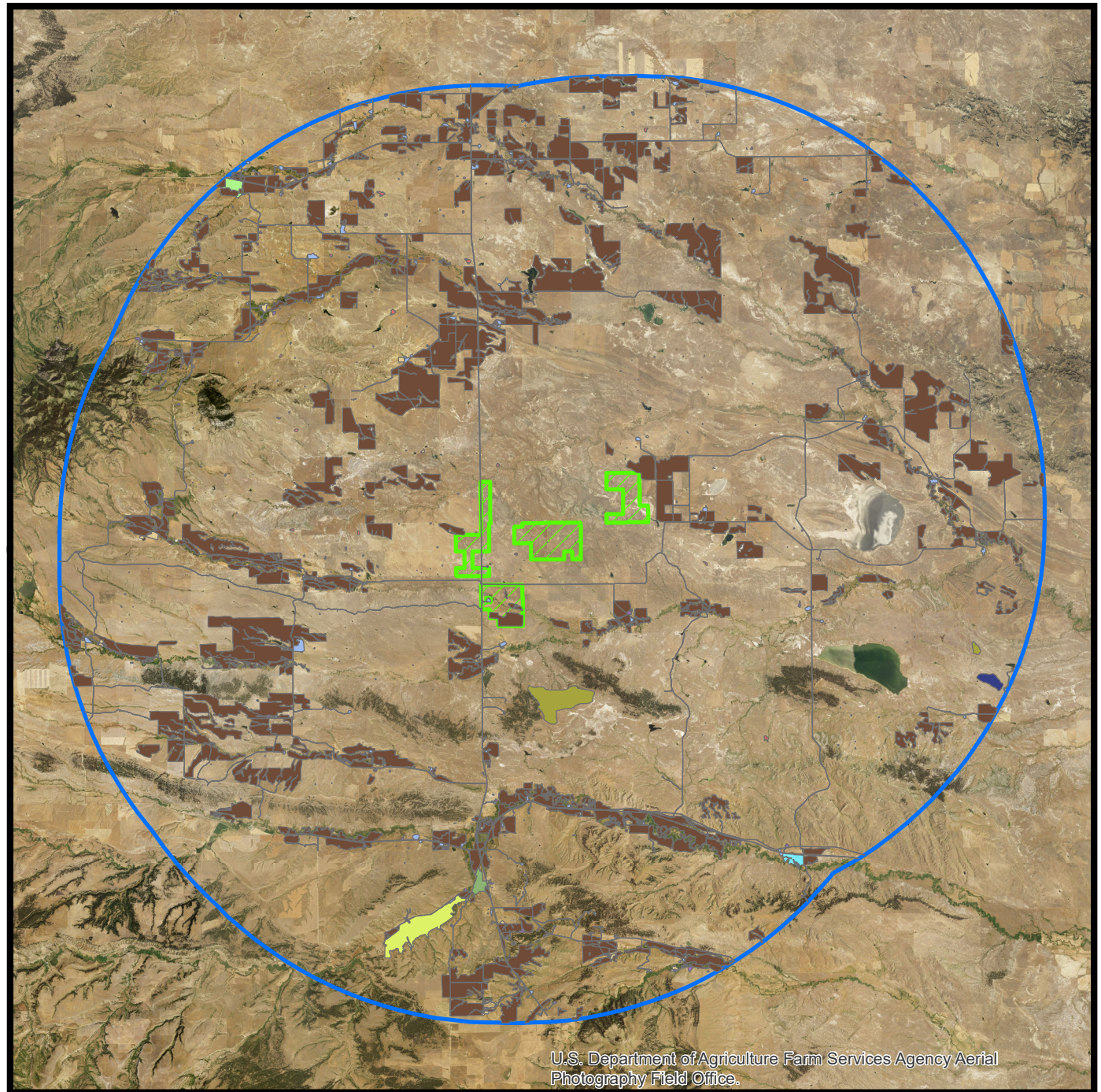
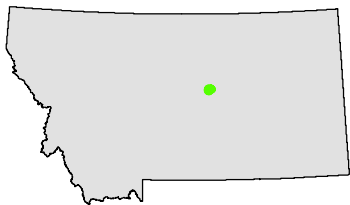
Project Information

 Project Area

 12 Mile Buffer

DisturbanceType

-  Building
-  Communication
-  Contiguous Cultivated Lands
-  Crop
-  Fire
-  Gravel
-  Livestock
-  Other
-  Power Line
-  Road
-  Stock Pond
-  Storage
-  Subdivision Area
-  Urban
-  Well
-  Well Pad



U.S. Department of Agriculture Farm Services Agency Aerial
Photography Field Office.

Project Information:

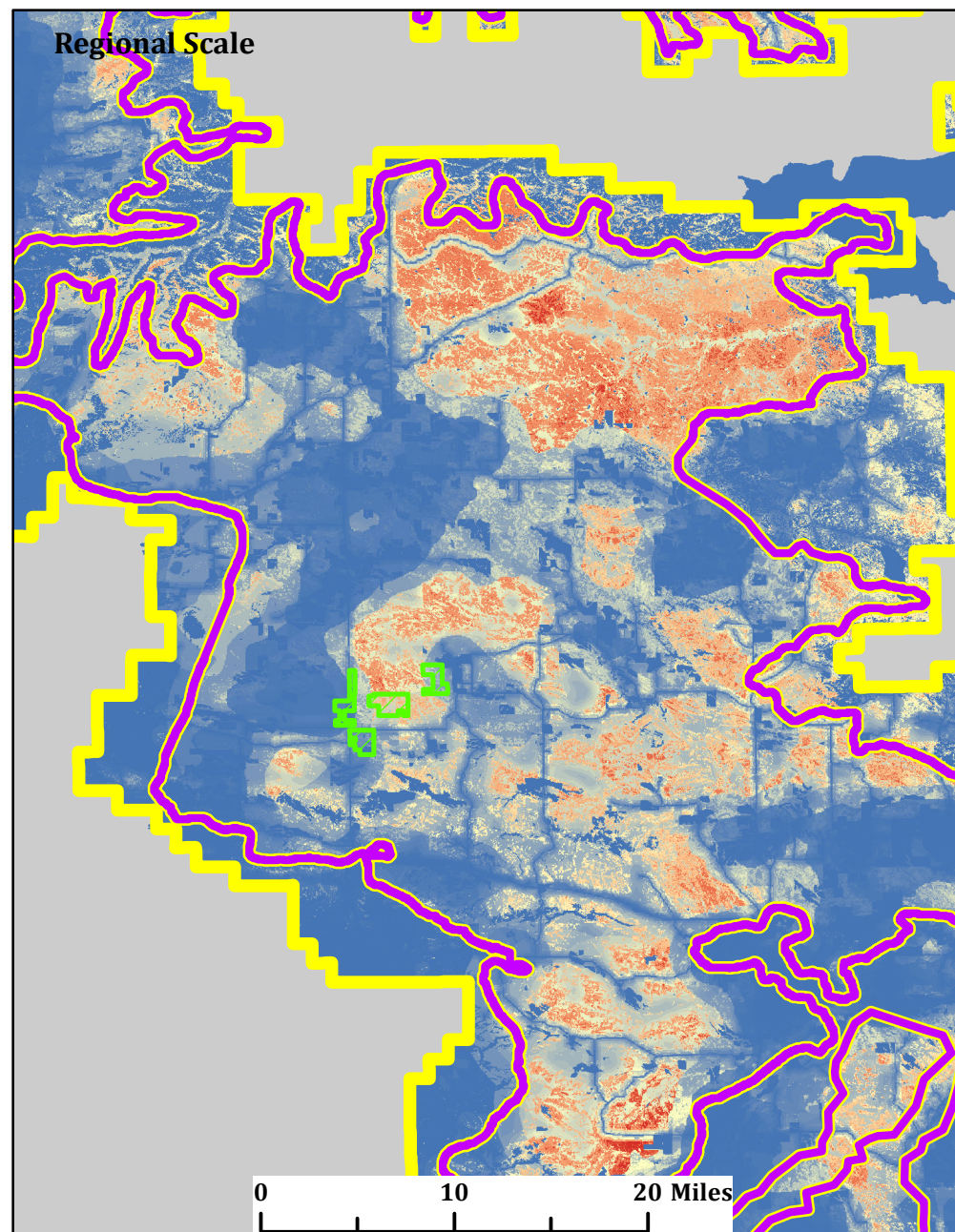
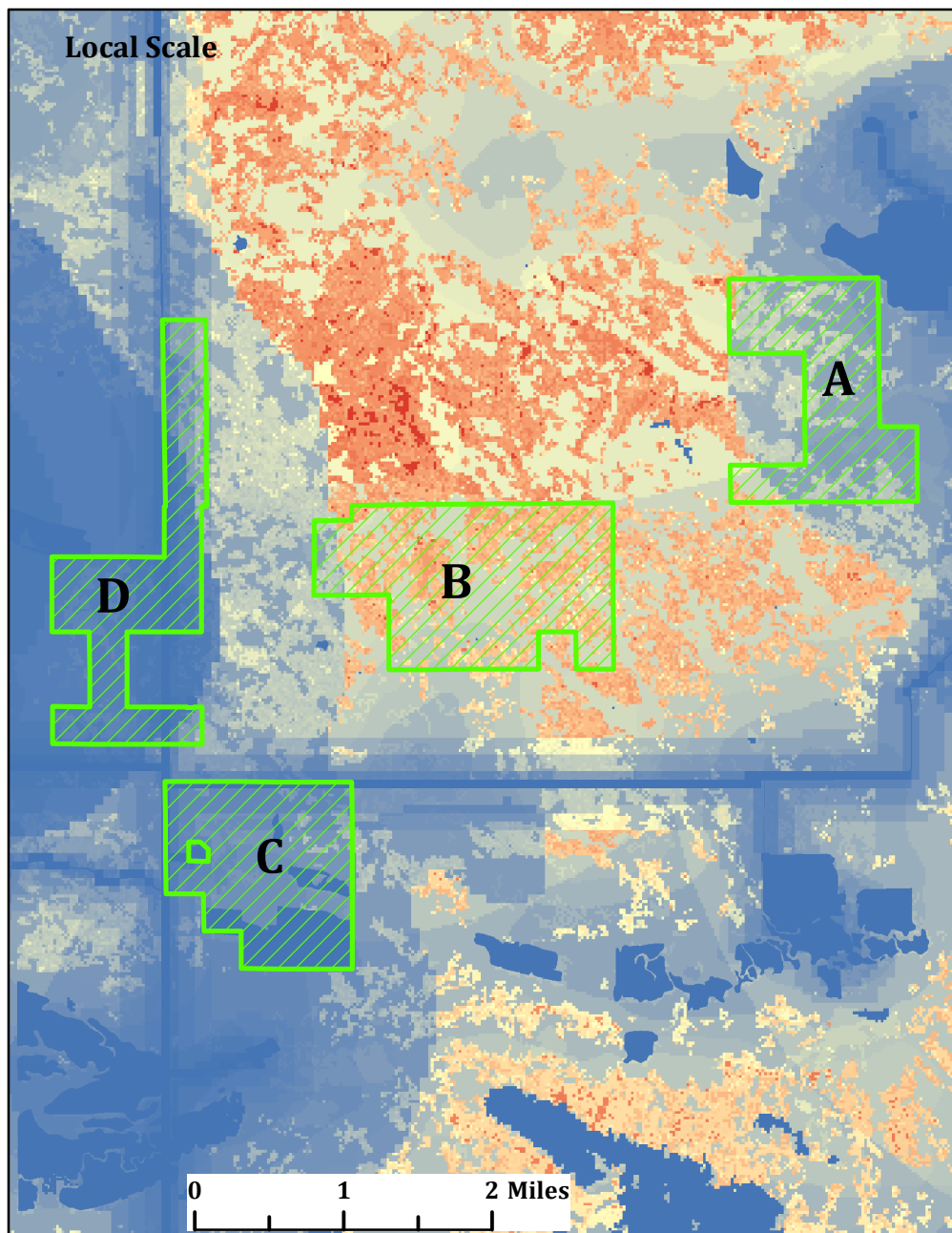
Map Date: 28 May 2019

Path File: G:\CARD\10 Sage Grouse HCP\
Grant Program\Second Cycle 2019\Complete
Applications due May 13\ArcMapFiles

Service Layer Credits: U.S. Department of Agriculture Farm Services Agency
Aerial Photography Field Office.

0 7.5 15 Miles

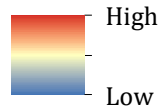
HQT Results: Marcus Lewis Property






Project HQT Metadata

HQT Date: 28 May 2019
Years Maintained: 100 Years

HQT Pixel Value



-  Project Direct Impact Footprint
-  Core Area
-  General Habitat



MONTANA SAGE GROUSE
Habitat Conservation Program

Project Information						Raw HQT Score		Applicable Policy			Metrics		
Project Name	Project Type	Service Area	# of Years	Price per Credit for Lease Duration	Physical Acres	1 Year	Total (all years)	# of Credits awarded for newly created Fx-A		Baseline at 40%	Total Credits Available / Generated	Fx-A / PA / Yr	Credits / PA / Yr
								Core Area (10%)	General Habitat (5%)				
Marc Lewis Property	Preservation - Parcel A (Perpetual)	Central Service Area	100	NA	803.31	206.59	20,658.87	N/A	N/A	8,263.55	8,263.55	0.257	0.103
	Preservation - Parcel B (Perpetual)				1,208.88	615.05	61,505.10	N/A	N/A	24,602.04	24,602.04	0.509	0.204
	Preservation - Parcel C- Donation (Perpetual)				873.82	67.67	6,767.30	N/A	N/A	2,706.92	2,706.92	0.077	0.031
	Preservation - Parcel D- Donation (Perpetual)				847.65	60.12	6,011.54	N/A	N/A	2,404.61	2,404.61	0.071	0.028
	Preservation - Total (Perpetual)				3,733.65	949.43	94,942.81	N/A	N/A	37,977.12	37,977.12	0.254	0.102

Credit results do not include non-deeded lands within the perimeter of the project area (i.e. State Trust Lands other public lands not included). Integrated

6/4/2019

Project Analysis			
	Project Area	Project + 4 Mile Buffer	Project + 12 Mile Buffer
Total Acres	3733	86,533	431,552
Core Acres	3733	86,533	333,387
General Acres	0	0	69,281
Connectivity Acres	0	0	0
Outside Habitat	0	0	28,885
Percent Core	100%	100%	77%
FWP Lek Count (May be other Leks present)	0	14	32
FWP Total Male Count (Most Recent)	0	173	391
FWP Avg. Male Count	0	12	12
Project Cost/Acre	\$132.93	NA	NA
Reverse Project DDCT	11.61%	NA	NA

Conservation Status	Project Area	4 Mile Buffer (%)	12 Mile Buffer (%)
Percent Public (City Govt., County Govt., MSL, State of MT, BLM, US Dept. of Defense, USFWS)	0%	29.13%	20.95%
Percent Private Conservation	0%	0%	0%
Percent Managed Areas (BLM, USFWS)	0%	1.70%	1.09%
Percent Conservation Easement (MLR, US Dept. of Ag.)	0%	21.77%	6.70%
Total in Conservation	0%	50.90%	27.66%
Not in Conservation	100%	49.10%	72.34%

Managed
Areas are
Public
Lands.

Lek Vulnerability	Project Area	4 Mile Buffer	12 Mile Buffer
0 - 10%	0	0	1
10.1 - 25%	0	3	7
25.1 - 50%	0	8	2
50.1 - 75%	0	2	8
75.1 - 100%	0	1	0