



October 28, 2013

Sent via email to: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov)

FOIA Appeals Officer  
U.S. Department of the Interior  
1849 C Street, N.W., MS 6556  
Washington, D.C. 80240

**Re: FREEDOM OF INFORMATION APPEAL  
USGS FOIA Request 2013-00131**

Dear FOIA Appeals Officer:

This letter serves as an appeal by Western Energy Alliance ("the Alliance") in the matter of Freedom of Information Act ("FOIA") Request 2013-00131. This is an appeal pursuant to 5 U.S.C. § 552(a)(6) concerning the U.S. Geological Survey's ("USGS") refusal to disclose certain documents within its control.

The release of this information is critical for the Alliance and its members as it will help them ascertain the legal and scientific sufficiency of key studies related to greater sage grouse conservation measures. These conservation measures form the basis of regulatory actions that are being implemented by the Bureau of Land Management and the U.S. Forest Service in land use planning amendments across the species range. The Alliance and its members will use the information requested under FOIA in its comments on these land use planning amendments. Some comment deadlines have already passed so timely release of the information requested is critical. Timely release of this information is also essential given the pending U.S. Fish and Wildlife Service determination on the listed status of greater sage-grouse under the Endangered Species Act.

The Alliance's FOIA request, dated June 17, 2013, asked for access to and copies of documents related to the report entitled "Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A."<sup>1</sup> See *Exhibit 1*. Specifically, the Alliance requested access to and copies of documents related in whole or in part to the Team Report.<sup>2</sup>

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<sup>1</sup> Knick, S.T., S. E. Hanser, and K.L. Preston. 2013. Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A. *Ecology and Evolution* (Online First, open access).

<sup>2</sup> Reference to the Team Report herein necessarily includes draft(s) of the Team Report that existed prior to the release of the final report and any part or portion of the Team Report that existed independently of any other part or portion at any time during the Team Report's drafting process.

On June 25, 2013, the USGS provided notice that they had received the FOIA request on June 17, 2013. *See Exhibit 2* After two extensions by the USGS on August 2, 2013 and August 23, 2013, the Alliance received the USGS's final response on September 16, 2013. *See Exhibits 3-5*. The final response provided only part of the information sought in the Alliance's request. The following explains the results and deficiencies in the USGS's final response:

- 1. The names and institutions of employment and/or affiliations (e.g., university, scientific organization, corporation, agency, etc.) of all persons contacted for the purposes of providing peer review of the Team Report, including internal USGS reviews that are required prior to release.**

The USGS provided the names and associations of the Editor in Chief (Andrew Beckerman) and Executive Editor (E.J. Milner-Gulland) at the journal *Ecology and Evolution*, and a single peer reviewer (Quresh Latif of the USFS).

We note that there is an apparent conflict of interest in these peer reviews and handling of the manuscript because Knick also serves as a reviewer for the *Journal of Applied Ecology* where he had originally submitted the manuscript for review. Knick's affiliation with the journal may be found here:

<http://www.journalofappliedecology.org/view/0/reviewers.html>.

Therefore, the peer reviews and recommendations made by the Editor of *Journal of Applied Ecology* (that were subsequently used in the decision by the Editor of the journal *Ecology and Evolution*) cannot be viewed as impartial. Please confirm that the Editor of *Ecology and Evolution* did not solicit any independent reviews.

- 2. The names and institution of employment or affiliation (e.g., university, scientific organization, corporation, etc.) of those who actually engaged in peer review of the Team Report (the "Peer Reviewers").**

The response only lists one internal USGS reviewer, not two as required by the USGS internal peer review policy. The response is deficient because no second internal reviewer was identified or review provided.

The USGS is also required to provide the names of the reviewers and the reviews supplied to Knick of the USGS from the *Journal of Applied Ecology*.

- 3. The questions asked and/or issues presented to the Peer Reviewers with respect to the Team Report.**

The USGS response stated, "For the USGS internal review, the USGS stated expressly that we were most interested in a statistical review. For the journal review, the USGS has nothing to provide." However, the USGS did not provide adequate detail to address our request which would include a copy of the

communication requesting a peer review from Latif and the other reviewer(s), including the questions asked and unredacted copies of any response received thereto.

4. **Any formal or informal report(s), paper(s), data compilation(s), communication(s), comment(s), red-line(s), summary(ies) or other document type related to the Peer Reviewers' review or impression of the Team Report, including, but not limited to:**

We appeal the extensive redaction of all but the first sentence of the Decision on Manuscript letter dated Thursday, Dec 27, 2012 at 12:11 PM, written by the Editor of *Ecology and Evolution*, Andrew Beckerman, to Steven Knick of the USGS. That letter could not be considered proprietary information and there is no reason for the USGS to make it secret. It directly relates to the publication the manuscript (a USGS work product). This is especially important because the only unredacted portion of that five page letter states that the manuscript: "...which you [Knick] submitted to *Ecology and Evolution*, has been reviewed by me and an AE [Associate Editor], based on your comments from *Journal of Applied Ecology*."

Knick et al. 2013 is a highly influential scientific study whose lead authors, Knick and Hanser, conducted this research as federal staff with listed affiliations as the USGS. Therefore, the draft manuscript, correspondence with journal editors, reviews and responses by authors to those reviews, and final manuscript are all directly related to scientific work products prepared by paid federal staff and open to inspection under FOIA.

In addition, the USGS response does not provide any justification for the redaction other than "[t]he editors' and the peer-reviewers' proprietary comments are redacted." As provided in 43 CFR 2.24(b)(2), the denial must include "[a] brief statement of the reasons for the denial, including a reference to any FOIA exemption(s) applied by the bureau to withhold the records in full or in part."

The USGS response was also deficient because no response by Knick et al. to Latif or other reviewers was provided. If there was a response by Knick et al. to the Latif review (and any other reviews), please provide copies of these communications. If the comments by Latif were provided with no follow-up requirement that they be responded to by Knick et al., please so indicate.

Again Knick is listed as a reviewer for the *Journal of Applied Ecology* (<http://www.journalofappliedecology.org/view/0/reviewers.html>). The incomplete response to this FOIA, including the redacted letter from the editor of *Ecology and Evolution* do not allow us to discern if: 1) Knick submitted comments on *Journal of Applied Ecology* letterhead/address (rather than his federal USGS address), 2) solicited his own reviews from *Journal of Applied*

*Ecology* and submitted them along with his manuscript, or 3) withdrew or had the manuscript rejected from the *Journal of Applied Ecology* but submitted reviewer comments from that journal to the editor of *Ecology and Evolution* where the manuscript was finally published.

Therefore, please provide copies of the Knick-supplied, "*comments from Journal of Applied Ecology*" to the editor of *Ecology and Evolution*.

5. **An electronic copy of the original lek count data (i.e. in a spreadsheet) that was available to Knick et al. 2013 for analyses in the study area (spanning the years 1965-2007).**

The USGS states that it "has nothing to provide." This reply is not responsive to our request. The study was funded by the US Fish and Wildlife Service and should be publicly available under FOIA. The USGS has provided no credible support for the proposition that the data is proprietary.

- 5.1. **An electronic copy of the final lek count data set that was used by Knick et al. (2013) in their analyses (as described by Knick et al., "*We modeled species presence from location of 3184 sage-grouse leks known to be active between 1998 and 2007.*" )**

**Both the original and final data sets should minimally include: state/province, SMZ (sage grouse management zone), population name, lek name, lat-long or UTM, year of count, date of maximum male count, and maximum male count.**

The USGS reply states, "*USGS is providing the data structure for the proprietary data in the attached file: Leks\_98-07DataStructure.xls. Knick et al. 2013 only used lek data from 1998-2007, not 1965 to 2007. Information is included in that file for state contacts from whom these proprietary data can be requested. (document 4) Data sets for the environmental variables used in the analysis are publicly available already at [saqemap.wr.usgs.gov/](http://saqemap.wr.usgs.gov/)<<http://saqemap.wr.usgs.gov/>>.*"

Again the study referenced was funded by the USFWS and therefore the data should be publicly available under FOIA.

- 5.2. **The name(s) and contact information of persons from whom this data was obtained from.**

Names and contact information were provided.

- 5.3. **A copy of any permission letter or related correspondence to Knick et al. to use this data in publication.**

The USGS response stated, "Verbal permission was obtained from the state contacts prior to the beginning of the project. One state required a signed agreement (Utah). (document 5)." However, there is no documentation of verbal or written permission being granted for use of the data in this publication. Additionally, there is no indication that the data covered under the Utah nondisclosure agreement are the lek-count and location data used in the study by Knick et al. 2013. Therefore, we request the USGS to provide the complete records to substantiate their response that verbal or written permission was obtained from each state for the actual data used in the analyses by Knick et al. (2013).

**5.4. A list of the data excluded from the analyses in the final data set, and the specific criteria used for each exclusion.**

The USGS response stated, "USGS is providing the data structure for the proprietary data in the attached file: Leks\_98-07DataStructure.xls. (see document 4) This describes the proprietary data associated with Knick et al. 2013 and that is in USGS custody." This is not responsive to our request. Without access to the original data and edited data, and the specific criteria utilized to edit (include/exclude data) the results of Knick et al. (2013) are not reproducible. Previous analyses of such lek count data by other researchers had required that the data be edited prior to use to resolve inconsistencies in how leks were identified prior to use in analyses (i.e. Conneley et al. 2004; WAFWA 2008; and Garton et al. 2011).

**5.5. A copy of the funded grant, contract, or cooperative agreement that resulted in funding by the Great Northern Landscape Conservation Cooperative.**

The USGS provided "document 6" as a response to this request. There is no mention in document 6 that the funding came from the "Great Northern Landscape Conservation Cooperative" that Knick et al. (2013) acknowledges as a source of funding for their paper.

**5.6. A detailed statement of methods and quantitative results that show the degree of correlation between the theoretical resistance of electrons flowing through circuits, and actual field data that quantifies sage grouse movements among leks.**

A response was provided.

**5.7. Figure 6 on page 10 shows estimate potential for sage-grouse movement among leks, the range of which goes from <0.02 to 5. No discussion or explanation is provided for the scale or units of**

**“movement potential.” Therefore, please provide a clear and detailed explanation of the method by which this estimate was derived, as well as the meaning of the scale and units of movement potential, so the method and results are reproducible.**

A response was provided.

The Alliance asks that the USGS respond to its FOIA request in full, with the disclosure of all documents to support the information provided in the USGS final response letter. If the USGS fails to disclose any of the requested information, the agency is required to provide the names and titles or positions of each person responsible for such denial. 5 U.S.C. § 552(a)(6)(C)(i).

I look forward to your ruling on this appeal within the 20-day statutory time limit. If you have any questions or would like to discuss this matter, please contact me directly at [KSgamma@westernenergyalliance.org](mailto:KSgamma@westernenergyalliance.org) or (303) 623-0987.

Sincerely,



Kathleen Sgamma  
Vice President of Government & Public Affairs

Enclosures



June 17, 2013

Sent via U.S. mail and email to: [djnewman@usgs.gov](mailto:djnewman@usgs.gov)

David J. Newman  
USGS FOIA Officer  
12201 Sunrise Valley Drive  
Mail Stop 807  
Reston, VA 20192

**Re: Freedom of Information Act Request to the U.S. Geological Survey**

Dear Mr. Newman:

This letter serves as a request by Western Energy Alliance ("Western Energy") pursuant to the Freedom of Information Act ("FOIA," codified at 5 U.S.C. § 552) for access to and copies of documents related to the report entitled "Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A."<sup>1</sup> Specifically, Western Energy requests access to and copies of documents related in whole or in part to the Team Report<sup>2</sup> with respect to the following:

1. The names and institutions of employment and/or affiliations (*e.g.*, university, scientific organization, corporation, agency, etc.) of all persons contacted for the purposes of providing peer review<sup>3</sup> of the Team Report, including internal USGS reviews that are required prior to release.
2. The names and institution of employment or affiliation (*e.g.*, university, scientific organization, corporation, etc.) of those who actually engaged in peer review of the Team Report (the "Peer Reviewers").
3. The questions asked and/or issues presented to the Peer Reviewers with respect to the Team Report.

<sup>1</sup> Knick, S.T., S. E. Hanser, and K.L. Preston. 2013. Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A. *Ecology and Evolution* (Online First, open access).

<sup>2</sup> Reference to the Team Report herein necessarily includes draft(s) of the Team Report that existed prior to the release of the final report and any part or portion of the Team Report that existed independently of any other part or portion at any time during the Team Report's drafting process.

<sup>3</sup> For the purposes of this request, "peer review" is defined to mean review by persons knowledgeable in the field of inquiry with respect to the methods, evidence, and conclusions drawn by the document subject to the review.

**EXHIBIT H**  
**Knick Report FOIA Appeal**

4. Any formal or informal report(s), paper(s), data compilation(s), communication(s), comment(s), red-line(s), summary(ies) or other document type related to the Peer Reviewers' review or impression of the Team Report, including, but not limited to:

- An electronic copy of the original lek count data (i.e. in a spreadsheet) that was available to Knick et al. 2013 for analyses in the study area (spanning the years 1965-2007).
- An electronic copy of the final lek count data set that was used by Knick et al. (2013) in their analyses (as described by Knick et al., "*We modeled species presence from location of 3184 sage-grouse leks known to be active between 1998 and 2007.*")

Both the original and final data sets should minimally include: state/province, SMZ (sage grouse management zone), population name, lek name, lat-long or UTM, year of count, date of maximum male count, and maximum male count.

- The name(s) and contact information of persons from whom this data was obtained from.
- A copy of any permission letter or related correspondence to Knick et al. to use this data in publication.
- A list of the data excluded from the analyses in the final data set, and the specific criteria used for each exclusion.
- A copy of the funded grant, contract, or cooperative agreement that resulted in funding by the Great Northern Landscape Conservation Cooperative.
- A detailed statement of methods and quantitative results that show the degree of correlation between the theoretical resistance of electrons flowing through circuits, and actual field data that quantifies sage grouse movements among leks.
- Figure 6 on page 10 shows estimate potential for sage-grouse movement among leks, the range of which goes from <0.02 to 5. No discussion or explanation is provided for the scale or units of "movement potential." Therefore, please provide a clear and detailed explanation of the method by which this estimate was derived, as well as the meaning of the scale and units of movement potential, so the method and results are reproducible.



Please send the copies of the requested documents to:

Kathleen Sgamma  
Western Energy Alliance  
410 17th St., Suite 700  
Denver, Colorado 80202  
T: (303) 623-0897  
E: [ksgamma@westernenergyalliance.org](mailto:ksgamma@westernenergyalliance.org)

Please waive any applicable fees with respect to this request. Western Energy is a non-profit organization; accordingly, Western Energy has no commercial interest in the disclosure of this information. Moreover, release of the information is in the public interest because it will contribute significantly to public understanding of government operations and activities; in particular, with respect to the best available science requirement under the Endangered Species Act (codified at 16 U.S.C. § 1531, *et seq.*).

If Western Energy's request is denied in whole or part, please identify all deletions by reference to specific exemptions of FOIA. Western Energy will also expect you to release all segregable portions of otherwise exempt material. Western Energy reserves the right to appeal your decision to withhold any information or to deny a waiver of fees.

Should you have questions or require clarification of any of the foregoing, please contact me at the contact information listed above. We look forward to your reply within twenty (20) business days, as the statute requires. Thank you in advance for your assistance.

Sincerely,



Kathleen Sgamma  
Vice President of Government & Public Affairs



WESTERN ENERGY ALLIANCE

From: [Kathleen Sgamma](#)  
To: [Kent Holsinger \(kholsinger@holsingerlaw.com\)](mailto:kholsinger@holsingerlaw.com);  
[Alyson Meyer Gould \(agould@holsingerlaw.com\)](mailto:agould@holsingerlaw.com);  
Subject: FW: Your USGS FOIA 2013-00131  
Date: Tuesday, June 25, 2013 7:29:12 AM

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From: jldurant@usgs.gov [mailto:jldurant@usgs.gov] On Behalf Of Freedom of Information Act, GS-GIO  
Sent: Tuesday, June 25, 2013 7:16 AM  
To: Kathleen Sgamma  
Subject: Your USGS FOIA 2013-00131

Kathleen Sgamma

Transmitted via email

June 25, 2013

Dear Kathleen Sgamma:

This letter will acknowledge receipt of your Freedom of Information Act (FOIA) request, dated June 17, 2013, and received in our office on June 21, 2013. Your request concerned:

“. . . access to and copies of documents related to the report entitled “Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A.”<sup>1</sup> Specifically, Western Energy requests access to and copies of documents related in whole or in part to the Team Report. . .”

The USGS has granted you access to the requested records mentioned in the preceding paragraph that are not exempt from disclosure by law in accordance with 5 U.S.C. § 552 as amended, if they exist. Any releasable sections of the requested records shall be provided to you, after deletion of the parts that are exempt. If any questions arise pertaining to your request, a representative of the responding office will contact you immediately for clarification.

FOIA requests submitted to the USGS are assessed fees in accordance to 43 CFR §2.15 through §2.20 and 43 CFR Part 2, Appendix C. You will be notified if we believe any fees will be incurred.

We have assigned an individualized tracking number USGS-2013-00131 to your request. All future correspondence to the USGS for this request should include this tracking number. Please contact Joye Durant, Acting USGS FOIA Officer, at 703-648-5789, or via email at [foia@usgs.gov](mailto:foia@usgs.gov) if you have

questions.

Thank you for your interest in the U.S. Geological Survey.

Sincerely,  
Joye Durant

EXHIBIT H  
Knick Report FOIA Appeal

From: [Kathleen Sgamma](#)  
To: [Kent Holsinger \(kholsinger@holsingerlaw.com\)](mailto:kholsinger@holsingerlaw.com);  
[Alyson Meyer Gould \(agould@holsingerlaw.com\)](mailto:agould@holsingerlaw.com);  
Subject: FW: Your USGS FOIAs: 2013-00130 and 00131  
Date: Monday, August 05, 2013 8:05:49 AM

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From: [jldurant@usgs.gov](mailto:jldurant@usgs.gov) [mailto:[jldurant@usgs.gov](mailto:jldurant@usgs.gov)] On Behalf Of Freedom of Information Act, GS-GIO  
Sent: Friday, August 02, 2013 8:47 AM  
To: Kathleen Sgamma  
Subject: Your USGS FOIAs: 2013-00130 and 00131

August 2, 2013

Kathleen Sgamma

Because we will need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, the USGS is taking a 28-workday extension under [43 C.F.R. § 2.19\(b\)](#). USGS expects to complete the processing of your requests by August 23, 2013.

Joye Durant

Acting USGS FOIA officer

From: [Kathleen Sgamma](#)  
To: [Kent Holsinger \(kholsinger@holsingerlaw.com\)](#);  
[Alyson Meyer Gould \(agould@holsingerlaw.com\)](#); "Rob Roy Ramey";  
Subject: FW: Your USGS FOIAs: 2013-00130 and 00131  
Date: Friday, August 23, 2013 9:34:04 AM

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From: jldurant@usgs.gov [mailto:jldurant@usgs.gov] On Behalf Of Freedom of Information Act, GS-GIO  
Sent: Friday, August 23, 2013 5:20 AM  
To: Kathleen Sgamma  
Subject: Your USGS FOIAs: 2013-00130 and 00131

August 23 2013

Kathleen Sgamma

Because we are still searching and reviewing requested records from field facilities or other establishments that are separate from the office processing the request, the USGS is taking an additional 15-workday extension under [43 C.F.R. § 2.19\(b\)](#). USGS expects to complete the processing of your requests by September 15, 2013.

Joye Durant

Acting USGS FOIA officer

----- Forwarded message -----

From: **Freedom of Information Act, GS-GIO** <[foia@usgs.gov](mailto:foia@usgs.gov)>  
Date: Fri, Aug 2, 2013 at 10:46 AM  
Subject: Your USGS FOIAs: 2013-00130 and 00131  
To: [ksgamma@westernenergyalliance.org](mailto:ksgamma@westernenergyalliance.org)

August 2, 2013

Kathleen Sgamma

EXHIBIT H  
Knick Report FOIA Appeal

Because we will need to search for and collect requested records from field facilities or other establishments that are separate from the office processing the request, the USGS is taking a 28-workday extension under [43 C.F.R. § 2.19\(b\)](#). USGS expects to complete the processing of your requests by August 23, 2013.

Joye Durant

Acting USGS FOIA officer

EXHIBIT H  
Knick Report FOIA Appeal

From: [Kathleen Sgamma](#)  
To: [Kent Holsinger; Alyson Meyer Gould; Rob Roy Ramey;](#)  
Subject: Fwd: USGS FOIA 2013-00131  
Date: Monday, September 16, 2013 11:38:26 AM  
Attachments: [2013-00131-document 1-JournalEcologyAndEvolutionEmailRedacted.pdf](#)  
[ATT00001.htm](#)  
[2013-00131-document 2-JournalAcceptanceEcologyAndEvolution.pdf](#)  
[ATT00002.htm](#)  
[2013-00131-document 3-USGSReviewLatif.docx](#)  
[ATT00003.htm](#)  
[2013-00131-document 4-Leks\\_98-07DataStructure.xlsx](#)  
[ATT00004.htm](#)  
[2013-00131-document 5-Utah agreement.pdf](#)  
[ATT00005.htm](#)  
[2013-00131-document 6-interagency agreement.pdf](#)  
[ATT00006.htm](#)

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Sent from my iPad

Begin forwarded message:

From: "Freedom of Information Act, GS-GIO" <[foia@usgs.gov](mailto:foia@usgs.gov)>  
To: "Kathleen Sgamma" <[KSgamma@westernenergyalliance.org](mailto:KSgamma@westernenergyalliance.org)>  
Subject: USGS FOIA 2013-00131

Kathleen Sgamma

Transmitted via email

September 16, 2013

Dear Kathleen Sgamma:

This letter concludes U.S. Geological Survey (USGS) communication concerning your Freedom of Information Act (FOIA) request, which was assigned individualized tracking number USGS-2013-00131. Your request concerned:

“. . . access to and copies of documents related to the report entitled “Modeling ecological minimum requirements for distribution of greater sage-grouse leks: implications for population connectivity across their western range, U.S.A.” Specifically, Western Energy requests access to and copies of documents related in whole or in part to the Team Report. . .”

Each of your requests are addressed in the following statements.

1. The names and institutions of employment and/or affiliations (e.g., university, scientific organization, corporation, agency, etc.) of all persons contacted for the purposes of providing peer review of the Team Report, including internal USGS reviews that are required prior to release.

E.J. Milner-Gulland, Executive Editor, Journal of Applied Ecology, e.j.milner-gulland @ [imperial.ac.uk](http://imperial.ac.uk) <<http://imperial.ac.uk>>

Dr. Andrew Beckerman, Editor in Chief, Ecology and Evolution, [andrew.beckerman@ecolevol.org](mailto:andrew.beckerman@ecolevol.org) <<mailto:andrew.beckerman@ecolevol.org>>

(for USGS review) Dr. Quresh Latif, USDA Forest Service Rocky Mountain Research Station, [qlatif@fs.fed.us](mailto:qlatif@fs.fed.us) <<mailto:qlatif@fs.fed.us>>

2. The names and institution of employment or affiliation (e.g., university, scientific organization, corporation, etc.) of those who actually engaged in peer review of the Team



Report (the "Peer Reviewers").

Same as above. USGS does not have access to the names of the journal peer reviewers. Two reviewers are identified by name in the report's acknowledgments. They are Jack W. Connelly, who works for the Idaho Department of Fish and Game, and the USGS-requested reviewer Dr. Quresh S. Latif. The review by Connelly was collegial and not part of the formal peer-review process.

3. The questions asked and/or issues presented to the Peer Reviewers with respect to the Team Report.

For the USGS internal review, the USGS stated expressly that we were most interested in a statistical review. For the journal review, the USGS has nothing to provide.

4. Any formal or informal report(s), paper(s), data compilation (s), communication(s), comment(s), red-line(s), summary (ies) or other document type related to the Peer Reviewers' review or impression of the Team Report, including, but not limited to:

Three files are attached.

1. JournalEcologyAndEvolutionEmailRedacted.pdf is an email from the Editor in Chief, Ecology and Evolution to Steve Knick presenting feedback from editors and associate editors of that journal. It also contains anonymous peer-review feedback from two individuals solicited by an editor with the Journal of Applied Ecology. That journal managed the peer review, and then suggested the option of publication in Ecology and Evolution. When that suggestion was made to the Editor in Chief of Ecology and Evolution, the peer-review feedback was forwarded to that Editor. The editors' and the peer-reviewers' proprietary comments are redacted.

(document 1)

2. JournalAcceptanceEcologyAndEvolution.pdf is an email from Dr. Andrew Beckerman, Editor in Chief, Ecology and Evolution to Steve Knick accepting the manuscript for publication. (document 2)

3. USGSReviewLatif.doc is the peer-review feedback from the USGS review conducted by Dr. Quresh Latif of the USDA Forest Service Rocky Mountain Research Station. (document 3)

- An electronic copy of the original lek count data (i.e. in a spreadsheet) that was available to Knick et al. 2013 for analyses in the study area (spanning the years 1965-2007).

USGS has nothing to provide.

- An electronic copy of the final lek count data set that was used by Knick et al. (2013) in their analyses (as described by Knick et al., "We modeled species presence from location of 3184 sage-grouse leks known to be active between 1998 and 2007." )

USGS is providing the data structure for the proprietary data in the attached file: Leks\_98-07DataStructure.xls. Knick et al. 2013 only used lek data from 1998-2007, not 1965 to 2007. Information is included in that file for state contacts from whom these proprietary data can be requested. (document 4) Data sets for the environmental variables used in the analysis are publicly available already at [sagemap.wr.usgs.gov/](http://sagemap.wr.usgs.gov/) <<http://sagemap.wr.usgs.gov/>>.

- Both the original and final data sets should minimally include: state/province, SMZ (sage grouse management

zone), population name, lek name, lat-long or UTM, year of count, date of maximum male count, and maximum male count.

These data do not belong to the USGS. The lek data belong to the states that conduct the lek counts. The USGS had conditional use of the lek data only by written or verbal agreement with the states.

- The name(s) and contact information of persons from whom this data was obtained from.

Washington: Dr. Michael E. Schroeder ([michael.schroeder@dfw.wa.gov](mailto:michael.schroeder@dfw.wa.gov) <<mailto:michael.schroeder@dfw.wa.gov>>)

Idaho: Dr. John W. Connelly ([jack.connelly@idfg.idaho.gov](mailto:jack.connelly@idfg.idaho.gov) <<mailto:jack.connelly@idfg.idaho.gov>>; Mr. Don Kemner ([don.kemner@idfg.idaho.gov](mailto:don.kemner@idfg.idaho.gov) <<mailto:don.kemner@idfg.idaho.gov>>)

Oregon: Dr. Christian Hagen ([christian.a.hagen@state.or.us](mailto:christian.a.hagen@state.or.us) <<mailto:christian.a.hagen@state.or.us>>)

Nevada: Mr. Shawn Espinosa ([sespinosa@ndow.org](mailto:sespinosa@ndow.org) <<mailto:sespinosa@ndow.org>>

Utah: Mr. Jason Robinson ([jasonrobinson@utah.gov](mailto:jasonrobinson@utah.gov) <<mailto:jasonrobinson@utah.gov>>)

California: Mr. Scott Gardner ([scott.gardner@wildlife.ca.gov](mailto:scott.gardner@wildlife.ca.gov) <<mailto:scott.gardner@wildlife.ca.gov>>)

EXHIBIT H  
Knick Report FOIA Appeal

- A copy of any permission letter or related correspondence to Knick et al. to use this data in publication.

Verbal permission was obtained from the state contacts prior to the beginning of the project. One state required a signed agreement (Utah). (document 5).

- A list of the data excluded from the analyses in the final data set, and the specific criteria used for each exclusion.

USGS is providing the data structure for the proprietary data in the attached file: Leks\_98-07DataStructure.xls. (see document 4) This describes the proprietary data associated with Knick et al. 2013 and that is in USGS custody. The methods section of the published paper states that active leks were defined on an annual basis as those with greater than or equal to 1 male sage-grouse attending. It also states that variables measured at 18-km radii did not perform as well in initial models as those at 5 km and were dropped in subsequent analyses. This latter statement refers to environmental variables.

- A copy of the funded grant, contract, or cooperative agreement that resulted in funding by the Great Northern Landscape Conservation Cooperative.

This document is attached as document 6.

- A detailed statement of methods and quantitative results that show the degree of correlation between the theoretical resistance of electrons flowing through circuits,

and actual field data that quantifies sage grouse movements among leks.

The USGS did not do the type of analysis described. The documentation for the actual circuit theory methods and results used is provided in the published manuscript.

- Figure 6 on page 10 shows estimate potential for sage-grouse movement among leks, the range of which goes from  $<0.02$  to 5. No discussion or explanation is provided for the scale or units of "movement potential." Therefore, please provide a clear and detailed explanation of the method by which this estimate was derived, as well as the meaning of the scale and units of movement potential, so the method and results are reproducible.

The details of the Circuitscape Program, including the definition of units and underlying relationship between energy flow and ecological systems, can be found in the publications McRae, B. H. 2006. Isolation by resistance. *Evolution* 60:1551–1561 and McRae, B. H., B. G. Dickson, T. H. Keitt, and V. B. Shah. 2008. Using circuit theory to model connectivity in ecology and conservation. *Ecology* 10:2712–2724. Both of these papers are cited in the published report by Knick that is the subject of this request. USGS also provides details on inputs for the Circuitscape model attributes in the published report. Although used in an ecological context, the units are the cumulative amount of current flow between each lek and all other leks.

You may appeal this denial to the Department's FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this letter, which is the USGS's final response to your FOIA request.

Appeals arriving or delivered after 5 PM Eastern time, Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to:

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U.S. Department of the Interior

1849 C Street, N.W., MS 6556

Washington, D.C. 20240

Fax: 202-208-6677

E-mail: [FOIA.Appeals@sol.doi.gov](mailto:FOIA.Appeals@sol.doi.gov) <<mailto:FOIA.Appeals@sol.doi.gov>>

You must include with your appeal copies of all correspondence between you and the USGS concerning your FOIA request, including a copy of your original FOIA request and the denial letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. All communications concerning your appeal, including envelopes, should be clearly marked with the words "FREEDOM OF INFORMATION APPEAL." Your letter should include in as much detail as possible any reason(s) why you believe the USGS's response is in error. For more information on FOIA Administrative Appeals, you may review Subpart H of the Department's FOIA regulations, 43 C.F.R. Part 2, Subpart H.

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Please contact Joye Durant, acting USGS FOIA Officer, at 703-648-5789, or via email at [foia@usgs.gov](mailto:foia@usgs.gov) <<mailto:foia@usgs.gov>> if you have any questions.

Thank you for your interest in the U.S. Geological Survey.

Sincerely,

Joye Durant