

# PROGRAM CONSULTATION PROCESS



# Introductions



Adam Kauth



Emily Moran



Erin Reather



# Presentation Overview

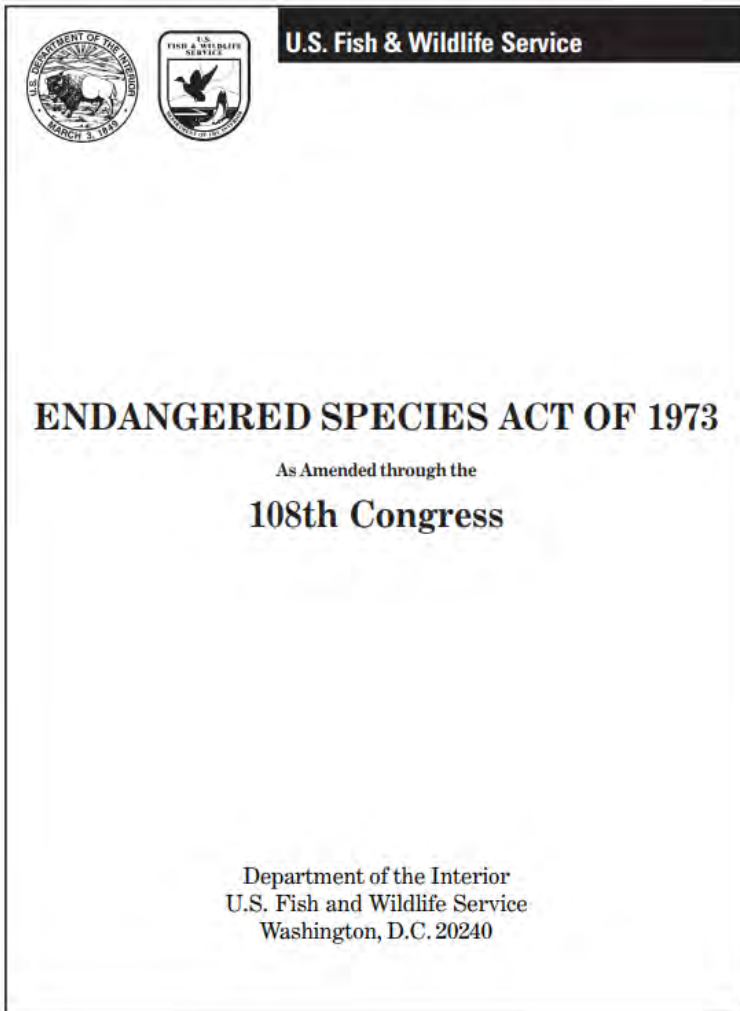
- Program Purpose
- Avoidance and Minimization
- How to submit a Project
- How a project is reviewed
- Project examples



Photo Credit  
Joel Maes



# The Endangered Species Act (ESA)



- The Endangered Species Act provides a program for the conservation of threatened and endangered plants and animals and the habitats in which they are found.
  - U.S. Fish and Wildlife Service
  - U.S. National Oceanic and Atmospheric Fisheries Service
- Requires federal agencies to ensure that actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of any listed species or result in the destruction of adverse modification of designated critical habitat of such species.
- Prohibits any action that causes a "taking" of any listed species.





## HOW DID WE GET HERE?

In 2010, the USFWS found listing of sage-grouse under the ESA was “warranted but precluded” by other higher priorities.

Cited loss and fragmentation of habitat and lack of adequate regulatory mechanisms.

In 2011, USFWS entered legal settlement agreement requiring new status review by September 30, 2015.



# Executive Orders and Implementation of the Stewardship Act

## Key components to the Act:

- Created the Montana Sage Grouse Oversight Team (MSGOT)
- Created the Sage Grouse Stewardship Account
- Provided statutory guidance for the Stewardship Account.
- Established that impacts to sage grouse habitat would be mitigated for and provided guidance.
- Delegated rulemaking authority to MSGOT.



*... is charged with implementing the Act and the Executive Orders across state government, coordinating with federal land management agencies as they implement the sage grouse conservation provisions in their land use plans, and working with other partners, especially private landowners who conserve the majority of important sage grouse habitat in Montana.*

## PURPOSE

Sustain viable sage grouse populations and conserve habitat so a listing under the Endangered Species Act is unwarranted and allows Montanans to maintain control of their lands, wildlife and economy.



# What Brings a Project In?

The Program operates under the Montana Greater Sage-Grouse Stewardship Act and Executive Orders 12-2015 and 21-2015.

## Montana Code Annotated 2023

TITLE 87. FISH AND WILDLIFE  
CHAPTER 5. WILDLIFE PROTECTION

### Part 9. Montana Greater Sage-Grouse Stewardship Act

STATE OF MONTANA  
OFFICE OF THE GOVERNOR  
EXECUTIVE ORDER NO. 12-2015

EXECUTIVE ORDER AMENDING AND PROVIDING FOR IMPLEMENTATION OF  
THE MONTANA SAGE GROUSE CONSERVATION STRATEGY.

Program consultation is necessary if the proposed project:

Is located within Designated Sage Grouse Habitat  
AND

Requires a State Permit, Review, Approval or Authorization

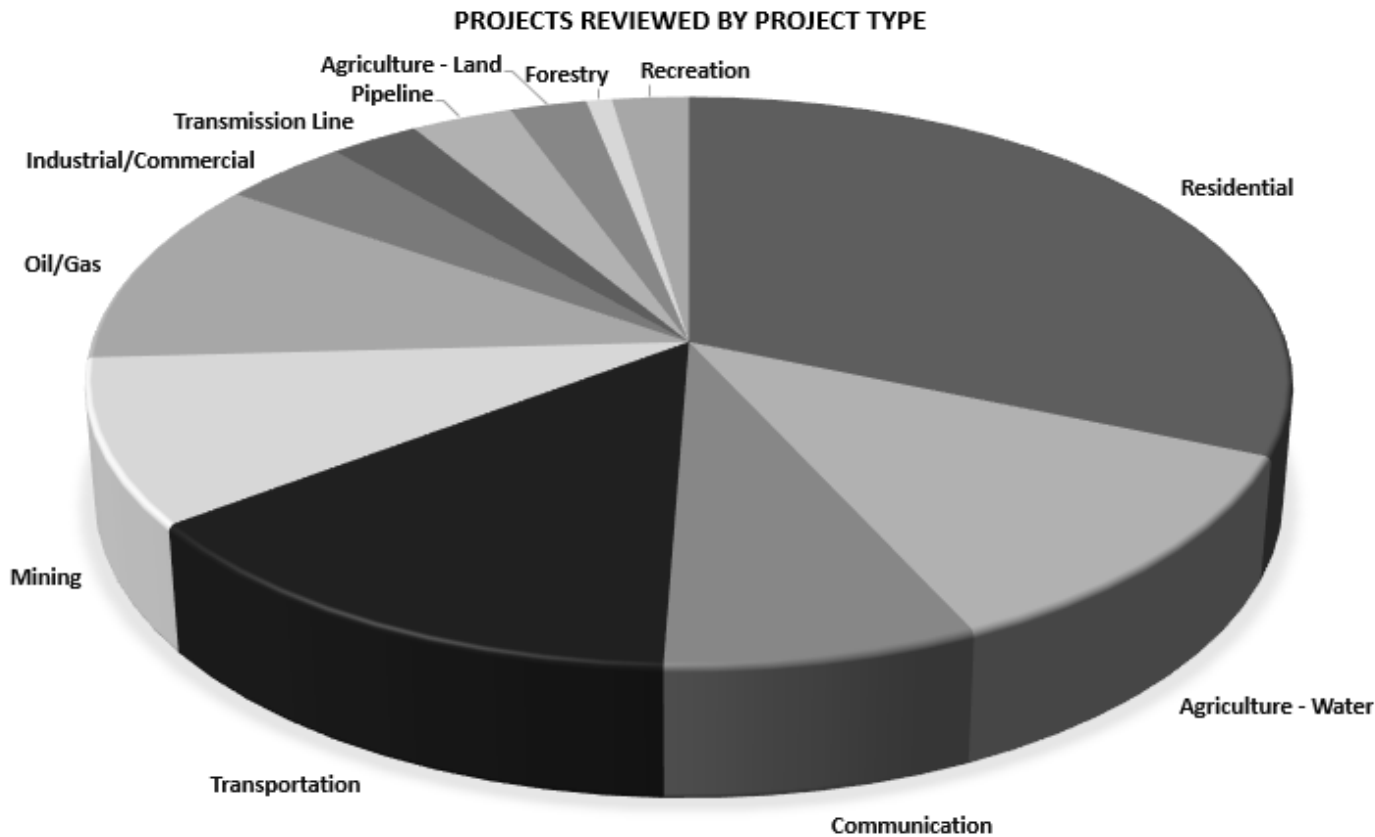
Program determines habitat impact  
Program works with project proponents to lessen impacts  
MITIGATION HIERARCHY = AVOID, MINIMIZE, RESTORE  
Mitigation to offset impacts  
Some project types exempt







# Regulatory Component of the Program and Projects Reviewed



# Consultation Process Overview



# Questions About Program Overview?

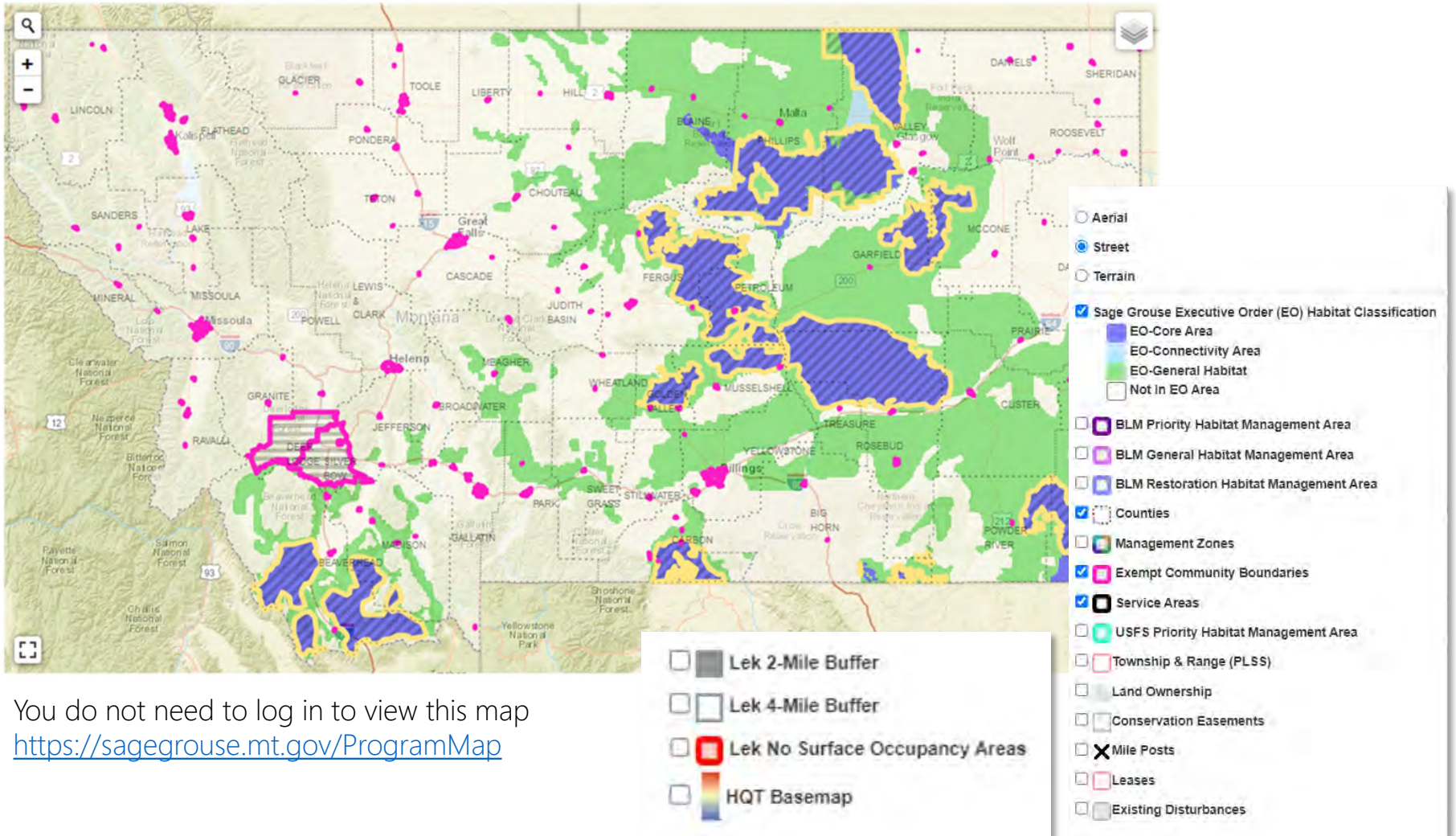


Dave Messmer



MONTANA SAGE GROUSE  
Habitat Conservation Program

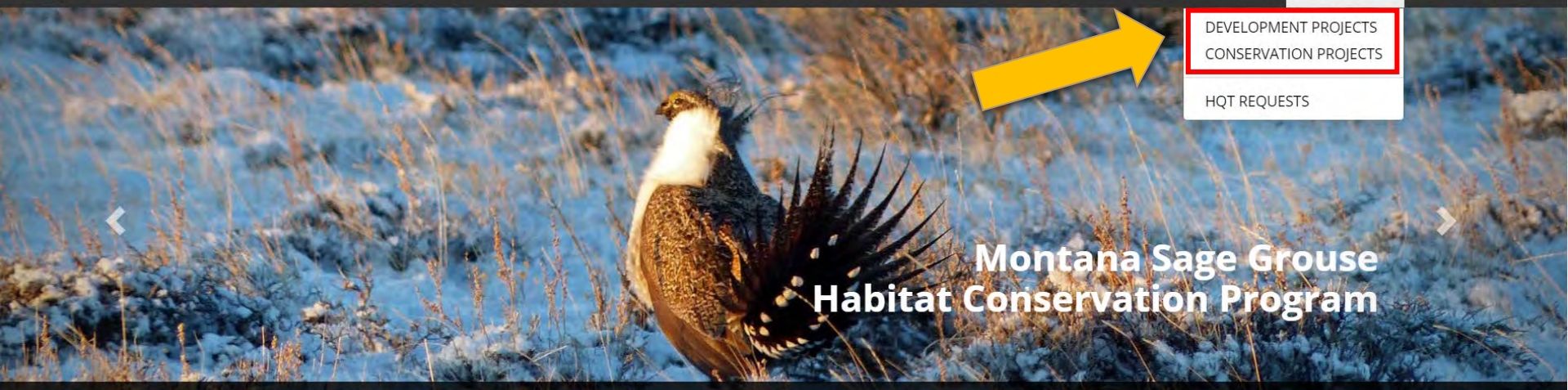
# Submitting a Project



You do not need to log in to view this map

<https://sagegrouse.mt.gov/ProgramMap>





# Montana Sage Grouse Habitat Conservation Program

- DEVELOPMENT PROJECTS
- CONSERVATION PROJECTS
- HQT REQUESTS



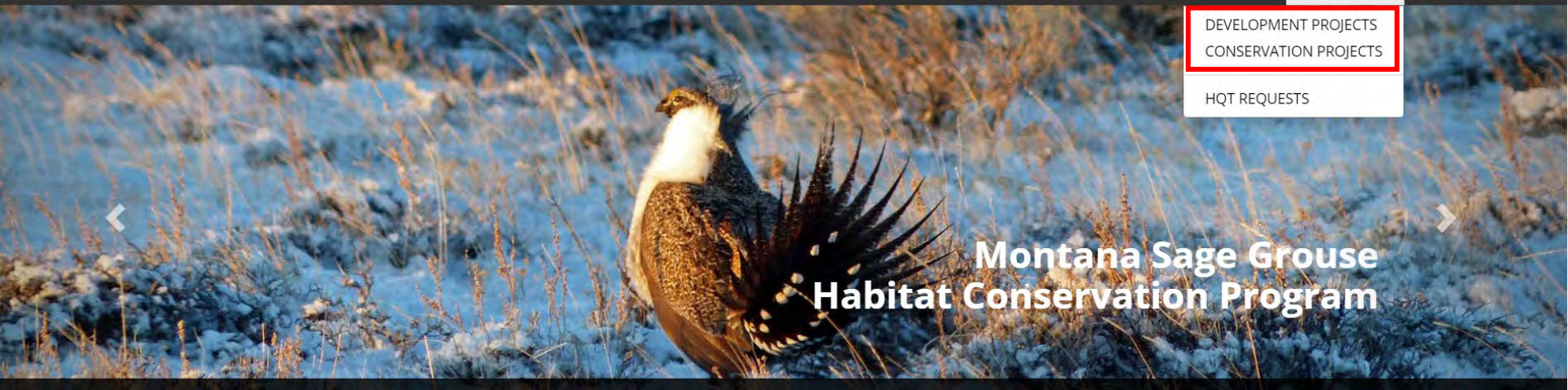
## Development & Conservation





DEVELOPMENT PROJECTS  
CONSERVATION PROJECTS

HQT REQUESTS



## Development

- Mining
- Energy development
- Communication infrastructure
- Agricultural development

## Conservation

- Conifer removal
- Burying infrastructure
- Mesic restoration
- Stewardship Account Grants



# Entering a Project

Propose a development project in sage grouse habitat

1. Instructions

2. Basics

3. Disturbances

4. Questionnaire

5. Attachments

6. Review & Submit

## Instructions

**NOTE TO USERS:** Efforts to improve the Program's website are underway. Updates will be rolled out periodically. Click on [What's New](#) to learn more about each change and get updated instructions. You can view online, download, or print the What's New document. It will be updated periodically.

The project proposal submission process has a few parts:

### Basic Information About Your Project

Describe your project involving permitted activities proposed in sage grouse habitats designated as core (blue), general (green), or connectivity (light-blue) habitats. If you're not sure which habitat zone your project is in, click the map to the right before entering Basic Information. For program details please see our [FAQ](#).

### Disturbances: Project Construction and Type of Disturbance

After entering the Basics, draw or upload your project's location and proposed disturbances on a map, and then enter some additional information for each disturbance. Note that a project can have one or more disturbances; for example, you may be proposing a communications project that involves a road, buried cables, and towers, in which case you would have three disturbances.

### Questionnaire: Project and Disturbance Description Details

Once your proposed disturbances are mapped and described, you will need to answer some questions based on your disturbance types.

### Save Your Project for Later, Save and Continue, or Submit for Review

You'll have a chance to review a summary of your proposed project before you submit it for consultation. You do not need to complete your submission in one session – your work will be saved and the next time you log in, you'll be able to resume where you left off.

### Help

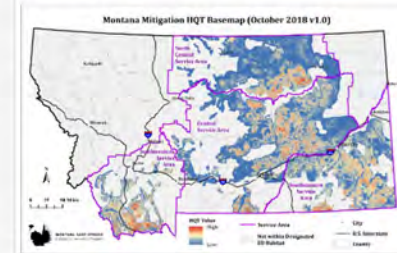
[Quick Start Guide for submitting projects](#)

[Information About the Montana Mitigation HQT Basemap](#)

If you run into any snags or have questions, please [contact us](#).



Make sure your project is in sage grouse habitat



Mitigation HQT Basemap (October 2018 v1.0)



# BASICS: Project Information

**Project Information**

Name:

**Project Type:**    
View the list of Project Types and their potential Disturbance Types.

**Description:**

**Permit Agencies:**

- Department of Agriculture
- Department of Commerce
- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Labor and Industry
- Department of Livestock
- Department of Natural Resources and Conservation
- Trust Lands - Department of Natural Resources and Conservation
- Federal Energy Regulatory Commission
- Montana Board of Oil and Gas

**Contact Information**

Name:

Email:  Phone:

Mailing Address:

Additional Contact Info:

Describe and provide phone/email for people other than yourself that we might need to coordinate with while reviewing your project






# BASICS: Project Information, Cont.

## Project Information

Name:

Project Type:

*Not sure which type to select? View the list of [Project Types and their potential Disturbance Types](#).*

 Description:

*Describe your complete project, not just portions of the project on federal or state land. Be sure to include all associated and foreseeable future development. If the project involves a septic or subdivision permit, include information about any plan to install a septic system, construct a building or other surface disturbing activity in the future associated with the permit.*

 Permit Agencies:

- Montana Department of Transportation
- US Army Corps of Engineers
- US Bureau of Land Management
- US Bureau of Reclamation
- US Department of Agriculture
- US Department of Energy
- US Department of the Interior
- US Fish and Wildlife Service
- US Forest Service
- Other/None of the Above

- Department of Agriculture
- Department of Commerce
- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Labor and Industry
- Department of Livestock
- Department of Natural Resources and Conservation
- Trust Lands - Department of Natural Resources and Conservation
- Federal Energy Regulatory Commission
- Montana Board of Oil and Gas



# BASICS: Project Contact and Responsible Party

**Project Contact Information**

**Name:** Reather, Erin

**Email:**  **Phone:**

**Mailing Address:**

**Additional Contact Info:**

*Describe and provide phone/email for people other than yourself that we might need to coordinate with while reviewing your project*

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**Responsible Party**

**Customer:**

*Select a customer from the dropdown list. If your desired option is not available, please add it to the list by checking this box*

**Additional Contact Name (Optional):**

**Email (Optional):**  **Phone (Optional):**

**Mailing Address (Optional):**

**Additional Contact Info (Optional):**

*Describe and provide phone/email for people other than yourself that we might need to coordinate with while reviewing your project*



# BASICS: Additional Information

## Additional Information

Is vegetation removal associated with the project?

Yes  No

Is reclamation of surface disturbing activity included in project?

Yes  No

What seed mix is proposed?

When will reclamation occur?

-- Month --  -- Year --

Is this project funded through state or federal funds?

Yes  No

What's the status of your funding?

-- Not Applicable --

Save

Save & Continue



# DISTURBANCES: Spatial Data

Propose a development project in sage grouse habitat: Test 1 (Draft)

1. Instructions

2. Basics

3. Disturbances

4. Questionnaire

5. Attachments

6. Review & Submit

## Disturbances for this Energy - Oil/Gas project

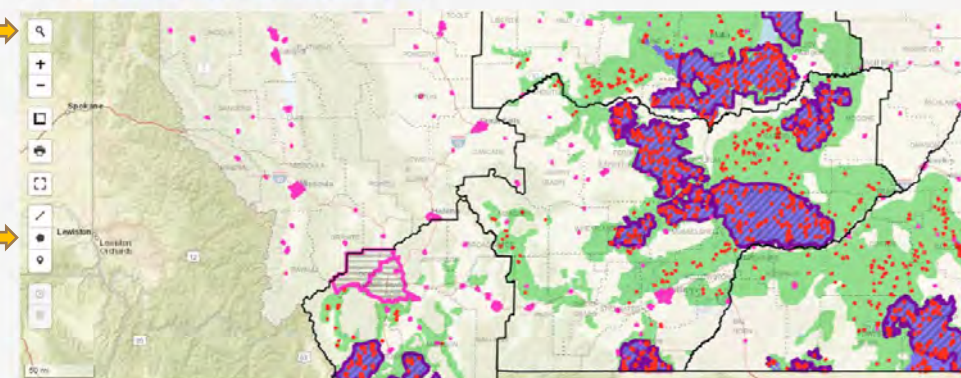
If your project's disturbances are already mapped in GIS, you may upload a File Geodatabase (GDB, Shape, KMZ). Otherwise, you can create a drawing of your project's disturbances here:

- Zoom to your project area by holding down the Shift key and dragging a rectangle.
- **NEW** To measure distances on the map, hover over the square ruler symbol below the zoom buttons and click **Create a new measurement**.
  - Click on the map to start the measurement and again to continue.
  - Click finish measurement and the line you have measured will remain until the page is refreshed.
  - The shaded area represents the area that your current measurement points (red dots) would encompass.
- Use the line tool for disturbances such as roads, pipelines, fences, trenches, power lines, etc.
- Use the polygon tool for disturbances such as buildings, crops, mines, pits, towers, wells, etc.
- Use the point tool for disturbances such as bore holes, CORS sites, monitoring wells, water supply wells, etc.
- Give each disturbance a name and description in the table below.

Spatial data should include all work areas associated with construction including staging and storage areas, borrow pits and gravel pits.

View list of **Development Project Types** and their associated **Disturbance Types**.

Upload GIS File



Disturbance Name	Feature	Type	*Width (ft)	Length (ft)	Area (acres)	EO Habitat Classes	Counties	TRS	Ownership	Notes
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- Locate project
- Enter spatial data
- Fill out disturbance information



# DISTURBANCES: Spatial Data, Cont.

## 1. Instructions

## 2. Basics

## 3. Disturbances

## 4. Questionnaire

## 5. Attachments

## 6. Review & Submit

### Disturbances for this Energy - Oil/Gas project

If your project's disturbances are already mapped in GIS, you may upload a File Geodatabase (GDB, Shape, KMZ). Otherwise, you can create a drawing of your project's disturbances here: Edit

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  - Click on the map to start the measurement and again to continue.
  - Click finish measurement and the line you have measured will remain until the page is refreshed.
  - The shaded area represents the area that your current measurement points (red dots) would encompass.
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- Give each disturbance a name and description in the table below.

Spatial data should include all work areas associated with construction including staging and storage areas, borrow pits and gravel pits.

View list of [Development Project Types and their associated Disturbance Types](#). Upload GIS File



# QUESTIONNAIRE

- 1. Instructions
- 2. Basics
- 3. Disturbances
- 4. Questionnaire
- 5. Attachments
- 6. Review & Submit

**Questionnaire for this Energy - Oil/Gas project**  
 Questions below are based on your Project Type and the specific Disturbances you selected. Some questions will be asked regardless of Disturbance type, but can be left blank if they do not apply to your project. If some questions don't make sense for your project, please contact us.

**Disturbance: Well Pad**

Type	Feature	Area	EO Habitat Classes	Counties	TRIS	Ownership	Notes
Well Pad	Polygon	24,692 acres	EO-General Habitat	Golden Valley, Musselshell	Township 9 North, Range 22 East, Section 4 Township 10 North, Range 22 East, Sections 20, 24	Private	

**Questions:**

**Construction Phase:**  
 How long will construction take? Enter the date construction activities will start and stop. Construction Phase dates should not overlap Operations Phase dates.  
 Start: [ ] [ ] [ ] [ ] [ ] [ ] End: [ ] [ ] [ ] [ ] [ ] [ ]

**Operations Phase:**  
 How long will the project be on the landscape or how long will the activity occur? Enter the date the project transitions from construction to regular operations and the date regular operations or activities will stop. Construction Phase dates should not overlap Operations Phase dates.  
 Start: [ ] [ ] [ ] [ ] [ ] [ ] End: [ ] [ ] [ ] [ ] [ ] [ ]

Are you proposing a new well or doing work on an existing well or facility?  
 -- Select one --

Will this work be conducted wholly within an existing permitted site and within existing disturbance?  
 Yes  No

Is a permit required for this project?  
 Yes  No

Be sure to attach (on the next step) a copy of the application submitted to the Board of Oil and Gas, such as Notice of Staking (NOI), Application for Permit to Drill (APD) or Permit to Re-enter.

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**Disturbance: Well Head**

Type	Feature	Area	EO Habitat Classes	Counties	TRIS	Ownership	Notes
Gas/Oil Well	Point	0.002 acres	EO-General Habitat	Musselshell	Township 10 North, Range 22 East, Section 33	Private	

**Questions:**

**Construction Phase:**  
 How long will construction take? Enter the date construction activities will start and stop. Construction Phase dates should not overlap Operations Phase dates.  
 Start: [ ] [ ] [ ] [ ] [ ] [ ] End: [ ] [ ] [ ] [ ] [ ] [ ]

**Operations Phase:**  
 How long will the project be on the landscape or how long will the activity occur? Enter the date the project transitions from construction to regular operations and the date regular operations or activities will stop. Construction Phase dates should not overlap Operations Phase dates.  
 Start: [ ] [ ] [ ] [ ] [ ] [ ] End: [ ] [ ] [ ] [ ] [ ] [ ]

Are you proposing a new well or doing work on an existing well or facility?  
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Will this work be conducted wholly within an existing permitted site and within existing disturbance?  
 Yes  No

Is a permit required for this project?  
 Yes  No

Be sure to attach (on the next step) a copy of the application submitted to the Board of Oil and Gas, such as Notice of Staking (NOI), Application for Permit to Drill (APD) or Permit to Re-enter.



# ATTACHMENTS

## Propose a project in sage grouse habitat: Sage (Draft)

1. Instructions

2. Basics

3. Disturbances

4. Questionnaire

5. Attachments

6. Review & Submit

### Attachments

Please upload documents pertinent to your proposed project, including Plans of Development, EAs, or other documentation identifying original boundaries. Upload one attachment at a time. After you save an attachment, you can add another.

#### New Attachment

Attachment  No file selected.

Type -- Not Assigned --

Title

Description

#### Existing Attachments

There are currently no attachments uploaded for this project.

- Not Assigned --
- Not Assigned --
- Correspondence (DOC, DOCX, PDF)
- Permit documentation (DOC, DOCX, PDF)
- Environmental Assessment (DOC, DOCX, PDF)
- Plan of Development, Project Design Files or Maps (DOC, DOCX, PDF)
- Final Letter Package (DOC, DOCX, PDF)
- Stewardship Account Contribution Forms (DOC, DOCX, PDF)
- Spreadsheet (XLS, XLSX)
- 3rd Level Data (ZIP - can contain shp, ascii, gdb, geotiff, etc)
- Photos (JPG, PNG, GIF, TIFF)
- Credit Monitoring Report (DOC, DOCX, PDF)
- Stewardship Account Grants (DOC, DOCX, PDF)
- Other



# Questions About the Submittal Process?



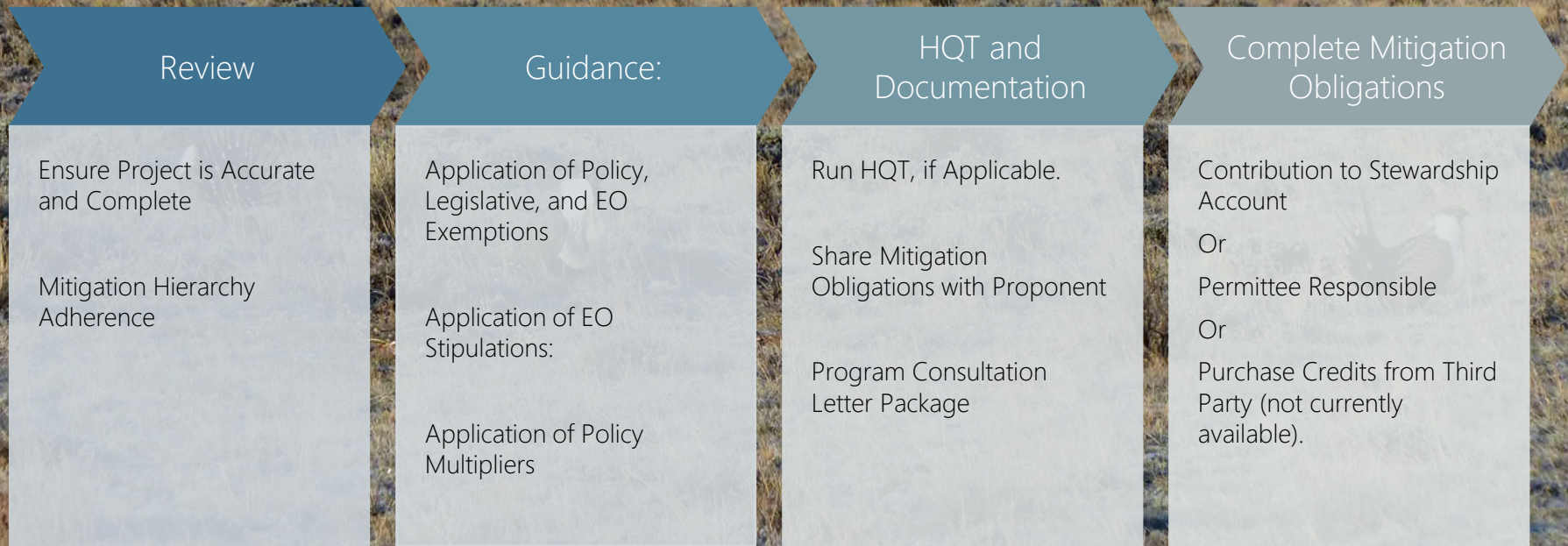
Dave Messmer



MONTANA SAGE GROUSE  
Habitat Conservation Program



# CONSULTATION PROCESS



Richard Producers



# Review of Project

## Ensure Project is Accurate and Complete to Ensure Efficient Review

- Project Type
- Location
- Disturbances
- Timeframes
- Reclamation



## Minimize Impacts Where Possible!

- Bury above-ground features.
- Implement Outside of March 15 – July 15.
- Re-route when crossing through Sage Grouse Lek Buffers.

Joel Maes



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Habitat Conservation Program

# Guidance

## EO Exemptions:

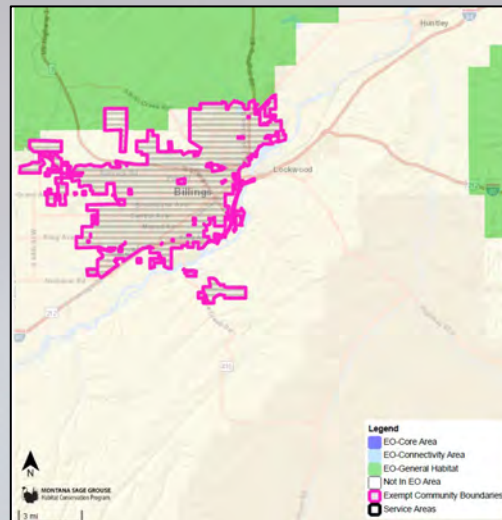
- Attachment F, line items A-M

## Legislative Exemptions:

- SB 299
- SB 284

## Policy Exceptions:

- Exempt Community Boundaries
- Trenchless Methods
- Etc.



If applicable, Consultation Process may end here.



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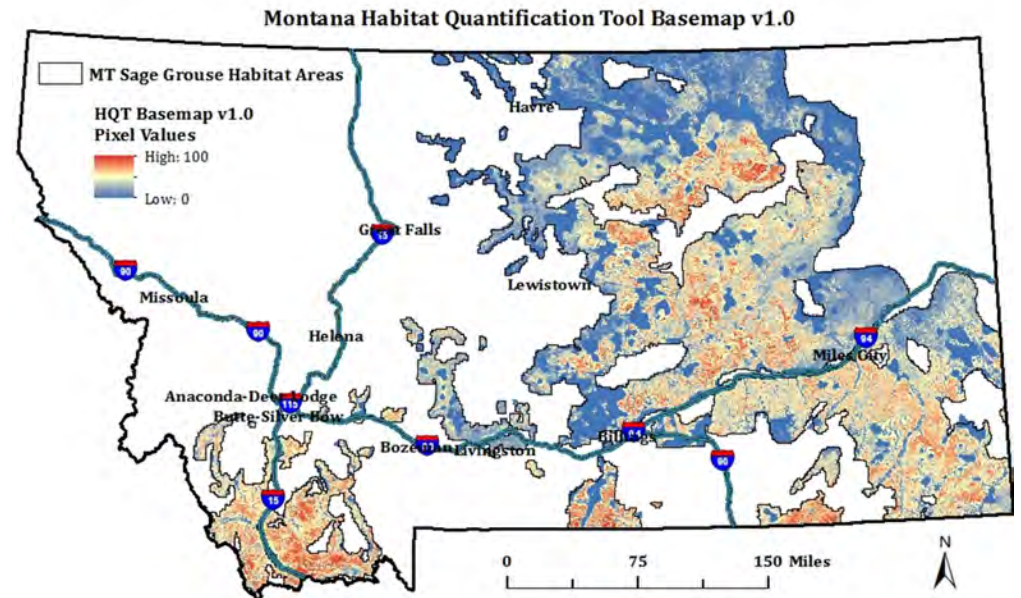
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Habitat Conservation Program

# Guidance, Continued

## Montana Mitigation System Habitat Quantification Tool Technical Manual For Greater Sage-Grouse

Version 1.1

December 2023



# Guidance, Continued

## Reserve Account Multiplier:

- 20% of raw HQT score.
- Mandatory, applied to all projects.
- "Insurance Pool"

## Advance Payment Multiplier:

- 10% of Raw HQT Score
- Applied if applicant makes contribution to Stewardship Account.
- Not Applicable for permittee-responsible Projects.

## Federal Net Gain Multiplier:

- 10% of Raw HQT Score for portion of project within a federal nexus.



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# Guidance, Continued

## Core Area Stipulations:

- Surface Disturbance
- Surface Occupancy
- Seasonal Use

## General Habitat Stipulations:

- Surface Occupancy
- Seasonal Use

## Industry Specific Stipulations:

- 1:640 Acres for Oil and Gas Projects



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# Common Core Area Stipulations

## Surface Disturbance:

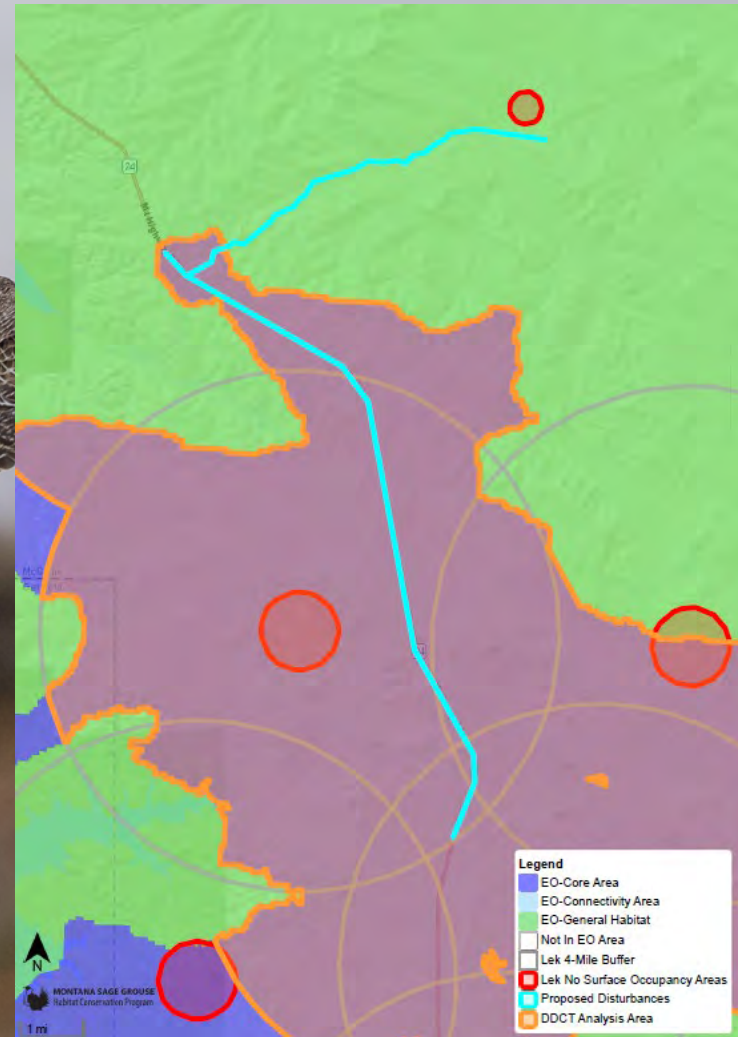
- Cannot Exceed 5%.
- Determined by Density Disturbance Calculation Tool (DDCT).
  - DDCT represented by orange area.

## Surface Occupancy:

- No surface facilities within 0.6 mi of perimeter of active sage grouse lek in a Core Area.
- No Surface Occupancy lek area (NSO)
  - Represented by large red circle.

## Seasonal Use:

- Activities within four miles of an active sage grouse during March 15 – July 15 are prohibited.
- Represented by gray circle outline.



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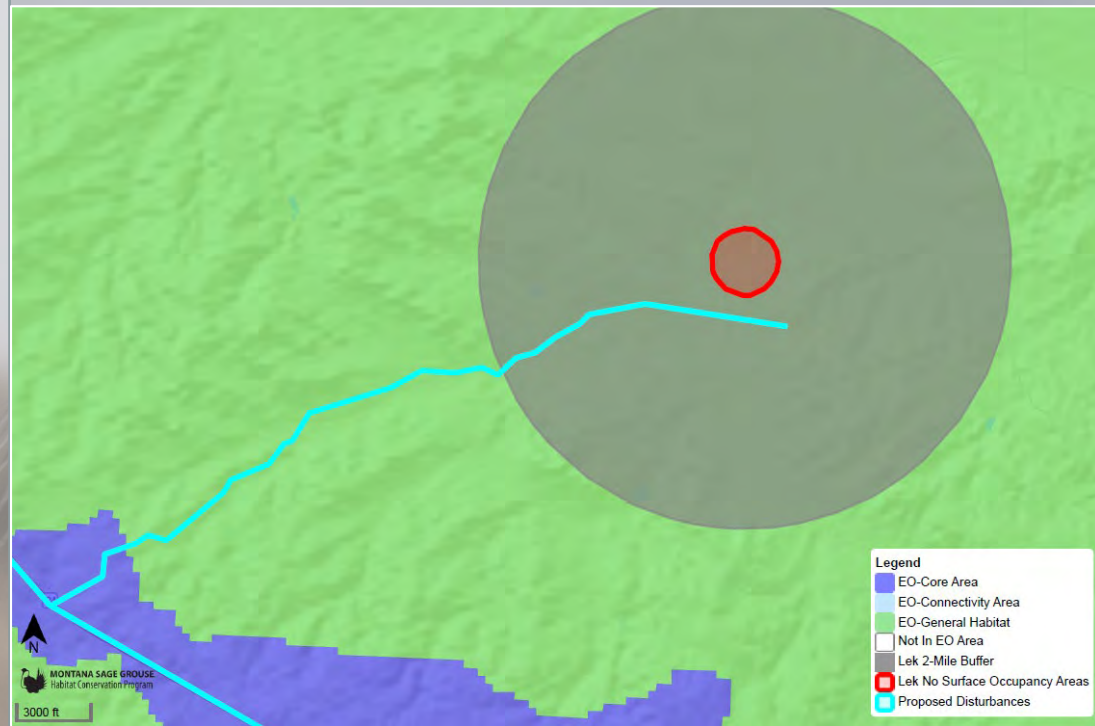
# Common General Habitat Stipulations

## Surface Occupancy:

- No surface facilities within 0.25 mi of perimeter of active sage grouse lek in General Habitat.
- No Surface Occupancy lek area (NSO)
  - Represented by small red circle.

## Seasonal Use:

- Activities within two miles of an active sage grouse during March 15 – July 15 are prohibited.
- Represented by solid gray circle.



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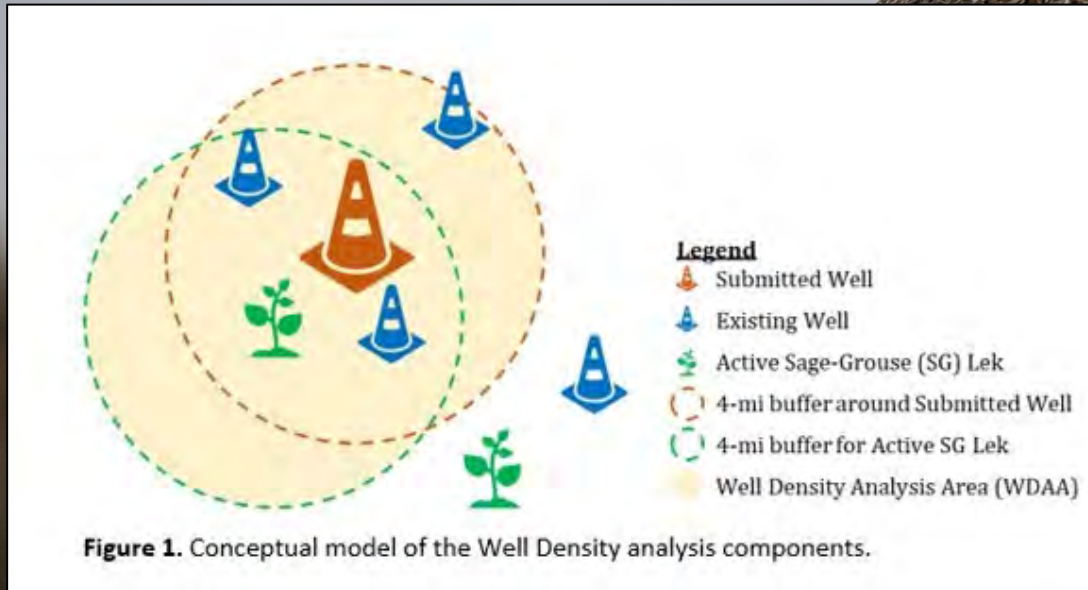
# Industry Specific Stipulations and Minimization

## Industry Specific Stipulations:

- 1:640 Acres for Oil and Gas Projects

## Minimization, minimization, minimization:

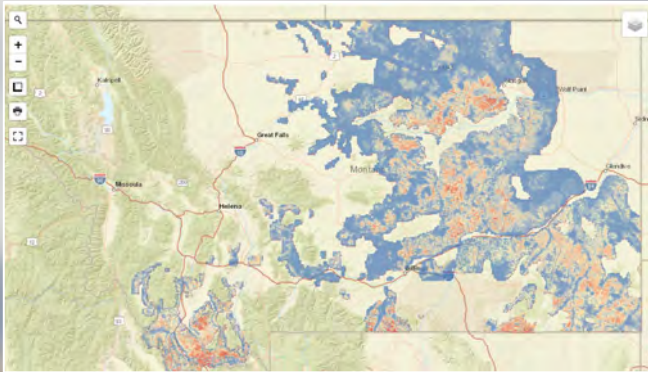
- Number of site-specific multipliers can be reduced by minimization.



# HQT and Documentation

## Submit HQT Request.

- Include Site-Specific Multipliers
- Policy Multipliers



## Share Mitigation Obligations With Applicant

- Project may be edited at this time.
- HQT may be run multiple times.



## Compile Program Consultation Letter Package

- Consultation Letter
- Mitigation Plan (if applicable)
- Stewardship Account Forms (if applicable)

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# Complete Mitigation Obligations

## Contribution to Stewardship Account:

- Transfers responsibility to secure credits to the State.
- Advanced Multiplier added to HQT Score.
- Raw HQT x \$13/debit with 3% discount applied over the lifetime of the project.

## Permittee – Responsible:

- Proponent responsible for creating credits through habitat preservation, restoration, enhancement activities.
- Retains liability to offset impacts.
- More info can be found at "<https://sagegrouse.mt.gov/About>"

## Purchasing from Third Party:

- Not available at this time.

Once mitigation obligations are offset, Consultation Process Concludes.



Joel Maes

# Questions About the Consultation Process?



Dave Messmer



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# EXAMPLES



# Mining Projects



- COAL MINING
- HARD ROCK MINING
- OPENCUT MINING

## STANDARD OPENCUT MINING PERMIT APPLICATION

*This form is used to permit a new site, re-permit a site into the 2021 law, and for amendments of existing permits where: a) water resources are affected, including surface water, intermittent or perennial streams, ground water, or water conveyance facilities, or b) where ten or more Occupied Dwelling Units are located within one-half mile of the permit boundary, § 82-4-432(1), MCA.*

Operator Name:

Site Name:

**INSTRUCTIONS** - How to submit a complete and accurate Plan & Application:

1. Before completing this form, **verify the most current version is being used** and read the guidance information available on the Opencut Mining Section's website at <https://deq.mt.gov/mining/assistance>.

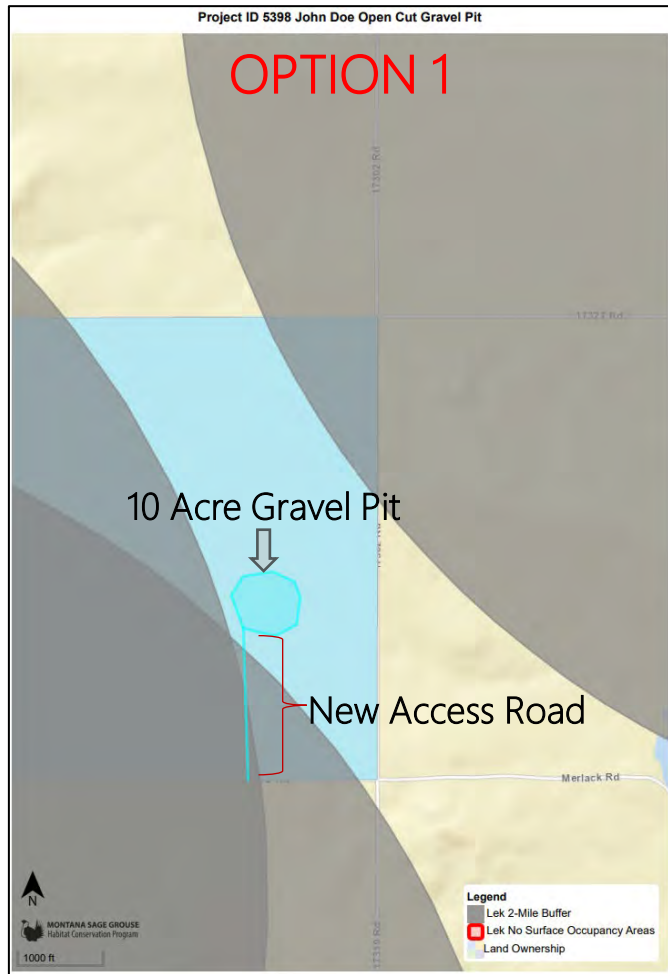
**10. Total Permit Acreage Breakdown** (acres must be entered to the nearest TENTH of an acre and must match the acrages of the boundary submitted to DEQ Opencut.)

	Existing or New Permit Acres	Amendment Acres (if any)	Total Permitted Acres
a. Bonded Acres*	<input type="text"/>	<input type="text"/>	0.0
b. Non-Bonded Acres**	<input type="text"/>	<input type="text"/>	0.0
c. Bonded Access Road Acres***	<input type="text"/>	<input type="text"/>	0.0
<b>Totals</b>	<b><u>0.0</u></b>	<b><u>0.0</u></b>	<b><u>0.0</u></b>

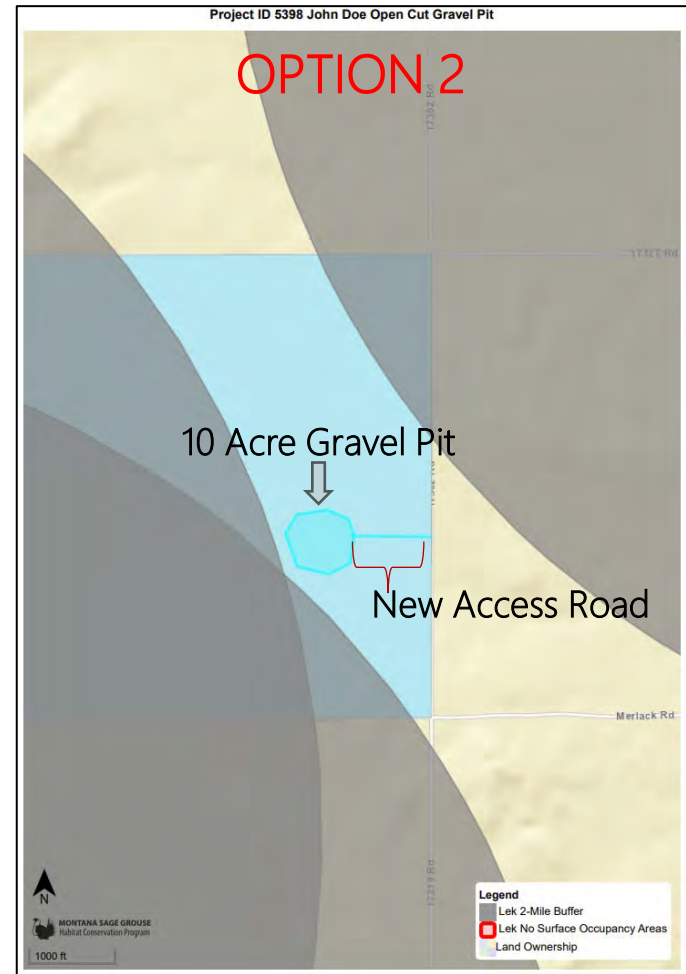
Note: To ensure that the "Totals" display, use the Tab key after entering each acreage amount.



# Mining Project Example



Two site-specific multipliers applied to the HQT



No site-specific multipliers applied to the

HQT



# Buried Communication Project Example

## Possible Required Permit Agencies:

- Department of Environmental Quality
- Department of Transportation
- Department of Natural Resources – State Trust Lands Division
- The Bureau of Land Management

New vs. Old segments

Equipment Necessary for Implementation



Patty Hamblock



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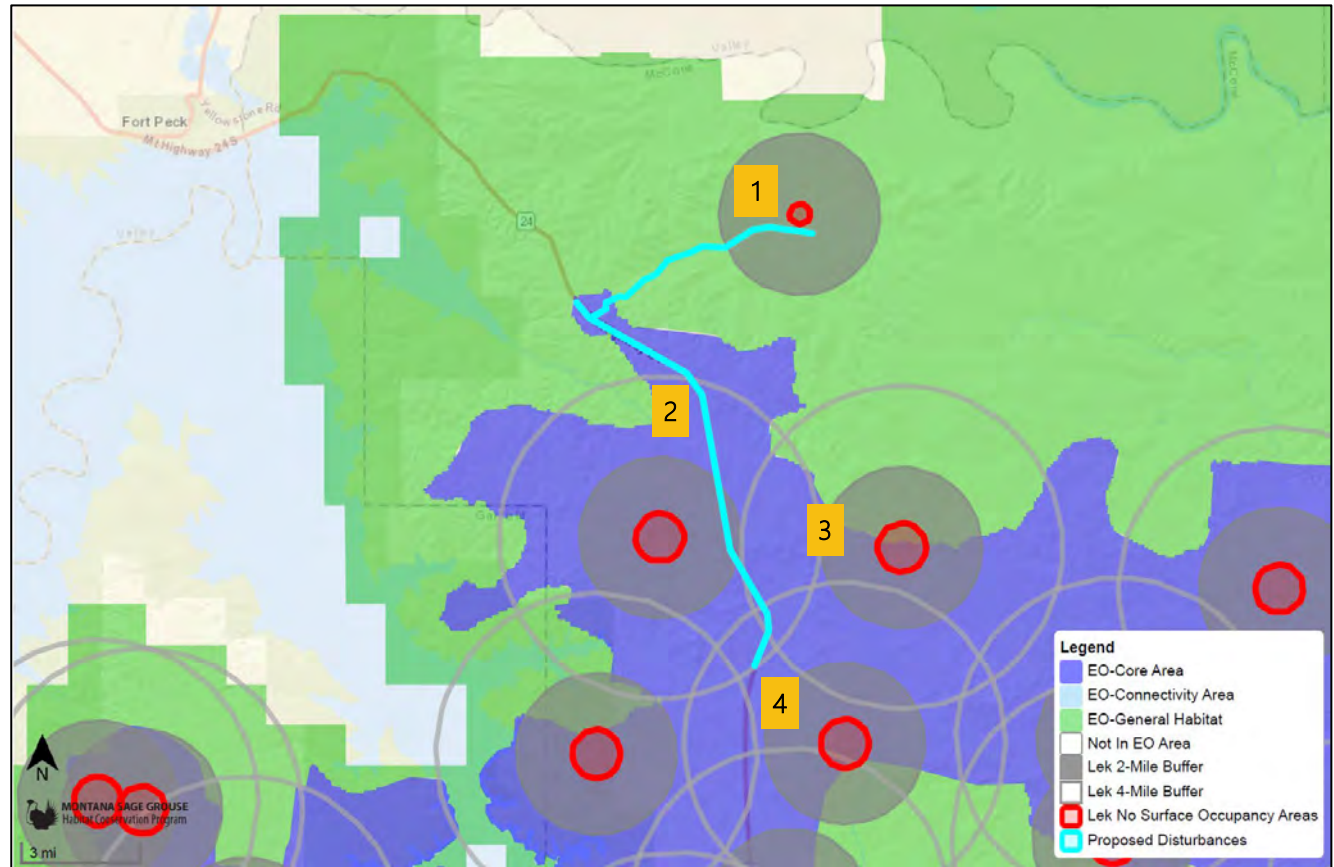
# Buried Communication Project Example

## OPTION 1

Implementation  
Equipment:  
Vibratory Plow

Location:  
Along MT HWY 24  
and Highway 528 in  
McCone County

Implementation Dates:  
June 20<sup>th</sup> 2024 –  
August 1<sup>st</sup>, 2024



Four site-specific multipliers applied  
to the HQT



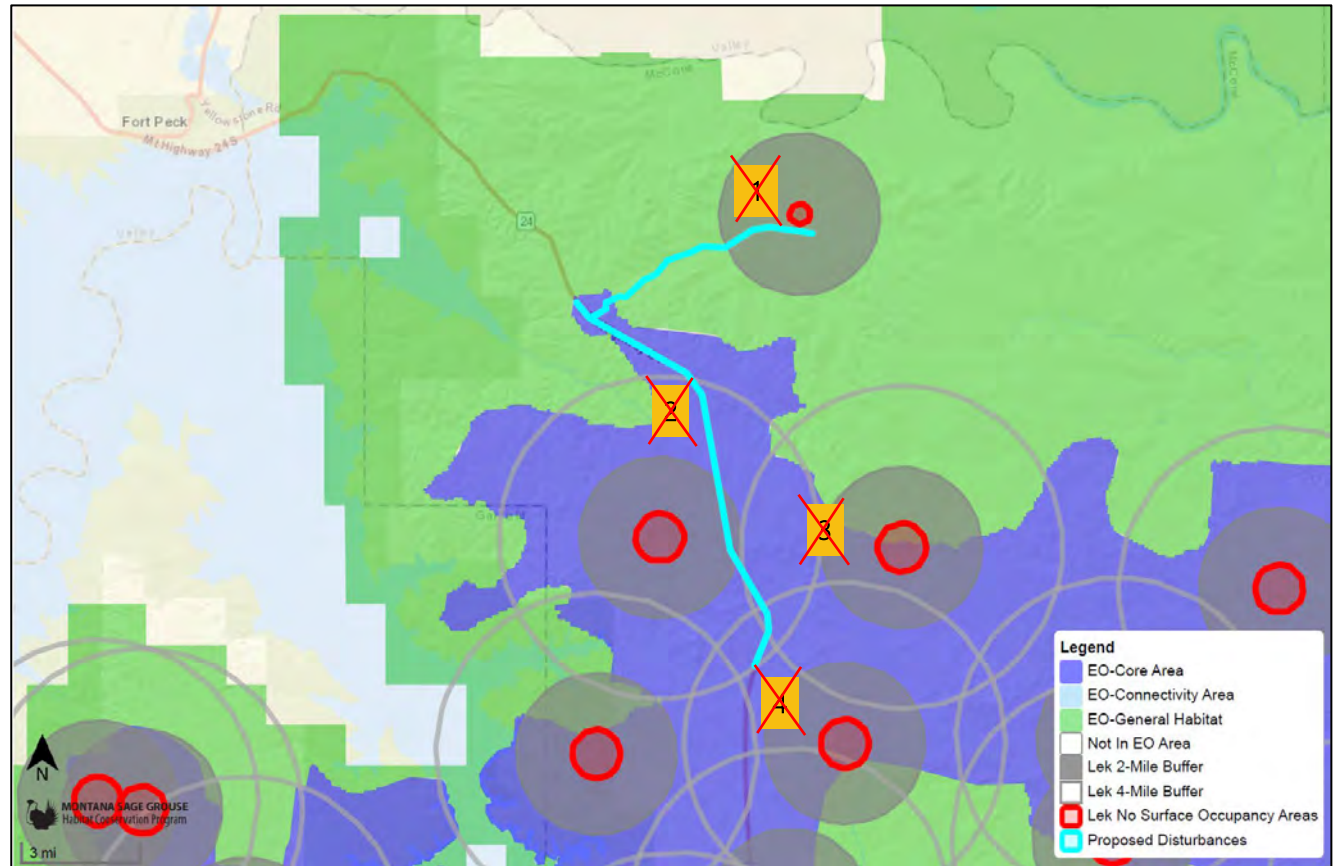
# Buried Communication Project Example

## OPTION 2

Implementation  
Equipment:  
Vibratory Plow

Location:  
Along MT HWY 24  
and Highway 528 in  
McCone County

Implementation Dates:  
July 16<sup>th</sup> 2024 – August  
31<sup>st</sup>, 2024



No site-specific multipliers applied,  
No HQT ran = No Mitigation



# Solar Project Example

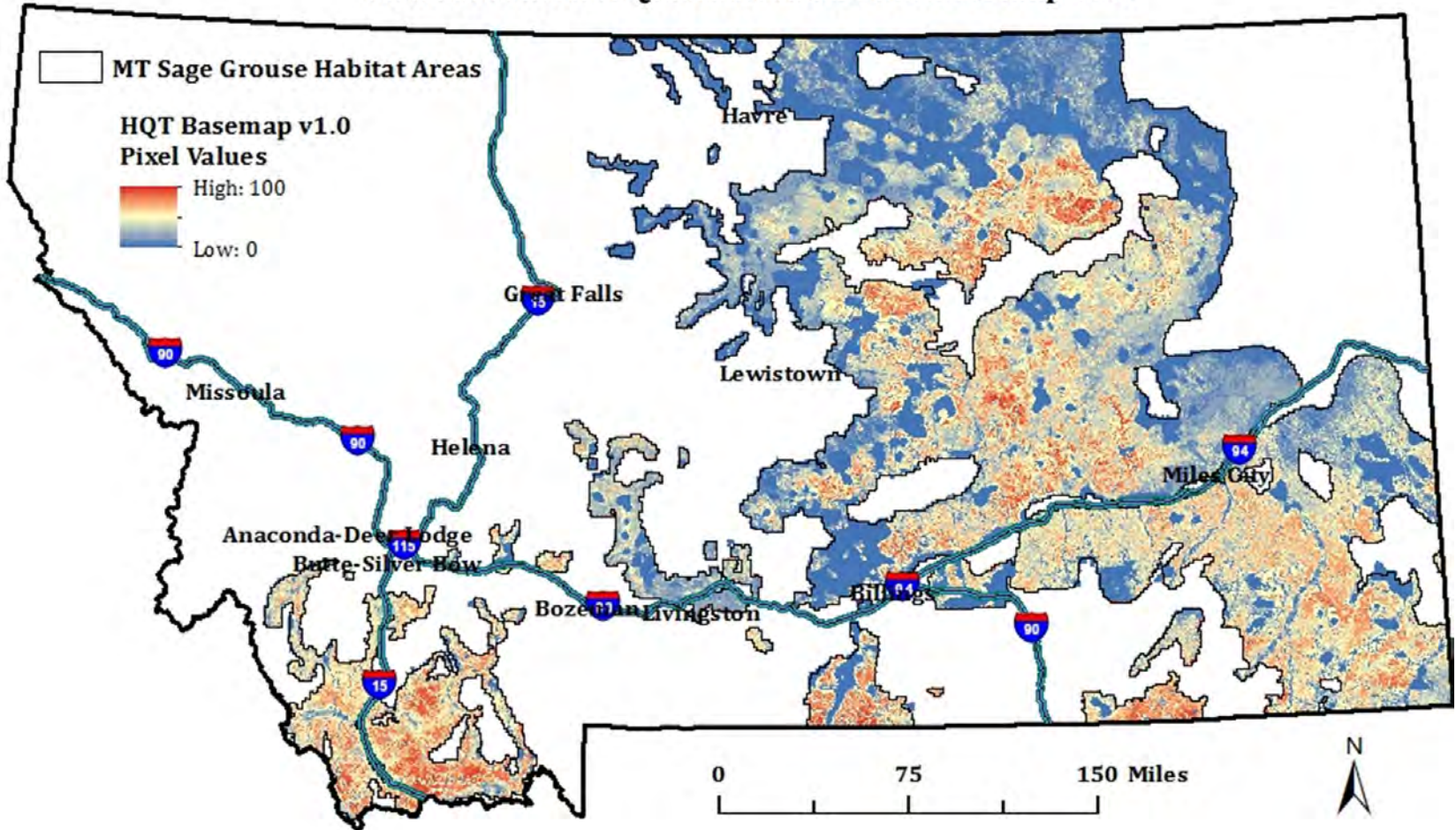


Larry Mayer



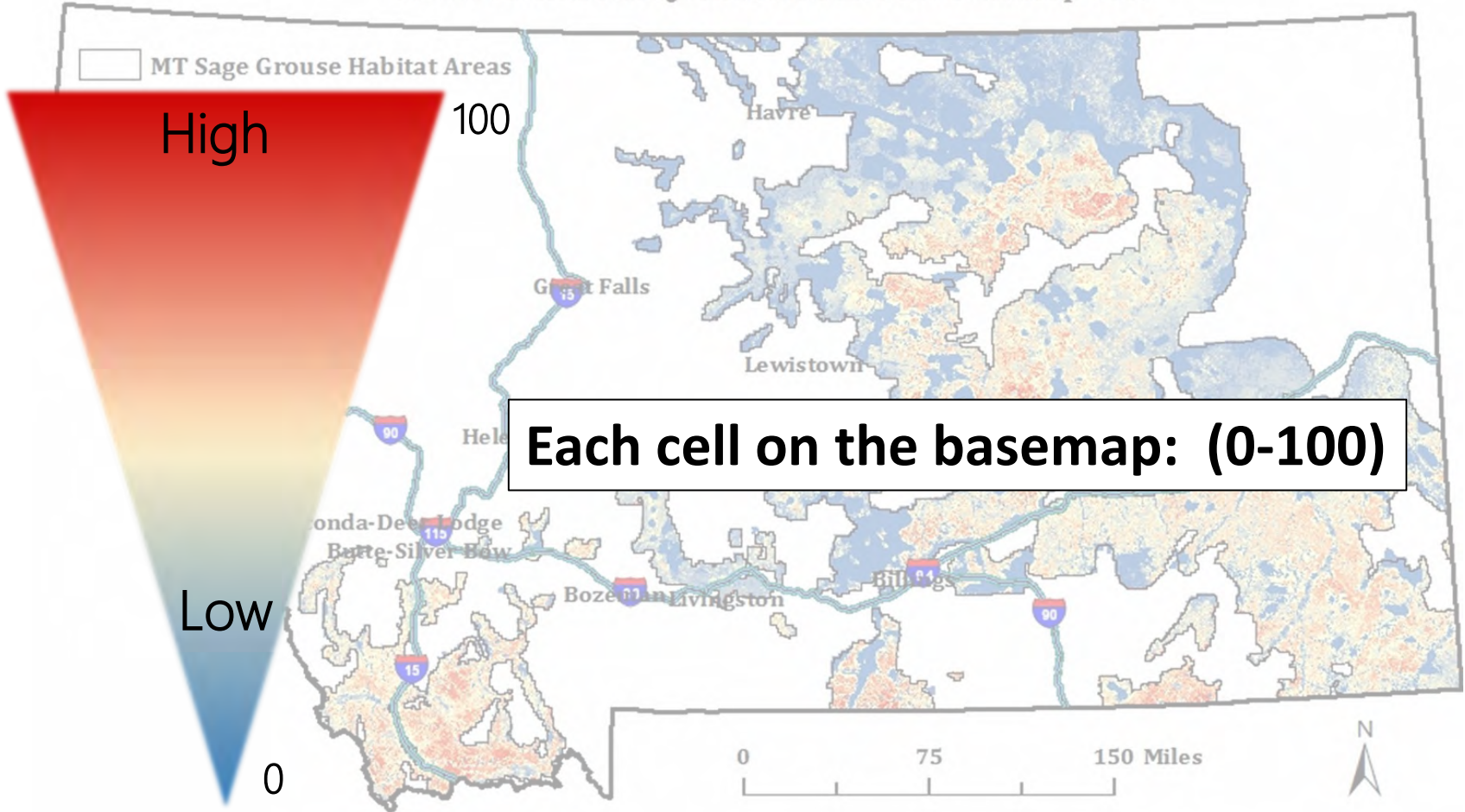
# Solar Project Example

Montana Habitat Quantification Tool Basemap v1.0



# Solar Project Example

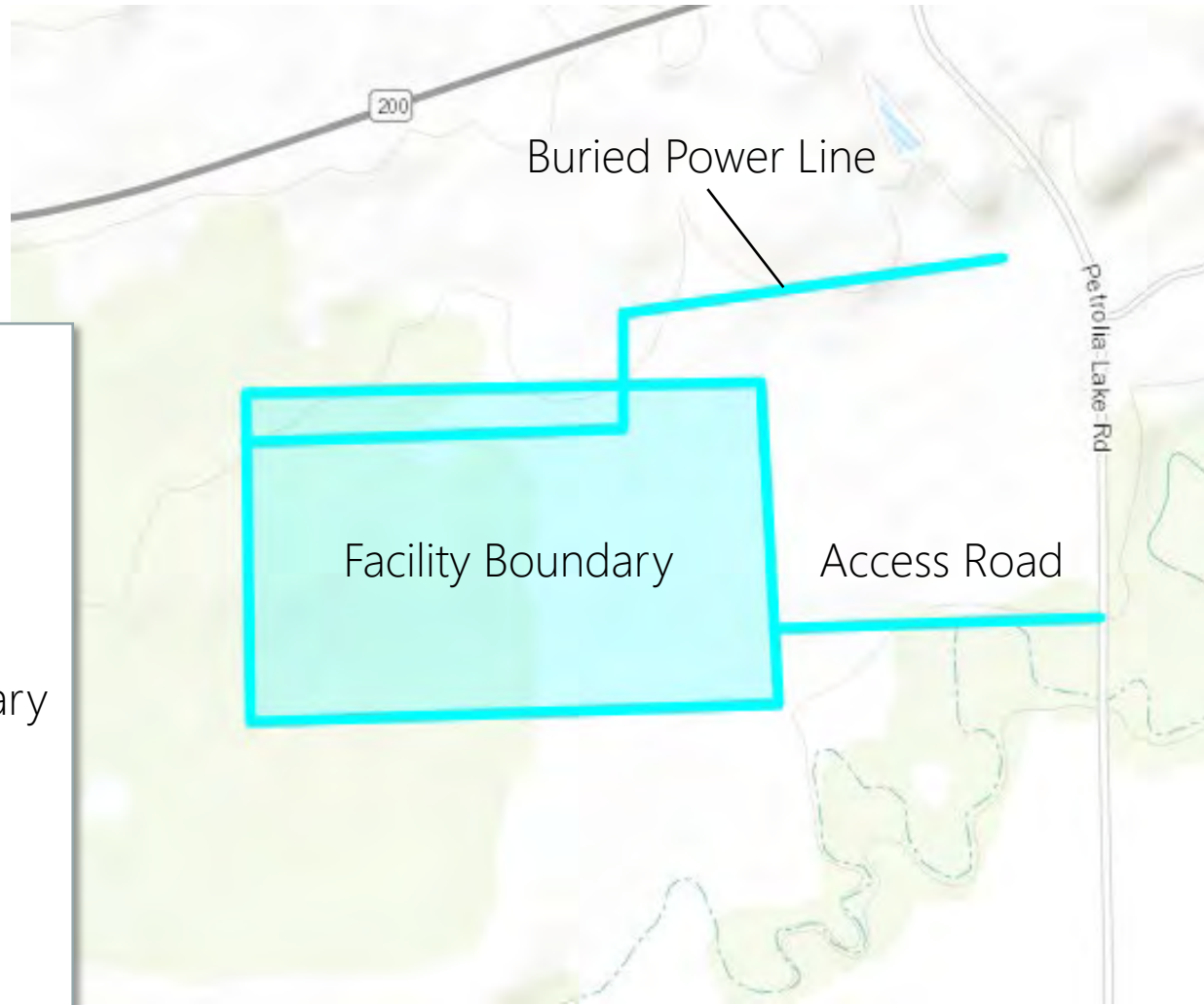
Montana Habitat Quantification Tool Basemap v1.0



**Each cell on the basemap: (0-100)**



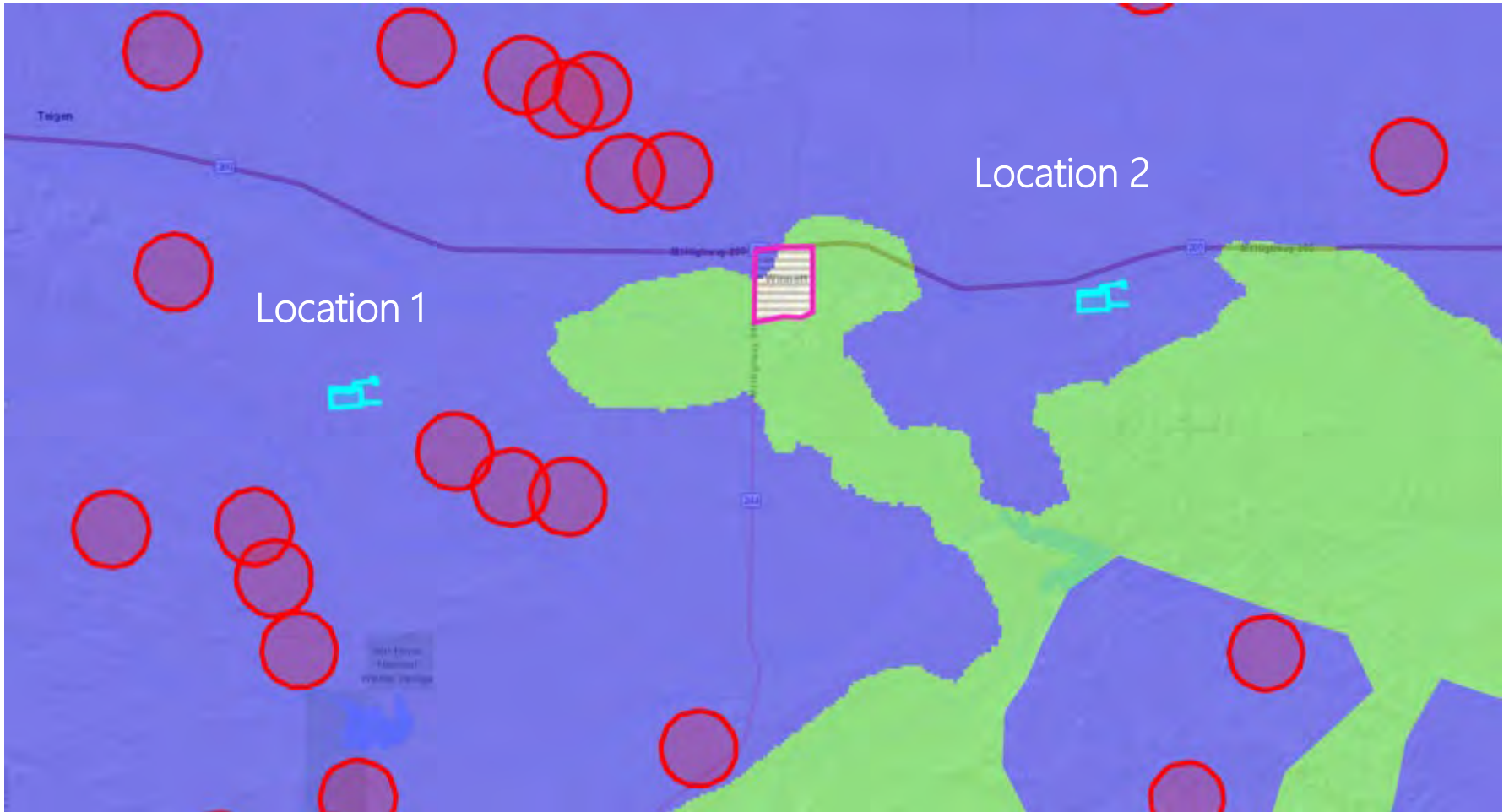
# Solar Project Example



- Polygons**
  - Building
  - Field
  - Power Plant
  - Storage Yard
  - Substation
  - Facility Boundary
- Lines**
  - Pipeline
  - Power Line
  - Road



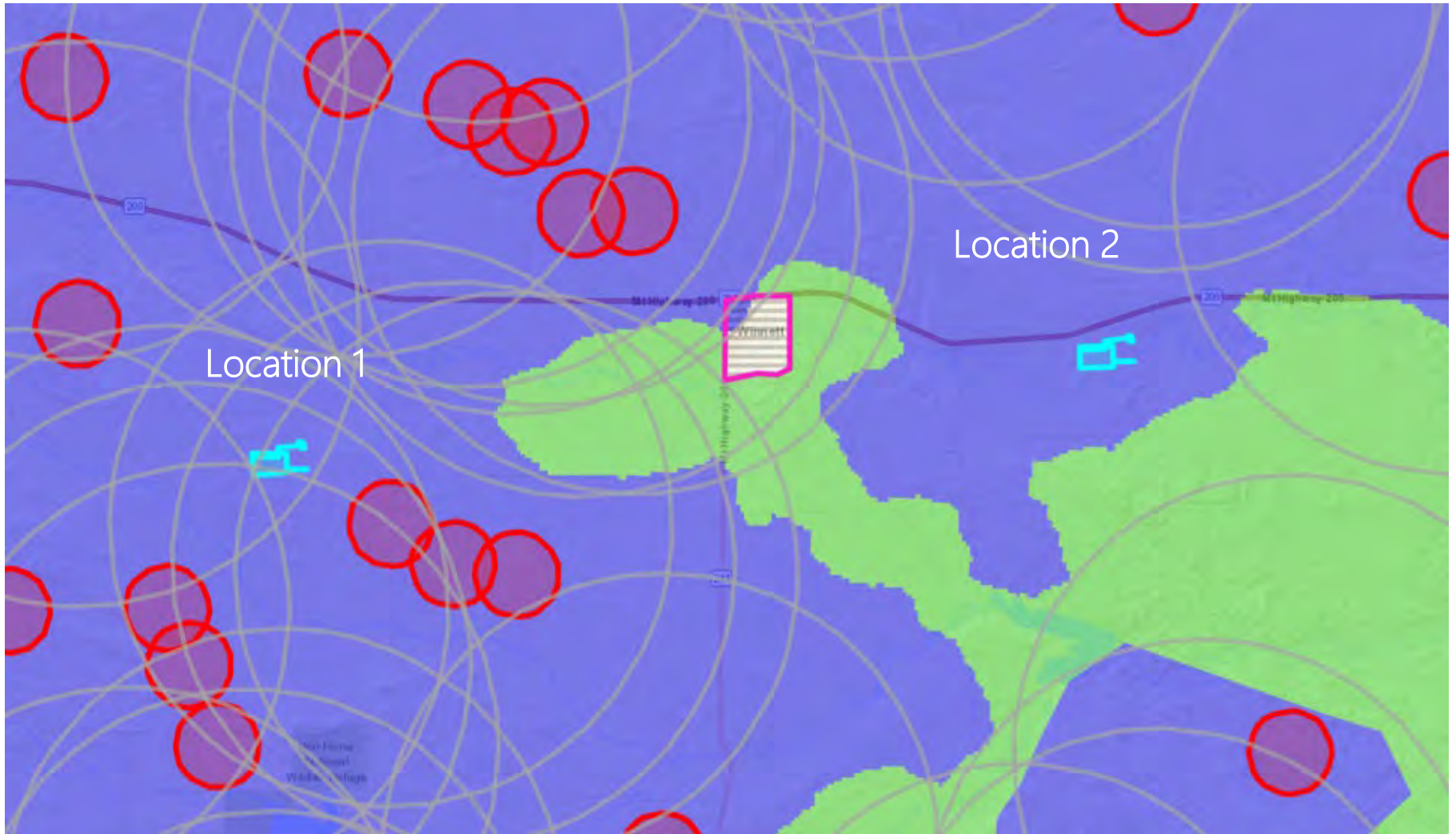
# Solar Project Example



<https://sagegrouse.mt.gov/ProgramMap>

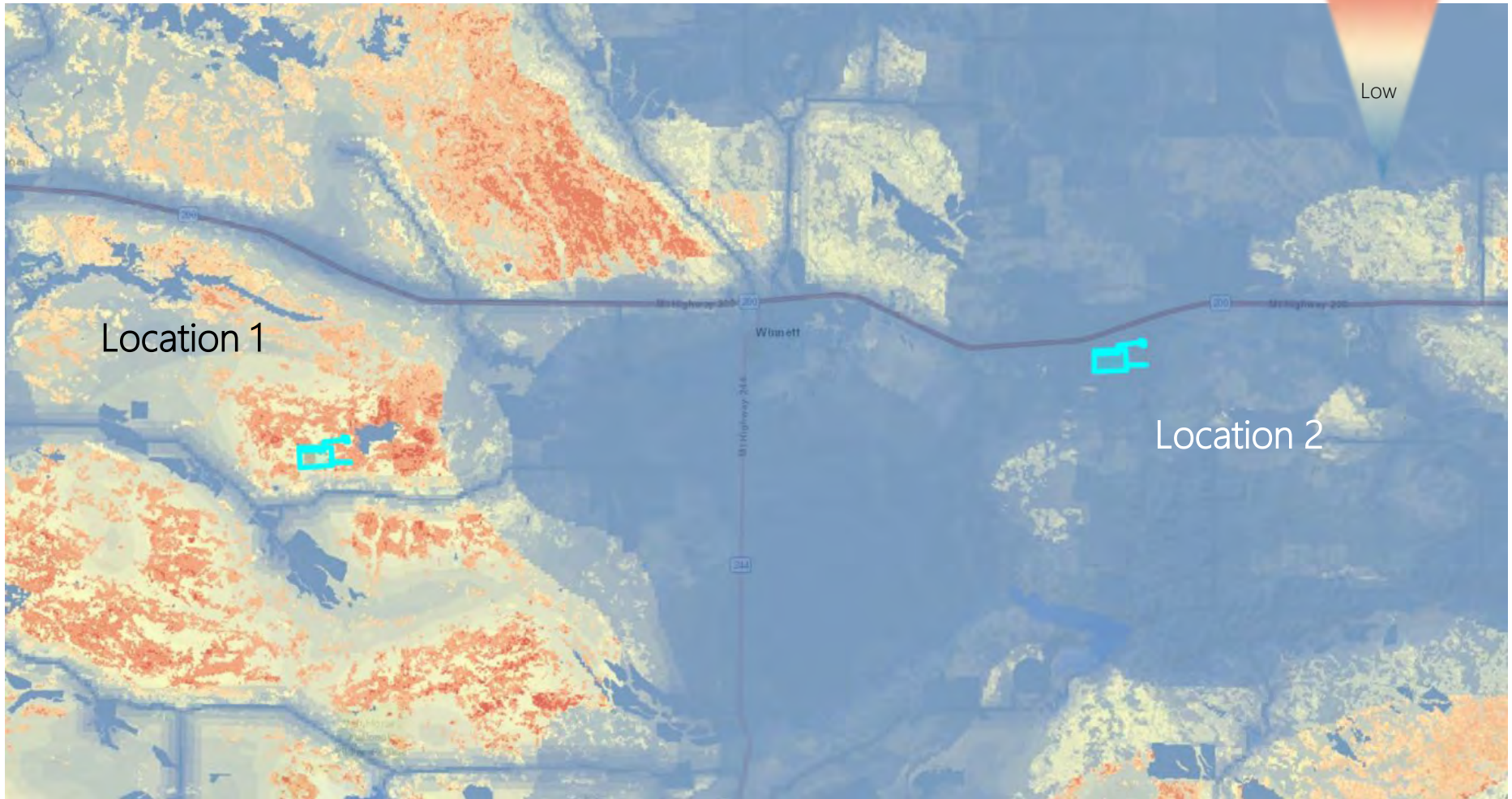
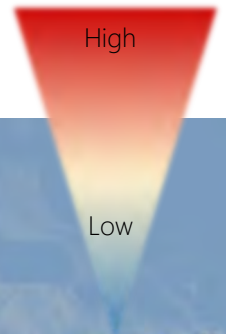


# Solar Project Example



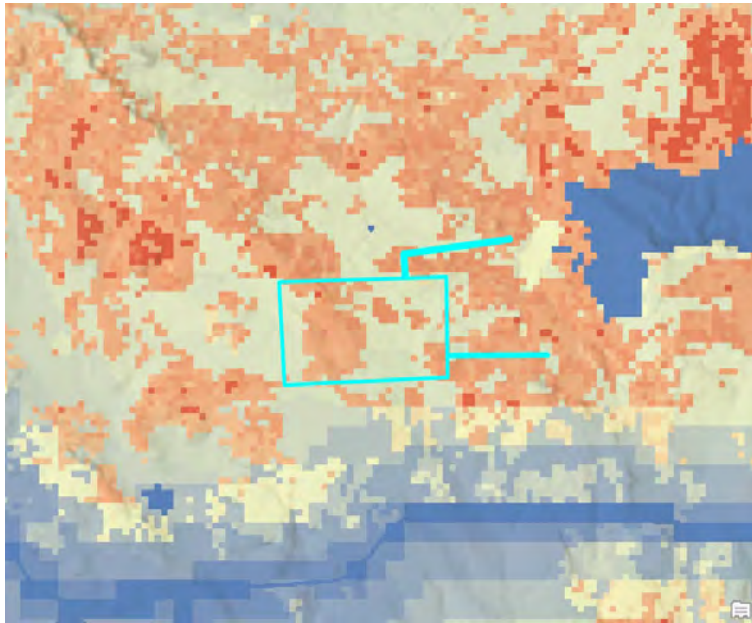


# Solar Project Example

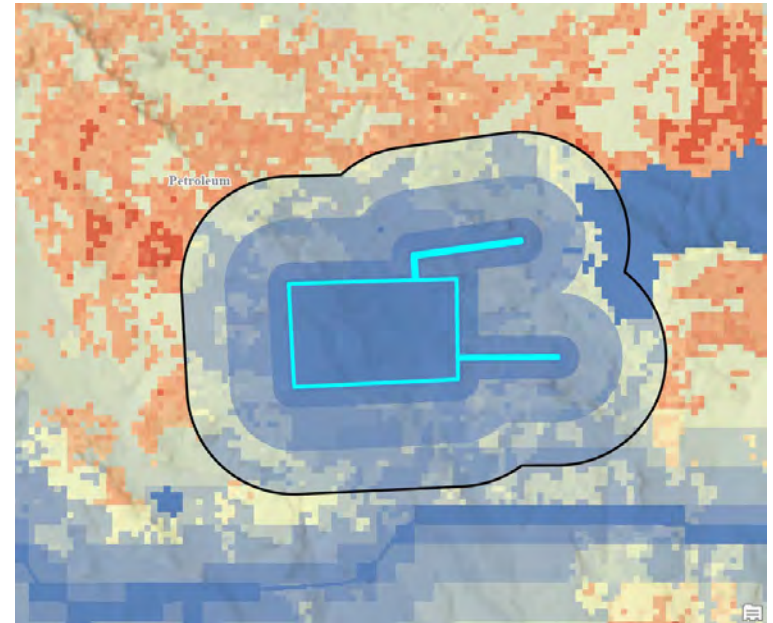


# Location 1 - Impacts

Pre-implementation

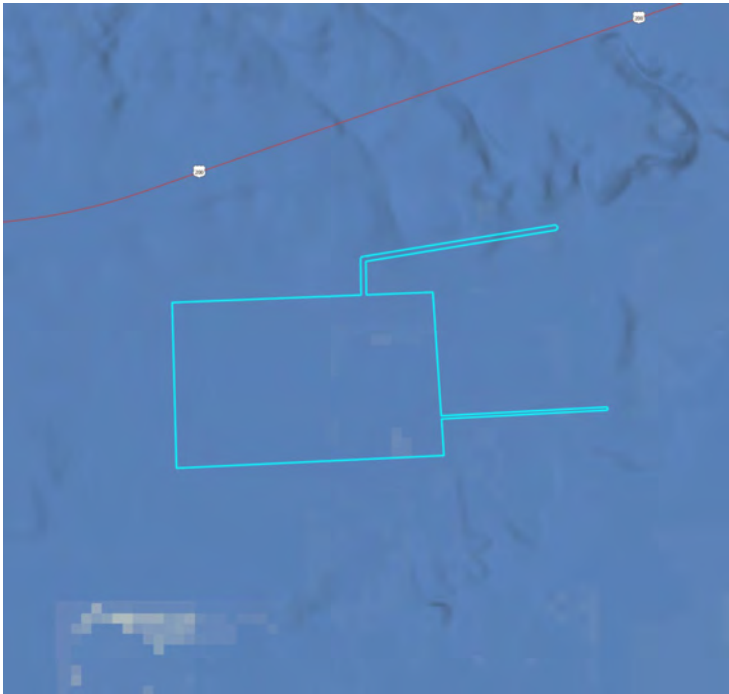


Post-implementation



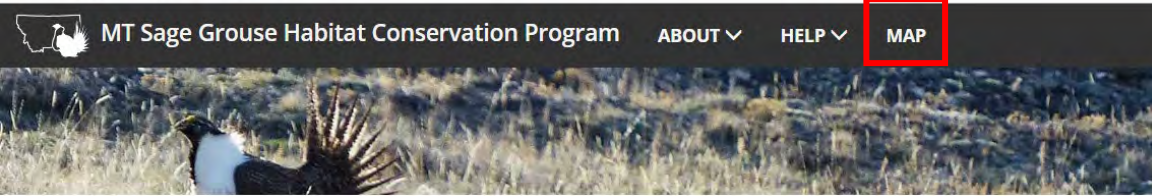
# Location 2 - Impacts

Pre-implementation

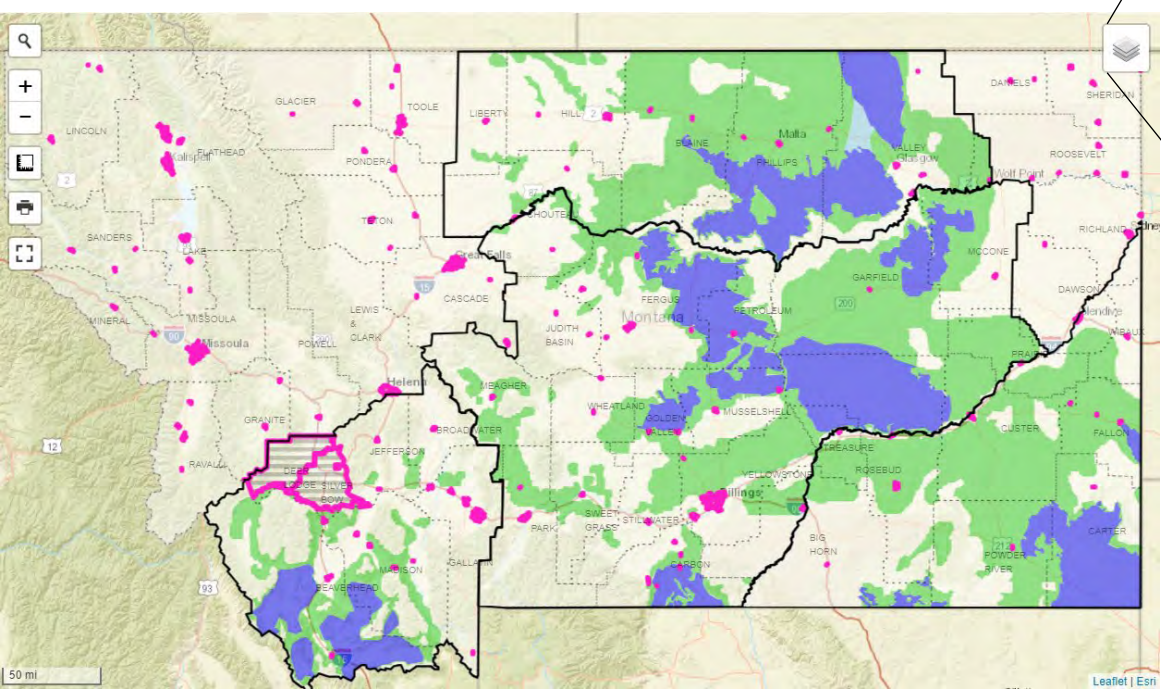


Post-implementation





# Montana Sage Grouse Habitat Conservation Map



- Aerial
- Street
- Terrain
- Sage Grouse Executive Order (EO) Habitat Classification
  - EO-Core Area
  - EO-Connectivity Area
  - EO-General Habitat
  - Not in EO Area
- BLM Priority Habitat Management Area
- BLM General Habitat Management Area
- BLM Restoration Habitat Management Area
- Counties
- Management Zones
- Exempt Community Boundaries
- Service Areas
- USFS Priority Habitat Management Area
- Township & Range (PLSS)
- Land Ownership
- Conservation Easements
- Mile Posts
- Leases
- Existing Disturbances

- Lek 2-Mile Buffer
- Lek 4-Mile Buffer
- Lek No Surface Occupancy Areas

<https://sagegrouse.mt.gov/ProgramMap>



# QUESTIONS?



Joel Maes



MONTANA SAGE GROUSE  
Habitat Conservation Program