



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Deschutes County Code \*
Title 23 and the Deschutes County Comprehensive \* ORDINANCE NO. 2015-010
Plan, and Declaring an Emergency \*

WHEREAS, on July 23, 2015 the Oregon Department of Land Conservation and Development Commission adopted Greater Sage-Grouse habitat inventories and rules establishing a procedure for considering development proposals on lands identified as significant Greater Sage-Grouse Habitat; and

WHEREAS, Deschutes County is one of seven counties with Greater Sage-Grouse Habitat; and

WHEREAS, amendments to the Deschutes County Comprehensive Plan are necessary to comply with ORS 197.646(3) and OAR 660-023-0115(4); and

WHEREAS, after notice was given in accordance with applicable law, a public hearing was held before the Deschutes County Planning Commission on October 8, 2015 to consider the revised County Comprehensive Plan; and

WHEREAS, on November 12, 2015 the Planning Commission forwarded to the Board of County Commissioners ("Board") a recommendation of approval to adopt changes to the Comprehensive Plan; and

WHEREAS, the Board considered this matter after a duly noticed public hearing on December 2 and concluded that the public will benefit from changes to the Comprehensive Plan; and

WHEREAS, the Board finds it in the public interest to adopt the following Comprehensive Plan amendments; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC 23.01.010, Introduction, is amended to read as described in Exhibit "A," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in strikethrough.

Section 2. ADOPTION. Deschutes County Comprehensive Plan Map, Greater Sage Grouse Habitat Area Inventory Map is adopted to describe properties affected by the designation as shown in Exhibit "B," attached and incorporated by reference herein.

Section 3. AMENDMENT. Deschutes County Comprehensive Plan Map, Deschutes County Sensitive Bird and Mammal Habitat Inventory Map is amended to describe properties affected by the designation as shown in Exhibit "C," attached and incorporated by reference herein.

Section 4. AMENDMENT. Deschutes County Comprehensive Plan Chapter 2, Resource Management, is amended to read as described in Exhibit "D," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in strikethrough.


Section 5. AMENDMENT. Deschutes County Comprehensive Plan Chapter 5, Supplementary Sections, is amended to read as described in Exhibit "E," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 6. FINDINGS. The Board adopts as its findings Exhibit "F," attached and incorporated by reference herein.

Section 7. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

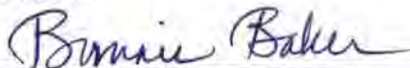
Dated this 21<sup>st</sup> of Dec., 2015

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
ANTHONY De BONE, Chair

  
ALAN UNGER, Vice Chair

ATTEST:

  
Recording Secretary

  
TAMMY BANEY, Commissioner

Date of 1<sup>st</sup> Reading: 21<sup>st</sup> day of Dec., 2015.

Date of 2<sup>nd</sup> Reading: 21<sup>st</sup> day of Dec., 2015.

Commissioner	Record of Adoption Vote:			
	Yes	No	Abstained	Excused
Anthony De Bone	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alan Unger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tammy Baney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Effective date: 21<sup>st</sup> day of Dec., 2015.

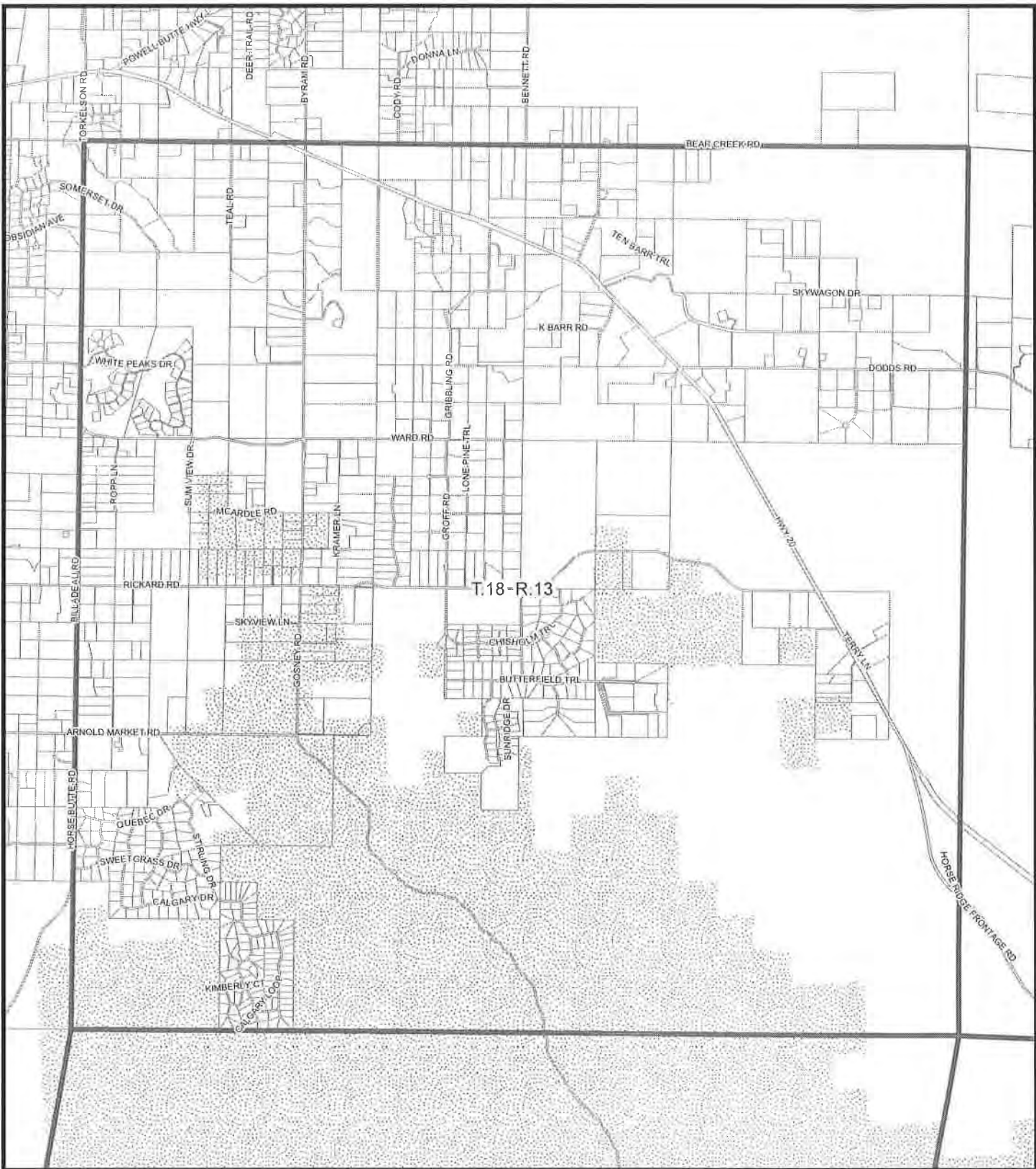
## Chapter 23.01 COMPREHENSIVE PLAN

### 23.01.010. Introduction.

- A. The Deschutes County Comprehensive Plan, adopted by the Board in Ordinance 2011-003 and found on the Deschutes County Community Development Department website, is incorporated by reference herein.
- B. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2011-027, are incorporated by reference herein.
- C. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-005, are incorporated by reference herein.
- D. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-012, are incorporated by reference herein.
- E. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2012-016, are incorporated by reference herein.
- F. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-002, are incorporated by reference herein.
- G. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-009, are incorporated by reference herein.
- H. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-012, are incorporated by reference herein.
- I. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2013-007, are incorporated by reference herein.
- J. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-005, are incorporated by reference herein.
- K. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-006, are incorporated by reference herein.
- L. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-012, are incorporated by reference herein.
- M. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-021, are incorporated by reference herein.
- N. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2014-027, are incorporated by reference herein.
- O. The Deschutes County Comprehensive Plan amendments, adopted by the Board in Ordinance 2015-010, are incorporated by reference herein.

(Ord. 2015-010 §1, 2015; Ord. 2014-27 §1, 2014; Ord. 2014-121 §1, 2014; Ord. 2014-12 §1, 2014; Ord. 2014-006 §2, 2014; Ord. 2014-005 §2, 2014; Ord. 2013-012 §2, 2013; Ord. 2013-009 §2, 2013; Ord. 2013-007 §1, 2013; Ord. 2013-002 §1, 2013; Ord. 2013-001 §1, 2013; Ord. 2012-016 §1, 2012; Ord. 2012-013 §1, 2012; Ord. 2012-005 §1, 2012; Ord. 2011-027 §1 through 12, 2011; Ord. 2011-017 repealed; Ord. 2011-003 §3, 2011)

Click here to be directed to the Comprehensive Plan (<http://www.deschutes.org/compplan>)



**Legend**

- Sage Grouse Lek Site
- ▤ Unincorporated Community
- ▭ Sage Grouse Map Index
- Sage Grouse Habitat Area**
- Core Area
- Low Density
- General Area

**Sage Grouse Greater Habitat Area**

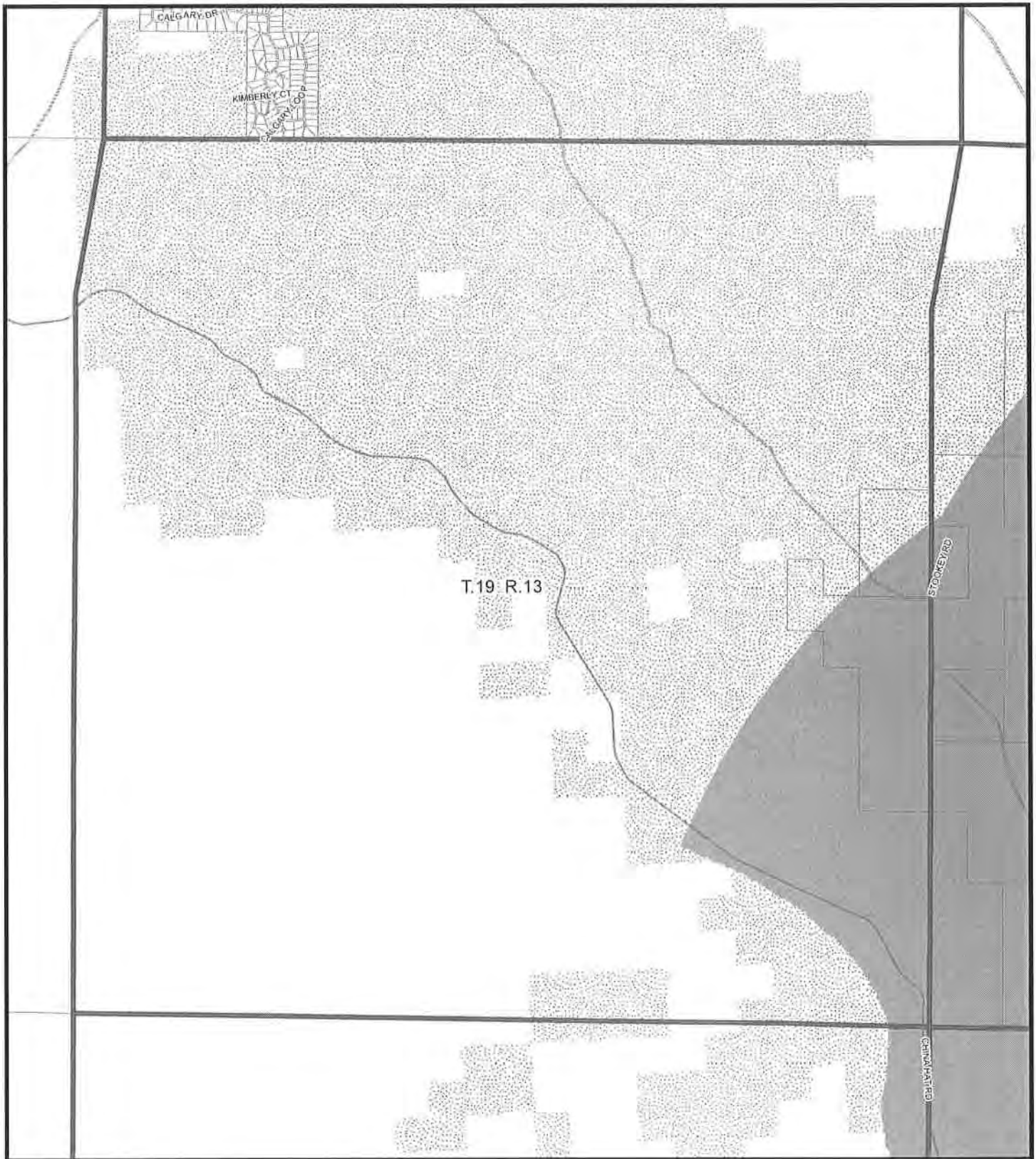
Exhibit B - Map 1 of 26  
to Ordinance 2015-010



August 21, 2015



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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

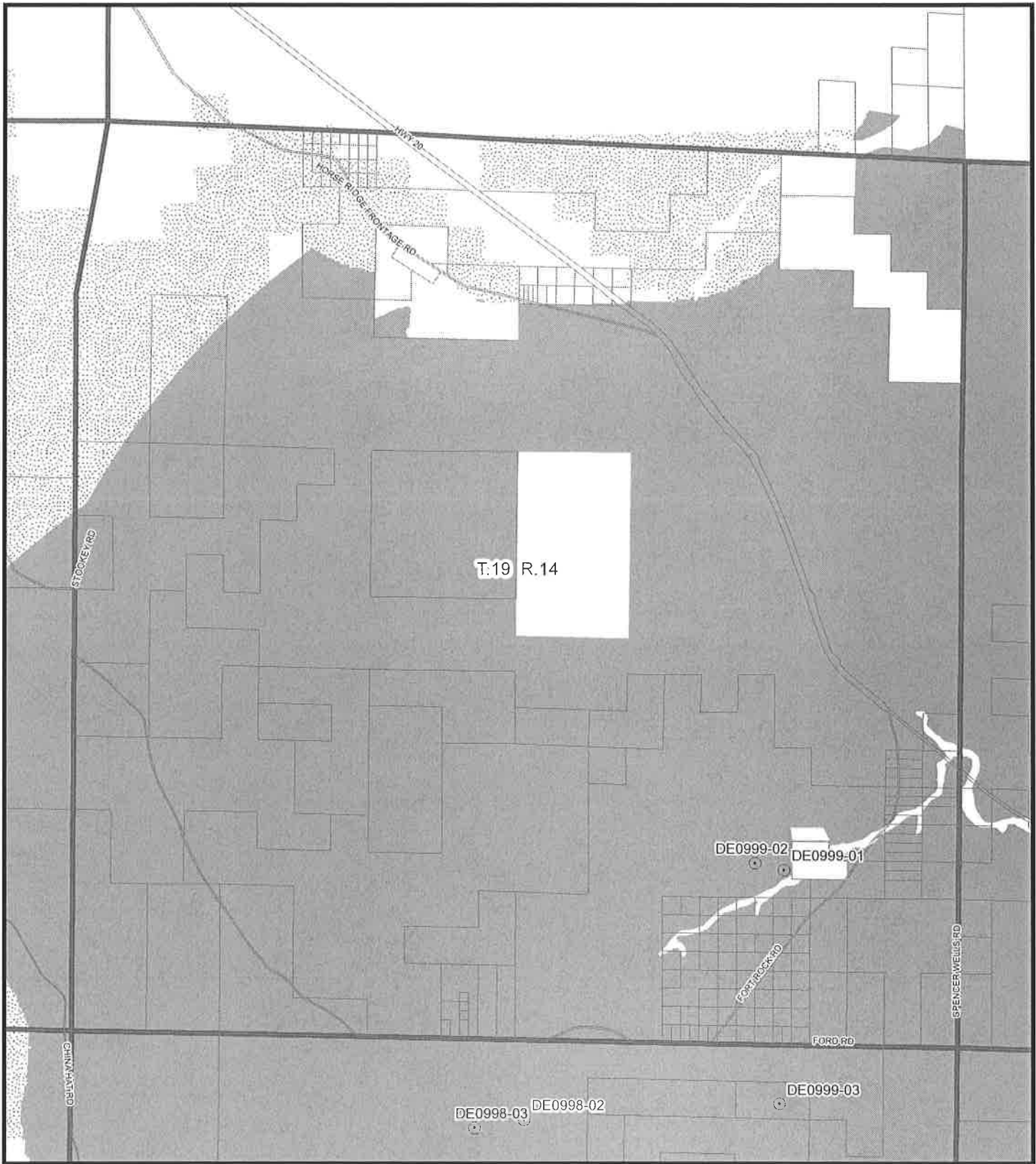
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

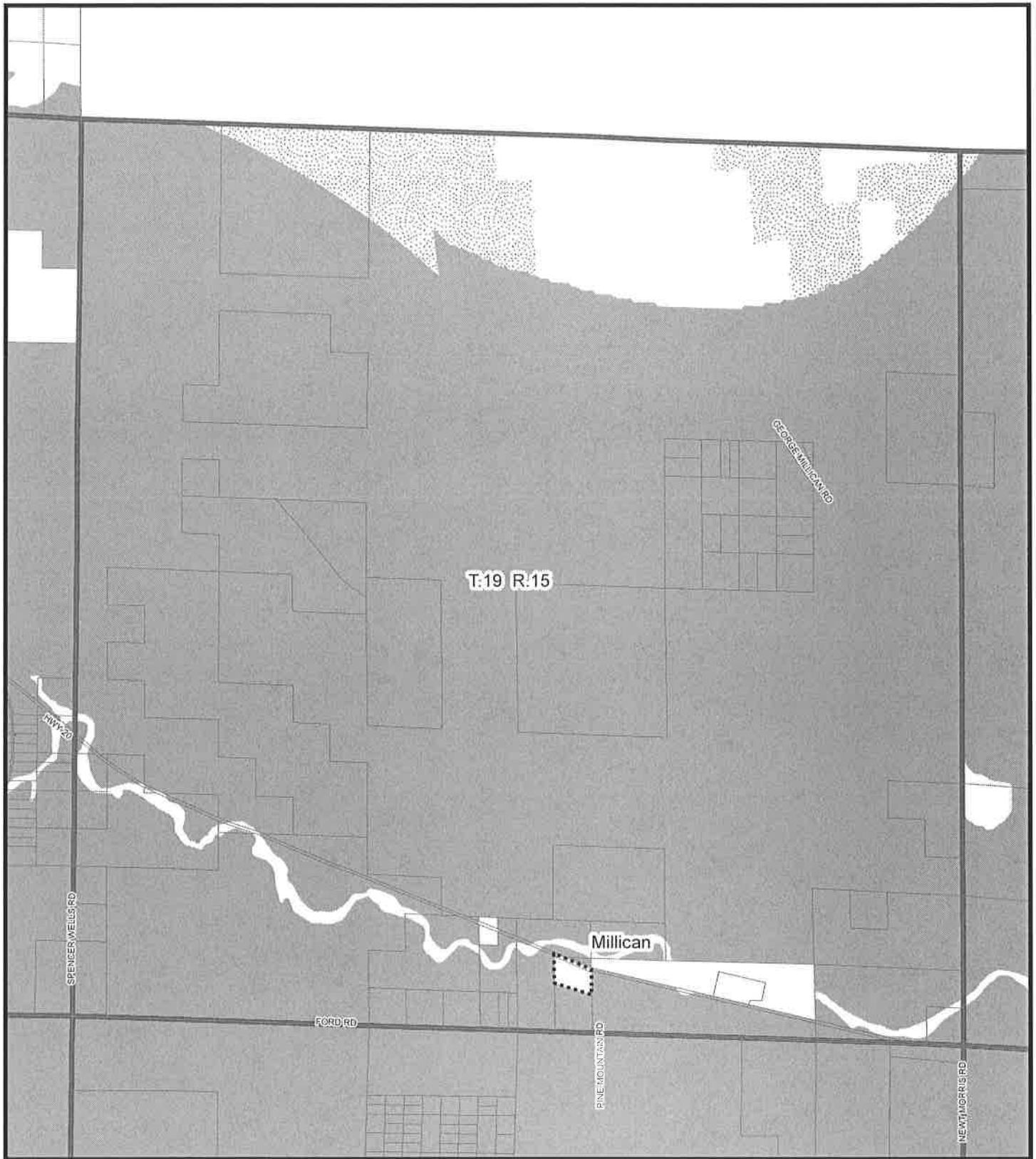
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

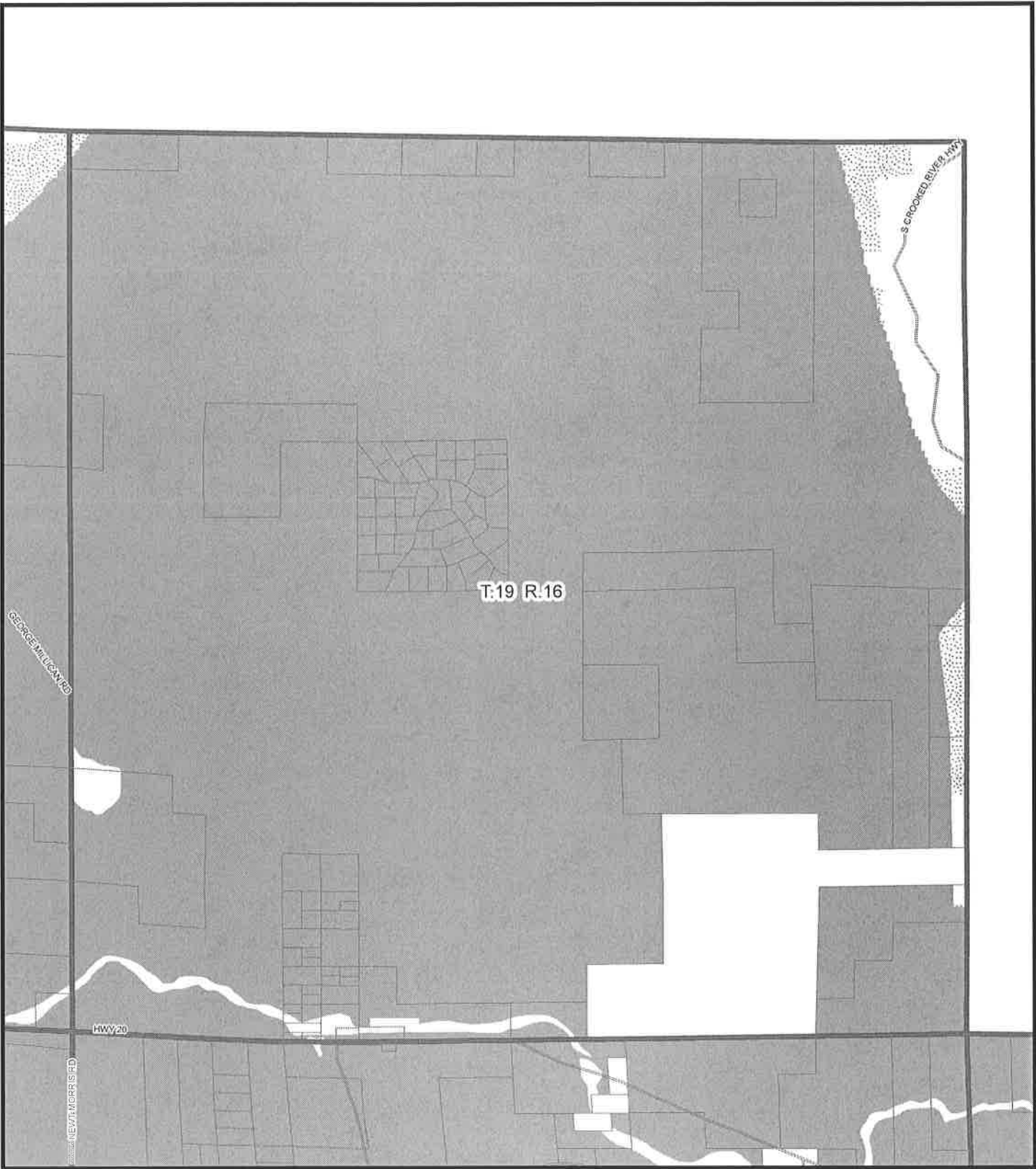
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
- Core Area
- Low Density
- General Area

**Sage Grouse Greater Habitat Area**

Exhibit B - Map 5 of 26  
to Ordinance 2015-010

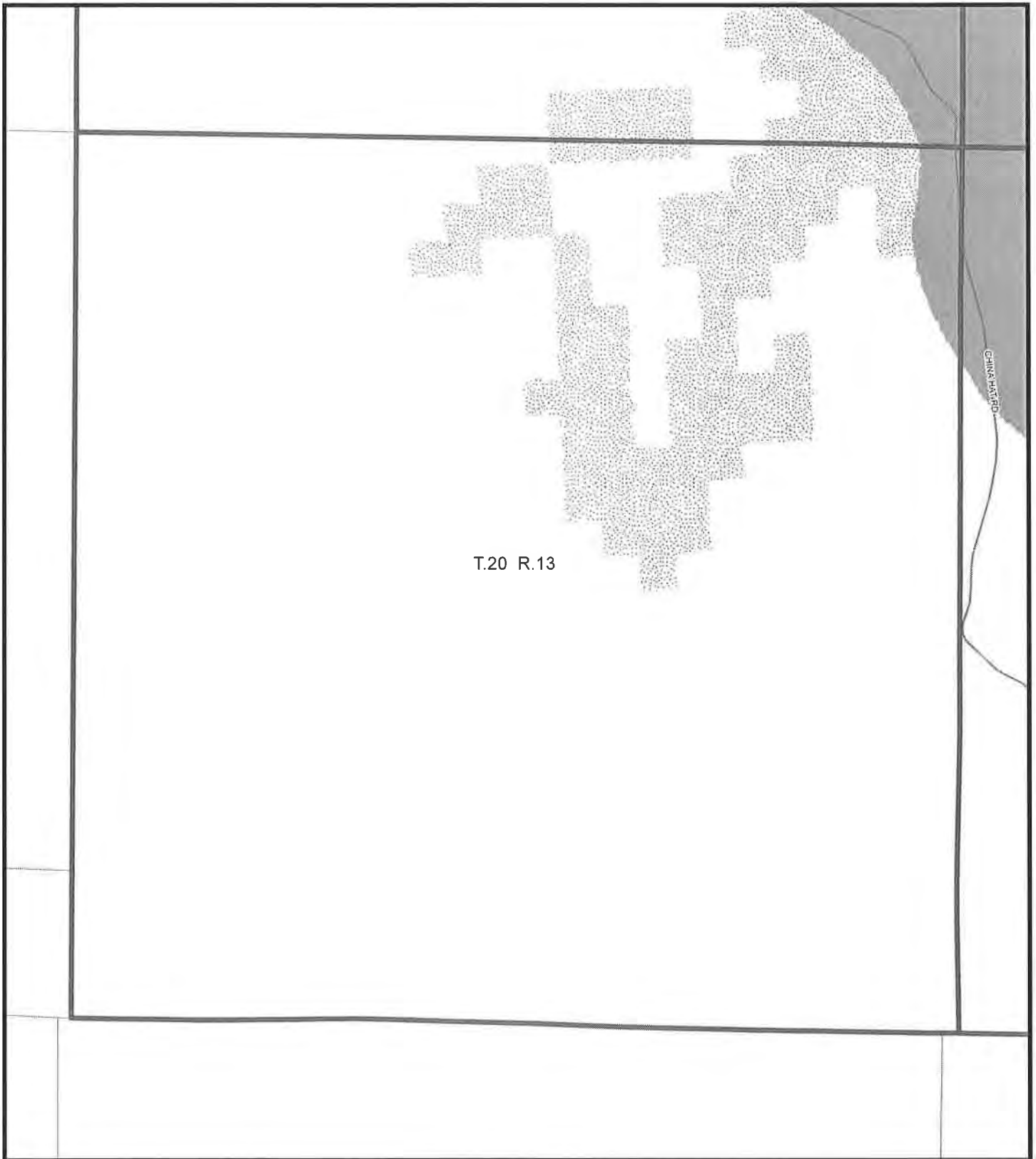


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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

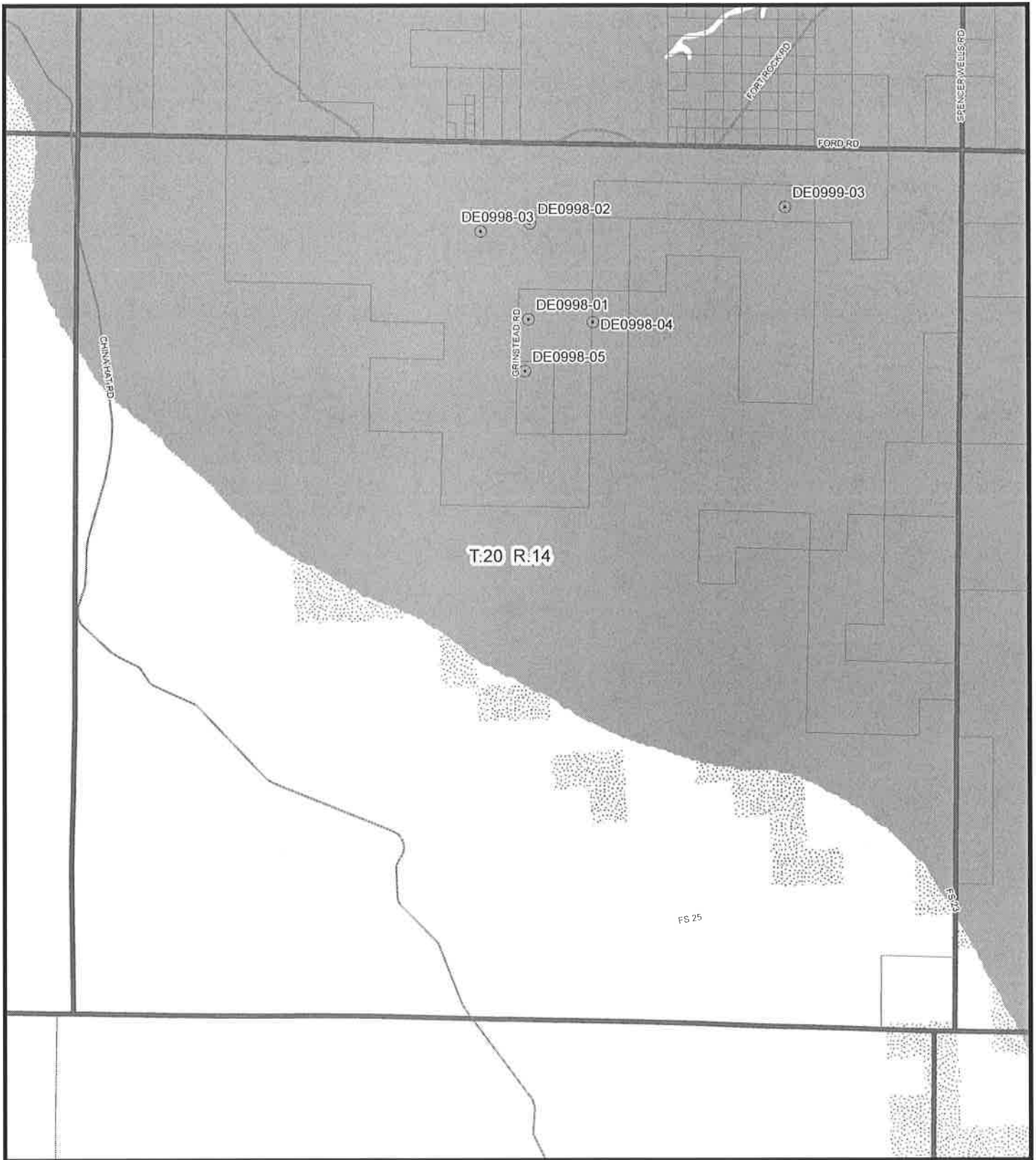
Exhibit B - Map 6 of 26  
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## Sage Grouse Greater Habitat Area

Exhibit B - Map 7 of 26  
to Ordinance 2015-010

### Legend

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area



August 21, 2015



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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

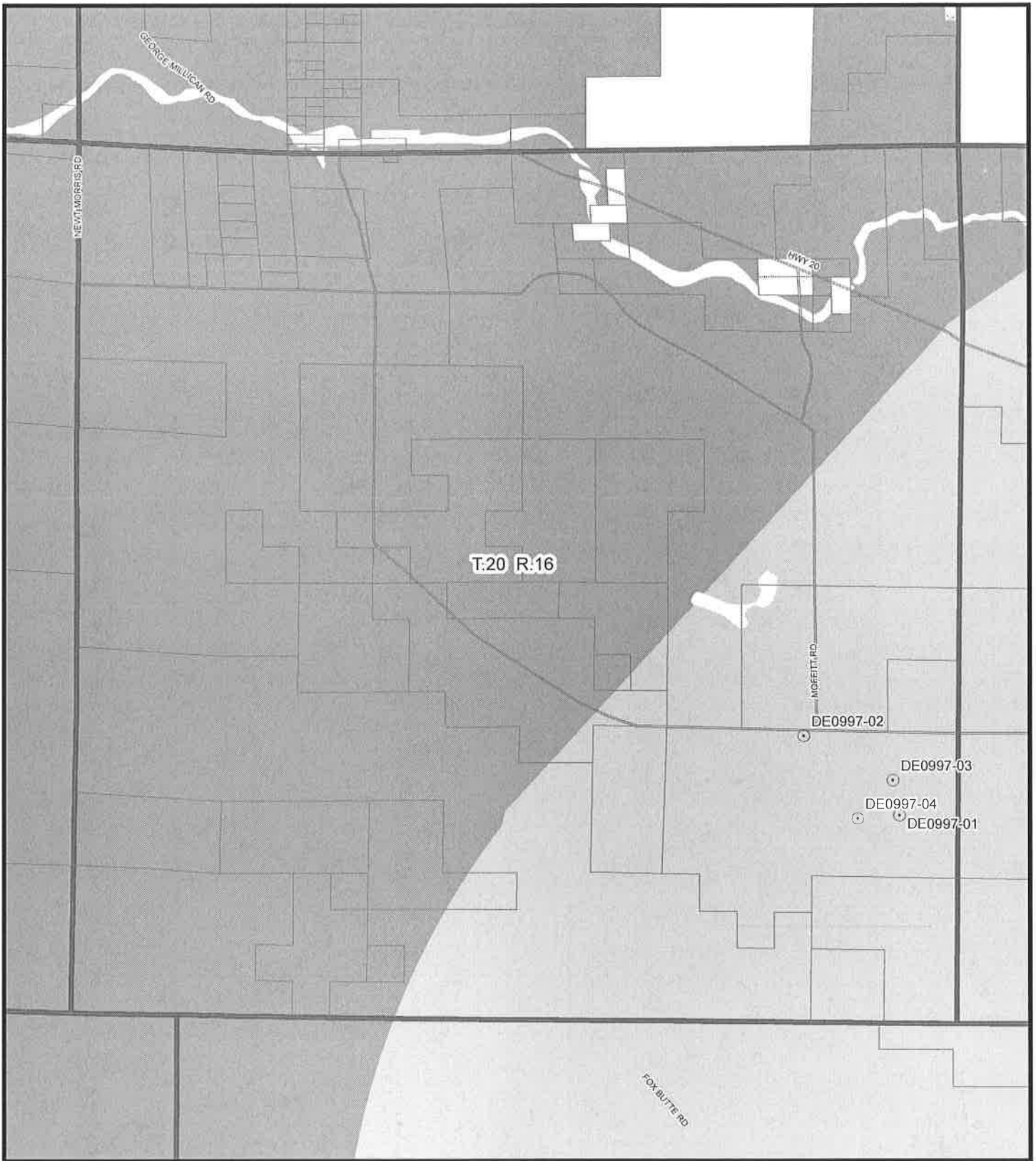
Exhibit B - Map 8 of 26  
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

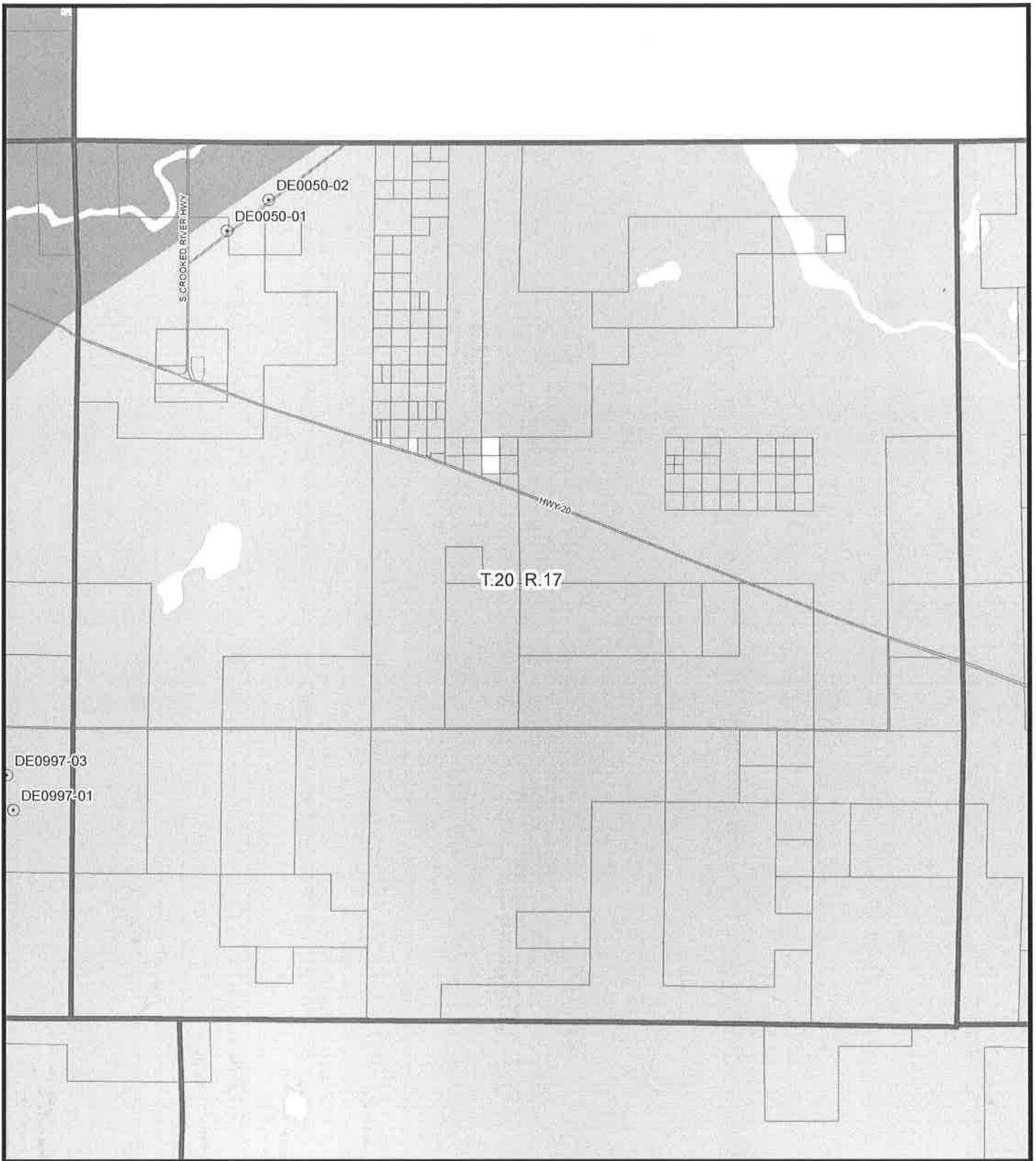
Exhibit B - Map 9 of 26  
to Ordinance 2015-010








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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

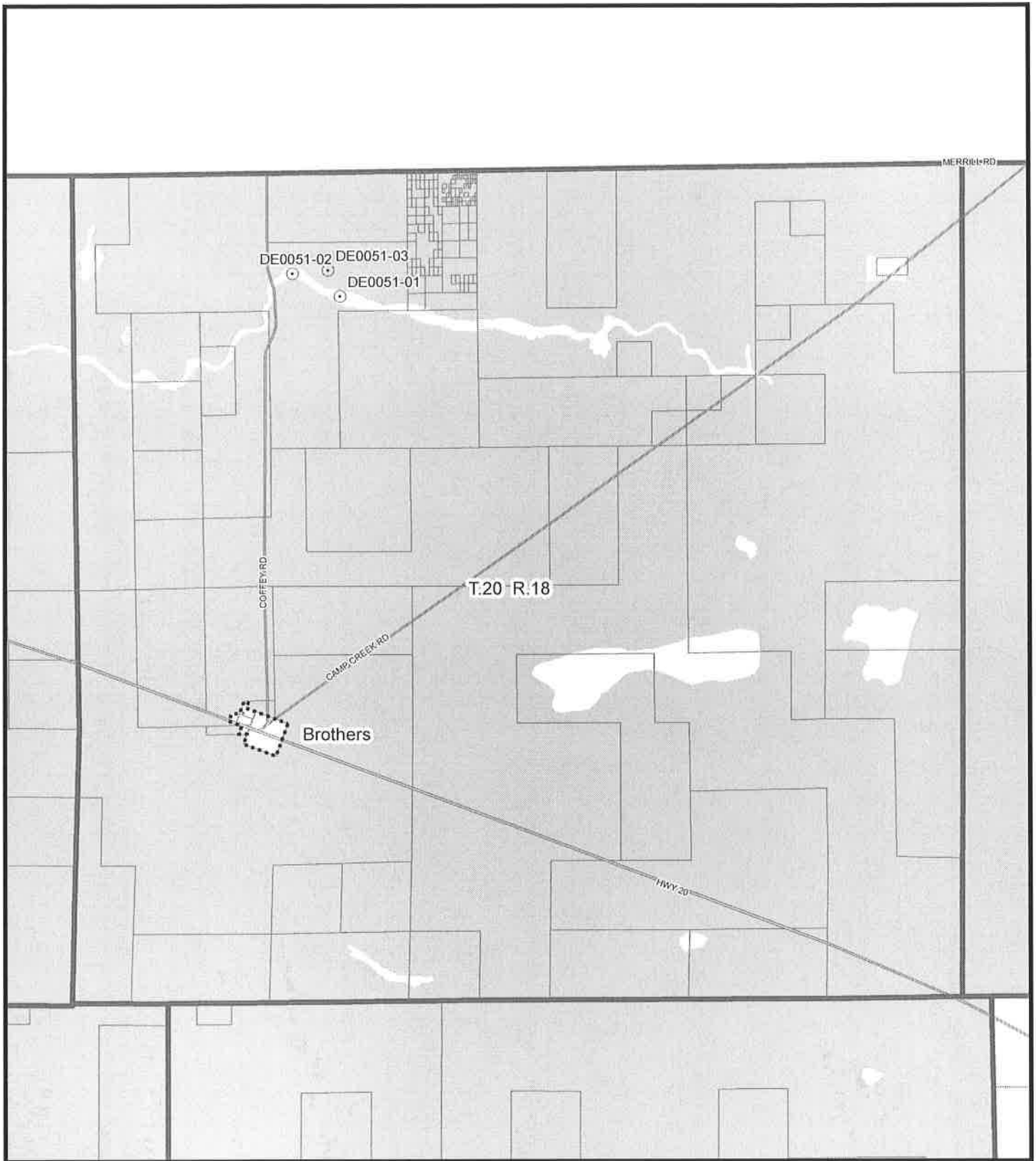
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

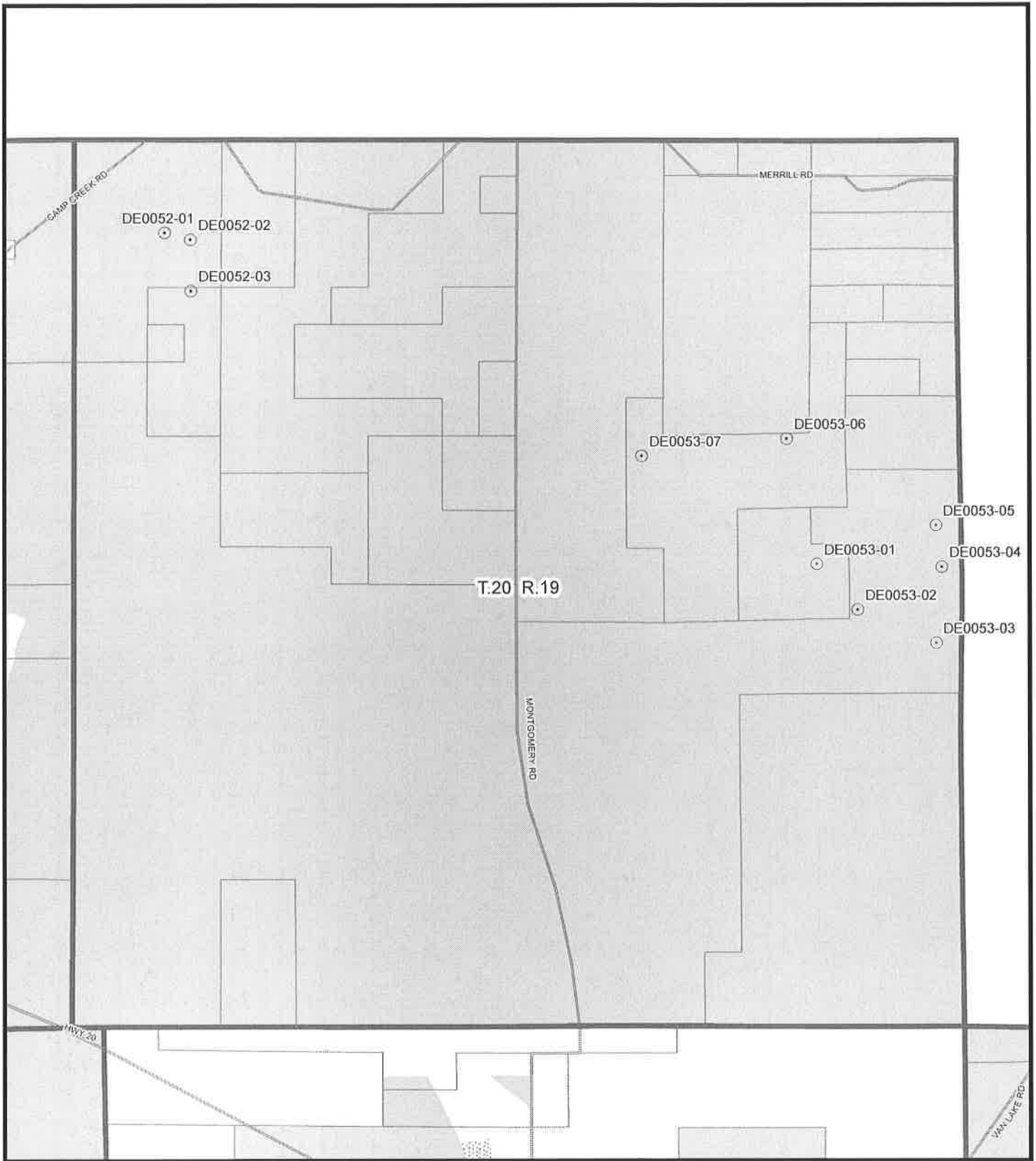
Exhibit B - Map 11 of 26  
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
- Core Area
- Low Density
- General Area

**Sage Grouse Greater Habitat Area**

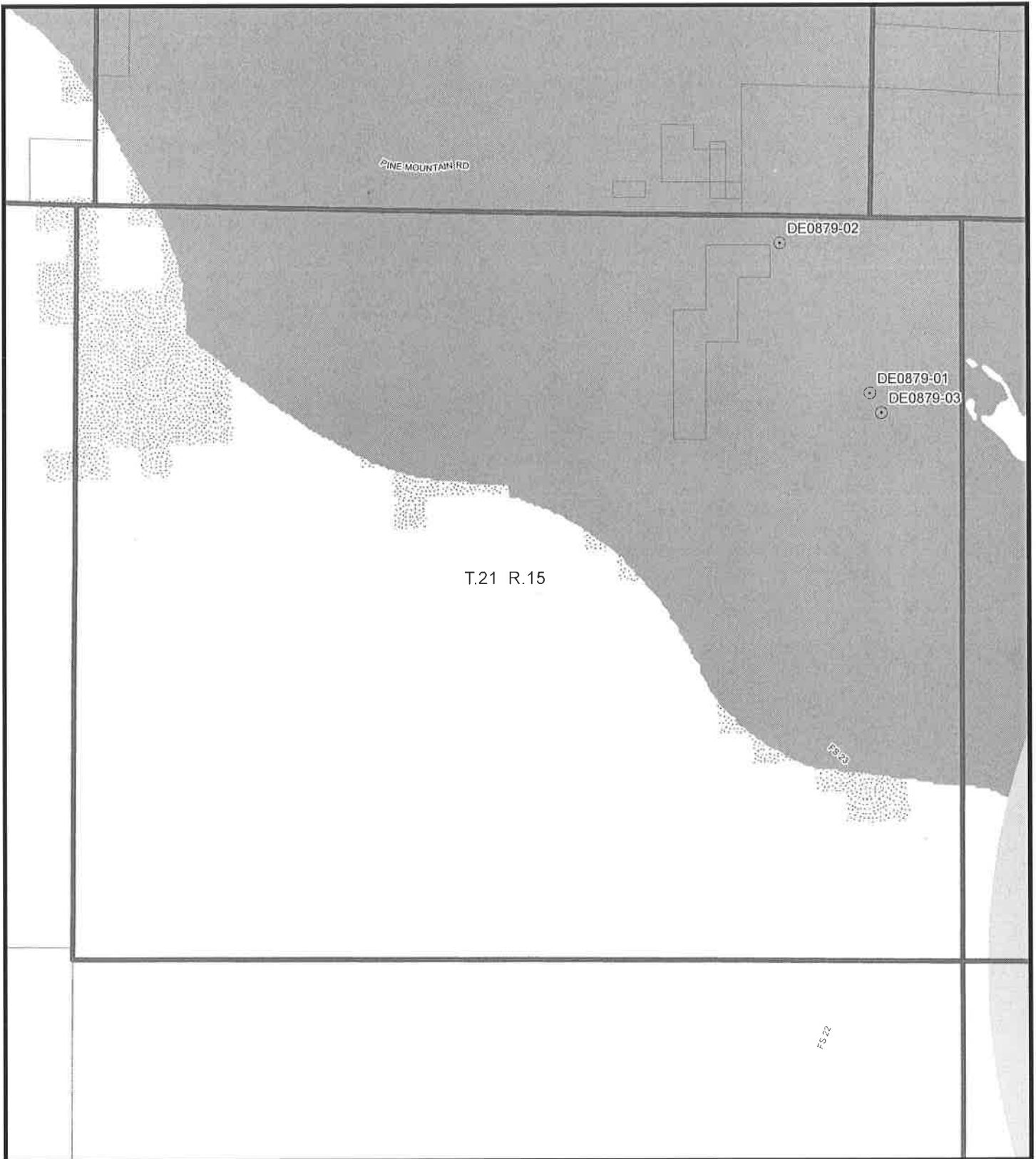
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

Exhibit B - Map 13 of 26  
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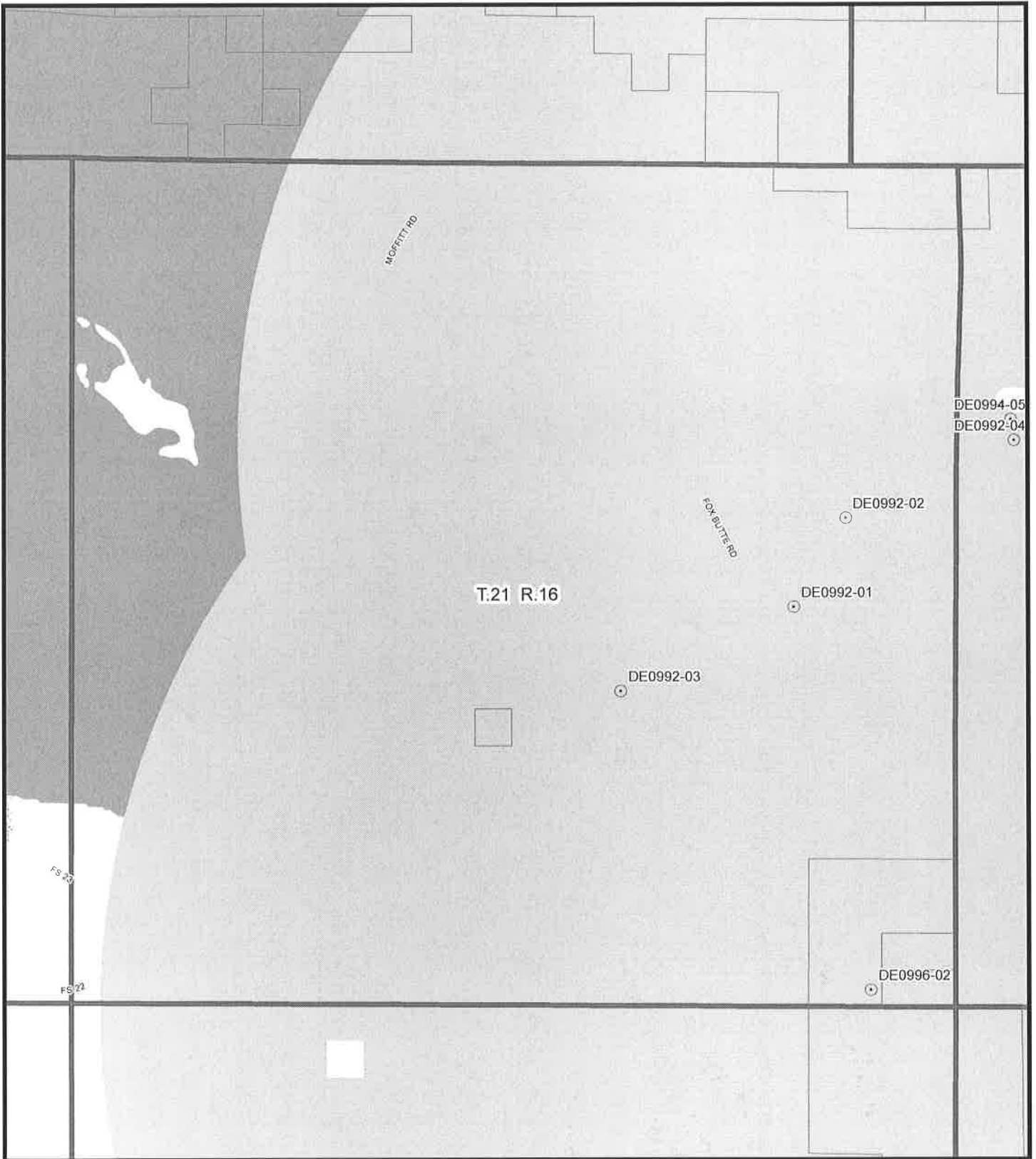


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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
- Core Area
- Low Density
- General Area

**Sage Grouse Greater Habitat Area**

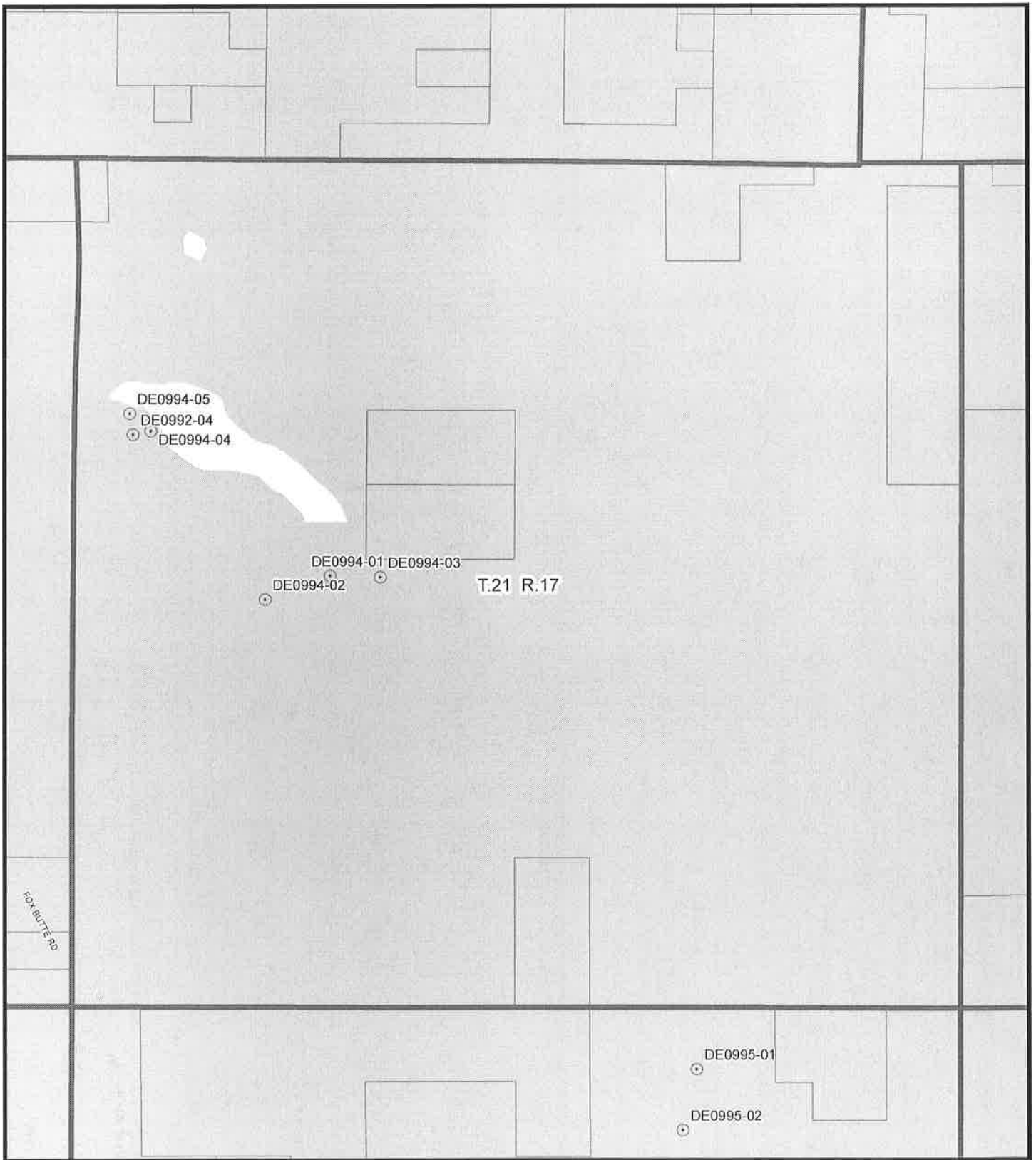
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

## Sage Grouse Greater Habitat Area

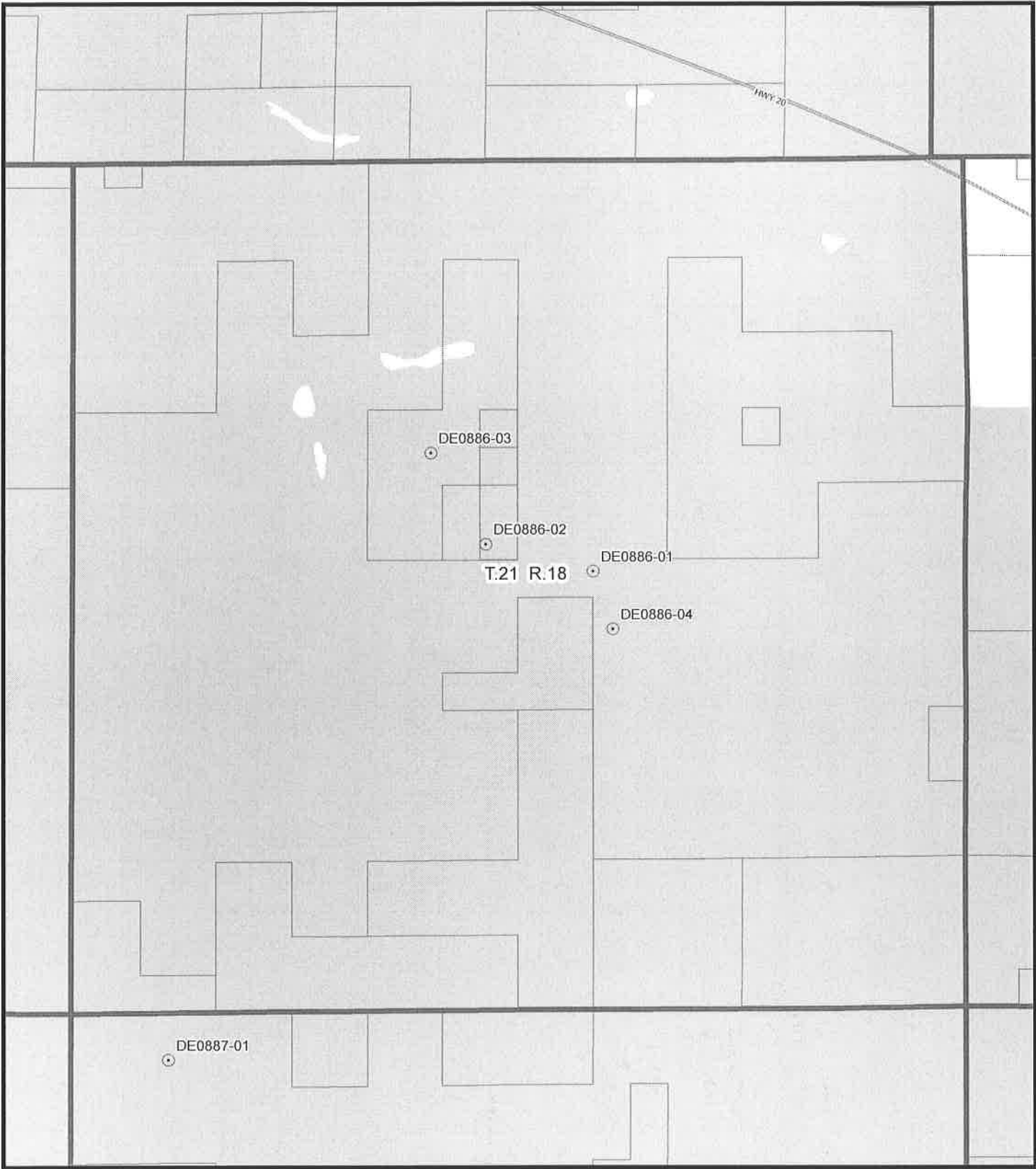
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
- Core Area
- Low Density
- General Area

**Sage Grouse Greater Habitat Area**

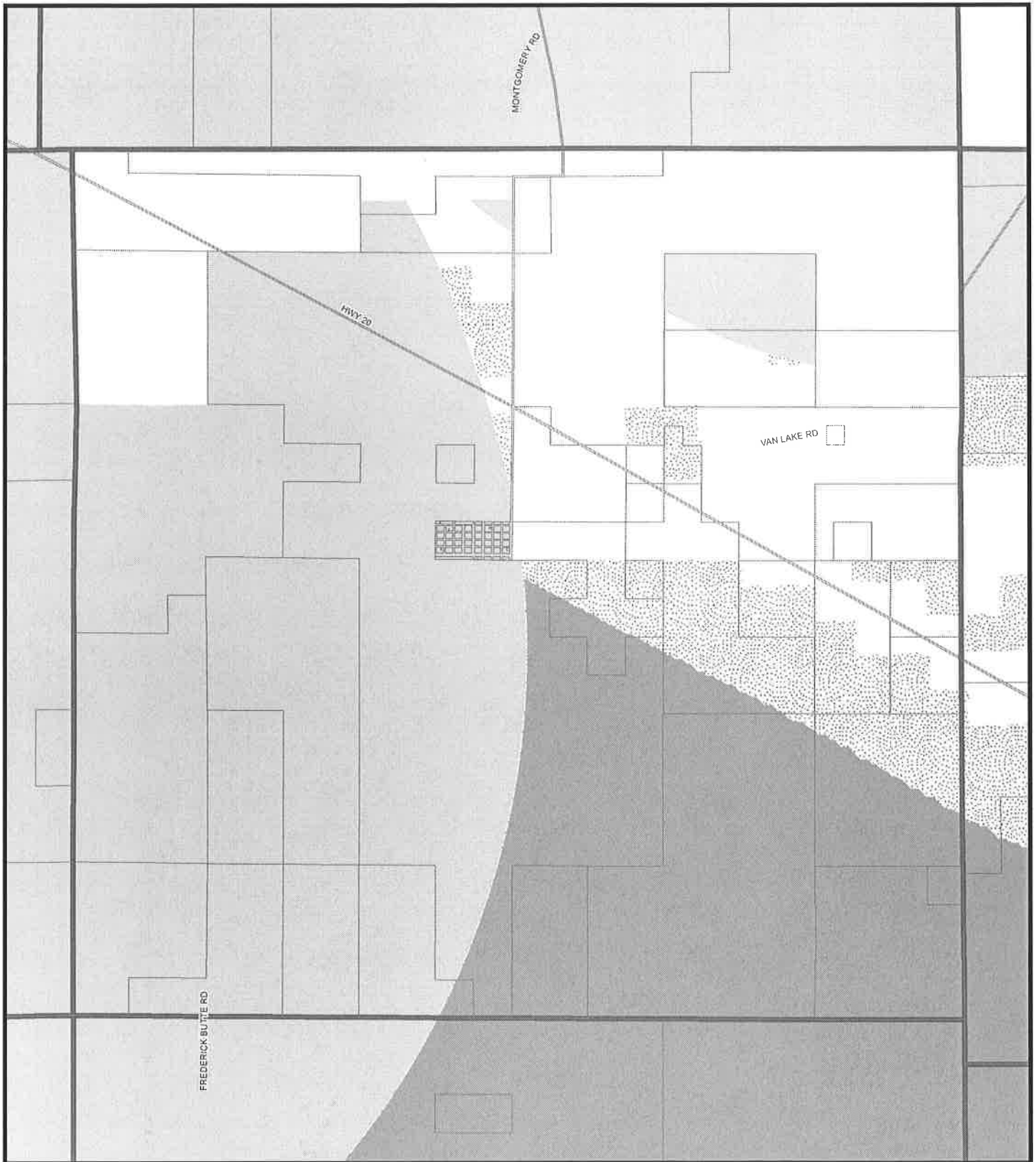
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

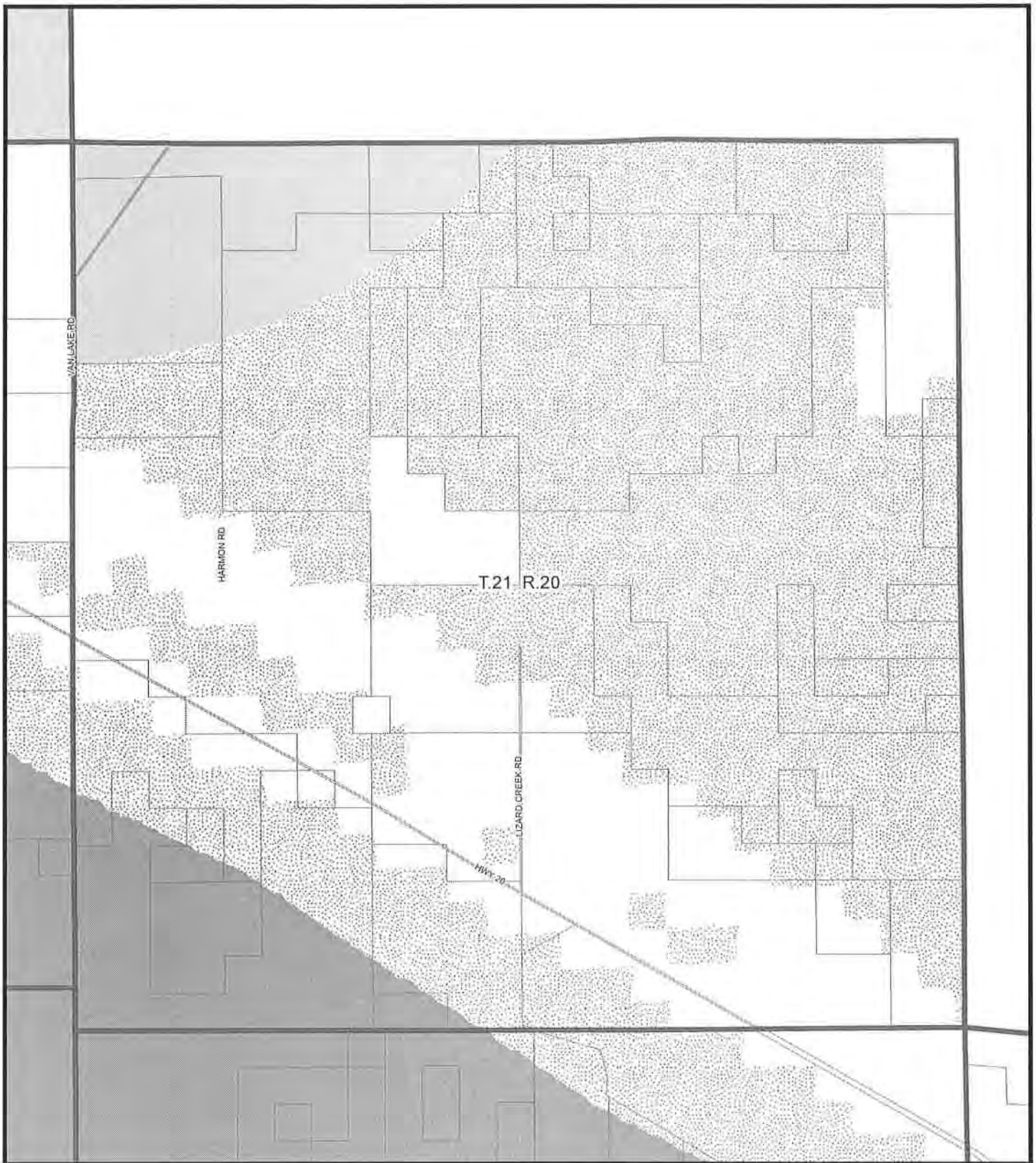
Exhibit B - Map 17 of 26  
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
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## Sage Grouse Greater Habitat Area

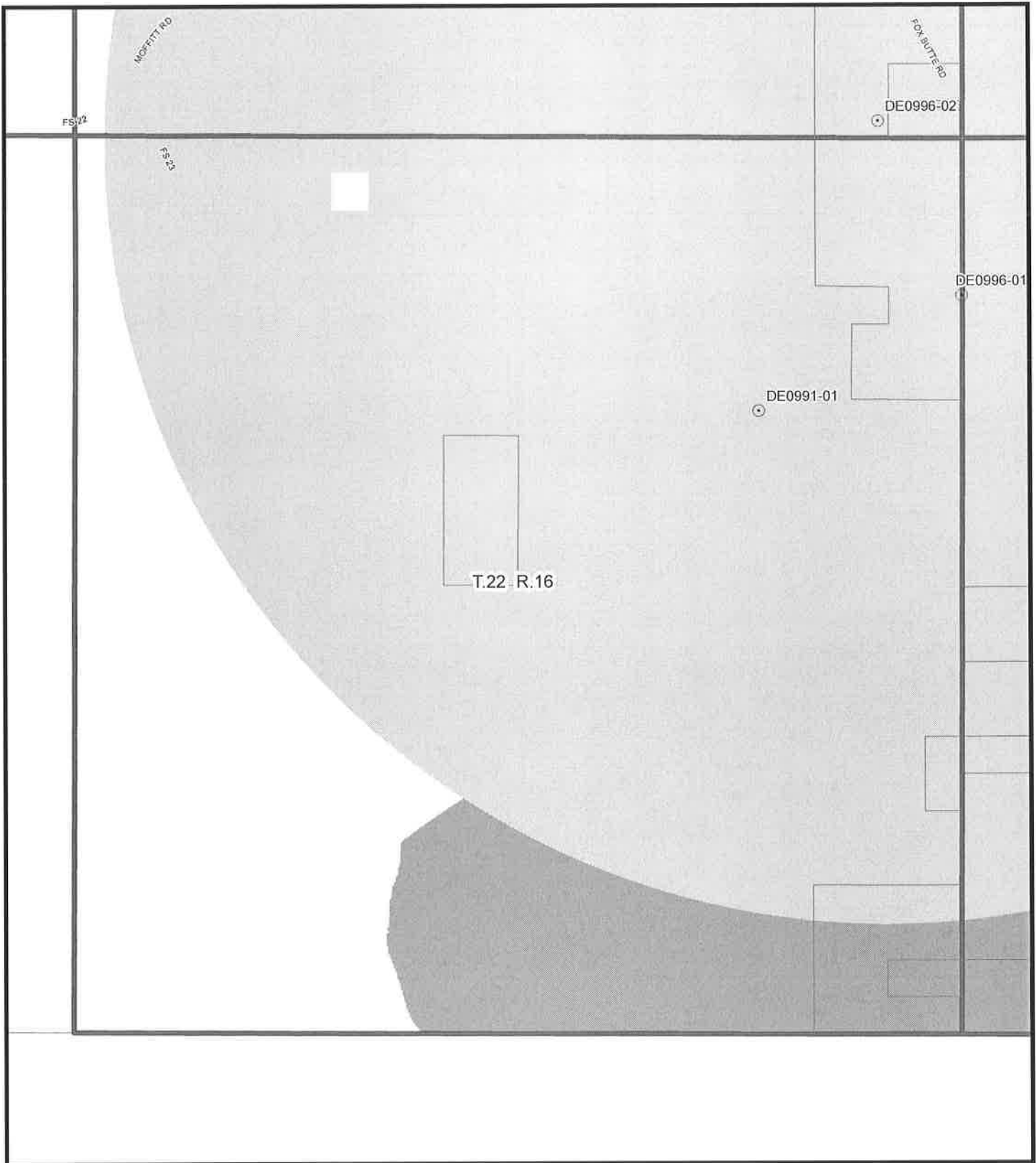
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

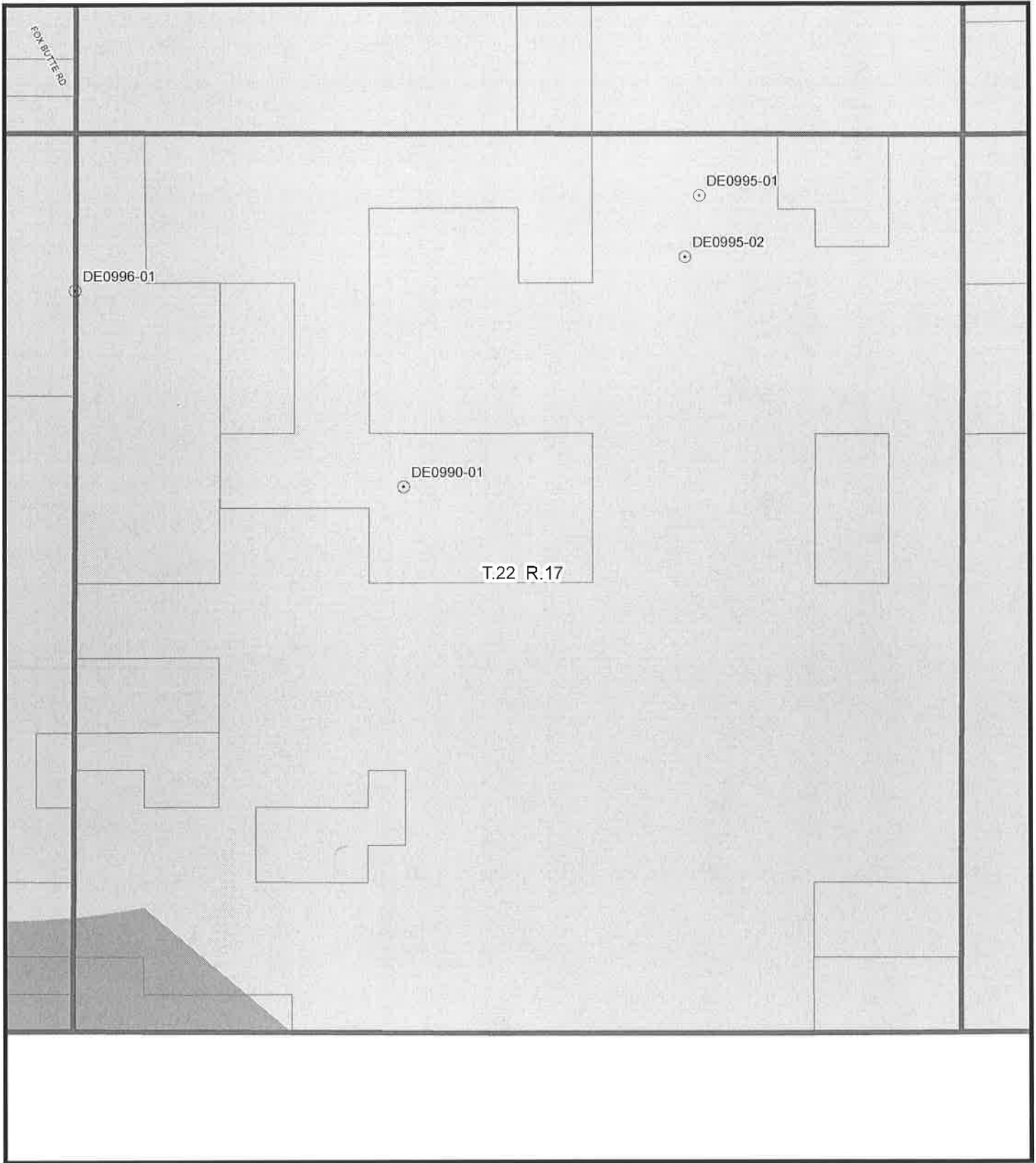
Exhibit B - Map 19 of 26  
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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

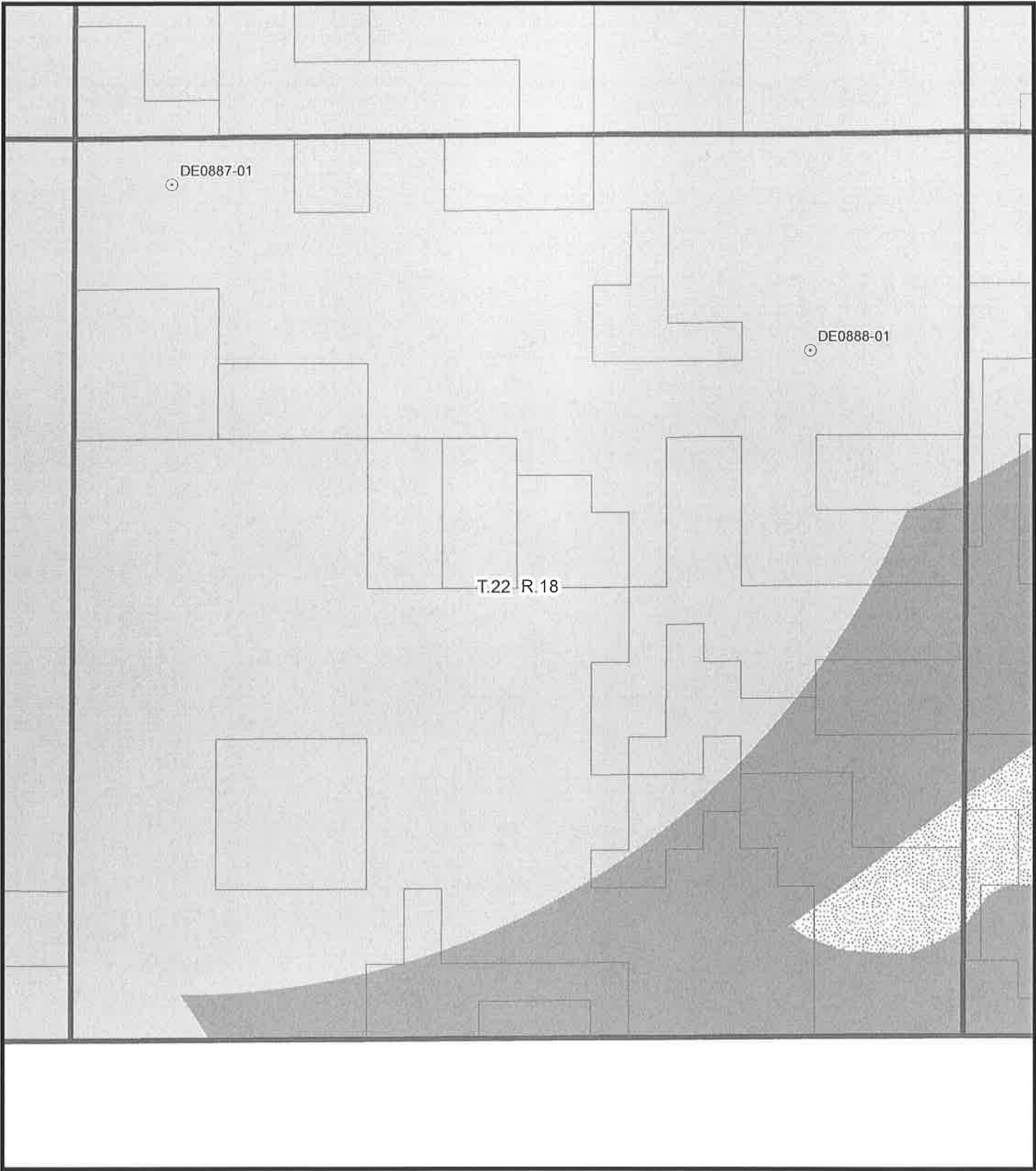
Exhibit B - Map 20 of 26  
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**Legend**

- Sage Grouse Lek Site
- Unincorporated Community
- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

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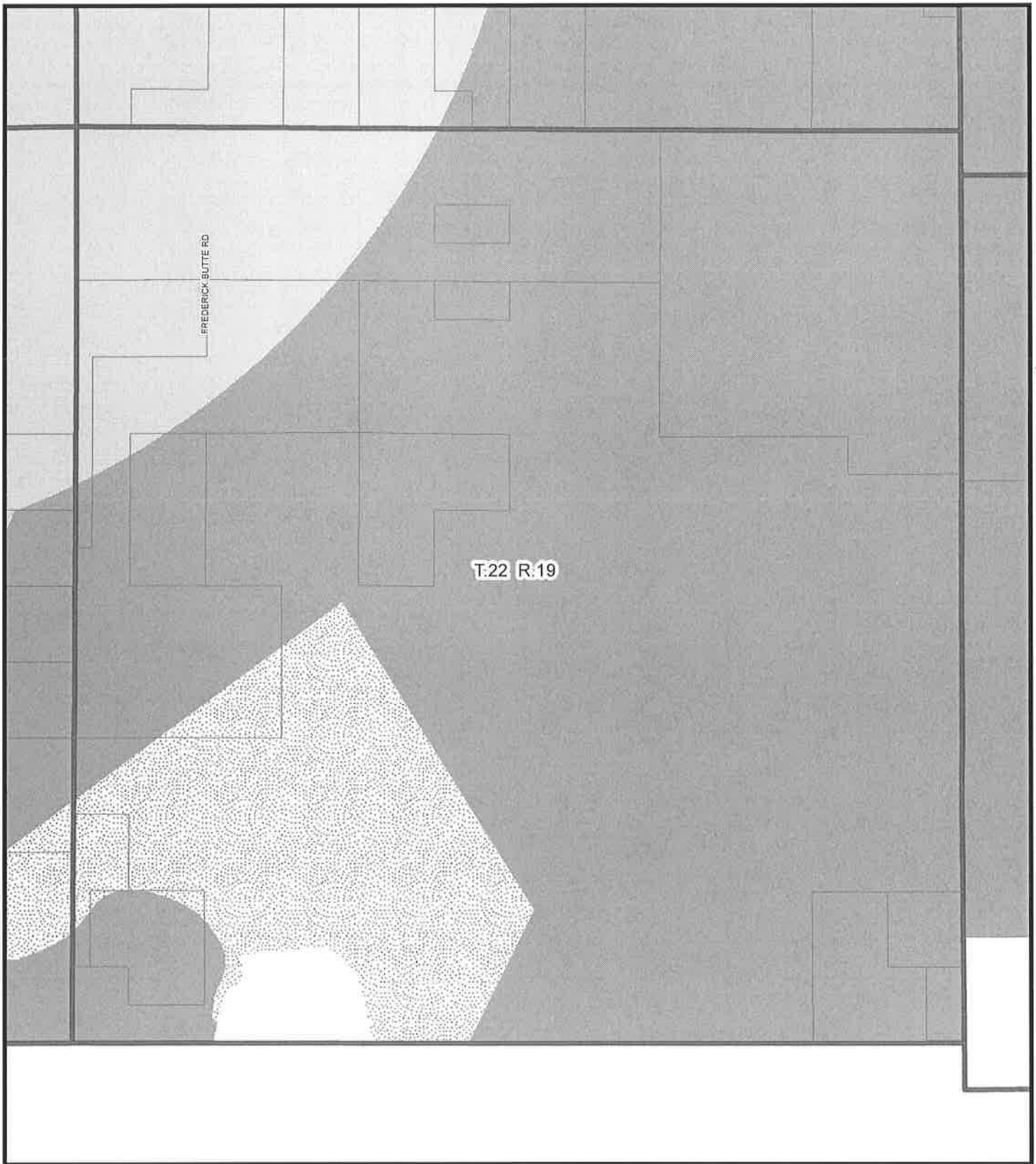


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**Legend**

- Sage Grouse Lek Site
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- Sage Grouse Map Index
- Sage Grouse Habitat Area**
  - Core Area
  - Low Density
  - General Area

**Sage Grouse Greater Habitat Area**

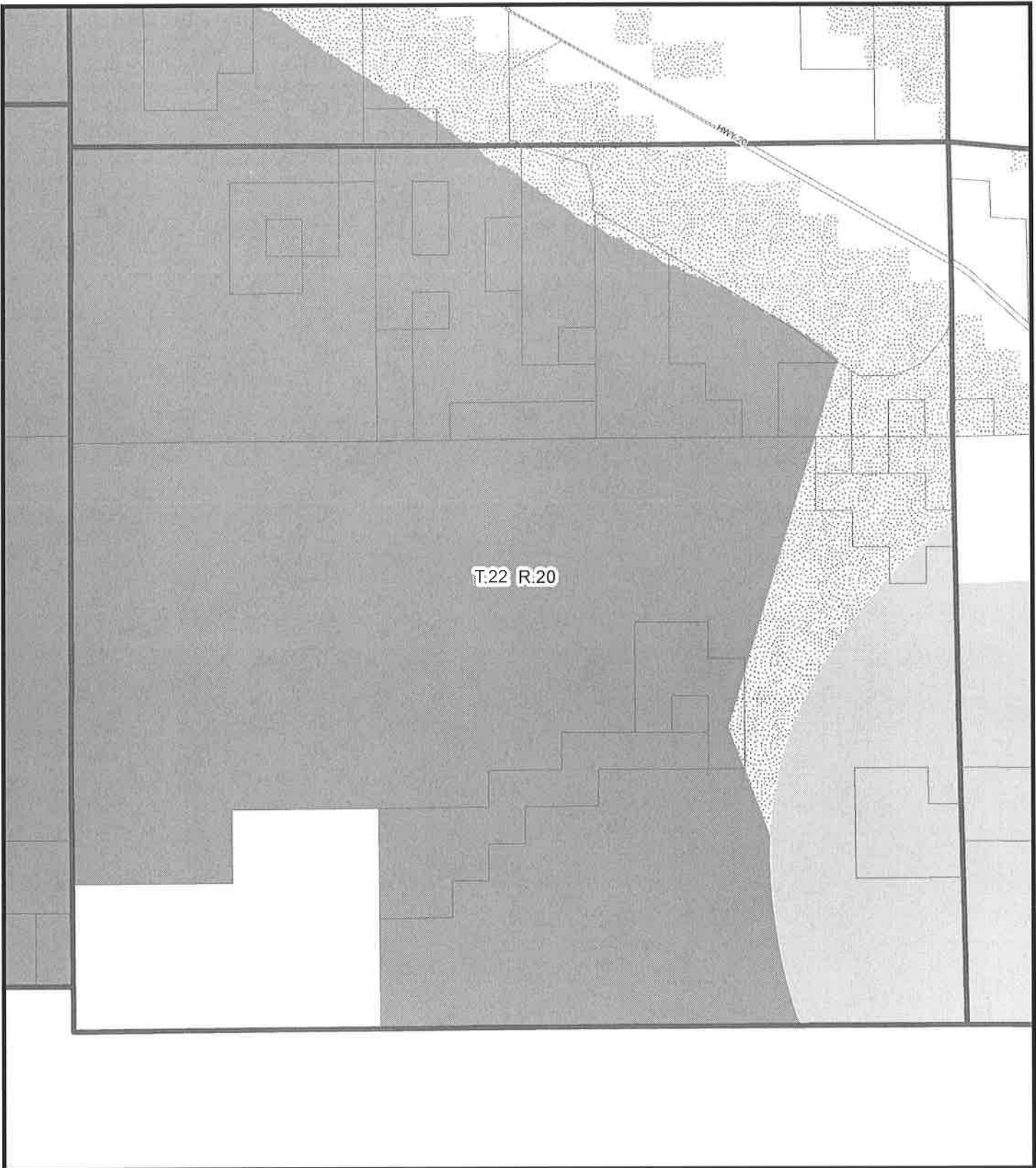
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T.22 R.20

**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

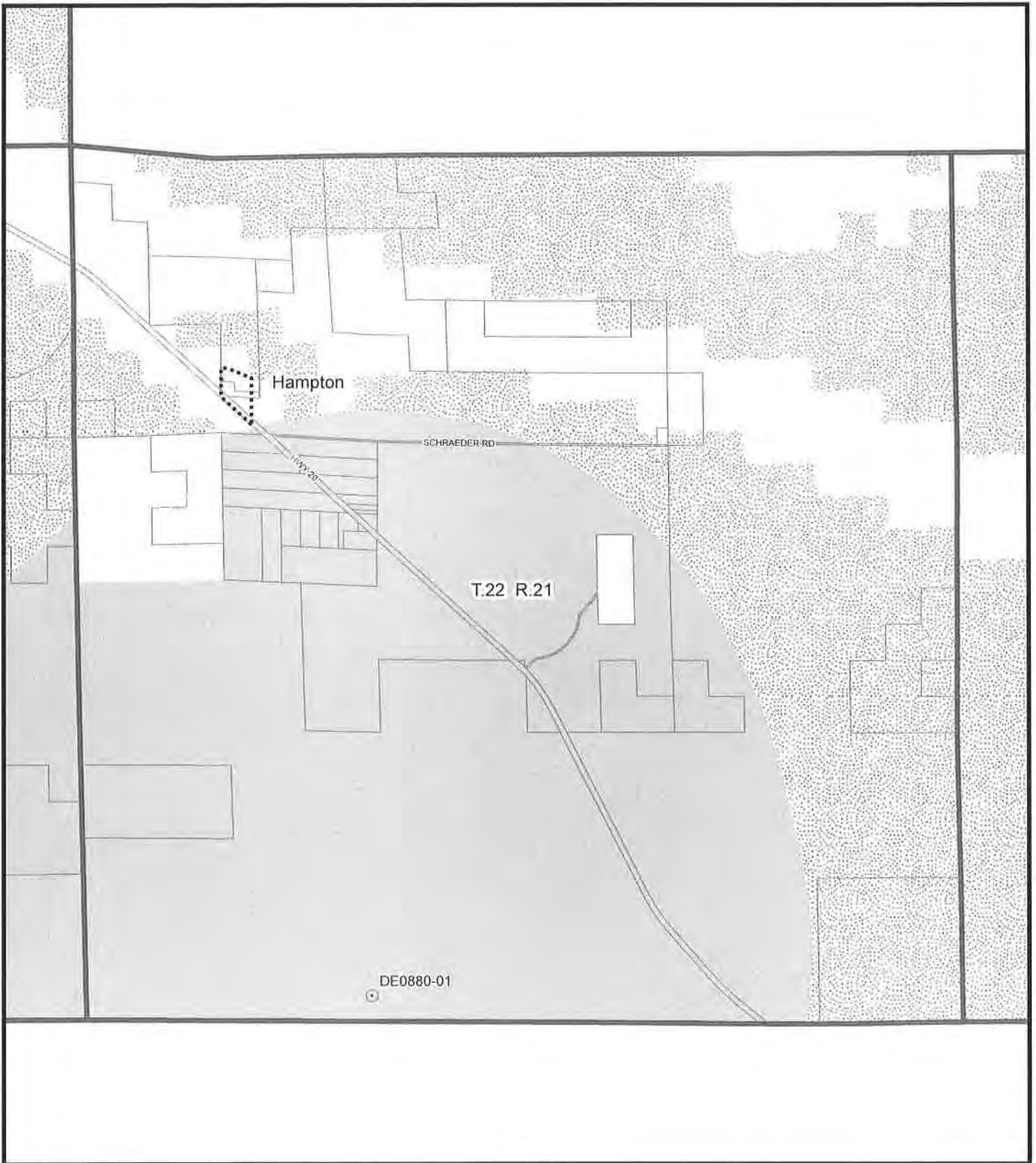
Exhibit B - Map 23 of 26  
to Ordinance 2015-010









August 21, 2015



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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

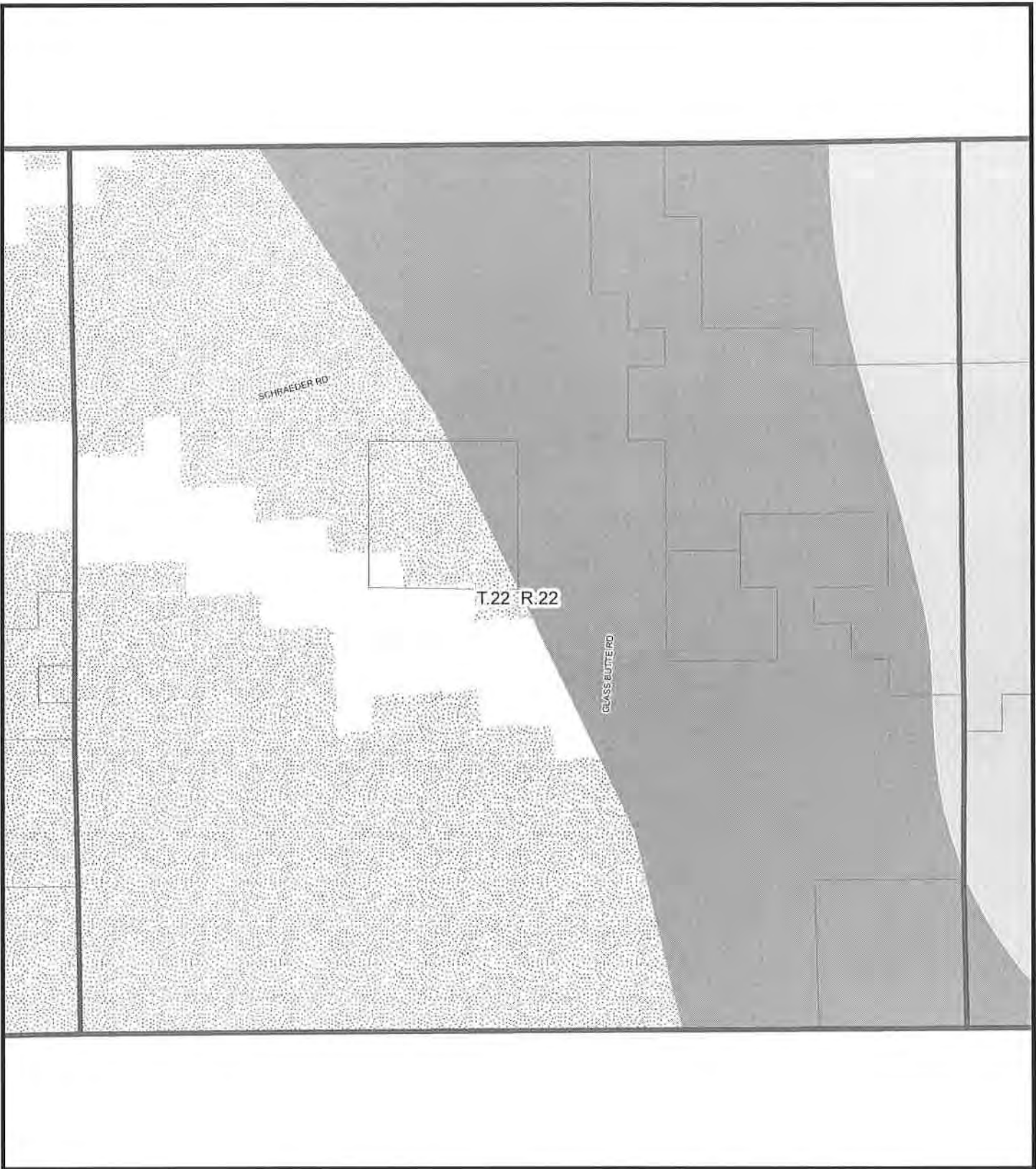
Exhibit B - Map 24 of 26  
to Ordinance 2015-010









August 21, 2015



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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

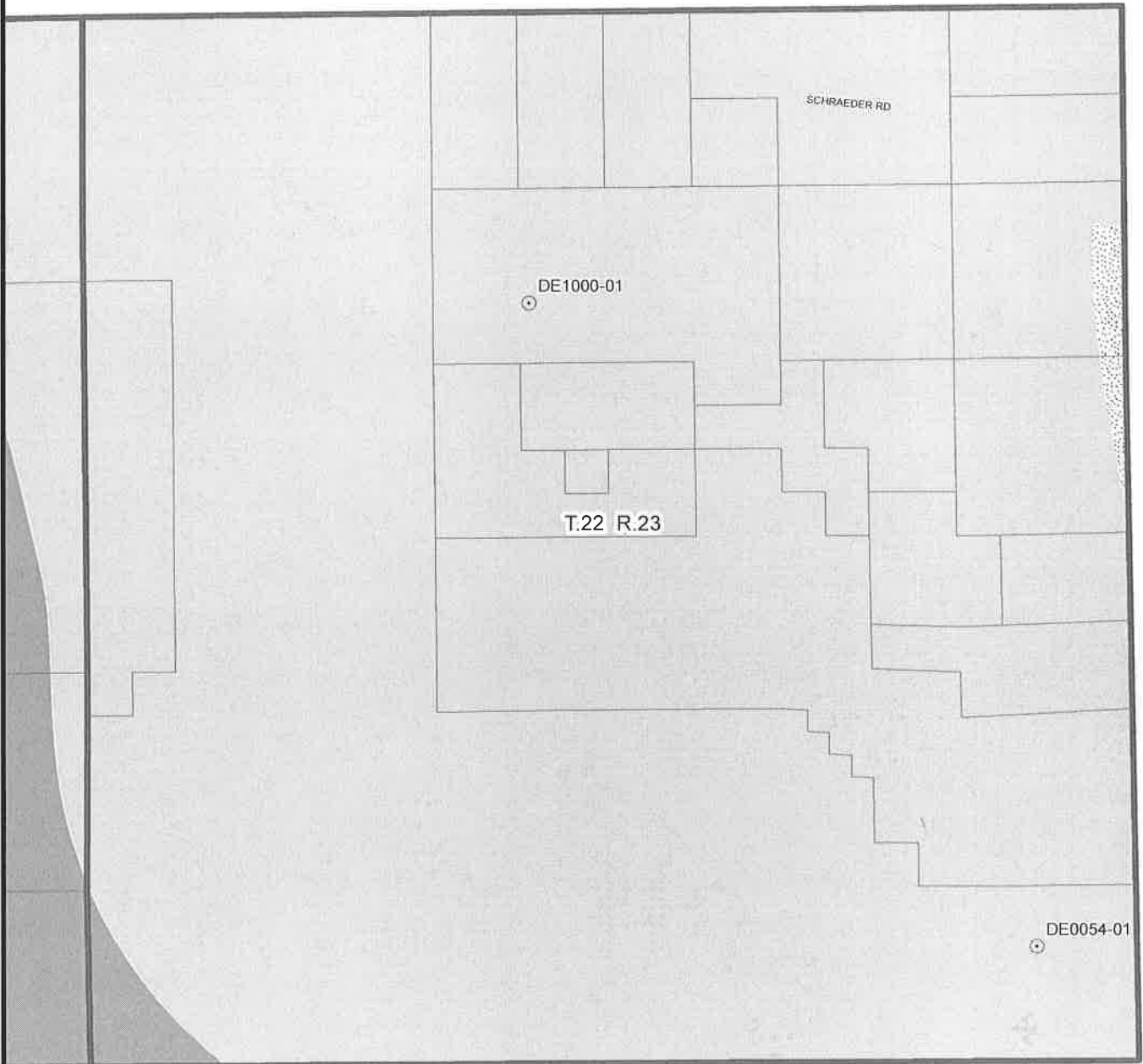
Exhibit B - Map 25 of 26  
to Ordinance 2015-010




August 21, 2015



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**Legend**

-  Sage Grouse Lek Site
-  Unincorporated Community
-  Sage Grouse Map Index
- Sage Grouse Habitat Area**
-  Core Area
-  Low Density
-  General Area

**Sage Grouse Greater Habitat Area**

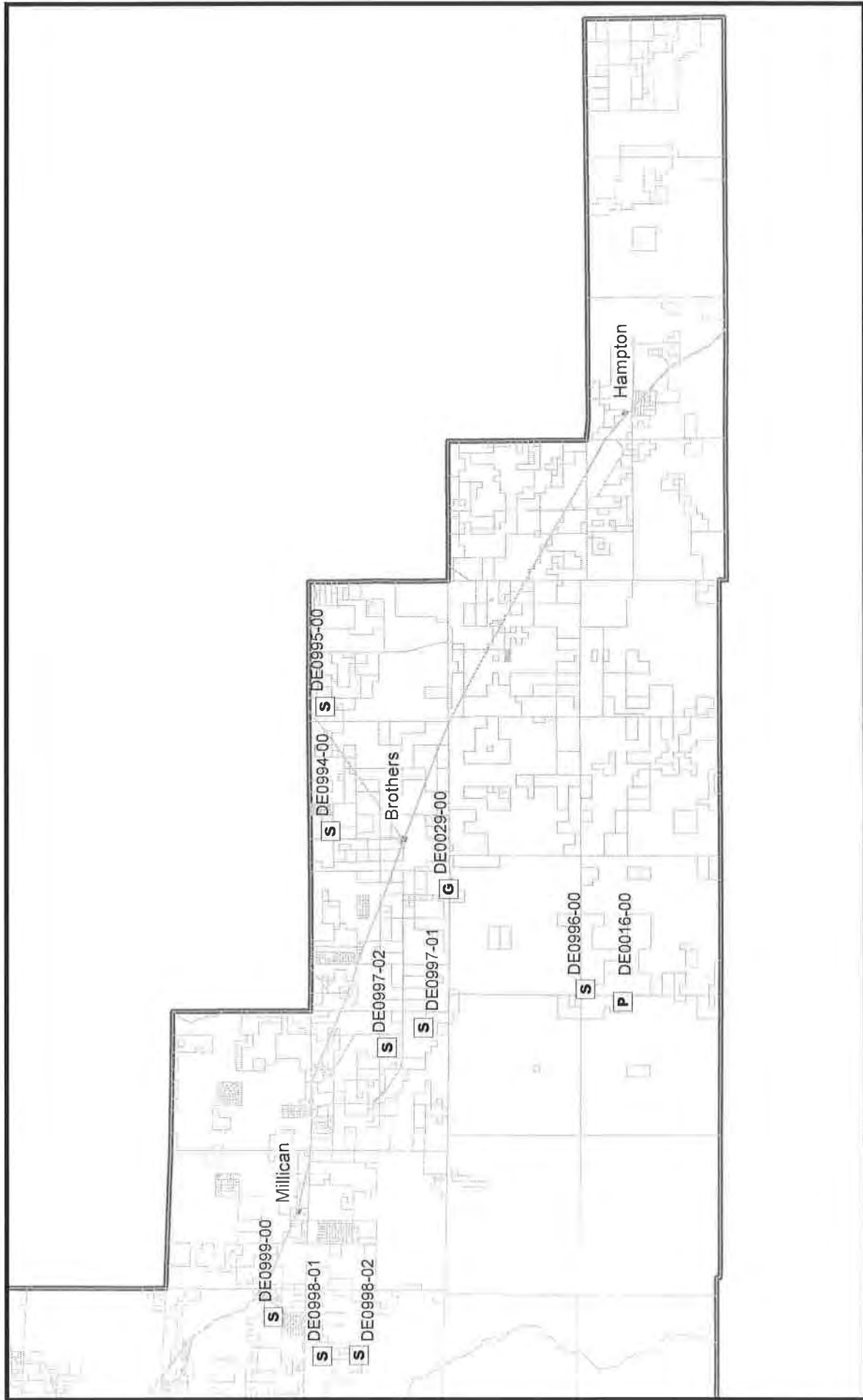
Exhibit B - Map 26 of 26  
to Ordinance 2015-010



August 21, 2015



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**Legend**

- S** Sage Grouse Lek
- G** Golden Eagle
- P** Prairie Falcon
- ▭** County Boundary
- ▭** Unincorporated Community

# Sensitive Bird and Mammal Habitat Inventory Amendment

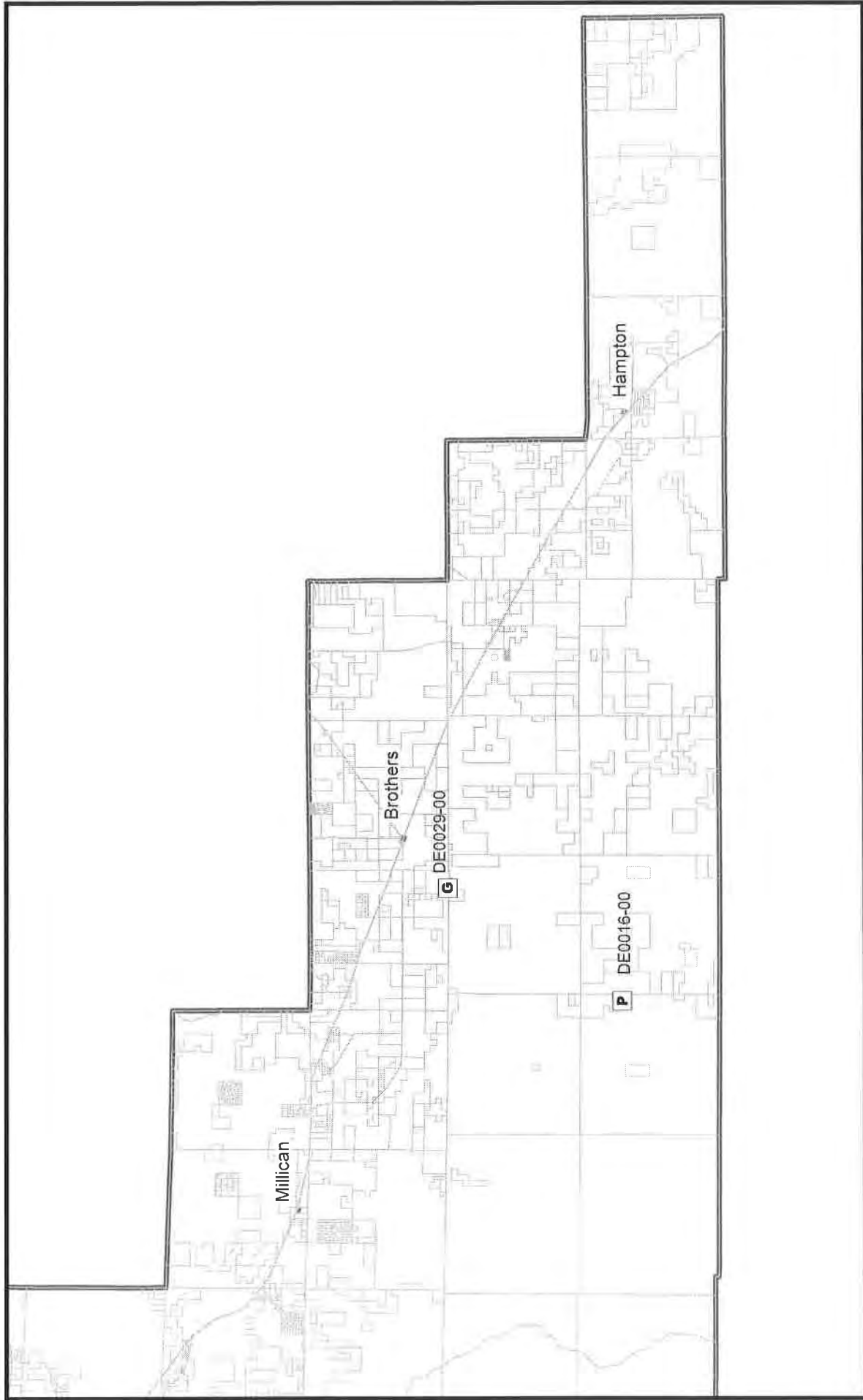
Exhibit C1 to Ordinance 2015-010



August 13, 2015



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**Legend**





-  Golden Eagle
-  Prairie Falcon
-  County Boundary
-  Unincorporated Community

Exhibit C2 to Ordinance 2015-010



August 13, 2015



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# Sensitive Bird and Mammal Habitat Inventory Amendment

# Section 2.6 Wildlife

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## **Background**

Wildlife diversity is a major attraction of Deschutes County. It was mentioned in many Comprehensive Plan meetings in 2008 and 2009 as important to the community. Healthy wildlife populations are often a sign of a healthy environment for humans as well as other species. The key to protecting wildlife is protecting the habitats each species needs for food, water, shelter and reproduction. Also important is retaining or enhancing connectivity between habitats, in order to protect migration routes and avoid isolated populations.

Wildlife is tied to land use planning because human development impacts habitats in complex ways. Wildlife protections are provided by federal, state and local governments. Oregon land use planning protects wildlife with Statewide Planning Goal 5, Open Spaces, Scenic and Historical Areas and Natural Resources and the associated Oregon Administrative Rule (OAR) 660-023 (this Rule replaced 660-016 in 1996). Statewide Goal 5 includes a list of resources which each local government must inventory, including wildlife habitat.

The process requires local governments to inventory wildlife habitat and determine which items on the inventory are significant. For sites identified as significant, an Economic, Social, Environmental and Energy (ESEE) analysis is required. The analysis leads to one of three choices: preserve the resource, allow proposed uses that conflict with the resource or strike a balance between the resource and the conflicting uses. A program must be provided to protect the resources as determined by the ESEE analysis.

In considering wildlife habitat, counties rely on the expertise of the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife Service (USFWS). Those agencies provide information for the required wildlife inventory and recommendations on how to protect wildlife habitat on private lands. Note that this section focuses on wildlife, while fish are covered in the Water Resources section of this Plan.

## **Wildlife Designations**

### *Comprehensive Planning for Wildlife*

Plan 2000, the Comprehensive Plan adopted in 1979, included a Fish and Wildlife Chapter with policies aimed at protecting wildlife. That Plan also noted the controversial nature of wildlife protections. To implement the Plan policies, the Wildlife Area Combining Zone was adopted. This overlay zone was intended to protect identified big game habitat through zoning tools such as appropriate lot sizes and setbacks. In 1986 a River Study was completed and adopted into the Resource Element. Goals and policies from that study, including wildlife goals, were added to Plan 2000.

As part of State mandated Periodic Review, the County took another look at wildlife protections to further comply with the requirements of Goal 5 and the then prevailing OAR 660-16. The County worked with the ODFW to obtain the most recent inventory information on fish and wildlife resources in the county and to identify uses conflicting with those resources. This information was used to update the inventories and amend the ESEE analyses.



In addition, ODFW provided information to support zoning ordinance provisions to resolve conflicts between fish and wildlife resource protection and development. The County adopted a Sensitive Bird and Mammal Combining Zone which identified and protected specific bird nests or leks and bat hibernating or nursery sites.

#### *Ordinances for Compliance with Goal 5*

During periodic review in 1992, Deschutes County met the requirements of Goal 5 by:

- The adoption of Goals and Policies in Ordinance 92-040 reflecting Goal 5 requirements, including a Sensitive Bird and Mammal Combining Zone to identify and protect specific bird nests or leks and bat hibernating or nursery sites;
- The adoption of Ordinance 92-041 amended the comprehensive plan to inventory each Goal 5 resource, analyze conflicting uses, and analyze the ESEE consequences of protecting or not protecting inventoried fish and wildlife resources;
- The adoption of zoning ordinance provisions in Ordinance 92-042, as applied to inventoried sites by the map adopted by Ordinance 92-046.

In 2015, the Land Conservation and Development Commission (LCDC) adopted rules to Oregon Administrative Rule (OAR) chapter 660, division 23, to establish procedures for considering development proposals on lands identified as Greater Sage-Grouse Area Habitat. Deschutes County met the requirements by:

- Adopting the 2015 Goal 5 Greater Sage Grouse habitat Area Inventory Map into its Comprehensive Plan and amending the Sensitive Bird and Mammal Habitat Inventory to remove 1990 sage grouse lek and range data by Ordinance 2015-010 (Those maps are incorporated by reference herein); and,
- Adopting sage grouse regulations as a Greater Sage Grouse Area Combining Zone by Ordinance 2015-011.

#### **Wildlife Snapshot 2008-2009**

*Source: County GIS data*

- There are 816,649 acres in Deschutes County's Wildlife Area Combining Zone.
- There are 40 sites protected by the Sensitive Bird and Mammal Habitat Combining Zone.
- 76% of County land is owned and managed by the Federal government through the U.S. Forest Service and Bureau of Land Management.

*Source: Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon, 2008 May 2009 Prepared for Oregon Department of Fish and Wildlife by Dean Runyan Associates*

- Nearly \$70 million was spent in Deschutes County on travel generated expenditures on wildlife viewing, fishing and hunting by people from over 50 miles away.
- Over 60% of the \$70 million noted above was spent for wildlife viewing, with fishing second with nearly 30% and nearly 10% on hunting.
- Over \$8 million in revenue from fishing, hunting and wildlife viewing came from people who live in the County or within 50 miles of the County.
- Over 60% of the \$8 million noted above was spent on fishing, over 20% was spent on hunting and under 20% was spent on wildlife viewing.
- All total, over \$78 million was spent in Deschutes County on fishing, hunting and wildlife viewing.

### *Deer Migration Corridor*

The Bend/La Pine migration corridor is approximately 56 miles long and 3 to 4 miles wide and parallels the Deschutes and Little Deschutes Rivers. The corridor is used by deer migrating from summer range in the forest along the east slope of the Cascades to the North Paulina deer winter range. Deschutes County adopted a "Deer Migration Priority Area" based on a 1999 ODFW map submitted to the South County Regional Problem Solving Group. This specific sub-area is precluded from destination resorts.

### *Deer Winter Range*

The ODFW identified the Metolius, Tumalo and North Paulina deer winter ranges during Deschutes County's initial comprehensive plan. The boundaries of these winter ranges are shown on the Big Game Sensitive Area map in the 1978 Comprehensive Plan and have been zoned with the Wildlife Combining Zone since 1979. The winter ranges support a population of approximately 15,000 deer.

In 1992, ODFW recommended deer winter range in the northeast corner of the county, in the Smith Rock State Park area, be included in the Deschutes County inventory and protected with the same measures applied to other deer winter range. This area was officially included and mapped on the Wildlife Combining Map when Ordinance 92-040 was adopted by the Board of County Commissioners.

### *Elk Habitat*

The Land and Resource Management Plan for the Deschutes National Forest identifies 6 key elk habitat areas in Deschutes County. The ODFW also recognizes these areas as critical elk habitat for calving, winter or summer range. The following areas are mapped on the Big Game Habitat Area map and in the Deschutes National Forest Land and Resource Management Plan:

- Tumalo Mountain
- Kiwa
- Ryan
- Crane Prairie
- Fall River
- Clover Meadow

### *Antelope Habitat*

The Bend and Ochoco District offices of the ODFW provided maps of the antelope range and winter range. The available information is adequate to indicate that the resource is significant. The antelope habitat is mapped on Deschutes County's Big Game Habitat-Wildlife Area Combining Zone Map.

### *Sensitive Birds*

Nest sites for the northern bald eagle, osprey, golden eagle, prairie falcon, great grey owl, and great blue heron rookeries are inventoried in Ordinance No. 92-041. The area required for each nest site varies between species. The minimum area required for protection of nest sites has been identified by the ODFW in their management guidelines for protecting colony nesting birds, osprey, eagles and raptor nests.

## Federal and State Wildlife Protections

### *Federal Protections*

The primary federal protection for wildlife is the Endangered Species Act (ESA), which sets the preservation of biodiversity as its highest priority. Under ESA, National Oceanic Atmospheric Administration (NOAA) Fisheries or the U.S. Fish and Wildlife Service (USFWS) list species as threatened or endangered. ESA prohibits both federal actions that jeopardize listed species and private actions that result in the “taking” of listed species. Court rulings have explicitly determined that habitat modification can lead to a “taking,” even if the modification does not affect a specific individual member of the species. ESA authorizes civil and criminal suits be brought against entities that violate its substantive or procedural provisions.

There are two fish species and one bird species listed as federally threatened or endangered in Deschutes County. Fish are discussed under the Water Resources section of this chapter and the bird, the Northern Spotted Owl, has not been found on private lands.

### *State Protections*

It is Oregon’s policy “to prevent the serious depletion of any indigenous species” (ORS 496.012). The Oregon Department of Fish and Wildlife maintains a list of fish and wildlife species determined to be either threatened or endangered according to OAR 635. When a species population is seriously depleted, recovery can be difficult and expensive as well as socially and economically divisive. To provide a positive approach to species conservation, a “sensitive” species classification was created under Oregon’s Sensitive Species Rule (OAR 635-100-040). Table 2.7.1 lists species in Deschutes County that are listed by either federal or state wildlife agencies under the above mentioned laws.

Besides the listings of endangered or threatened, species can be federally listed as candidate species or species of concern. State listings include threatened, critical and vulnerable. Each status has a definition specifying different actions.



**Table 2.6.1 - Special Status of Select Mammals, Birds, Amphibians, and Reptiles in Deschutes County 2009**

<i>Species</i>	<i>State Status</i>	<i>Federal Status</i>
<i>Mammals</i>		
California Wolverine	Threatened	Species of Concern
Fisher	Critical	--
Fringed Myotis	Vulnerable	--
Long-eared Myotis	--	Species of Concern
Long-legged Myotis	Vulnerable	Species of Concern
Pallid Bat	Vulnerable	--
Preble's Shrew	--	Species of Concern
Pygmy Rabbit	Vulnerable	Species of Concern
Silver-haired bat	Vulnerable	Species of Concern
Small-footed Myotis	--	Species of Concern
Spotted bat	Vulnerable	--
Townsend's western big-eared bat	Critical	Species of Concern
Yuma Myotis	--	Species of Concern
<i>Birds</i>		
American Peregrine Falcon	Vulnerable	Delisted
Bald Eagle	Threatened	Delisted
Black Tern	--	Species of Concern
Black-backed Woodpecker	Vulnerable	--
Ferruginous Hawk	Vulnerable	Species of Concern
Flammulated Owl	Vulnerable	--
Great Gray Owl	Vulnerable	--
Greater Sage Grouse	Vulnerable	Species of Concern
Lewis' Woodpecker	Critical	Species of Concern
Loggerhead Shrike	Vulnerable	--
Long-billed Curlew	Vulnerable	--
Mountain Quail	Vulnerable	Species of Concern
Northern Goshawk	Vulnerable	Species of Concern
Northern Spotted Owl	Threatened	Threatened
Olive-sided Flycatcher	Vulnerable	Species of Concern
Pileated Woodpecker	Vulnerable	--
Swainson's Hawk	Vulnerable	--
Western Burrowing Owl	Vulnerable*	Species of Concern
White-head Woodpecker	Critical	Species of Concern
Willow Flycatcher	Vulnerable	Species of Concern
Yellow-breasted chat	--	Species of Concern
Yellow-billed cuckoo	Vulnerable	Candidate
<i>Amphibians and Reptiles</i>		
Cascades Frog	Vulnerable	Species of Concern
Coastal tailed frog	Vulnerable	Species of Concern
Northern Sagebrush Lizard	--	Species of Concern
Oregon slender salamander	Vulnerable	Species of Concern
Oregon Spotted Frog	Critical	Candidate
Western Pond Turtle	Critical	--
Western Toad	Vulnerable	--
* listed only for the Basin and Range Ecoregion		

Source: 2009 Interagency Report and ODFW

## **Oregon Department of Fish and Wildlife**

### *Oregon Conservation Strategy*

In 2006 the Oregon Conservation Strategy (OCS) was adopted by Oregon's Fish and Wildlife Commission for the state of Oregon. Wildlife and habitat issues are often crisis-driven and focused on individual species. The OSC is intended to provide a long-term, big-picture look, using the best available science, on how best to maintain and improve Oregon's species, habitats and ecosystems.

This document is not intended to be a set of regulations, but rather it presents issues, opportunities and recommended actions that can serve as the basis for regional collaborative actions. The recommendations within the OCS can be used to address species and habitat conservation needs, to expand existing partnerships and develop new ones, and to provide a context for balancing Oregon's conservation and development priorities. The future of many species will depend on landowners' and land managers' willingness to voluntarily take action on their own to improve fish and wildlife habitat.

The OCS works by defining ecoregions and offering an overview of each region that covers a variety of ecological, land use and economic issues. Parts of Deschutes County fall into three of the ecoregions; East Cascade, Blue Mountains and Northern Basin and Range. For Deschutes County this document offers a wealth of knowledge that can be used to inform fish and wildlife habitat policies and protect and enhance ecosystems.

### *Fish and Wildlife Habitat Mitigation Policy*

The ODFW's Fish and Wildlife Habitat Mitigation Policy provides direction for their staff to review and comment on projects that may impact fish and wildlife habitat. This policy recognizes six distinct categories of wildlife habitat ranging from Category 1 – essential, limited, and irreplaceable habitat, to Category 6 – low value habitat. The policy goal for Category 1 habitat is no loss of habitat quantity or quality through avoidance of impacts by using development action if impacts cannot be avoided. The ODFW recommends avoidance of Category 1 habitats as they are irreplaceable, and thus mitigation is not a viable option. Categories 2-4 are for essential or important, but not irreplaceable habitats. Category 5 habitat is not essential or important, but has high restoration potential.

### **Interagency Report**

In 2009 the USFW, ODFW, U.S. Forest Service and the Bureau of Land Management collaborated to provide a report on Wildlife in Deschutes County, *Updated Wildlife Information and Recommendations for the Deschutes County Comprehensive Plan Update* (Interagency Report). This report provided updated information to be used in revising the County Goal 5 inventory. This update will be done as part of the Goal 5 review as described in Section 2.4 of this Plan. The report also outlined numerous issues that the agencies believe are important for the County to address. The Interagency Report generated debate over how best to protect wildlife while also protecting the rights of property owners. Key issues from the report are touched on below.

*Economic benefits of fish and wildlife:* The report notes the ODFW report by Dean Runyan regarding the economic benefits of fishing, hunting and wildlife viewing, including that Deschutes County generated more freshwater fishing revenue than any other county in Oregon.

*Oregon Conservation Strategy:* The report discusses the Oregon Conservation Strategy described above and recommends that the County use it as a guide and reference for the maintenance and enhancement of wildlife resources.

*Threatened and Endangered Species and Species of Concern:* The report recommends developing and adopting measures to protect federal and state listed threatened and endangered species to limit conflicting use.

*Riparian and wetland areas for wildlife and fish:* The report recommends completing and adopting a Local Wetland Inventory. The current National Wetland Inventory was done at a scale so that wetlands under 5 acres are not identified. Yet, those wetlands provide significant habitat. Deschutes County adopted a Local Wetland Inventory for South County in 2011.

*Oregon Spotted Frog:* The report recommends adding an Oregon Spotted Frog habitat area to the wildlife area combining zone and provides some specific ideas for protecting those areas. The Oregon Spotted Frog can be found in the floodplains and wetlands along the Deschutes River and Little Deschutes River, south of Bend. Riverine oxbows are particularly key habitat. This frog is listed as a Federal Candidate and State Critical Species.

*Shrub-Steppe Habitat:* The report recommends the County consider impacts to wildlife and habitat when development will degrade shrub-steppe habitat. Shrub-steppe habitat provides needed resources for numerous birds and mammals, including 12 Oregon listed sensitive species, and one threatened species. Large blocks of un-fragmented habitat with low human disturbance are needed to support shrub-steppe wildlife. If avoidance of these areas is not possible, providing for “no net loss” and a “net benefit” (restoration) of shrub-steppe habitat should be a vital component of any conservation plan.

*Greater Sage Grouse:* The report provides recommendations for limiting conflicting uses near sage grouse leks and habitat. The population management objective for sage-grouse in this region (Prineville District), which includes portions of Deschutes and Crook counties, is to restore sage grouse numbers and distribution near the 1980 spring breeding population level, approximately 3,000 birds. Many aspects of human development have impacted sage grouse populations and can be considered conflicting uses. Conservation efforts focused on maintaining large expanses of sagebrush habitat, enhancing the quality of existing habitat, and increasing connections between suitable habitat patches would be most beneficial to maintaining healthy sage-grouse populations. Breeding and nesting habitat is particularly important because it is essential, limited and irreplaceable.

*Critical Bird and Mammal Sites:* The report does not recommend additional or modification of existing protections for site specific sensitive bird and mammal sites, except for additional protections for sage grouse. The report does provide a new inventory and site specific recommendations that will be used to update the list of Goal 5 wildlife resources.

*Game Species:* The report does not recommend changes to the existing big game winter range or migration corridor maps. It does recommend that the County revise the uses allowed in those areas to prohibit the following uses that generate activity, noise and habitat alteration:

- Guest ranch
- Outdoor commercial events (i.e. Wedding Venues, Farmers Market)
- OHV course
- Paintball course

- Shooting range
- Model airplane park
- BMX course

*Sensitive Species:* Table 2.7.2 shows species considered sensitive to human disturbance. Mule deer are the only species in decline.

**Table 2.7.2 - Big Game Population Estimates, Deschutes County (2009)**

<b>Species</b>	<b>Population</b>
Mule Deer	9,337*
Elk	1,500
Pronghorn	1,000
Cougar	~150
Black Bear	~150
Silver Grey Squirrel	~800

\* The management objective for the Paulina and Upper Deschutes Wildlife Management Units, primarily in Deschutes County, is an April adult population of 18,7000 mule deer.

Source: Interagency Report

*Fish and Wildlife Habitat Mitigation Policy:* The Interagency Report includes one recommendation that is only from the ODFW. They recommend that the County require impact avoidance for development that will impact Category I habitat and require a wildlife mitigation plan for development that will impact habitat Categories 2-5, to limit conflicting uses.

The Interagency Report recommendations will be considered more closely when the Goal 5 review is undertaken.

### **Future of Wildlife and Habitat in Deschutes County**

#### *Coordination*

Much of the wildlife habitat in Deschutes County is located on public lands. Federal lands make up 76% of County lands with another 3% State or County owned. Federal lands are not subject to County regulation but as noted in the Forest section of this Plan, they are important economic generators that also contribute to the community’s quality of life, providing ample opportunities for wildlife viewing, fishing and hunting. It should be noted that not all federal lands are managed for wildlife habitat.

Regarding public lands the County’s role is to coordinate with the land management agencies to ensure development approved by the County does not impact wildlife.

Another area for coordination is with the Trust for Public Lands (TPL). In 2009 this non-profit group initiated a Greenprint effort that will identify specific areas needing protection, including wildlife habitat. A survey done by this organization identified protecting wildlife habitat as important to County residents.

#### *Rural Development*

The loss of wildlife species and habitat may lead to declining recreational opportunities, tourist dollars and quality of life. Yet, many species are sensitive to human development, with some species benefiting and some harmed by land disturbance. New structures or infrastructure can fragment habitats. Barriers such as roads, dams or housing can interfere with migration routes and connectivity leading to isolated and unhealthy populations. Development can also increase

non-native and invasive species. Most Deschutes County residents consider the local wildlife as one of the benefits of living in this region. With careful planning, many of the impacts to wildlife habitat can be mitigated.



## Section 2.6 Wildlife Policies

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### Goals and Policies

**Goal 1 Maintain and enhance a diversity of wildlife and habitats.**

- Policy 2.6.1 Goal 5 wildlife inventories, ESEEs and programs are retained and not repealed.
- Policy 2.6.2 Promote stewardship of wildlife habitats and corridors, particularly those with significant biological, ecological, aesthetic and recreational value.
- Policy 2.6.3 Ensure Goal 5 wildlife inventories and habitat protection programs are up-to-date through public processes and expert sources, such as the 2009 Interagency Report.
- Policy 2.6.4 Support incentives for restoring and/or preserving significant wildlife habitat by traditional means such as zoning or innovative means, including land swaps, conservation easements, transfer of development rights, tax incentives or purchase by public or non-profit agencies.
- Policy 2.6.5 Assist in providing information and education on wildlife and habitat protection.
- Policy 2.6.6 Review the Oregon Conservation Strategy when amending the Wildlife section of this Plan.
- Policy 2.6.7 Use a combination of incentives, regulations and education to promote stewardship of wildlife habitat and address the impacts of development.
- Policy 2.6.8 Balance protection of wildlife with wildland fire mitigation on private lands in the designated Wildland Urban Interface.

**Goal 2 Promote the economic and recreational benefits of wildlife and habitat.**

- Policy 2.6.9 Encourage wildlife related tourism.
- Policy 2.6.10 Coordinate with stakeholders to ensure access to significant wildlife and riparian habitat through public or non-profit ownership.

**Goal 3 Support retaining populations of Federal and State protected endangered species.**

- Policy 2.6.11 Develop local approaches, in coordination with Federal and State agencies, for protecting Federal or State Threatened or Endangered Species or Species of Concern.
- Policy 2.6.12 Address potential conflicts between large-scale development and sage grouse habitat using Ordinances Nos. 2010-010 and 2010-011, which are consistent with OAR 660-023-0115.

# Section 5.12 Legislative History

## Background

This section contains the legislative history of this Comprehensive Plan.

**Table 5.11.1 Comprehensive Plan Ordinance History**

Ordinance	Date Adopted/ Effective	Chapter/Section	Amendment
2011-003	8-10-11/11-9-11	All, except Transportation, Tumalo and Terrebonne Community Plans, Deschutes Junction, Destination Resorts and ordinances adopted in 2011	Comprehensive Plan update
2011-027	10-31-11/11-9-11	2.5, 2.6, 3.4, 3.10, 3.5, 4.6, 5.3, 5.8, 5.11, 23.40A, 23.40B, 23.40.065, 23.01.010	Housekeeping amendments to ensure a smooth transition to the updated Plan
2012-005	8-20-12/11-19-12	23.60, 23.64 (repealed), 3.7 (revised), Appendix C (added)	Updated Transportation System Plan
2012-012	8-20-12/8-20-12	4.1, 4.2	La Pine Urban Growth Boundary
2012-016	12-3-12/3-4-13	3.9	Housekeeping amendments to Destination Resort Chapter
2013-002	1-7-13/1-7-13	4.2	Central Oregon Regional Large-lot Employment Land Need Analysis
2013-009	2-6-13/5-8-13	1.3	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Residential Exception Area
2013-012	5-8-13/8-6-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2013-007	5-29-13/8-27-13	3.10, 3.11	Newberry Country: A Plan for Southern Deschutes County

<b>Ordinance</b>	<b>Date Adopted/ Effective</b>	<b>Chapter/Section</b>	<b>Amendment</b>
2013-016	10-21-13/10-21-13	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Sisters Urban Growth Boundary
2014-005	2-26-14/2-26-14	23.01.010	Comprehensive Plan Map Amendment, including certain property within City of Bend Urban Growth Boundary
2014-012	4-2-14/7-1-14	3.10, 3.11	Housekeeping amendments to Title 23.
2014-021	8-27-14/11-25-14	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Sunriver Urban Unincorporated Community Forest to Sunriver Urban Unincorporated Community Utility
2014-027	12-15-14/3-31-15	23.01.010, 5.10	Comprehensive Plan Map Amendment, changing designation of certain property from Agriculture to Rural Industrial
2015-010	12-2-15/12-2-15	2.6	Comprehensive Plan Text and Map Amendment recognizing Greater Sage-Grouse Habitat Inventories

## FINDINGS

The Deschutes County Planning Commission held a public hearing on October 8, 2015 in Brothers to consider legislative plan amendments and to Deschutes County Comprehensive Plan and legislative amendments to Deschutes County Code (DCC) Title 18.<sup>1</sup> The Planning Commission closed the hearing but left the written record open until October 23, 2015. On November 12, they forwarded a recommendation of adoption to the Board of County Commissioners (Board). They also asked the Board to consider adding an amendment to County Code requiring bonding and reclamation for renewable energy facilities.

The Board held a hearing on December 2, 2015.

### I. BACKGROUND

The Greater Sage Grouse is a species common to the western United States. Over time, much of the sagebrush ecosystem needed to maintain a healthy population has suffered. Habitat has eroded as a consequence of the introduction of invasive weeds, juniper encroachment, large-scale development, wildland fire, and intensive agriculture. Strong concerns about the future of the species have resulted in the United States Fish and Wildlife Service (USFWS) receiving multiple petitions to list the Greater Sage Grouse under the federal Endangered Species Act (ESA).

In April 2010, the USFWS determined that protection of Greater Sage Grouse under the ESA was warranted. The USFWS did not list sage grouse at that time in order to address other species facing greater risk of extinction, but stated its intent to revisit its "Warranted but Precluded" decision. The USFWS must still make a determination whether the species should be proposed for ESA listing or be removed from the candidate list, which would result in no further consideration by this fall.

Sage grouse habitat in Oregon includes about 11 million acres distributed across five Bureau of Land Management (BLM) management districts in seven central and eastern Oregon counties (Baker, Crook, Deschutes, Harney, Lake, Malheur and Union). Private lands account for about 21 percent of this total while BLM controls about 70 percent. The remaining lands are made up of other public agencies including the Oregon Department of State Lands.

Last January, Governor Kitzhaber requested the Oregon Land Conservation and Development Commission (LCDC) initiate a rulemaking to address potential conflicts between "large-scale development" and sage grouse habitat. The purpose is to address a potential federal listing of the Greater Sage Grouse under the ESA. The Governor's request follows the work of an interagency group called "SageCon," begun in 2012. SageCon's goal is to demonstrate that Oregon can put together a plan of action that will demonstrate that the federal listing for sage grouse in Oregon is unnecessary.

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<sup>1</sup> A public notice will be published in the *Bulletin* on September 20, 2015.

LCDC agreed and appointed a Sage Grouse Rules Advisory Committee (Committee) in March to assist the Oregon Department of Land Conservation and Development (DLCD) in drafting proposed rules. The Committee met four times. The rulemaking amends Oregon Administrative Rule (OAR) chapter 660, division 23, often referred to as the "Goal Five rule." The rule applies to non-federal lands in eastern Oregon that constitute approximately 30 percent of sage grouse habitat. LCDC held a public hearing on July 23 and 24 in Burns, OR and after closing the hearing on the 24<sup>th</sup>, adopted the rules (OAR 660-024-0115).<sup>2</sup> They became effective on August 13, 2015. State law, ORS 197.646(3) requires the seven eastern Oregon counties, including Deschutes, to implement them.<sup>3</sup>

As a result, staff is initiating two ordinances. Ordinance 2015-010 contains the following amendments:

- Exhibit A: Amendment to DCC 23.010.010, Introduction;
- Exhibit B: Comprehensive Plan map adopting Oregon Department of Fish and Wildlife's (ODFW) Greater Sage-grouse Habitat Area Inventory Map (Core Area, Low Density Area, and General Habitat, including occupied and occupied-pending lek locations);
- Exhibit C: Comprehensive Plan map amendment removing Deschutes County's 1990 sage-grouse inventory and lek locations from the Sensitive Bird and Mammal Habitat Inventory;
- Exhibit D: Amendment to Comprehensive Plan Chapter 2, Resource Management, Section 2.6 – Wildlife;
- Exhibit E: Amendment to Comprehensive Plan Chapter 5, Supplemental Sections, Section 5.12 – Legislative History; and,
- Exhibit F: Findings.

Ordinance 2015-011 contains the following amendments:

- Exhibit A: Zoning code amendment to Deschutes County Code (DCC), adopting Chapter 18.89, Greater Sage-Grouse Area Combining Zone (mirrors Oregon Administrative Rule 660-024-0115); and,
- Exhibit B: Zoning code amendment to DCC 18.90, Sensitive Bird and Mammal Habitat Combining Zone, removing outdated references to sage-grouse and leks.

## II. REVIEW CRITERIA

ORS 197.646(3) requires Deschutes County to implement OAR 660-023-0115. Subsection 4 of the rule underscores this requirement as well:

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<sup>2</sup> <http://www.oregon.gov/LCD/Pages/SageGrouseRulemaking.aspx>

<sup>3</sup> ORS 197.646(3). [https://www.oregonlegislature.gov/bills\\_laws/lawsstatutes/2013ors197.html](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2013ors197.html)

“Local governments may develop a program to achieve consistency with this rule by following the standard process in OAR 660-023-0030, 660-023-0040 and 660-023-0050 and submitting the amendment to the commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175. *Until the commission has acknowledged a county amendment to its comprehensive plan and land use regulations to be in compliance with Goal 5 and equivalent to this rule with regard to protecting sage-grouse habitat, sections (5) to (12) shall apply directly to county land use decisions affecting significant sage-grouse habitat*” [emphasis added].

The changes to the Comprehensive Plan and new regulations in DCC Chapter 18.89 mirror the state rules. Therefore, the new chapter and the revisions to DCC 18.90 are consistent with the County’s Comprehensive Plan

## **II. SUMMARY**

To supplement the overview below, attached with the findings are also a DLCD rule-making summary and the rules themselves, OAR 660-023-0115 (Attachments 1 and 2).

### **A. New Sage Grouse Inventories**

Deschutes County is now designating core areas, low density areas, and general habitat within 3.1 miles of a lek as significant sage grouse habitat. These designations under OAR 660-023-0115(6) only apply to lands protected under Statewide Planning Goals 3 and 4, which in Deschutes County’s case are located in the Alfalfa, Horse Ridge East, and Bend-Tumalo-Redmond, Exclusive Farm Use (EFU) subzones and Forest Use Zone (F-1). All of the non-federal properties, except one, which is split zoned, are located in EFU.

### **B. Regulatory Thresholds**

There are two types of development that require County review to determine if it creates a conflicting use to sage-grouse.

1. Large-scale development in core areas, low density areas, and lands within a general habitat area located within 3.1 miles of an occupied or occupied-pending lek.<sup>4</sup> Large-scale development goes through a two-part analysis:
  - First, is it a use listed in the OAR 660-033-0120 table (Attachment 3) that requires review? If yes, then,

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<sup>4</sup> “Large-scale development” means uses that are: over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale development also require review by county decision makers and are listed in one of the following categories identified in the table attached to OAR 660-033-0120.

- A. Commercial Uses.
- B. Mineral, Aggregate, Oil and Gas Uses.
- C. Transportation Uses.
- D. Utility/Solid Waste Disposal Facilities.
- E. Parks/Public/Quasi-Public.

- Does the use meet qualifying feature(s)? Is the use over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time? If yes, it is subject to review.

Examples:

A commercial photovoltaic solar project is a candidate to be considered large-scale development because it requires review by local government and is identified in category D – Utility/Solid Waste Disposal Facilities. However, it would only be determined to be a large-scale development if it covers more than five acres.

Alternatively, a three-acre aggregate quarry that requires review and is identified in category B – Mineral, Aggregate, Oil and Gas Uses – would likely be considered a large-scale development because of its noise and not because of its size.

2. Smaller levels of development may jeopardize the future of the species if a proposal is in close proximity of a lek. Land uses that do not qualify as “large-scale development” would still be evaluated if they require review pursuant to the OAR 660-033-0120 table and are proposed in:
  - a. Core area within 4.0 miles of an occupied or occupied-pending lek;
  - b. Low density area within 3.1 miles of an occupied or occupied-pending lek; or
  - c. General habitat within 3.1 miles of an occupied or occupied-pending lek.

Examples:

Farm use and other buildings provided in conjunction with farm use are exempt since they do not require review.

Alternatively, a two-acre guest ranch proposed in any of the areas referenced in subsection 2 above, would require confirmation from ODFW. The agency would determine if the use poses a threat to sage-grouse habitat or the way sage-grouse use that habitat. They could also condition the approval based on certain recommendations, including minimization techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat (See DCC 18.89.080(B), 18.89.090(B), 18.89.100 (B)).

**C. Large Scale Development Regulation / Mitigation**

*Core Area*

Core areas are also known as Priority Areas for Conservation (PACs). These two terms are synonymous. Core areas/PACs are subject to disturbance thresholds that limit the direct impact of large-scale development to one percent of the total delimited area of a PAC over 10 year increments and a maximum total of three percent. These percentages must be taken into account when a county considers a large-scale development proposal. A proposal that would exceed either threshold may not be allowed.

In addition to limiting the amount of allowable anthropogenic disturbance in each core area/PAC, a proposal for large-scale development is subject to the full mitigation hierarchy, which includes a rigorous avoidance test, minimization requirements and compensatory mitigation (offsets) responsibility. Applying the avoidance test and minimization requirements are the purview of local government. Should any negative impacts to the species remain after these items are satisfied the applicant will be responsible to offset those impacts through compensatory mitigation. Compensatory mitigation must be consistent with ODFW's rule.

#### *Low Density Areas*

The regulatory arrangement for low density areas differs from core areas/PACs in two ways. First, low density areas are not subject to disturbance thresholds such as the one percent over 10 year increments or three percent total that apply to core areas/PACs. Second, while large-scale development proposals in low density areas do require application of the full mitigation hierarchy, a different, somewhat more lenient avoidance test applies to these areas. In other words, it will be easier to site large-scale development in low density areas.

#### *General Habitat*

General habitat is essentially sagebrush habitat used by sage-grouse that is not included in a core or low density area. In these areas the rules apply only to lands within 3.1 miles of a lek. Rather than directly applying the mitigation hierarchy, large-scale development proposal in general habitat within 3.1 miles of a lek would be subject to a "consultation" with ODFW. However, consideration for avoidance, in addition to minimization, is included and the ordinary obligations for compensation mitigation remain intact.

### **D. Non-Large Scale Development Regulation / Mitigation**

#### *Core Area*

Non-large-scale development activities may also constitute a conflicting use if proposed within 4.0 miles of a lek in a core area. Under these circumstances, a pre-application conference will be followed by a discussion between the applicant and ODFW. Through this discussion, which will likely involve a site visit, the local ODFW biologist will assess the facts and may conclude the given situation does not pose a threat to sage-grouse and no further consideration is needed. The ODFW biologist may also conclude that minimization activities such as sharing a driveway, locating on a specific portion of the property or limiting hours of operation would be necessary. In extreme cases it may be found that compensatory mitigation is needed. ODFW would forward these comments to the county who would then include them in the decision document. This approach is not expected to result in the denial of any proposal. Instead the conversation and requirements will be about how the proposal is carried out.



### *Low Density Areas*

As with core areas/PACs, non-large-scale development activities may constitute a conflicting use in low density areas. However, for low density areas the distance is 3.1 miles from a lek rather than 4.0 miles.

### *General Habitat*

Non-large-scale development may constitute a conflicting use in general habitat within 3.1 miles of a lek. These instances will be treated consistent with the provisions for core and low density areas.

### Attachments:

1. DLCD Sage-Grouse Rule-making Report
2. OAR 660-023-0115
3. OAR 660-033-0120 Table