



## HB 3086B: Mitigation in Sage Grouse Habitat

**Issue Background:** Any party interested in developing land must acquire relevant permits, licenses, and authorizations (administrative process). If the proposed action adversely affects Greater Sage Grouse habitat, Oregon Department of Fish & Wildlife is consulted to determine whether mitigation efforts can offset the impact. ODFW's current policy interpretation reflects that any impact on core area habitat cannot be offset by mitigation efforts. However, this "fatal flaw" determination is made at the end of the administrative process, forcing interested parties to invest time and money in an inconsistent and unpredictable process.

HB 3086B requires ODFW to make a fatal flaw determination at the beginning of the permitting process. This will provide consistency, predictability, and efficiency for landowners, private developers, conservation interests, and state agencies.

### **Key Provisions:**

**Sec. 1:** Authorizes ODFW to adopt a statewide mitigation policy for proposed activities that affect sage grouse core area habitat

- Ensuring a landscape approach
- Consulting with interested stakeholders
- Implementing a "no net loss" standard
- Mandatory 5 year review of habitat mapping
- Ensuring, to the greatest extent practicable, existing use of land

**Sec. 2:** Requires ODFW to make "fatal flaw" determination earlier in the process

- If an applicant applies for an authorization from a state agency
- And that agency consults with ODFW for a recommendation
- That applicant may submit a sage grouse report, specifying proposals for mitigation and specifying whether the habitat is irreplaceable
- ODFW must make a determination w/in 60 days of report submission
- If ODFW determines that the mitigation proposal results in no net loss
  - Then ODFW must issue a determination that the habitat is not irreplaceable
  - This is a final order
- If ODFW determines that the mitigation proposal results in net loss
  - A person may request a contested case hearing

**Sec. 4:** Authorizes \$500,000 from General Fund to support development of statewide mitigation policy.

This "fatal flaw" determination is not an approval or denial of the mitigation proposal itself. It is only a determination regarding whether the adverse impacts on the affected core area can be mitigated and the permitting process can move forward.

HB 3086B will increase efficiency, predictability, and consistency, leading to species conservation and economic growth.

Walden DEPT-2

# ODFW Sage-Grouse Core Areas

