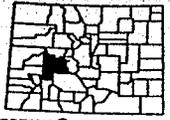


Gunnison Sage Grouse Conservation Plan



Gunnison Basin - Colorado

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GUNNISON COUNTY, COLORADO



GUNNISON COUNTY STOCKMEN'S ASSOCIATION, INC.
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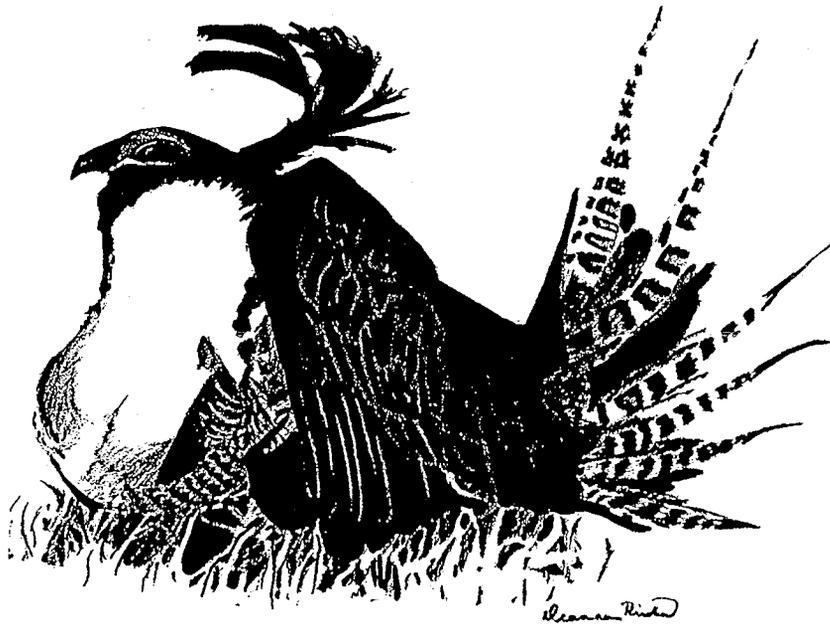
HIGH COUNTRY CITIZENS' ALLIANCE



Black Canyon Audubon Society



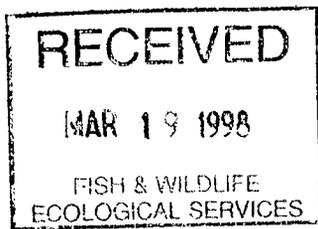
Gunnison Sage Grouse
Conservation Plan
Gunnison Basin - Colorado



June 1997

Participants

Black Canyon Audubon Society
Bureau of Land Management
Citizens of Gunnison County
Colorado Division of Wildlife
Gunnison County Weed Commission
Gunnison County Planning Commission
Gunnison County Stockgrowers
High Country Citizens' Alliance
Natural Resources Conservation Service
U.S. Fish and Wildlife Service
U.S. Forest Service
U.S. Park Service



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USFS Agreement No. MOU-04-07-98-035

MEMORANDUM of AGREEMENT

For the Gunnison Basin Population of the Gunnison Sage Grouse

This Memorandum of Agreement (MOA) has been developed to identify and articulate conservation actions and to coordinate conservation actions for the Gunnison Basin population of the Gunnison sage grouse (*Centrocercus minimus*) in the Gunnison and Saguache counties, Colorado. Conservation actions and the implementation schedule to carry out these actions, are included in the Gunnison Sage Grouse Conservation Plan, Gunnison Basin - Colorado (Attachment A). The conservation actions are needed to restore Gunnison sage grouse distribution and numbers to achieve the goal of the Conservation Plan. Due to its fragmented populations and differences in threats on these populations, additional Agreements and Plans are being developed to restore distribution and population numbers of the Gunnison sage grouse in other populations.

The Gunnison sage grouse has been studied for several years by the Colorado Division of Wildlife (CDOW) to determine its status as a new species. Differences in its morphology, behavior, vocalization, and genetics point to its distinction from sage grouse (*C. urophasianus*) in northwestern Colorado and the rest of the United States. Publication describing the Gunnison sage grouse as a new species is pending. Due to the likelihood of its designation as a new species, the Gunnison sage grouse has been designated as a Species of Special Concern for the state of Colorado. The Gunnison sage grouse has not been designated as a federal candidate species; however, federal agency interest in the species has been elevated due to its proposed description as a new species, rarity, and concern about the species status by private parties and state and federal agencies.

The Gunnison sage grouse presently occurs only in southwest Colorado and southeast Utah, and historically is presumed to have occurred in Arizona, Kansas, Oklahoma, and New Mexico. The present distribution is south of the Colorado and Eagle Rivers in Colorado extending east to the Arkansas River and San Luis Valley. It also occurs east of the Colorado River in extreme southeastern Utah. The breeding population size is small (less than 4,000 total individuals) with the largest population (approximately 2600) occurring primarily in Gunnison and Saguache counties, Colorado. All other populations (7) each have less than 300 breeding individuals. The population in Utah is known as the Monticello population. The populations in Colorado are known as the Dry Creek Basin, Dove Creek, Fruitland Mesa, Glade Park, Cimarron, Poncha Pass, and Gunnison Basin populations.

I. BENEFITS TO OTHER SPECIES

Conservation of the Gunnison sage grouse in the Gunnison Basin will also potentially help other native species in the area. Greater efforts towards riparian and upland habitat management for the sage grouse may provide benefits to water quality and quantity which, in turn, may benefit fishes including the Colorado cutthroat trout (*Salmo clarki pleuriticus*), a state Species of Special Concern. The boreal toad (*Bufo boreas boreas*) is state listed as endangered and is a federal candidate species. The boreal toad is known to occur as low as 8,000 feet in Colorado. Riparian and upland conservation efforts for the sage grouse could complement ongoing conservation efforts for the toad. The willow flycatcher (*Empidonax traillii*) inhabits riparian areas. Riparian management for the sage grouse will complement ongoing conservation efforts for the flycatcher's habitat. Numerous other riparian, aquatic, and sagebrush (*Artemisia* spp.) dependent birds as well as other wildlife and plants, will also benefit.

II. INVOLVED PARTIES AND PRINCIPAL CONTACTS

Black Canyon Audubon Society
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Colorado Dept. of Natural Resources
Colorado Division of Wildlife
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(970) 641-0088

Gunnison County Board of Commissioners
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Gunnison, CO 81230
(970) 641-0248

Gunnison Basin Weed Commission
Adena Green
P.O. Box 915
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(970) 641-4393

Gunnison County Stockgrowers
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Gunnison, CO 81230
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High Country Citizens' Alliance
Sue Navy
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Home: (970) 349-5886

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Member of the Public
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(970) 349-6424

USDA Forest Service
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(970) 641-0471

USDA Natural Resources Conservation Service
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Gunnison, CO 81230
(970) 641-0494

USDI Bureau of Land Management
Barry A. Tollefson
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Gunnison, CO 81230
(970) 641-0471

USDI Fish and Wildlife Service
Terry Ireland
764 Horizon Dr., South Annex A
Grand Junction, CO 81506
(970) 245-3920 ext.16

USDI National Park Service
Rick Harris
Curecanti Recreation Area
102 Elk Creek
Gunnison, CO 81230
(970) 641-2337 ext. 225

III. AUTHORITIES

The Colorado Division of Wildlife, a branch of the Colorado Department of Natural Resources, has responsibility for the management and conservation of wildlife resources, including the conservation and management of threatened or endangered species, within their borders as defined and directed by state laws (i.e. Colorado Revised Statutes, Title 33 Article 1). Title 33 Article 1-101, Legislative declaration states: " It is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors. It is further declared to be the policy of this state that there shall be provided a comprehensive program designed to offer the greatest possible variety of wildlife-related recreational opportunity to the people of this state and its visitors and that, to carry out such program and policy, there shall be a continuous operation of planning, acquisition, and development of wildlife habitats and facilities for wildlife-related opportunities." In addition, the CDOW's Long-Range Plan, adopted in 1994, states that the "Division's foremost aim in the future will be to protect and enhance the viability of all Colorado's wildlife species."

The Board of County Commissioners of Gunnison County, Colorado, has authority to protect and promote the health, welfare and safety of the people of Gunnison County, and the authority to regulate land use, land planning and quality and protection of the environment in Gunnison County, and has duly adopted regulations to exercise such authorities including the review, approval or denial of proposed activities and uses of land and natural resources.

The USDA Forest Service (USFS) has direction and authority for the maintenance of biological diversity on National Forests and for the protection and management of wildlife species and habitats through the National Forest Management Act of 1976 (16 U.S.C. 472 et seq.; 90 stat. 2949; PL 94-588) as stated in their Forest Service Manual (FSM). Authorities for wildlife conservation and cooperative management also exist under the Sikes Act (16 U.S.C. 670 et seq.; 74 stat. 1052; PL 86-797), the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901-1908; 92 stat. 1806; PL 95-514) and Forest Service wildlife regulations 36CFR 219.19-20 and 36CFR 241.2. USDA regulation 9500-4 directs the Forest Service to manage "habitats for all existing native and desired nonnative plants, fish, and wildlife species in order to maintain at least viable populations of such species" (FSM 2601.2, 2620.1, 2670.12). These federal authorities are stated as Forest Service policy and direction in Forest Service Manual chapters 2600, 2610, 2620, and 2630.

The USDA Natural Resources Conservation Service (NRCS) has authority for conservation of the Gunnison sage grouse through the Soil Conservation and Domestic Allotment Act of 1936, as amended (P.L. 74-46); the Department of Agriculture Reorganization Act of 1994 (P.L. 103-354; 7 U.S.C. 6962); and the Federal Agricultural Improvement and Reform Act (Farm Bill) of 1996 (P.L. 104-127).

The USDI Bureau of Land Management (BLM) has authority for conservation of the Gunnison sage grouse through the Federal Land Management Policy Act of 1976 (43 U.S.C. 1701 et seq.; 90 STAT. 2743; P.L. 94-579); the Sikes Act, Title II (16 U.S.C. 670 et seq.), as amended; and the Department Manual 235.1.1.A., General Program Delegation, Director, Bureau of Land Management.

Additionally, the Bureau of Land Management's Resource Advisory Council endorses the Gunnison Sage Grouse Conservation Plan developed by the Gunnison Sage Grouse Working Group and encourages all parties to work together to implement sage grouse conservation actions in the Gunnison Basin.

The USDI Fish and Wildlife Service (USFWS) has authority for conservation of the Gunnison sage grouse through the Endangered Species Act of 1973, as amended; the Fish and Wildlife Act of 1956, as amended; and the Fish and Wildlife Coordination Act, as amended. Congress, in section 2 of the

Endangered Species Act, declares there is value in having incentives for conservation, and section 5 of the Act as amended in 1978, provides authority for agencies to engage in conservation activities with nonlisted species. The 1988 amendments to the Act provided additional requirements for monitoring and protection of candidate species. Section 6 of the Act directs that the "Secretary shall cooperate to the maximum extent with the states..." 16 USC 1535(a). The Secretary of Interior may also authorize conservation initiatives under a cooperative agreement and give authority to provide funding to the states for monitoring the status of candidate species 16 USC 1535(c). The Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act, as amended, give authorities for enhancement of all fish and wildlife species and mitigation of impacts to fish and wildlife particularly from federal water development projects.

The USDI National Park Service (NPS) has authority for conservation of the Gunnison sage grouse through the 1916 NPS Organic Act which charges the NPS with management of parks to "... conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." Additional authorities which guide the NPS are found in the General Authorities Act of 1970, and the Redwood Act of 1978. Furthermore, 16 USC 1 et seq., Presidential Proclamation No. 2033, and the Memorandum of Agreement between the NPS and Bureau of Reclamation dated February 11, 1965, provides authorities for protection of the Gunnison sage grouse.

Two other authorities for agencies working on Gunnison sage grouse conservation include a Memorandum of Understanding and a Memorandum of Agreement. In 1994, several federal agencies, including ones listed in this MOA, signed a Memorandum of Understanding (94-SMU-058) to establish a general framework for better cooperation and participation among these agencies in the management and conservation of species at risk, which are tending towards federal listing as threatened or endangered.

In 1995, the state of Colorado and the U.S. Department of Interior entered into a Memorandum of Agreement (DOI/CO MOA) which committed agencies in the Department of Interior and the state to collaborate and cooperate in management and conservation of declining populations of fish and wildlife and their habitat. The DOI/CO MOA has two important tasks: "The state and the Department agree to develop and implement programs to determine and monitor the status of species at risk;" and "The state and the Department will encourage partners and stake holders to take a leadership role in working with the state and the Department to develop and implement conservation actions through Conservation Agreements and Recovery Agreements." A list of species for which the Department and the state would initially focus conservation actions on was written. This list specifically mentioned declining populations of sage grouse.

IV. STATUS AND DISTRIBUTION OF THE GUNNISON BASIN POPULATION

The Gunnison Basin sage grouse population is the largest population of Gunnison sage grouse with about 2,000-3,000 individuals. In the Gunnison Basin the sage grouse occurs below 9,500 feet on federal lands managed by the BLM and the USFS as well as state and private lands. The Gunnison Basin population currently occupies approximately 570,300 acres of land. Approximately 297,600 acres (52 percent) of land inhabited are BLM lands, 64,700 acres (11 percent) are USFS lands, 176,200 acres (31 percent) are private lands, 6,400 acres (1 percent) are Colorado State School Trust lands, 5,500 acres (1 percent) are CDOW lands, and approximately 20,000 acres (4 percent) are within the NPS's Curecanti National Recreation Area.

V. PROBLEMS FACING THE SPECIES

There are numerous threats to the Gunnison sage grouse identified in the Gunnison Sage Grouse Conservation Plan. Factors clearly implicated in the long-term sage grouse decline are: Degraded habitat quality; habitat loss/fragmentation; and physical disturbance to populations. Implemented actions in the Conservation Plan should remove or reduce these threats to the Gunnison Basin population of the Gunnison sage grouse and restore grouse distribution and numbers.

VI. CONSERVATION ACTIONS TO BE IMPLEMENTED

The Gunnison Basin Conservation Plan includes an implementation schedule that outlines actions that need to be taken to restore distribution and numbers of the Gunnison Basin population of Gunnison sage grouse. Responsible parties for the actions have been identified and time frames for the actions have been stated. There are numerous conservation actions that are within six major categories: 1) Information, education, and coordination; 2) Research and monitoring; 3) Mapping and inventory; 4) Prevention of permanent habitat loss; 5) Restoration or improvement of habitat quality; and 6) Reduction or avoidance of physical disturbance. Additionally, there are administrative actions to be implemented: 1) Coordinate conservation actions; 2) Assess conservation progress; and 3) Fund conservation actions.

The undersigned parties agree to:

A. Implement Conservation Actions:

- Research, management, and monitoring under the six categories of conservation actions as identified in the Conservation Plan will be implemented according to the implementation schedule to the best of the involved parties' abilities considering funding and other constraints. Federal conservation actions will undergo National Environmental Policy Act (NEPA) analysis prior to implementation.
- The Black Canyon Chapter of the Audubon Society will support restoration efforts under the Gunnison Sage Grouse Conservation Plan and may contribute voluntary services.
- The Colorado Division of Wildlife will use their authorities for management of wildlife within the state to administer and conduct many of the conservation actions for the Gunnison sage grouse. The CDOW will manage sage grouse on state owned lands as well as federal lands through existing memorandums of understanding (or MOA's) with the BLM, NPS, and USFS. This will include hunting regulation, population counts to determine status and trends, and vegetation manipulation.
- The Board of Commissioners of Gunnison County, Colorado, will reasonably consider sage grouse conservation actions in its regulation of land use, land planning and quality and protection of the environment in Gunnison County; such consideration may include incentives for enhancement of sage grouse habitat.
- The Gunnison County Stockgrowers Association will assist its membership in implementing, monitoring, and assessing the Gunnison Sage Grouse Conservation Plan. During this process, the Stockgrowers will review the conservation action accomplishments, or lack thereof, and take appropriate action in coordination with the Gunnison Sage Grouse Working Group.
- The High Country Citizens' Alliance will support the restoration efforts in the Gunnison Sage Grouse Conservation Plan. They will participate in land use planning conservation actions and may contribute other voluntary services towards conservation actions.

- The USDA Forest Service will use its authorities to ensure land use on their lands avoids impacts to the Gunnison sage grouse and will maintain and enhance existing sage grouse habitat on National Forest lands through conservation planning and application of practices that benefit the Gunnison sage grouse. The Forest Service will conduct NEPA analysis for conservation action items prior to their implementation.

- The USDA Natural Resources Conservation Service will use their authorities to assist landowners in maintaining and enhancing their land through conservation planning and application of practices that benefit the Gunnison sage grouse.

- The USDI Bureau of Land Management will use their authorities to ensure land use on their lands avoids impacts to the Gunnison sage grouse and will implement conservation actions in the Plan. As stated in section 6840 of the BLM Manual the BLM will use "... all methods and procedures which are necessary to bring such species and their habitats to the point at which the provisions of the [Endangered Species Act] (ESA) are not necessary..." . Section 6840 of the Manual directs the BLM to determine sensitive species' population status; determine habitat needs; manage habitat to conserve the species by implementing rangewide or site-specific management plans; ensure BLM activities are consistent with management objectives for the species; monitor habitat and populations to determine effectiveness of management; and request technical assistance from the USFWS on actions that may contribute to the need to federally list a species.

- The USDI Fish and Wildlife Service will use their authorities under section 6 of the Endangered Species Act, Fish and Wildlife Act, and Fish and Wildlife Coordination Act to cooperate with involved parties on continued conservation planning, help implement conservation actions when feasible, and encourage federal, state, and private landowners to maintain and enhance sage grouse habitat.

- The USDI National Park Service will use their authorities to avoid impacts to sage grouse at Curecanti National Recreational Area and Black Canyon of the Gunnison National Monument. The NPS will maintain or enhance existing sage grouse habitat on lands they manage.

B. Coordinate Conservation Actions:

- The signatory parties will each provide at least one representative to meetings of the Gunnison Sage Grouse Working Group. There will be at least one annual meeting but meetings will be called as necessary. At a minimum, the Working Group will review the previous year's actions, discuss if the actions have been effective, and plan for future field trips and upcoming actions.

- The signatory parties will contribute information on their accomplishments to help prepare an annual report that will describe the prior year's accomplishments, results, other important information, and actions planned for the coming year. The BLM and the CDOW will be the lead for preparing the report. The report information will be provided to the BLM by January 15 each year. This consolidated report will be distributed to the Gunnison Sage Grouse Working Group before the annual meeting in February.

C. Assess Conservation Progress:

An annual assessment of progress towards implementing actions identified in the Conservation Plan will be developed by the Gunnison Sage Grouse Working Group at the annual meeting. This assessment will be based on the annual report. The assessment will entail a review by the Working Group of conservation actions accomplished and response of Gunnison sage grouse populations in the Gunnison Basin. If threats to the survival of the Gunnison Basin Population of Gunnison sage grouse become known that are not or cannot be resolved through this or any MOA, the Working Group members will promptly notify all signatories.

D. Fund Conservation Actions:

Funding and/or in-kind contributions for implementing the Gunnison Sage Grouse Conservation Plan may be provided by a variety of sources including:

- 1) Federal sources, including but not limited to, the BLM, NRCS, NPS, USFS, and USFWS
- 2) State sources, including but not limited to, the CDOW and Great Outdoors Colorado Fund
- 3) Private sources, including but not limited to, the Black Canyon Audubon Society, Gunnison County Stockgrowers Association, High Country Citizens' Alliance, Quail Unlimited, Pheasants Forever, and miscellaneous donations or fundraising.

In-kind contributions in the form of personnel, field equipment, supplies, etc., may be provided by participating agencies and organizations. In addition, each agency will have specific task responsibilities and proposed actions/commitments related to its in-kind contributions. This MOA is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the parties to this MOA will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This MOA does not provide such authority. Specifically, this MOA does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

VII. DURATION OF AGREEMENT

The duration of this Memorandum of Agreement is for 15 years. If Gunnison sage grouse distribution and numbers have not been restored to meet the Conservation Plan goals (as stated on page 8, section IV. Conservation Strategy - Overall Goal, of the Gunnison Sage Grouse Conservation Plan), within 30 days of the end of the current life of the MOA, the Plan must be revised and the MOA must be reviewed and either modified, renewed, or terminated. However, the parties involved will review the Conservation Plan and MOA annually to determine whether they should be revised prior to the end of the life of the Plan. If some portion of this MOA cannot be carried out or if cancellation is desired, the party requesting such action will notify the other parties within one month of the changed circumstances. Changes to this MOA may be made upon agreement in writing by all of the signatories prior to any actions being performed.

Any of the signatory parties, in writing, may terminate the MOA in whole, or in part, at any time before the date of expiration.

VIII. RIGHTS OF PARTIES IN EVENT OF FAILURE OR TERMINATION OF AGREEMENT

In the event of failure or termination of this MOA pursuant to Articles VI or VII nothing herein shall be construed as an agreement by any party that a listing decision by USFWS is appropriate or as waiving the right of any such party to contest or oppose such action.

IX. FULL RESERVATION OF AUTHORITY

This MOA is not, and shall not be construed to be, a limitation on the regulatory or other authority of any of the signatories to it, or the discretion of the signatories to exercise such authorities.

This MOA in no way restricts any of the signatory parties from participating in similar activities with other public or private agencies, organizations, and individuals.

X. Restrictions

Pursuant to section 22, Title 41, United States Code, no member of, or Delegate to, Congress shall be admitted to any share or part of this MOA, or any benefits that may arise therefrom.

XI. ATTACHMENTS

A. Gunnison Sage Grouse Conservation Plan, Gunnison Basin-Colorado.

XII. EXECUTION

In witness whereof, the parties hereto have executed this agreement as of the last date written below.

Ronald W Meyers 3-9-98
Black Canyon Audubon Society Date
Ron Meyers, Representative

Fred Field Attest: 3/9/98
Board of Commissioners of the County of Gunnison, Colorado Date
Fred Field, Chairperson

Jim Young 3/9/98
Colorado Department of Natural Resources Date
Colorado Division of Wildlife
Jim Young, Area Wildlife Manager

Ted T. Bemis 3.9.98
Gunnison County Stockgrowers Association Date
Ted Bemis, President

Sue Navy 3-9-98
High Country Citizens' Alliance Date
Sue Navy, Vice President

James R Dawson 3/9/98
USDA, Forest Service Date
Jim Dawson, Taylor River/Cebolla District Ranger

John M Scott 3/9/98
USDA, Natural Resources Conservation Service Date
John Scott, Resource Conservationist

Barry Tollefson 3/9/98
USDI, Bureau of Land Management Date
Barry Tollefson, Gunnison Area Manager

John Hamill 3-9-98
USDI, Fish and Wildlife Service Date
John Hamill, Associate Manager Colorado

Sheridan Steele 3/9/98
USDI, National Park Service Date
Black Canyon of the Gunnison National Monument
and Curecanti National Recreation Area
Sheridan Steele, Superintendent

L.R. McGraw March 1998
Members of the Public Date
L.R. McGraw

Sandy Shea 3/9/98
Member of the Public Date
Sandy Shea