

# Sacrificial Lambs

*Over five-and-a-half million private acres are incorporated into the Wyoming Sage Grouse Core Habitat, curtailing opportunity without due process or compensation. Why should ranchers like Doug Cooper have to give up everything, while neighbors and do-gooders sit pretty? By Sue Wallis*

**D**oug Cooper stands surrounded by the vast silent range of the historic ranch he and his son Stuart now operate. They are the fourth and fifth generation of forebears who built the first corrals on Bobcat Creek in 1899, after having first arrived in Wyoming from Scotland in 1867. The Black Angus cows grazing the creeks of the 7L ranch are the direct descendants of

the impetus of our last three governors, ostensibly to prevent the endangered species listing of the bird. There is no denying that such a listing would have disastrous consequences for the state and for our ability to utilize our grazing and mineral resources. Nonetheless, a wholesale destruction of our private property rights and the purposeful sidestepping of legislative



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*Doug Cooper points out the sites of three homesteads, a school, the three or four oil wells still producing, and the sagebrush flat that was at one time plowed under. Sage grouse were at their highest levels in history when the sheep business was also at its height, with much human activity from oil camps to homesteads, to dry farming and plowed ground, with all the accompanying roads and pipelines.*

the first cattle brought to the ranch in 1943. They haven't bought a cow since then. Before that they ran sheep.

Over the generations, land trades, homestead purchases, script purchases from Civil War veterans, leases, and permits for both state and federal lands have resulted in the "checkerboard land pattern that rules our lives." Today the ranch covers more than 50,000 acres in central Wyoming, north of Casper.

That checkerboard land pattern is at the heart of yet another swipe at the viability of ranching and livestock. Wyoming's sage grouse strategy has been foisted on the state through the full collaboration and indeed at

process undermine the whole effort, and carry with it no guarantee that the sage grouse won't be listed anyway.

"They do not have the right to take property without due process of law," Cooper says of the Wyoming plan. He believes—and the facts so far as they can be determined without any recording of minutes or votes taken indicate—that the Sage Grouse Core Habitat boundaries were gerrymandered to cut him off while benefiting neighbors with wind, uranium, oil, gas and other projects.

"My opportunities are restricted so someone else can have opportunity elsewhere. It is a transfer of opportunity," Cooper says. "It is like finding out that peo-

ple on your side of the street can't get mail or go to work."


Wyoming's sage grouse conservation strategy started when former governor Jim Geringer appointed Bob Budd to lead the effort back in 2000, and Budd has led the effort ever since. With a family background in ranching and a career in conservation, notably with The Nature Conservancy, Budd claims that he has been able to work transparently with people representing various interests in the state, and to let locals make as many decisions as possible. He maintains that the Sage Grouse Local Working Groups and Sage Grouse Implementation Team didn't need to have appointees with terms, take minutes, or record votes because it was all "a work in progress." He has been quoted as saying that because he doesn't rely on votes, he could be just as harsh with agencies as he could be with industry and agriculture and "everybody understood it was a fair setting."

Cooper vehemently disagrees and says the implementation of the sage grouse strategy was anything but fair. His entire ranch was incorporated in the Wyoming Sage Grouse Core Habitat area without notice at the very last meeting of the Sage Grouse Implementation Team prior to the governor's signing of an Executive Order. On his place, the core area carves out a couple of state sections he holds grazing leases to that already have existing wind turbine projects on them benefiting the state, and includes everything else.

Cooper did not learn that his ranch had been incorporated in the core area until the wind company that had been negotiating with him to lease 10,000 to 12,000 acres suddenly pulled its offer. Only when following up on that did he learn that former governor Freudenthal's Executive Order included his entire outfit.

Through people who had been at the meetings, Cooper learned that in the last meeting prior, the representative from the uranium industry, realizing that a bunch of its leases were going to be impacted, caused the boundaries of the core area to be flopped from the east to the west, which resulted in Cooper's entire ranch being included. So, even if he had attended those initial meetings, he still wouldn't have known or been notified that his ranch was absorbed until after it was too late.

The Sage Grouse Local Working Groups are hardly local in any real sense of the term. The Northeast Wyoming Local Work-



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*Wyoming's oft-touted sage grouse plan has been foisted on the state through the full collaboration, and indeed at the impetus of the state's last three governors, ostensibly to prevent the endangered species listing of the bird. There is no denying that such a listing would have disastrous consequences for the state and for land users, but the wholesale destruction of private property rights and purposeful sidestepping of proper legislative process for a purely executive mandate undermine the whole effort.*

ing Group contains not a single person from Natrona County, where the Cooper ranch is, and incorporates an area larger than some states, some 14.2 million acres. Of that, 5.5 million is privately owned, with 7.7 million federal and 1.0 million state land. Cut the square that is Wyoming in four and envision the entire upper right quadrant, plus a little more, and you have a pretty good idea of the scope of the Northeast Wyoming “Local” Working Group. Attending the meetings would have required Cooper to travel hundreds of miles, which he would have done if it were not for early maps published by the group that showed his place completely out of it.

The “work in progress” by Bob Budd culminated in a governor’s Executive Order that completely sidestepped the Legislature and was signed by then governor Dave Freudenthal in 2010. It has since been given some minor window dressing and re-upped by current governor, Matt Mead.

Budd and other scaremongers claim that this unprecedented action was necessary to

prevent the bird from being listed as an endangered species. Never mind that this megalomaniacal top-down executive-branch action effectively wiped out the property rights of the owners of the more than 5.5 million private deeded acres statewide that wound up in Sage Grouse Core Habitat boundaries.

Bob Budd and the Wyoming Game & Fish Department handpicked the members of the sage grouse groups. In the North Glenrock core area part of the northeast group alone, though the couple of ranchers in the group represent 63 percent of the acres being impacted by sage grouse and other stipulations, they are hugely outnumbered by bureaucrats, environmentalists, mineral industries, and other entities which are more than happy to throw landowners and grazing agriculture under the bus in a headlong rush to kowtow to federal overseers. In fact, the couple of ranchers representing the entire northeast quarter of Wyoming have been the beneficiaries of substantial financial windfalls being passed out by the very group they sit

on for projects on their own places. It is a circumstance that carries with it the appearance, if not the actuality, of impropriety, and at the very least indicates that these participants have no problem giving away their personal property rights in return for government payola—something that many, if not most, of the ranchers in the vast area they supposedly represent have a very serious concern about.

Bob Budd and the sage grouse group’s “scientific and biological” conclusion that habitat fragmentation and human activity are the only threats which must be mitigated to protect the bird is flat wrong. “What we need to do is go back to a time when we had lots of sage grouse, see what the conditions were then, and replicate them,” says Cooper, noting that the bird thrived when the landscape disruption was much higher than it is today, and that the birds tended towards those areas that were most developed, while at the same time predators were controlled.

Oil drilling started in the 1930s on the ranch, which is adjacent to the Tea Pot Dome





The cabin at Bobcat Creek is surrounded by the vast silent range of the historic 7L ranch, which Doug Cooper and his son Stuart now operate. Their forebears built the first corrals here north of Casper, Wyo., in 1889. BELOW: Doug's grandpa's hat (which looks like a Mountie's) still hangs at the ranch.

and Salt Creek oil fields, and more than 80 wells were drilled between 1949 and 1990. Many of those old wells are still pumping and only a handful have been drilled since then. The birds were at their highest levels in history when the sheep business was also at its height, with much human activity from oil camps to homesteads, to dry farming and plowed ground, with all the accompanying roads and pipelines.

There were literally thousands of birds

during the golden days of ranching—the 1950s and '60s. When they mowed the creek bottoms, they would see hundreds of birds coming to water. “The fact that the Wyoming plan focuses exclusively on habitat has a lot more to do with taking control of the surface,” says Cooper, “than it does with figuring out how to create conditions where the birds flourish.”

The most significant condition that allowed sage grouse to thrive was effective

predator control, which isn't even addressed in the Wyoming plan. “The basic elements of animal husbandry apply to any species wild or domestic,” Cooper says. “The only thing we can do is provide food, water, shelter, protection from disease, and protection from predators.” During World War II, the federal government was so serious about protecting food production that it initiated serious predator controls including testing the first toxicant on the 7L in 1941. Single baits of 1080 per township were used very effectively up until President Nixon banned its use in 1973.

Cooper believes that the sheep industry absorbed a good deal of the predation because obviously a coyote which killed a lamb got a lot more for the same energy than from a sage grouse. Another factor was the arrival of the red fox, which is not indigenous. The sage grouse began to decline at that point. The rabbit cycle also has an effect on the grouse; when rabbit numbers are down, sage grouse predation goes up. As reported in *Wyoming Livestock Roundup*, August 2011, scientific research conducted by the USDA's Animal Plant Health Inspection Service (APHIS) in Wyoming's Big Horn Basin over the past few years has clearly established that sage grouse do, indeed, gravitate toward development and farmed ground, and that they are plagued by predators including ravens, raptors, raccoons, coyotes, snakes and more.

“We have found some birds that, once their nest is predated, will move to within three meters of a road, or they'll move into the oil field with all kinds of activity. I think that keeps the predators at bay,” says Jim Pehringer, APHIS Wildlife Services northwest district manager. Pehringer is leading the five-year study in the Big Horn Basin that began in 2011. “From the lek they'll move into areas of high human activity to nest.”

Pehringer says eagles are also a problem. “We've had five sage grouse hens predated by eagles. When we were trying to capture the birds, they'd all of a sudden move next to a sagebrush and quit lekking, and that was because there was an eagle coming. Eagles are a big deal, from what we can see.”

When the study first started, Pehringer didn't think ravens were a problem, but he's found they're the worst predators on nests. Coyote activity has been found at 90 percent of the control area's nests, while the predators have only visited 20 percent of the treatment area's nests where predators were controlled.







*The Coopers ran strictly sheep on the 7L until 1943 when they brought in the first Black Angus cows. "The cattle on this ranch are descended from that original bunch."*

"Today," says Cooper, "we count more coyotes than we do sage grouse."

Cooper points out the sites of three homesteads, a school, the three or four oil wells still producing, and the sagebrush flat that was at one time plowed under. Right in the center of this past and current landscape disruption is the site of one of the two oil wells that have now been delayed some four years. One is on his private lands and private minerals, the other is on private surface with federal minerals. Combine the lost income that Cooper could expect to receive from just these two oil wells, as well as the wind project that was pulled which would have resulted in several million dollars, and it becomes clear that the ability of the owner to generate income from his resource base has been severely damaged through the imposition of arbitrary economic and political boundary lines.

Bob Budd claims that all the decisions were made for scientific and biological reasons; however, this, as well as the fact that the new core area runs straight down the section lines that carve existing wind projects on state sections out while leaving the rest of the ranch in, imply the purest of political, not scientific, designations. "The country hasn't changed," says Cooper. "There is far less disturbance now than there was in the past." There is plenty of sagebrush. Lots of habitat.

In spite of the fact that Wyoming's constitution clearly states that no provision can become law without going through the leg-

islative process, passing both the House and the Senate and being signed by the governor, the Sage Grouse Core Habitat was established on nothing but a governor's Executive Order. Budd claims that the Legislature endorsed the Executive Order by passing a resolution. There is no official record of it. Turns out his so-called resolution was a "pass around" memorial signed by individual legislators, the kind of thing generally reserved for honoring someone for his or her accomplishments or for service to the state. It is not

passed legislation. Therefore, none of the governors had legal authority to issue any of the sage grouse executive orders. To claim this nonbinding, purely honorary resolution as the legislation underpinning a regulatory regime dissolving property rights is a travesty, regardless of any purported high-minded intents and purposes.

By subverting the legislative process rather than allowing open debate by elected officials accountable to their constituents and providing a clear legal framework and recourse for those who may be wronged, what has resulted is a group of handpicked cronies meeting in inaccessible venues without notification to impacted parties.

The bottom line is the Cooper ranch case highlights the flaws in Wyoming's sage grouse conservation strategy. Individuals who have protected sage grouse and their habitat, many for generations, are forced to make all the sacrifices without due process and without compensation—sacrifices that serve to benefit those well connected. It seems these benefits only accrue to those who are willing to give away increasing amounts of their private property rights to perpetual conservation easements, habitat projects, dollars for mitigation, restoration, conservation somewhere else or other equally suspect tools of crony capitalism. ■

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*Map shows the checkerboard pattern that the Coopers have to deal with. Yellow is federal, blue is state, white is deeded. That checkerboard land pattern is at the heart of yet another swipe at the viability of ranching and livestock.*