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Comments: Nine Colorado counties have developed their own local sage grouse habitat plans and have sought the federal agencies' to coordinate and reconcile their locally-developed maps and data. They remain concerned both that the BLM has refused to resolve clear policy differences between the federal and local plans, and that ultimately, the FWS will impose a "one size fits all" habitat model that is highly restrictive and does not match their own plan for sage grouse. One county official testified that his rural Washington county was forced to file formally for legal recognition as a "cooperating agency" to ensure the Forest Service and FWS consulted with them on their habitat plans for listed spotted owl. 2010 decision by FWS that Greater Sage Grouse warrants ESA listing is based primarily on a 2009 taxpayer-funded FWS study . This study was cited 62 times in the FWS' listing decision. Yet, the data used in the study still has not been made publicly available. Another scientist's written requests for the data have been refused. Counties that questioned the accuracy of a map developed for sage grouse habitat in Colorado have been refused by the FWS in their requests to verify data used by the FWS in its NTT report.¹¹⁰ In more than one case, a court order has been required to obtain the data from federal officials, even though the data was obtained through taxpayer-funded studies. Many reports and studies used to justify ESA decisions have been found to have mathematical errors, missing data, errors of omission, biased sampling, undocumented methods, simulated data in place of more accurate empirical data, discrepancies between reported results and data, inaccurate mapping, selective use of data, subjective interpretation of results, fabricated data substituted for missing data, and even no data at all. Concerns have been raised that while the ESA requires decisions to be made solely on the basis of the best available data, the FWS and NMFS base their ESA decisions increasingly upon unpublished reports or professional opinions. In the words of a FWS Director, "if there is little information available, then often times we go to the experts and we ask experts for their best professional judgment." In the case of the BLM's National Technical Team (NTT) Report for Greater Sage Grouse, this has resulted in concerns that professional opinions are offered first, and then "science" is found to justify the opinions. One year, a federal district court even ruled that data and conclusions included in a 482-page NMFS ESA biological opinion were "arbitrary and capricious," stating, "In sum, the Fisheries Service's November 2008 BiOp relied on a selection of data, tests, and standards that did not always appear to be logical, obvious, or even rational." The Court also noted that NOAA's BiOp lacked required analyses of economic or technological feasibility of its proposed mitigation measures. Overuse of the "precautionary principle" in listing decisions, use of modeling rather than observational science, and other methods that have the effect of removing species from state jurisdiction and extending the period of "foreseeable future" into the far distant future. In one such example, the NMFS listed the beluga whale as endangered based on modeling that showed the population had a greater than 1 percent chance of going extinct beyond 50 years, based on modeled extinction projections to 300 years. Despite federal transparency and data quality guidelines, agencies are not required to make data relating to their ESA decisions publicly accessible, thus eliminating legitimate scientific inquiry and debate and to allow independent parties to reproduce the results. Most peer reviews rarely are provided access to the data that the study was based on, and often peer reviewers miss errors. In addition, they can be biased and subject to financial and ideological conflicts of interest. To obtain peer reviews, the federal agencies often turn to individuals who work closely on a specific species and have many others who tend to agree with them, and thus, they have "confirmation bias" for a certain opinion relating to ESA. the inherent lack of transparency of ESA data and science. Certain environmental groups appear more interested in advancing an anti-development agenda than in supporting policies to ensure the best science or data is used for ESA decisions.