



## **QUICK FACTS: MITIGATION CREDITS & PRIVATE LANDS**

### **MONTANA SAGE GROUSE HABITAT CONSERVATION PROGRAM**

#### **FREQUENTLY ASKED QUESTIONS ABOUT CONSERVATION CREDITS AND PRIVATE LANDS**

##### **WHAT IS MITIGATION?**

Mitigation balances development and conservation. Mitigation is when conservation projects that preserve, restore, or enhance sage grouse habitat are used to offset or compensate for impacts of development in sage grouse habitat. Conservation and development in sage grouse habitat should balance out so there is no net loss of sage grouse habitat in Montana.

Preservation actions means placing a term easement or lease on land for a set number of years or it can mean a perpetual conservation easement.

Enhancement means taking actions to increase the quality or value of habitat over current conditions such as removing encroaching conifers. Restoration means taking actions to recover or reestablish habitat that has been degraded such as reseeding sagebrush in an area that had previously burned or been cultivated.

##### **HOW DOES MITIGATION WORK?**

The Montana Legislature found that compensatory mitigation is consistent with incentivizing voluntary conservation of sage grouse habitat. Developers will be required to offset impacts to sage grouse habitats in Montana's core areas, general habitat or connectivity area.

Developers can undertake their own permittee-responsible conservation actions or they can rely on and purchase the habitat benefits that result from the conservation acts of others.

##### **HOW DOES MITIGATION RELATE TO PRIVATE LANDOWNERS?**

In Montana, most remaining sage grouse habitat is found on private lands. Private lands are likely to be the source of conservation actions that developers will rely on to fulfill their requirement to offset impacts of development.

Participation by private landowners is strictly voluntary. However, mitigation can create a new source of revenue or help pay for something landowners want to undertake to achieve their land stewardship goals.

##### **WHAT IS REQUIRED OF LANDOWNERS WHO VOLUNTARILY PARTICIPATE IN MITIGATION?**

In exchange for payment, private landowners would to agree to continue doing certain things and refrain from doing certain things.

For example, if a private landowner in sage grouse habitat were to participate in a preservation mitigation project, the landowner could enter into a term lease or easement or place a perpetual conservation easement on the property. The minimum duration is 15 years for either a lease or easement. In either case, the agreement is placed in writing and signed. The landowner would be expected to refrain from certain actions like breaking native sagebrush rangeland into new cultivation, subdivision, or commercial scale wind development. However, the landowner can continue traditional agricultural practices like livestock grazing since that is compatible with conserving sage grouse habitat.



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For restoration or enhancement projects, the landowner would similarly agree to refrain from actions that impact sage grouse habitat and continue with existing agricultural practices like livestock grazing.

#### **CAN PRIVATE LANDOWNERS WORK DIRECTLY WITH DEVELOPERS AND NON-GOVERNMENTAL ORGANIZATIONS TO PARTICIPATE IN SAGE GROUSE MITIGATION?**

Yes. Private landowners are not required to work with the Montana Sage Grouse Oversight Team (MSGOT) or the Montana Sage Grouse Habitat Conservation Program. Instead, private landowners may negotiate directly with developers or non-governmental organizations. A signed written agreement will be required.

The state will require documentation of any agreements to show that developers have secured adequate conservation to offset the habitat impacts of their developments and that landowners have voluntarily agreed to participate.

Non-governmental organizations can participate in sage grouse mitigation by working with landowners directly to secure grant funding from the Stewardship Account to pay for the conservation actions. Non-governmental organizations can also work directly with developers on behalf of private landowners so that landowners do not have to engage directly.

#### **WHAT ARE STEWARDSHIP ACCOUNT GRANTS AND WHAT IS THE PURPOSE?**

The 2015 Montana Legislature created the Sage Grouse Stewardship Account grant program when it passed the Greater Sage Grouse Stewardship Act. The Act is a key pillar of Montana's Conservation Strategy which led to the U.S. Fish and Wildlife Service to decide that listing the greater sage grouse under the federal Endangered Species Act was not warranted.

The purpose of the Stewardship Account is to incentivize voluntary conservation measures to maintain, enhance, restore, expand or benefit sage grouse habitat and populations by providing voluntary incentives. Habitat conservation is an important part of Montana's Conservation Strategy, especially on private lands where most of Montana's sage grouse live.

The Stewardship Fund is a source of competitive funding to facilitate the start-up of Montana's conservation actions creating credits so that developers have a ready supply.

#### **HOW DOES THE STEWARDSHIP ACCOUNT FUND RELATE TO MITIGATION?**

Grant funds are awarded to agencies or organizations to create a supply of conservation credits that are then made available to developers to offset impacts to sage grouse habitats.

Montana intends to employ free-market mechanisms for voluntary, incentive-based conservation on private lands (and public lands as needed) in habitats designated as necessary to conserve sage grouse and maintain state management of the bird.

#### **WHAT IS A CREDIT?**

A credit is a unit of trade that represents the habitat value associated with a preservation, restoration, or enhancement project. Credits that are created through conservation actions are bought by developers who need credits to offset the impacts of development.



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#### **HOW IS THE NUMBER OF CREDITS DETERMINED FOR PRESERVATION, RESTORATION, OR ENHANCEMENT PROJECTS?**

The number of credits is estimated using the state's Habitat Quantification Tool (Tool), which is like a calculator. The Tool evaluates vegetation and environmental conditions to determine the quality and quantity of sage grouse habitat on a particular site or parcel of land. Results from the Tool are used to determine how many credits are available from a parcel of land and that can be sold to developers who need to buy credits to offset impacts.

The same Habitat Quantification Tool is used to calculate the impacts on habitat due to a development project.

#### **WHO OWNS THE CONSERVATION CREDITS?**

When Stewardship Account funds are used to create conservation credits, the state owns the credits and will work directly with developers who need credits. Even though private landowners do not own the credits and would not benefit from the direct sale of credits created on their lands, Stewardship Account dollars can be used to pay for implementing a desired conservation project or practice desired by the landowner when other funds are not available.

If Stewardship Account funds or other governmental funds such as NRCS Farm Bill programs are not used to create conservation credits, the private landowner owns the credits outright and may sell them to developers directly for whatever price they can negotiate.

#### **CAN DEVELOPERS WORK DIRECTLY WITH PRIVATE LANDOWNERS?**

Yes. Developers and landowners can work together directly to develop credit projects on private lands without state or federal funds.

#### **WHAT ELSE DOES THE SAGE GROUSE STEWARDSHIP ACT SAY ABOUT THE STEWARDSHIP ACCOUNT?**

The 2015 Montana Legislature provided specific statutory direction for the Stewardship Account. See the Eligibility and Evaluation Criteria Guidance document for all the details.

Here are a few of the most important details:

- Projects are only eligible if they are located, at least in part, on land in designated sage grouse habitats: core areas, general habitat, or the connectivity area.
- Some projects are statutorily ineligible. Examples include: fee simple acquisition of private land, water right purchase, leases or easements that require recreational access, supplementation or replacement of operating budgets except for budget items that directly relate to purposes of the grant.

#### **WHO CAN RECEIVE GRANT FUNDING FROM THE SAGE GROUSE STEWARDSHIP FUND?**

Only agencies and organizations are eligible to receive funds from the Stewardship Grant Fund. Applicants must be an agency or an organization. Private citizens are not eligible to receive funds unless they are working with an agency or an organization and the funds will be provided to the agency or organization directly.



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Agencies are defined as a department, agency or instrumentality of the State of Montana; a political subdivision of the state; or a tribe. Organizations are defined as a private entity registered with the Montana Secretary of State authorized to conduct business in the State of Montana.

Further, organizations or agencies are only eligible if they hold and maintain conservation easements or leases or are directly involved in sage grouse habitat mitigation and enhancement activities approved by MSGOT.

#### **WHAT KINDS OF PROJECTS ARE ELIGIBLE FOR FUNDING TO CREATE MITIGATION CREDITS??**

The 2015 Montana Legislature set forth the eligibility criteria in the Greater Sage Grouse Stewardship Act. Review the Eligibility and Evaluation Criteria Guidance document for complete details.

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.

For example, eligible projects may include: reduction of conifer encroachment, maintenance, restoration, or improvement of sage brush health or quality, incentives to reduce the conversion of grazing land to cropland, restoration of cropland to grazing, fence marking, reduction of unnatural perching platforms for raptors, reduction of unnatural safe havens for predators, and purchase or acquisition of leases, term conservation easements or permanent conservation easements. MSGOT can consider other project ideas, but they must be consistent with the purpose of the Stewardship Act.

#### **WHAT KINDS OF PROJECTS ARE NOT ELIGIBLE FOR FUNDING TO CREATE MITIGATION CREDITS?**

The 2015 Montana Legislature also identified what kinds of projects would be ineligible to receive grant funding. Review the Eligibility and Evaluation Criteria Guidance document for complete details.

For example, projects are ineligible if they seek funds: for fee simple acquisition of private land; to purchase water rights; to purchase a lease or conservation easement that requires recreational access or prohibits hunting fishing, or trapping as part of it terms; to allow release of state or federally-listed species protected by the federal Endangered Species Act; 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;

The purpose of the Stewardship Fund Grant Program is to provide competitive funding and establish ongoing free-market mechanisms for voluntary creation of mitigation credits that will be made available for sale to developers in a marketplace. MSGOT is unlikely to award Stewardship Account funds for research or education because such efforts do not generate conservation credits which offset the impacts of development.

#### **WHERE CAN I GET MORE INFORMATION ABOUT MITIGATION AND FUTURE GRANT OPPORTUNITIES?**

Visit the Montana Sage Grouse Habitat Conservation Program website here:

<https://sagegrouse.mt.gov/>. Look under Grants.

Join the Sage Grouse Program's mailing list to receive direct emails announcing news and upcoming events here: <https://sagegrouse.mt.gov/About#mailingList>.