

State of Nevada
Sagebrush Ecosystem Council
Draft Minutes

Date: Thursday, February 21, 2013
Time: 9:00 am – 4:00 pm
Place: Capitol Building, the Guinn Room, 101 N. Carson Street, Carson City, NV

Video Conference was made available at Elko UNSOM Griswold Room 31, Winnemucca Great Basin College Room 201, and Ely White Pine County Cooperative Ext.

A full recording of this meeting is accessible through the following website -
http://sagebrusheco.nv.gov/Meetings/Sagebrush_Ecosystem_Council_Meeting/

Council Members Present: Allen Biaggi, Steven Bois, Doug Busselman, Jeremy Drew, Bill Dunkelberger, Gerry Emm, JJ Goicoechea, Ted Koch, Starla Lacy, Amy Lueders, Kent McAdoo, Tina Nappe.

1. **Call To Order** – The first meeting of the Sagebrush Ecosystem Council was called to order by Leo Drozdoff, Director, Department of Conservation and Natural Resources (DCNR) at 9:14 AM. Mr. Drozdoff introduced Jim Lawrence, Administrator, State Lands; Cassandra Joseph, Deputy Attorney General, Attorney Generals Office; and Cory Hunt, Governor's Office Representative. Mr. Drozdoff explained he would be running the meeting through agenda item 6 and then the meeting would be turned over to the elected Chairman.
2. **Public Comment** – Mr. Drozdoff opened the meeting for public comment. He noted that public comment would be taken at the beginning and end of the meeting as required by the Open Meeting Law. He indicated that on future agendas, public comment may be outlined under action items. He reminded the public guests that the agenda was full and to be mindful of the time. Mr. Drozdoff moved agenda item 4 prior to public comments. He indicated agenda item 16 would be moved and would be heard after agenda item 5.
 - a. *Tamzen Stringham, Professor of Rangeland Ecology and Management, University of Nevada Reno – College of Ag.* Her specialty is upland habitat including Sagebrush systems, Pinon Juniper systems and Riparian systems in the Great Basin. Her expertise is in state and transition modeling and disturbance ecology. Disturbance ecology includes: resilience and climate change, seeding, fire, Sage-grouse habitat potential and is described at landscape scales not plot level. Tamzen is currently working on 22 million acres in Nevada. Over the last 5 years, she has been part of a team collaborating with BLM and NRCS. BLM uses these models for rehab plans after wildfires and Sage-grouse is the primary species of concern.

- b. *Jim Sedinger, Wildlife Biologist and Professor of Natural Resources and Environmental Science Dept., University of Nevada Reno – College of Ag.* He and his students study the response of Sage-grouse to a number of different effects. His team recently completed field work on a 10-year transmission line impact project in Eurkea County. They also assessed the effects of vegetation, climate, fire, weather, and how the birds handle these changes in terms of survival rate, number of recruitments into the population, and to what extent the birds react to these disturbances. He feels his most effective role in this process will be to interact with the technical team when they have questions about the status and perspective on the bird.
- c. *Cliff Gardner, Elko, NV, representing self and family.* Mr. Gardner read a letter for the record highlighting his concern and opposition of the Governor's advisory committee's objectives. He does not feel due process has been observed. A complete copy of the letter is available on the audio recording posted to the website.
- d. *Rose Strickland, Toiyabe Chapter, Sierra Club, NV.* The Sierra Club has a long history and has worked cooperatively as members of Governor's Guinn's Sage-grouse conservation planning team and local working groups since 2000. They have worked as volunteers with other federal and state agencies in these efforts. Rose welcomed the council and other state agencies. She noted efforts to help Sage-grouse and its habitat will help a host of other sagebrush dependent species as well as humans who depend on sagebrush wilderness for recreation and livelihood. The 2004 Nevada Sage-grouse Conservation Plan as well as NDOW resource experts will provide guidance for restoration of sagebrush country. The stakeholders still need to address the findings in the 2004 report; while moving forward addressing the recent issues of climate change, oil and gas exploration, energy development and dewatering projects. In 2004, it was agreed the priority was keeping good sagebrush habitat in tact. She would like to see more time given to explain why some sagebrush habitat is in excellent condition where others are in decline. She feels it is imperative to identify what we are doing right, in the core and critical areas and expand efforts in management and restoration to sagebrush habitat that is degraded and fragmented.
- e. *Dennis Ghiglieri - long time resident of Nevada.* Mr. Ghiglieri shared his early childhood memories of hunting Sage-grouse and its abundant population at the time. He requested we reflect on how the landscape once was and how the sagebrush is now diminished. He encouraged the council members and public to focus on replenishing this natural resource, but not to move forward in fear.
- f. *Jeff White, Director of Environmental Stewardship, Newmont Mining Corporation and Vice President of Elko Land and Livestock Company.* Mr. White is looking forward to working with the council and technical team in

addressing issues related to Sage-grouse. Newmont is particularly fortunate in its land position in Nevada and they have a demonstrated track record of Sage-grouse habitat management and restoration. They want to work with the council; technical team and state to advance their efforts and to put Nevada in a situation where the listing of the Sage-grouse is precluded.

- g. *Karen Boeger, Board Member for the Nevada Chapter of Backcountry Hunters and Anglers.* Ms. Boeger has been a Nevada conservation activist for over 40 years. She commended the council for taking on this huge task due to the short time frame. She noted that it is critical to ensure the Sage-grouse survive and thrive, and although hard decisions will have to be made by curtailing short-term profit to maintain long term sustainability. Ms. Boeger expressed the importance of prioritizing effort and collaborative power. She emphasized the need to use the best peer review science, data collection, and resources available and working together to find a solution and beneficial use for the mitigation funds.
 - h. *Megan Brown, Representative for Congressman Amodei.* Ms. Brown expressed Congressman Amodei's interest in this issue and that his office is an available resource for the state and federal agencies as well as the private public represented. She commented that this issue allows for a unique opportunity to work together as a group and have a unified voice. Congressman Amodei sent his regrets that he was unable to attend the meeting.
3. **Adoption of Agenda** – Mr. Drozdoff asked for a motion to adopt the agenda. Councilman McAdoo made a motion, seconded by Councilwoman Nappe. Comment - Councilman Drew requested an amendment to move agenda item 16 between items 5 and 6 as requested previously. All in favor, motion passed. *ACTION
 4. **Governor's Office Welcome** – Mr. Bibee, Director of Public Relations and Community Affairs, Governor's Office presented to the council that Governor Sandoval is unable to attend the meeting as he was called to testify at the Legislature. Governor Sandoval expressed his appreciation for the council's commitment and expressed his confidence in the council's ability with this important matter. Mr. Bibee thanked all in attendance for their dedication and noted the critical nature of the impacts the Sage-grouse listing would have on the state of Nevada.
 5. **Comments from Bob Abbey – Former Director of the U.S. Bureau of Land Management** – Mr. Drozdoff introduced Mr. Abbey. Mr. Abbey provided a brief history of his service and those he has worked with in his career in Nevada including federal and state public officials and stakeholders. Mr. Abbey said that this is not a new issue; it has been discussed since the early 90s, if not before. What we have learned during those discussions is not that maintaining the status quo, which is looking at proposals on a case by case basis, does not work well, nor will good intentions prevent the listing of the Sage-grouse as an endangered species. The clock is ticking and it is time to take actions that will result in improving ecological conditions in Nevada, the Great Basin and other states where there is habitat important to Sage-grouse. This is a legacy that those in the room

today and those other stakeholders who can perform on-the-ground implementation can leave behind. The challenge for us is to find common sense solutions for the challenges we collectively face. Decisions will need to be made in a timely basis; some will be easy and others complex. This decision is not to place blame or debate federal vs. state, it is about people working together to achieve a common goal, which is to improve ecological conditions which in turn will improve economic development opportunities. Listing the bird is not the end of world. It will definitely have impacts that will change the way we do things in the state. The listing of the bird provides a clear signal to others that we failed in the many opportunities we had to be good stewards of this land. We have had opportunities to take action that will leave a positive legacy for generations to come. Mr. Abbey introduced Larry Selzer with the Conservation Fund.

6. Introductions and Opening Remarks

a. Council Members – The council introduced themselves and who they represent. Allen Biaggi, Mining; Steven Bois, Ranching; Doug Busselman, Agriculture; Jeremy Drew, Sportsman; Bill Dunkelberger, US Forest Service; Gerry Emm, Tribal Nations; JJ Goicoechea, Local Government; Ted Koch, US Fish & Wildlife Service; Starla Lacy, Energy; Amy Lueders, US Bureau of Land Management; Kent McAdoo, General Public; Tina Nappe, Conservation and the Environment.

b. *Partner State and Federal Agency Directors* – Mr. Drozdoff introduced George Tsukamoto, Interim Director, Nevada Division of Wildlife. Mr. Tsukamoto noted that the role of NDOW by statute is to preserve, protect, manage, and restore fish and wildlife resource in the state. They depend on good management and good science to accomplish this goal. He urged the council and collaborators to seek out additional answers through science and to move forward without criticism of what has been done in the past. Mr. Drozdoff introduced Jack Robb, Chairman of the Wildlife Commission; Joe Sicking, Chairman, State Conservation Commission; Mark Jenson, USDA Wildlife Services; and Pam Robinson, Senator Heller's office.

c. *Inter-agency Sagebrush Ecosystem Technical Team* – Mr. Lawrence introduced the technical team and explained the model of the team is a multidisciplinary structure. This model has proven successful through the State Lands, Nevada Tahoe Resource Team. The team represents state departments of Conservation, Wildlife and Agriculture. The team is a collaborative resource and consists of 5 members. Tim Rubald, Program Manager; Lara Neill, Wildlife Staff Specialist; John Copeland, Forester III; Melissa Faigeles, Environmental Scientist III & Watershed Restoration Specialist; and Kelly McGowan, Conservation Staff Specialist II. There will be recruitments for three field positions. Two of those positions are currently funded, and funding is hopeful for the third. This team will work closely with local on the ground efforts by working with the local conservation districts. Mr. Rubald has vacated his position as the Program Manager for the Conservation District Program. His position is currently under recruitment.

7. **Nomination and Election of Chair and Vice-Chair**
- a. Mr. Drozdoff opened the floor for Chair nominations. Councilman McAdoo nominated Councilman Goicoechea for Chairman of the council. Councilman Biaggi seconded the nomination. Councilwoman Nappe commented for the record that she had concerns of Councilman Goicoechea's ability to chair the council with his personal interest as a rancher and the issues of livestock grazing that will need to be addressed by the council. Councilman Boies indicated that as the official representative for ranching, that there should not be a concern. Councilman Busselman commented that on the ground efforts will speak for the council and that the council will be responsible for addressing all the existing issues and concerns. Mr. Drozdoff clarified with Councilwoman Nappe if she was advocating for another nominee. She indicated she felt that the chair should not be a member with a mining or ranching interest. Mr. Drozdoff called for a vote to elect Councilman Goicoechea as Chariman; all in favor, Councilwoman Nappe opposed, no abstentions, motion passed. *ACTION
- b. Mr. Drozdoff opened the floor for Vice-Chair nominations. Councilman Boies nominated Councilman McAdoo for Vice-Chairman of the council. Councilman Emm seconded the nomination. Chairman Goicoechea called for a vote, all in favor, none apposed, no abstentions, motioned passed. *ACTION
8. **Council Member Items and Correspondence** – Councilman Drew read a letter into the record from Maggie Orr, Stewardship Alliance of Northeast Elko. The letter was given to the recording secretary and is available upon request. The letter requested the interest and participation of the council, technical team, and key state and local officials to a three day workshop to develop initial objectives, strategies and actions to move forward with relevant projects. Vice-Chairman McAdoo commented that he felt this collaborative effort would be beneficial. The council agreed to place this item up for discussion under agenda item 14 – Future Council Meeting Dates and Potential Topics.
9. **Summary of Governor Sandoval's Greater Sage-grouse Advisory Committee Recommendations and State of Nevada DEIS Alternative** – Mr. Lawrence referenced the documents behind tab 2 & 3 in the council's binders. He noted these recommendations recognize conservation goals and strategies moving forward, mapping, and areas that still need to be addressed. The task force's recommendation came out at the end of July. The technical team was immediately put in place. While working with Councilwoman Lueders and Councilman Koch, it was determined to formulate the task force recommendation into a draft alternative that was threat based. Mr. Lawrence reviewed the document and the framework of the process and expressed that while established, the council has the opportunity to make modifications to the plan. *NO ACTION WAS TAKEN.
10. **Update on Bureau of Land Management DEIS for "Northeast California/Nevada Sub Region of the National Strategy to Preserve, Conserve, and Restore Sagebrush Habitat"** – Councilwoman Lueders presented a PowerPoint presentation. The presentation is available upon request. The BLM and Forest Service plan amendment objective is a regulatory mechanism through land use planning and forest plans range wide. When US Fish & Wildlife Service made their warranted but precluded determination

for the Greater Sage-grouse, one of the reasons they identified was the lack of regulatory mechanisms. The plan has a range of alternatives which allow for flexibility. There are six alternatives and different components can be selected. Ultimately one of the six could be selected or a combination could be used.

- Alt. A (No action) current management continues
- Alt. B (NTT) National Technical Team Report – Team consists of Forestry, BLM, Fish & Wildlife, USGS, and State
- Alt. C (Citizen based) more restrictive – occupied habitat
- Alt. D (Sub-Region) Sub-regional uses & threats. Great Basin and Rocky Mountain region issues & threats are different.
- Alt. E (State Alt.) Council, Mitigation Bank, SGMA's
- Alt. F (Citizen based) less restrictive – NTT, PPH, PGH – restoration habitat identified

Within the Great Basin there are four sub-regional efforts. The sub-regional alt. is almost completed. In addition, there are 16 MOU's in place with federal & state entities, (including California), counties, and tribals with Sage-grouse population. The challenge for the council will be to be a cooperating agency. Discussion of how best to include them was visited with a possibility of DCNR serving as the umbrella for the council and having the Technical Team as a cooperating agency. The benefits to the council being a cooperating agency are the early release of information and the capability to review and have involvement prior to the information being released to the public. Action timeline: September 2013 – draft EIS published, cooperating agencies will receive it in August, March 2014 – final EIS, July/August 2014 – records of decision signed. NO ACTION WAS TAKEN.

*Meeting convened for lunch at 12:02 PM

*Meeting reconvened at 1:08 PM

11. **Update on USFWS Sage-Grouse Conservation Objectives Draft Report –** Councilman Koch provided an update on the draft report that was produced later last year. He indicated the document went through a peer review and the document will be finalized by March 1. He encouraged everyone to embrace the words – “Stop the decline.” He asked Sean Espinoza to comment on the report. Mr. Espinoza, Department of Wildlife, itemized the 7 major recommendations to achieve the goal, which include: stop decline, targeted management and restoration, triage, threat familiarization plan, implementing effective regulations mechanisms, monitoring plan and implementing voluntary conservation actions for the species and research. He commented that they couldn't be too prescriptive in the recommendations that were made. Focus is more on goals vs. objectives. A discussion ensued. NO ACTION WAS TAKEN.

Councilman Busselman made a motion to proceed with updates prior to agenda item 12, 13 & 14. Vice-Chairman McAdoo seconded the motion, Chairman Goicoechea called for a vote, all in favor, motion passed. *ACTION

12. **Discussion of a State of Nevada Plan for the Sagebrush Ecosystem and Protection of Sage-grouse.** – Mr. Drozdoff discussed the previously reviewed EIS

alternative and the best way to implement the plan, whether in its totality or piece by piece. Mr. Drozdoff pursued a discussion on the refinement of the plan. In conversation with USFWS it was made clear that areas of the plan were not fleshed out to ensure “no net loss” would be achieved. In moving forward, DCNR worked closely to refine the EIS, however, what DCNR didn’t do is countermand any recommendations. To address this, a note was added to pg. 19 stating: Regarding #4, #5, and #6 above, The Nevada Sagebrush Technical Team will evaluate these actions and provide recommendation to the Nevada Sagebrush Ecosystem Council pursuant to any new information that is forthcoming from best available science and utilizing the “Resource Selection Function Model” (Coates). Mr. Drozdoff encouraged working with all the stakeholders to ensure a plan is created that meets the requirements for all involved. The state plan is synonymous with the state alternative in the NEPA process. The state worked to augment the plan with references to the 2004 plan and the 2010 energy plan where appropriate. Moving forward additional input will only strengthen the plan. Councilman Koch noted that the plan is a roadmap for the council. He will bring the recommendation email sent to Mr. Drozdoff to the next meeting for review. A discussion ensued regarding the priorities of what to restore and protect to achieve sustainability, additional methods of refinement and possible tasks for the technical team. Councilman Drew made a motion to have the technical team work with agency personnel to provide a project inventory showing completed projects since the 2010 decision and activities performed by local area workgroups. Councilman Boies seconded the motion, all in favor, none opposed, motion passed. *ACTION

13. **Sage-Grouse Management Area Maps – Purpose and Refinement** – Eric Flomberg, Wildlife Biologist presented the summary of habitat that needs to be identified. Actual point locations through GPS and geo special conditions. Statistical models differ from surrounding landscape through and empirical approach with classifications. Data on Sage-grouse will need to be refined on a statewide map. The area can be surveyed statewide. A discussion ensued regarding cost, funding sources, degree of mapping capabilities, data available, statewide or county by county. *NO ACTION WAS TAKEN
14. **Future Council Meeting Dates and Potential Topics** – Chairman Goicoechea suggested the agenda’s bulleted list of potential topics be addressed in subcommittees at a later time after the council could identify the habitat and the primary impacts for those areas. The council identified the following items be discussed or placed on the next agenda. Chairman Goicoechea addressed the motion on the floor, Councilman Drew moved to add the items below to the next agenda, seconded by Vice-chairman McAdoo, comments, all in favor, motion passed.
 - Discussion of the email between Mr. Drozdoff and Councilman Koch addressing the deficiencies in the state plan.
 - Update on the Gunnison plan and its shortfalls.
 - The SANE group and possible meeting facilitation with the council. It was suggested by Councilman Boies and Councilman Drew to have the facilitator’s present to the council at the next meeting. Councilman Drew suggested that both facilitators attend the next meeting to express their views on how the council could proceed. He suggested addressing the conservation objectives

- Councilman Koch expressed that he'd like to invite Pat Giver, USFWS Sage-grouse Coordinator to talk about Gunnison and the COT report and suggested that Mr. Espinoza assist. He also said that he and Mr. Drozdoff and would tag team the comments from the council to the state and how the state incorporated them into the alternative.

Mr. Lawrence said that he would send out a doodle poll to organize a meeting at the end of March, the end of April, and the end of May. The group agreed the next meeting would take place at the Guinn Room.

15. **Update on Bi-State Sage-grouse Population** – Councilman Dunkleberger provided an update on the Bi-State Sage-grouse population. The Bi-State is a distinct population of the Greater Sage-Grouse and was also found to be warranted for listing but precluded. The Forest Service has taken the lead on a Bi-State Sage-grouse amendment for the Humboldt-Toiyabe National Forest and the Carson BLM District. There are other districts that have the Bi-State Sage-grouse; however, they chose not to participate in the process. They have issued a notice of intent to perform an EIS and opened up a public comment period with two public meetings, which were not well attended. The scoping period ended February 15. They received 25 written comments. The Forest Service interdisciplinary team will be reviewing and preparing a draft and delivering months as they have a target date of December for a final EIS and a record of decision to be published by the end of the year. A lengthy discussion ensued. Councilman Dunkleberger will provide Jim Lawrence with the Bi-State Sage-grouse briefing paper to post on the website. **NO ACTION WAS TAKEN.**
16. **Comments from the Conservation Fund** – Mr. Larry Selzer presented to the council that the Conservation Fund is a national nonprofit conservation organization. He noted that they are a unique institution as they are the only chartered conservation group in the nation for both conservation and economic development and job creation. Mr. Selzer expressed the Conservation Fund's interest in being a collaborative partner in this process. He presented that they reach out across the country to work with environmental protection issues and economic development growth issues. They have conserved over 7.5 million acres of land in the United States with federal, state and local agency partners while working with ranchers, the mining industry, and the forestry industry spanning all the economic uses. In Nevada they have protected over 1 million acres under the leadership of Mike Ford. They look forward to being a resource to the council in the days and months ahead. Mr. Selzer provided four points in which he felt necessary for the success of this great challenge: work together, be open to new ideas, maintain focus, and proceed with a biased forward action.
17. **Department of Conservation and Natural Resources – Update on Western Governor's Sage Grouse Task Force** – Mr. Drozdoff reported that he has had the opportunity to be the state's representative for the past year. Over the course of the year, with the help from various agencies, he feels there is momentum to move the bar forward toward a mitigation and restoration program putting an emphasis on habitat. Mr. Drozdoff noted the state is looking for clarification of priorities from the council to adapt the plan and focus our attention. The state plan is in transition with the existing requirements and the state is trying to determine the best way to move forward. He

indicated the stakeholders are on a good path, a path where the state and council can demonstrate to the BLM and US Fish & Wildlife Service that progress is being made. He said we have to find a mechanism to put activities in place sooner rather than later and with that there is a possibility of using a series of sector MOU's with the mineral sector, exploration section, energy transmission sector, and other industries to put projects on the ground; these types of discussions are ongoing. Mr. Drozdoff addressed the question concerning the possibility of an outlier state that does not develop a plan, and its possible impacts on those states that have a plan in place. He suggested a default mechanism has to be in put in place to avoid such pitfalls. Councilman Biaggi spoke to Mr. Drozdoff comment regarding sector MOU's. He stated that the mining sector has been working with the Forest Service & BLM to provide a bridge between now and when the NEPA process is completed. They are working on rules toward impacts and mitigation. It is consistent with the state plan and provides ground rules to move forward with these projects. The intent is to make it a consistent and objective process that other sectors can work with and use as a template. *NO ACTION WAS TAKEN.

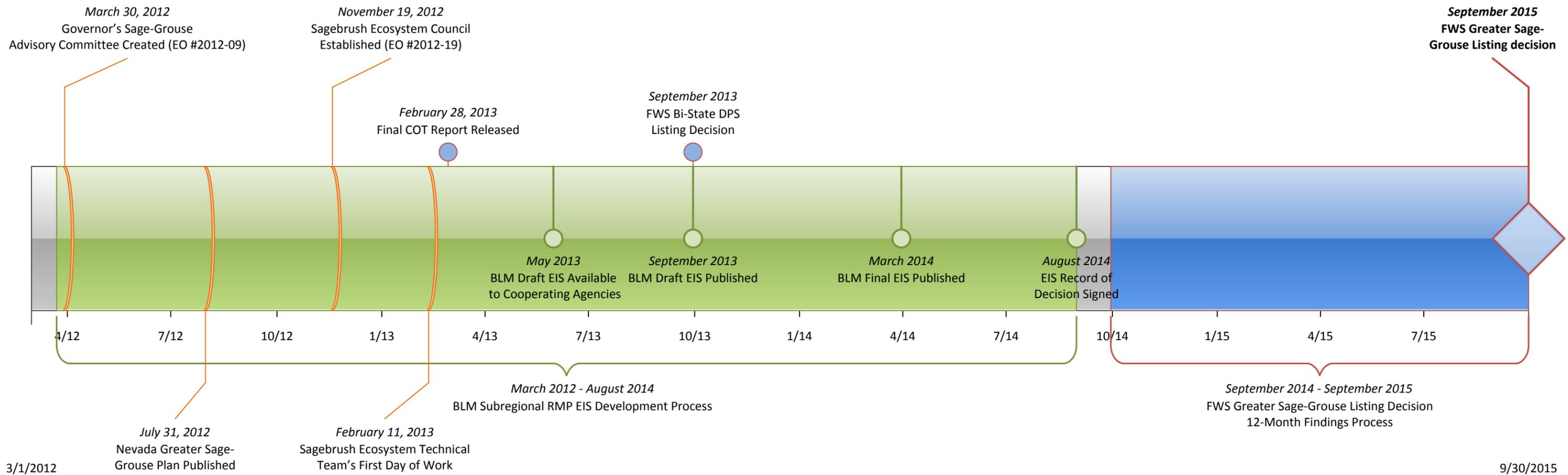
18. **Department of Wildlife – Update on Activities of National Committees** – Mr. Espinoza provided an update to the council regarding his current activities and committee associations. He is currently involved with four national committees and is the chair for the Western Association of Fish & Wildlife Agencies, Sage and Columbian Sharp-tail grouse technical team. The Team is working on a sagebrush decision support tool and has partnered with NRCS and US Fish and Wildlife Service. Dave Pike, Sagebrush Ecologist with USGS, is taking the lead on this particular project. A recent state agency expenditure report was produced by Stan Stiver reporting 132 million dollars have been spent since 2000 over the 11 Western States for Sage-grouse conservation actions, monitoring and research projects. He is a member of the Rangwide Interagency Sage-grouse Conservation Team and that has developed a near term action plan. This plan was developed as a product for the Governor's Task Force. He will send the link of the plan to Jim Lawrence for posting. Mr. Espinoza at the request of USGS is a participating member of the National Research Strategy Team. The team will meet in Boise, ID on March 4 & 5 to review and prioritize 900 potential research projects and questions that have been identified throughout the west.
19. **Council Member Comments** – Councilmember's comments were previously addressed under agenda item 14. Chairman Goicoechea recognized Ted McBride, who died on Monday reseeding an area in Sage-grouse habitat.
20. **Public Comment** – Chairman Goicoechea opened the meeting for public comment.
 - a. *Naomi Duerr, representing Desert Pacific Exploration, Nevada Mine Properties, and Main Quest—all small mineral exploration firms—and from time to time may also represent the Nevada Mineral Exploration Coalition.* Ms. Duerr would like to express her appreciation for the council members and staff's time and commitment to the process. Ms. Duerr expressed her concern about the lack of clarity with the three different alternatives in the EIS. She's also concerned about two of the alternatives being called "citizen's alternatives" as they were generated by two environmental groups (to her knowledge). She requested that they be renamed so that they aren't misnomers. Ms. Duerr also asked that for future agendas public comment be

allowed before decisions are made. She lastly mentioned concern about the narrowed areas for minerals exploration and she'll be paying close attention to the USGS science coming forward.

- b. *Debbie Struhsacker, representing the Nevada Mineral Resources Alliance.* Ms. Struhsacker thanked the advisory council for their service. She commended the motion to task the Technical Team to do a project inventory for conservation projects on –the-ground and sees such conservation projects as directly responsive to the USFWS. Ms. Struhsacker also expressed her concern of the implications of the NTT report, as areas with priority Sage-grouse habitat being withdrawn from mineral entry would adversely impact the future of mining.
- c. *Catherine Clark representing Western Lithium.* Ms. Clark also thanked everyone for their efforts. She expressed her concern with the NDOW and USGS mapping system and feels that data should be based on science and not a model. Ms. Clark shared the experiences she's had with her site and said that despite several surveys showing that the land was not general habitat, NDOW maps claim that it is and the BLM treats it as such. She hopes the council considers the importance of mapping and does not just use the model produced by USGS.
- d. *Robin Boies.* Ms. Boies expressed her feeling that the council made a courageous decision in being open to new ideas in bringing Mike Lunn and his partner, Laura to the table. She also suggested that the council look into developing regulatory assurances for states that succeed in their conservation efforts.

21. **Adjournment** – Chairman Goicoechea made a motion to adjourn the meeting, seconded by Councilman Drew. Meeting adjourned at 4:19 PM.

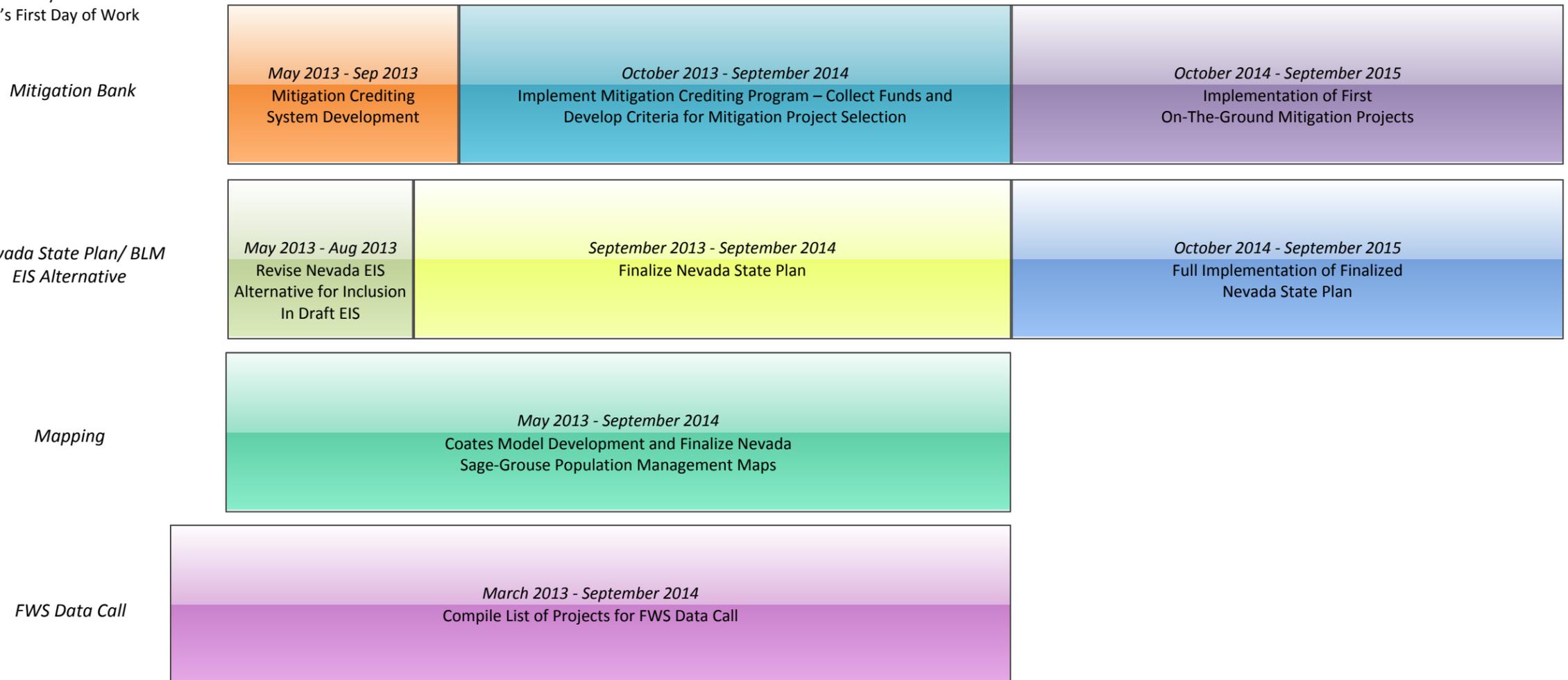
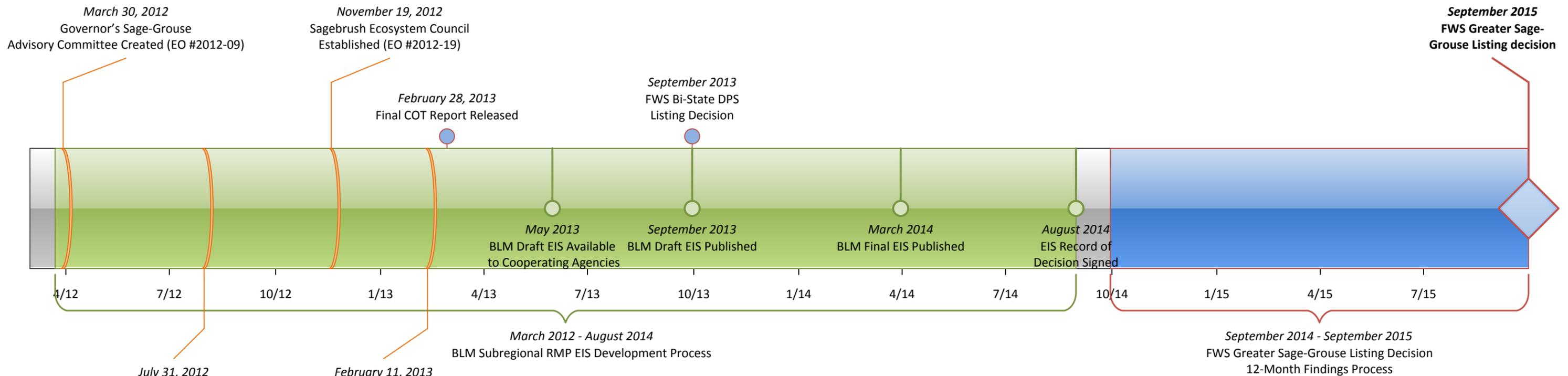
Greater Sage-Grouse Listing Decision Timeline



State of Nevada To Do's:

- Further develop and finalize BLM EIS alternative and Nevada State Plan
- Release Mitigation Crediting System RFI/ Select consultant
- Develop Mitigation Crediting Program or other regulatory mechanisms
- Finalize Sage-Grouse state population management maps
- Compile a list of projects for FWS data call

Greater Sage-Grouse Listing Decision Proposed Timeline



Sagebrush Ecosystem Program

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Melissa Faigeles, State Lands
Kelly McGowan, Agriculture
Lara Niell, Wildlife

STATE OF NEVADA
Sagebrush Ecosystem Program

SAGEBRUSH ECOSYSTEM COUNCIL
STAFF REPORT
MEETING DATE: April 22, 2013

DATE: April 17, 2013
TO: Sagebrush Ecosystem Council Members
FROM: Melissa Faigeles, Watershed Restoration Specialist, State Lands
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Lara Niell, Wildlife Staff Specialist, NDOW
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THROUGH: Tim Rubald, Program Manager, State Lands
Telephone: 775-684-8600, Email: timrubald@sagebrusheco.nv.gov
SUBJECT: Discussion of USFWS Draft Comments on Nevada’s State Plan for the Conservation of Greater Sage-Grouse and Recommendations to Address Issues Identified by USFWS

SUMMARY

This item provides an update to the Sagebrush Ecosystem Council (SEC) on a meeting held between the Sagebrush Ecosystem Technical Team (SETT), U.S. Fish and Wildlife Service (USFWS), and Nevada Department of Wildlife (NDOW) staffs as directed by the Council to discuss the USFWS comments on the 2012 Nevada Strategic Plan for Conservation of Greater Sage-Grouse (the Plan). At the meeting it was determined that USFWS found that the Plan, as currently written, is not developed sufficiently for the USFWS to be able to assess how concepts would be effectively applied on the ground for conservation of the greater sage-grouse. USFWS desired clarification and greater detail on a number of concepts in the Plan, including: mapping methods used, proposed regulatory mechanisms, the concepts of “avoid, minimize, mitigate” and “no net loss”, and cumulative impacts to habitat loss due to “Acts of God”. The SETT recommends addressing these issues by: revising the State Plan and Nevada State alternative for the BLM EIS, updating the sage-grouse management areas, and developing the Mitigation Crediting System as a regulatory mechanism to ensure conservation of sage-grouse habitat.

PREVIOUS ACTION

March 27, 2013. The Council directed staff to meet with USFWS and NDOW staffs to discuss the USFWS comments to the Nevada State Plan and report back to the Council.

BACKGROUND

On September 14, 2012 the U.S. Fish and Wildlife Service (USFWS) released an informal draft comments document on the 2012 Nevada Strategic Plan for Conservation of Greater Sage-Grouse (the Plan). At the March 27, 2013 meeting of the State of Nevada Sagebrush Ecosystem Council (SEC) that document was discussed and the SEC unanimously voted for the Sagebrush Ecosystem Technical Team (SETT) to meet with USFWS and Nevada Department of Wildlife (NDOW) staffs to discuss the comments and report back to the SEC at their next meeting. The five members of the SETT held a meeting with Steve Abele (USFWS) and Steve Siegel (NDOW) to discuss the comments.

At the meeting Mr. Abele, the author of the original comments, elucidated that the USFWS did not object to the overall conceptual framework of the Plan, with exception of the management area mapping methods used, but that it lacked the detail and consistency in application necessary for USFWS to evaluate it as an adequate regulatory mechanism for the 2015 Greater Sage-Grouse listing decision. Regulatory mechanisms need to be developed and consistently implemented that effectively ameliorate threats to sage-grouse habitat and subsequently stabilize sage-grouse population. The specifics of the Plan would need to be further developed and fleshed out prior to the listing decision. The main topics discussed at the meeting are outlined below:

Mapping

It is unclear to the USFWS staff the process and methods used to derive the Nevada Sage-Grouse Management Areas from the NDOW Habitat Categories. Specifically, there is no discussion provided as to why large extents of habitat included in the NDOW Habitat Categories were excluded from the State Management Areas. In the opinion of some USFWS staff, the NDOW map has a documented scientific method and approach, while the State map appears more arbitrary and lacks consistency in methods used to determine management areas boundaries. USFWS would need clarification on the mapping process and justification for the methods used.

The USFWS staff believes that the Coates model is currently the “best available science” as it uses a more quantitative approach, but that the NDOW maps are also scientifically defensible. The SEC should be aware that in the Bi-State area, the Coates and NDOW maps turned out very similar and that this may also be the case State-wide. The SEC should also determine how they intend to use the Coates model if they do choose to pursue this for use in the State Plan. For example, would the results of the Coates model be used as NDOW Habitat Categories were used to develop management areas? If this is the case, the concerns on methods would still apply. Or, would a minimum occupancy potential be used to delineate management areas? In this example, justification would need to be provided on why the particular minimum was selected. USFWS staff also encouraged SETT to look into different

state-and-transition models, like The Nature Conservancy model, as a tool to prioritize use of Mitigation Credit funds for restoration efforts State-wide. These models would be complementary to the Coates model.

USFWS staff would also like clarification on the habitat classifications (occupied, suitable, and potential) used in the Plan, as these are different from the categories developed by NDOW. This is important as management strategies outlined in the Plan are determined by the habitat classification. The classifications currently are not defined clearly enough to be able to differentiate occupied from suitable habitat or potential from occupied. There is also concern that there is insufficient scientific information (telemetry data) to accurately define “occupied” habitat. This may lead to an underestimate of occupied habitat and an overestimate of suitable and potential habitat. Additionally, there are no management strategies provided for suitable habitat which leads to concern that these areas would not be managed.

Regulatory Mechanisms/ “Avoid, Minimize, Mitigate”

USFWS staff is not opposed to the State’s overarching management objective to “avoid, minimize, and mitigate” impacts to sage-grouse habitat, but that these terms need to be better defined in order to effectively identify when to move from one step to the next. A standard and consistent approach needs to be established to apply the “avoid, minimize, mitigate” concept across the landscape, suggesting that triggers or thresholds for each may help accomplish this. A transparent and consistent process, potentially detailed in a decision making tree, needs to be further developed for making decisions on proposed projects that may impact sage-grouse habitat. Specifically, the following concepts need to be more clearly defined and fleshed out:

- *Avoid* – Within the State Plan, are there thresholds or triggers identified that would lead a proposed action to be denied, i.e. is there ever a point in the Plan in which the State would “say no” to a proposed action? If there are no specified thresholds or triggers, is “avoid” achieved through a market-based approach via the Mitigation Crediting System, i.e. can this system provide a mechanism in which it may be too costly to “say yes” to a proposed action? If the market-based approach is applied as the “avoid” mechanism, then a method must be developed to evaluate the robustness of the model and allow for adaptive management of the approach, i.e. evaluate if the market-based approach is leading to avoidance of actions in critical sage-grouse habitat.
- *Minimize* – The Plan needs to include greater detail on best management practices (BMPs) and their application in order to ensure reduced impacts of unavoidable actions. The Plan needs to include specific BMPS and how and when these will be applied
- *Mitigate* – USFWS likes the concept of the Mitigation Crediting System, though more detail is needed. They understand that this is in development.

In addition, the Council directed staff to locate the specific citation in the Federal Register on the “avoid, minimize, mitigate” National Environmental Policy Act (NEPA) policy mentioned in the USFWS comments document. The NEPA of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321-4347, January 1, 1970, as amended by Pub. L. 94-52, July 3, 1975, Pub. L. 94-83, August 9, 1975, and Pub. L. 97-258, § 4(b), Sept. 13, 1982), does not specifically discuss “avoid, minimize, mitigate”; however, the Council on Environmental Quality’s Regulations for Implementing the Procedural Provisions of NEPA (Reprint 40 CFR Parts 1500-1508) does provide guidance on this policy. It provides for the following provisions:

- “[an environmental impact statement] shall provide full and fair discussion of significant environmental impacts and shall inform decision makers and the public of the reasonable alternatives which would *avoid* or *minimize* adverse impacts or enhance the quality of the human environment” (§1502.1);
- All alternatives, including the proposed action “shall include appropriate *mitigation* measures” (§1502.14(f)).

In their 2010 Findings, the USFWS determined that “existing regulatory mechanisms are inadequate to protect the species”. In the adequacy of regulatory mechanisms listing factor discussion, NEPA is mentioned several times in the “federal laws and regulations” subsection. Though a detailed discussion of NEPA was not included, in the meeting, USFWS staff further elaborated that since the policy does not adequately define when to “avoid”, when to “minimize”, and when to “mitigate”, there is a lack of consistency with its application across the landscape. USFWS staff is concerned that the similarly vague definitions in the State Plan may lead to the same lack of consistency in application.

“No Net Loss”/ Cumulative Impacts to Habitat Due to “Acts of God”

The USFWS staff is not opposed to the concept of “no net loss” as a general conservation goal; however, they seek further clarification on what is meant by the term. The concept needs to be defined spatially and temporally, and to specify no net loss of what -habitat or population? USFWS staff would also like the State to clarify how they will account for Acts of God in achieving no net loss. Since fire and invasive species are the primary threat to sage-grouse habitat, how will the Plan account for these in determining no net loss? If Acts of God are not to be included in the concept of no net loss, then an explanation is needed to explain how the plan works to ameliorate this threat.

The USFWS also needs clarification as it pertains to the 5% per 640 acre disturbance and 20% Potential Habitat disturbance policy. The 5% per 640 acre disturbance figure was derived from the Wyoming State Plan in relation to oil and gas development which may not be as applicable in Nevada and the 20% Potential Habitat figure is a misapplication of the Connelly et al 2000 report. In addition, allowing for these percentages of loss is inconsistent with a concept of no net loss - this needs to be

further clarified. SETT should reevaluate these thresholds and recommend to the SEC if they need to be adjusted and how they will be accounted for in the goal of no net loss.

CONCLUSIONS

The 2012 Plan provides a good conceptual framework from which to build upon; however, details and definitions need to be fleshed out to provide for clear and consistent policies that will effectively result in the amelioration of threats to sage-grouse habitat and subsequent stabilization of the sage-grouse population in Nevada. Further development of the Plan will help provide an adequate regulatory mechanism to help preclude the listing of the sage-grouse in 2015 and selection of the Nevada State Alternative as the preferred alternative for the BLM EIS. While details on the adequacy of the recommended actions for specific threats were not discussed with the USFWS and NDOW, these actions as part of the Plan would benefit from a review of effectiveness and adequacy similar to the overall conceptual framework of the plan.

FISCAL IMPACT

There is no fiscal impact at this time.

RECOMMENDATION

Staff recommends that the Sagebrush Ecosystem Council authorize the Sagebrush Ecosystem Technical Team to:

- 1) Proceed with the development of the Coates Model and further work with the Sagebrush Ecosystem Council to determine how the mapping product will be utilized;
- 2) Further investigate the use and application of available state-and-transition models;
- 3) Further develop the Nevada State Plan and State BLM EIS Alternative in close coordination with the USFWS and other resource management agencies;
- 4) Begin the development of the Mitigation Crediting System and other regulatory mechanisms and policies as needed.

POSSIBLE MOTION

Should the Board agree with the staff recommendation, a possible motion would be,

“Motion to authorize the Sagebrush Ecosystem Technical Team to:

- 1) Proceed with the development of the Coates Model and work with the Sagebrush Ecosystem Council to determine how the mapping product will be utilized;
- 2) Further investigate the use and application of available state-and-transition models;
- 3) Further develop the Nevada State Plan and State BLM EIS Alternative in close coordination with the USFWS and other resource management agencies;
- 4) Begin the development of the Mitigation Crediting System and other regulatory mechanisms and policies as needed.”

Attachments:

1: U.S. Fish and Wildlife Service Informal Draft Comments on Nevada Strategic Plan for Conservation of Greater Sage-Grouse – September 14, 2012

mf, ln:TR

**U.S. Fish and Wildlife Service Informal Draft Comments on Nevada Strategic
Plan for Conservation of Greater Sage-Grouse
September 14, 2012**

General Comments

- We encourage greater deference be afforded to the Nevada Department of Wildlife's (NDOW) Habitat Categorization Map. We consider this approach scientifically defensible and it affords great utility at understanding current bird distribution. Also, this product and its associated components help target areas of restoration.
- We request quantification on the amount of acreage identified through the NDOW mapping process (Categories 1-4) that was captured/excluded from the Nevada Plan mapping effort in order to better understand our baseline or starting place.
- It will be impossible for the Service to consider this Plan an adequate regulatory mechanism without identification of specifics with regard to the 'how' and 'when' an action is denied or altered (thresholds, triggers).
- The concept of No Net Loss needs additional clarification as it pertains to 5% per 640 acre disturbance discussion and 20% Potential Habitat disturbance discussion.
- The avoid, minimize, and mitigate approach is generally the structure adhered to on federal lands under the National Environmental Policy Act (NEPA). The Service determined in 2010 this was inadequate.
- Habitat loss due to Acts of God (Fire and Invasive species) will occur. This loss needs to be taken into consideration and adaptive management principles need to be built into the regulatory process to deal with these events.
- Funding and mechanism for implementation needs to be identified.

Specific Comments

1.0 Introduction – p.1, 3rd paragraph

The standard or rationale for developing the Nevada Plan was to address the Service determination of inadequate regulatory mechanisms in our 2010 12-month Finding.

Mapping – p.2

We would submit that the final mapping product appears generally reasonable but we would appreciate clarification. Specifically, we would be interested in a comparison with NDOW's Habitat Categorization Map to ascertain how much Habitat Category 1, 2, and 3 is captured within the SGMA and how much is excluded. Further, we consider the NDOW mapping effort to be a defensible product and consider deviation based on rationale other than sage-grouse ecology to be challenging in light of our 2010 Finding.

2.0 Definitions – p.4

- **Sage-grouse Management Areas** – *“Delineation of the SGMA does not imply any degree of regulatory control or impose land-use restrictions for land-use management decisions for these lands.”* This statement is contrary to the rationale for developing this plan (see Introduction) and certainly affords the Service no reason for changing our 2010 opinion on the inadequacy of regulatory mechanisms.
- **Occupied Habitat** – There needs to be clarification on the burden of proof, scale, and rationale associated with the phrase *“last five years”*. Important corridors connecting basins with ridge-tops are likely used briefly and as such will have limited documentable sign of use. On a number of occasions, the Service has engaged in conversations with stakeholders that dismiss bird occurrence in some specific locale, when ultimately more intensive study demonstrates occurrence.
- **Suitable Habitat** – Definition needs clarification. This seems to be the same as Occupied Habitat.
- **Potential Habitat** – Definition needs clarification. We believe the intent is to identify habitat that is not suitable but could be if logistically reasonable restoration action is undertaken (i.e., PJ thinning). However, as worded it appears some Potential Habitat could be Occupied Habitat.
- **Last paragraph** – Our comments on this statement links to mapping and rationale for utilizing 85% Core, as defined by Doherty (2010). Policies outlined in Nevada Plan are not applicable to sage-grouse and suitable habitat outside the SGMA’s. Our concern is that, if we start with 85% and this is further segregated in to various habitat classification (Occupied, Suitable, etc.), which presumably influences degree of concern by future Committee/Technical Team, the map extent appears to move in one direction – toward less. Further, there may be indirect or direct effect to populations within SGMA’s due to activity immediately outside SGMA’s, especially if these habitats are occupied by sage-grouse.

3.0 NV Conservation Goals and Strategies – p. 5

1. The plan appears to aspire to "no net loss" of sage grouse habitat from development - this is good. The sentence as written, however, is slightly confusing. We interpret it mean no net loss of sage-grouse/habitat but the use of “for” instead of “from” in front of the word “activities” could be interpreted to mean no net loss of activities. Thus, we would appreciate clarification of this statement.
2. The plan states that Nevada should be "held harmless" for habitat loss due to fire and invasive species. Assuming this, it is difficult to credit the State Plan with addressing the biggest threat to sage grouse - fire and invasive species - even though there are several pages of the plan dedicated to this topic. We agree that federal lands fire issues are difficult for the state to control, but we would encourage articulating a clear vision for addressing this threat that federal agencies could evaluate. Specifically, disturbance by fire should be considered when evaluating the appropriateness of additional disturbance created through authorized activities.

“Avoid, Minimize Mitigate” - p. 5.

This approach is current policy under NEPA and Service determined this was inadequate. There needs to be identified specific thresholds and or triggers for the determination and application of each of these.

3. **Avoid** – “*Where ever possible*” – This definition needs further refinement with associated thresholds or Service is challenged to alter from 2010 Finding determination.
4. **Minimize** – “*Furthest extent practical*” – This definition needs further refinement with associated thresholds or Service is challenged to alter from 2010 Finding determination. These are Best Management Practices that are typically applied today. Some may have utility (although there is uncertainty here), but there are generally not silver bullets to these complex problems.
5. **Mitigate** – “*After all appropriate and practicable*” – This definition needs further refinement with associated thresholds or Service is challenged to alter from 2010 Finding determination.

There are fundamental challenges to AMM approach.

- Nevada has a substantial stewardship responsibility for sage-grouse across the West.
- Loss habitat will occur due to factors outside of our control – Acts of God.
- Habitat restoration in the southern Great Basin is difficult.
- Reestablishment of sage-grouse, either actively or passively, into locations following extirpations is not easily accomplished.
- Measuring and accounting for the cumulative effect of this approach will be essential.
- If the AMM approach, without associated thresholds, is adopted, we will continue to reduce extant habitat and sage-grouse populations will be mitigated in a negative direction.

Three general conservation policies – p. 5.

1. “*Conserve greater sage-grouse ...consistent with economic vitality...*” – We request clarification of this statement. What will be the economic and conservation thresholds that determine vitality?
2. We request additional clarification of this statement. Namely, “*all means*” but additionally do you foresee instances where activities will be incompatible with sage-grouse conservation. Further, this ties back to mapping effort - While avoid, minimize, and mitigate will proceed within SGMA, will known sage-grouse habitats outside of SGMA receive this same “degree” of protection. If not, this will actually diminish the current standard on federally managed lands under NEPA, which the Service determined inadequate.
3. A broad coalition – This is great.

p. 5, last paragraph – We are unsure what is meant for sage grouse by, “best possible outcome,” here.

3.1 Management Strategy in Occupied Habitat – p. 6

Suitable Habitat should be included under this category.

1. P. 5 of Plan states a goal of “no net loss” and this bullet seems to contradict this goal. While the Service will temporarily defer our opinion on the adequacy of a 5% disturbance standard per 640 acres, we contend that simply triggering an evaluation is not adequate and needs additional clarification. We submit that if a specific percent standard were to be adopted, the regulatory process would need to be able to enforce this cap. To be clear, we anticipate all activities that would disturb sage grouse and their habitat (including from invasive species encroachment) would be included in this cap.
2. While we recognize that a significant amount of winter habitat has been impacted by wildfire, we are unclear as to why winter range alone was identified specifically? You could also include nesting habitat in this sentence as quality is influenced significantly by shrub cover and, additionally, you could add a bullet that restricts treatments in brood-rearing habitat to those that maintain or expand current extent or quality of mesic or meadow habitat available in the summer.
3. Great
4. Great

3.2 Management Strategy in Potential Habitat – p. 6

1. Great
2. Not entirely clear on this bullet. As written, it states that habitat disturbance (from any number of human activities?) could occur in potential habitat but not exceed 20% per year per SGMA. If potential habitat represents those sites that are unoccupied but logistically feasible to bring back to suitable habitat – 20 percent seems excessively high as you are dismissing areas that can offer future “lift”. This implies that in 5 years, all potential habitats could be converted to non habitat (mine, wind, geothermal, etc.). On the other hand, it is not clear why we would limit the amount of restoration activities that could occur per year in potential habitat, unless potential habitat was actually occupied habitat. I believe you are misusing Connelly *et. al.* 2000. He is referring to occupied habitat and additionally his time frame is not annually but 2-3 decades, depending on habitat?
3. Great

3.3 Management Strategy in Non-Habitat – p. 6

1. Need to remain cognizant of potential impacts caused by indirect effects of activities occurring outside of suitable habitat (such as noise or predator subsidy) and scale at which non-habitat is mapped. Also can these activities be encouraged to be sighted outside SGMA’s? This, of course, would further depend on the rationale underlying the adopted map.

3.4 Interim Strategy - p. 7

Until such time the regulatory process (criteria, thresholds, triggers, etc) of this Plan are established, we submit that adoption of this Plan (#s 1, 5, 7) would undermine current BLM and

USFS direction and would run counter to the determination made by the Service in our 2010 Finding with respect to inadequate regulatory mechanisms. Further, we contend the “grandfathering” clause (#2) (as of July 31, 2012) runs counter to over a decade of efforts towards recognizing the need and working toward sage-grouse conservation. While it is reasonable that ongoing, non-expanding, projects should have no additional obligations, activities that have yet to receive a decision under NEPA should be evaluated.

4.0 Implementation Responsibilities

We are unclear what impacts of listing the sage grouse would include that are “well documented,” – please document – or what, “significant negative impacts” would occur. We understand the perceptions here, and if we specifically can say what it is we’d like to avoid, we may be more successful in doing so in the event sage grouse are listed. Also, we believe that if this state plan is to be effective, then the effects of a decision to list sage grouse should not be much different than the effects of this plan.

4.1 Sage-grouse Advisory Council – p. 8

The individual topics addressed in this section are each important. The Service offers comments on selected topics, identified by bulleted number contained within the Plan. We have no comments on the topics not identified.

3. This topic is incredibly important and will establish the ground work from which the Service can assess the regulatory adequacy of this Plan.
5. Again, funding is a critical topic, which will facilitate the Service in forecasting potential for conservation.
10. We submit that the Council’s activities should be adaptive. Thus, some degree or form of latitude should be granted.

5.0 Sage-Grouse Management Area Map Recommendations – p. 11

- We would submit the best available science initiated the mapping efforts but after refinements based on an unclarified rationale, the SGMA Map was derived. While we appreciate the Committee’s effort toward mapping, we would encourage the adoption of the NDOW’s Habitat Categorization map and then pursuing refinements as new data are collected.
- Can the SGMAs be altered to include additional habitat or do these areas only get smaller?
- #5 – We are not clear as to what “exempt from additional regulations” implies?
- Last Paragraph – I am not sure what is implied by this statement. How will areas of known development be considered going forward. If these activities are to be “grandfathered in”, the area should not be excluded from the map and this existing disturbance should be considered when evaluating new developments.

6.0 Threat Assessment and Recommended Actions

Our comments on individual threats contained in this section are generally captured under the Avoid, Minimize, and Mitigate section above. As worded, several sections lead us to believe the

adopted standard for burden of proof is ‘demonstrate harm’ and not ‘demonstrate no harm.’ This may be important in the perception or reality of perpetuating ‘business as usual.’ We anticipate thresholds, standards and actions would need to be identified and established.

7.0 De Minimis Activities

In general, the Service considers ranching operations and many ranching practices, when conducted in a sustainable manner, to generally be not incompatible with sage-grouse conservation. However, we encourage the review of individual practices and adoption of alternative approaches when they afford a positive influence on the species. There may be straightforward, practical, proven ideas that have not caught on within the agricultural and ranching communities.

We are recently becoming aware of concerns over a potential relationship between livestock grazing and the spread of invasive species such as cheatgrass. If such a relationship exists, then we would perceive livestock grazing to be of significantly greater concern to sagebrush ecosystem conservation. We encourage further exploration of this topic.

1. Timing of husbandry practices should be taken into consideration. We have witnessed sheep bands bedded down on leks sites during the leking season.
2. We are not sure what all is covered under “existing farming practices” but there may be practices that could be altered to afford a little more deference for the species without being overly burdensome on the producer. For example, cutting alfalfa or other pasture grass, starting from the inside of the field and working out, outfitting equipment with “flushing bars” when feasible, or altering livestock access to riparian areas in order to maintain stream and associated meadow integrity.
3. We assume all allotments have an associated Federal management plan. Thus, we infer from this bullet that all operations with allotments would be immune from any regulation adopted through this Plan. We contend that while an allotment plan may be appropriate, meaning it represents a sustainable prescription, implementation is a separate issue and one that requires follow-through. Some allotments remain degraded regardless of prescription or language contained in the management plan. Thus, we do not consider all operations that have existing management plans to be a de minimus activity but only those that actively and effectively implement prescriptive grazing plans, which are compatible with sage-grouse habitat requirements.
4. We would encourage as little infrastructure development as possible within four miles of a lek regardless of construction timing. Most hens nest in proximity to lek sites (this is what informs Doherty’s model). Concentrating cattle through tank development or installing windmill structures, which are often used as nesting substrates by ravens within this four mile lek buffer would not be ideal.
5. We would strongly encourage limiting new aboveground transmission lines within four miles of lek sites.
6. No comment
7. We would discourage new fences within 1.25 miles of a lek or other sites where seasonal congregations of sage-grouse occur. Also, we would encourage exploring other fencing

options such as electric or let down in lieu of traditional, three or four strand wire designs.

8. No comment
9. Mesic sites are incredible important to sage-grouse in Nevada. When considering how much is “enough water”, we would encourage deference be afforded to sage-grouse.
10. We are not familiar with the RAAT protocol. Grasshopper’s do, however, represent an important dietary item for developing chicks. Thus, we would encourage limiting herbicide application intended to reduce insect numbers.
11. No comment
12. No comment
13. No comment

Core Areas: Broken promises pave the road to listing

ORIGINALLY PRINTED ON THE EDITORIAL PAGE OF THE CASPER STAR TRIBUNE, WYOMING'S ONLY STATE-WIDE NEWSPAPER
March 21, 2013 12:00 am • [ERIK MOLVAR Biodiversity Conservation Alliance](#)
[\(6\) Comments](#)

Sage-grouse protections are a hot topic these days. Some hope to prevent further sage grouse declines, while others hope to avoid Endangered Species regulations.

In 2008, Gov. Dave Freudenthal adopted an executive order to protect sage grouse in core areas. Under the latest version, “New development or land uses within Core Population Areas should be authorized or conducted only when it can be demonstrated that the activity will not cause declines in Greater Sage-Grouse populations.”

But immediately thereafter, the hanky-panky begins: “Development consistent with the stipulations set forth in Attachment B shall be deemed sufficient to demonstrate that the activity will not cause declines in Greater Sage-Grouse populations.”

“Attachment B” contains loopholes so industrial uses inside core areas are exempted from sage grouse protections, and industrialization can be fast-tracked outside the boundaries. Additionally, boundaries have been gerrymandered to accommodate wind farms, strip mines and a coal-to-liquid plant that would otherwise be prohibited. And for heavy industrial projects like the Lost Creek uranium mine, recently challenged in court, sage grouse protections have been waived.

The Lost Creek case reveals a trail of broken promises. First, the BLM argued that core area protections are merely “voluntary” for mining operations, and the judge agreed. Second, state officials waived protections with impunity. Wyoming Game and Fish officials ruled that the Lost Creek project density — 100 wellpads per square mile, vastly greater than the one wellsite per square mile allowed in core areas — was acceptable because the entire project was really a single wellpad covering more than 4,000 acres. Game and Fish biologists also approved constructing the main haul roads closer than 0.6 mile from sage grouse leks — violating the 1.9-mile exclusion zone for main haul roads and 0.6-mile exclusion zone for any road construction — because hillsides screened the roads from the leks. Wyoming Game and Fish biologists surely knew that building roads this close to leks would cause problems.

Game and Fish itself had based the haul road buffers on the Holloran study, which showed that roads within 1.9 miles impact sage grouse populations, whether or not the road was visible from the lek. The BLM knew it too, having funded a new study that discovered that traffic noise projected from hidden speakers — with no visible roads or trucks — had a major impact on sage grouse on leks at distances within 0.7 mile.

The BLM recently called together a National Technical Team, sage grouse experts from federal and state agencies across the country, to review the science and recommend sage grouse protections within core areas. Unlike the state process, there were no industry lobbyists looking to stack the deck in their favor, no conservation advocates, no politicians — only scientists assessing the results of published studies. These biologists confirmed that well densities should never exceed one wellpad per square mile, and that a 4-mile buffer with no drilling or road construction should be required around each active sage grouse lek.

The Lander BLM plan considered applying National Technical Team standards, but rejected them even though the socioeconomic analysis revealed that stronger protections would have little economic impact. The Lander plan could have included rigorous sage grouse protections, making the strongest possible case against listing, at no economic cost – but BLM decided against strong protections out of deference to a crippled state core area plan.

Meanwhile, in the Powder River Basin, in 2012 a BLM-funded population viability study concluded that the core areas designated there were inadequate to protect the regional population, which will face “functional extinction” during the next West Nile virus epidemic. So naturally, the BLM is expanding core areas to increase protections from drilling, and breaching and draining coal-bed methane wastewater ponds that breed West Nile virus carrying mosquitoes, right? Wrong.

State and federal biologists are finally beginning to concede that the State’s core area strategy is based on political compromise rather than scientific principles. But forced to choose between science and politics, land and wildlife managers are still playing politics.

Wyoming is gambling on secret assurances from the U.S. Fish and Wildlife Service that their core area policy will satisfy the federal “Policy on Effective Conservation Efforts,” and thus prevent the sage grouse from getting Endangered Species protections. But it’s a risky strategy: If the Service doesn’t list the grouse, the decision will likely wind up before Judge B. Lynn Winmill of the U.S. District Court, who overturned the last “not warranted” finding on the sage grouse.

Meanwhile, the BLM is amending all of its land-use plans to address sage grouse protections. More than half of Wyoming’s sage grouse inhabit BLM lands. If BLM adopts the rigorous protections of the agency’s own scientists, then sage grouse populations get the protection they need, making a strong case that Endangered Species protections are unnecessary. Anything less, and both the sage grouse and efforts to stave off Endangered Species listing are in trouble.

Erik Molvar is a wildlife biologist with Biodiversity Conservation Alliance, and has advocated for sage grouse conservation in the state for more than 12 years.



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The Honorable C.L. "Butch" Otter
Governor of Idaho
State Capitol
Boise, Idaho 83702

APR 10 2013

Dear Governor Otter:

Thank you for your letter of March 14, 2013 requesting U.S. Fish and Wildlife Service (Service) "concurrence" in regards to Idaho's Greater sage-grouse (GRSG) conservation strategy (Strategy). Before the Service responds to this request, we would like to express our continued appreciation for your leadership in guiding the collaborative approach in which your staff in the Governor's Office, the Office of Species Conservation and the Idaho Department of Fish and Game has worked with us to refine the State's approach to conserving GRSG in Idaho.

The Service remains impressed with and supportive of the science-based adaptive conservation strategy for GRSG you have crafted collaboratively in Idaho, for Idaho-specific needs. In brief, the foundation of the Strategy and most of the specific elements that complete it, are solid and are grounded in scientific concepts and approach important to both the Service and Department of the Interior. While there is much about the current draft that the Service supports; there remain elements that need refinement, clarification, or need to be incorporated into the Strategy for the Service to conclude the entire strategy is consistent with the Service's Greater sage-grouse Conservation Objectives Team (COT) report.

A detailed response to your inquiry is attached. In summary, the integrated nature of the Strategy makes it difficult to "concur" with specific elements as most are interrelated and depend on other elements of the Strategy to function effectively. Nonetheless, our review revealed that the 4 foundational elements of the Strategy (Habitat Zones, Conservation Areas, Population Objective and Adaptive Triggers) are consistent with the COT as is the Livestock Grazing Management element. Therefore, this determination of consistency with the COT reflects "concurrence" for these elements, with the necessary elements noted in our detailed comments (see attachment), for the purpose of BLM IM 2012-043. This "concurrence" should not be construed as being automatically implementable by the BLM. The Service looks forward to working with your Task Force, and BLM as appropriate, to refine, clarify and add aspects of the Strategy as needed for similar support of, for example, the Wildfire Management and Infrastructure elements; and the Implementation Team/Commission. The latter, while an element of the Strategy that that

needs clarity and refinement is an issue the Service believes is easily addressed. There are numerous examples of such bodies, including as the State has verbally referenced, the process used on the Idaho Roadless Rule. The Service looks forward to assisting the State craft such a process for the Strategy.

Conservation of GRSG is a challenge. It is a challenge due to the geographic scale of the issue; the need of the species for large intact undisturbed geographies of habitat; the difficult nature of the threats in the Great Basin portion of the range; and the relevance of the habitat in questions to myriad conservation and economic needs and interests. Long-term conservation of GRSG will require a strong and sustained commitment by stakeholders across multiple jurisdictions to work together collaboratively. It is for these reasons that the Service commends the State of Idaho for acknowledging and crafting a Strategy that on one hand details proactive conservation actions to address the threats on the landscape, but equally important embraces the uncertainty of how those threats will play out on the landscape and how they will affect GRSG over time by crafting a robust, outcome based scientific strategy that is collaborative and adaptive. This balance between proactive conservation design/actions based on empirical data and assumptions, with a feedback loop from monitoring to inform adaptation in design/action, with stakeholders in the decision loop as an integral part of that process, is a fundamental component of the both the Strategic Habitat Conservation approach the Service employs, and Adaptive Management that the Department of the Interior employs.

We hope this review is helpful. The Service looks forward to continuing our role in this process of on-going refinement of the Strategy, its implementation over time, and as part of the adaptive process it embraces.

Sincerely,



Brian T. Kelly
Idaho State Supervisor

cc: Idaho BLM, State Director (S. Ellis)
Idaho Department of Fish and Game, Director (V. Moore)
Idaho Office of Species Conservation, Administrator (D. Miller)
U.S. Forest Service, Region 4, Deputy Regional Forester (M. Finley)

ATTACHMENT

Purpose of the Service's Comments

We want to be clear regarding the purpose of our comments. First, our comments serve to continue the collaborative and iterative process we have been engaged in with you. We see this review as an important "check-in" and continuation of that process to ensure the Strategy is ultimately best positioned to contribute to a future where listing GRSG under the ESA is unnecessary.

Our comments also provide the requested feedback regarding "concurrence" as referenced in BLM Instructional Memorandum 2012-043. While the Service and BLM are both Department of the Interior Agencies, and we together with the State of Idaho and other partners, are collaborating in the conservation of GRSG; the BLM and Service have different legal authorities and policy requirements. As such, any "concurrence" we may offer on elements of the Strategy should not be construed a priori as being implementable by the BLM. That is a determination BLM must make. The Service acknowledges and respects BLM authority in this regard. The Service stands ready to assist the State and BLM in BLM's approval process where appropriate (e.g., Service review of elements of the Strategy that are modified to be implementable by BLM). Our comments on the Strategy at this juncture are not part of the on-going BLM process to amend and or revise various Resource Management Plans across the range of GRSG. That review process will be completed separately.

Service support of the Strategy in part or whole should not be interpreted as a decision by the Service commensurate with a listing decision under the Endangered Species Act (ESA). That determination will be made when the Service formally reviews the status of the species in 2015. However, our purpose in developing the COT report was to guide the States in the development of conservation actions and strategies so that when we review those efforts in 2015 they would contribute to the conservation of the species in a manner that collectively would address threats such that listing would not be necessary. It is for this reason, our review of the Strategy herein is provided in the context of the COT report.

Components of the Strategy

We frame our review in the context of the three primary elements of the strategy: (1) Foundational Elements, (2) Specific Elements, and (3) Implementation Team/Commission. Foundational elements of the Strategy are those that transcend specific management and conservation actions or reactive adaptive processes once population or habitat triggers are tripped. We refer to four Foundational Elements: Thematic Approach, Conservation Areas, Adaptive Triggers, and Population Objective. Specific Elements identified in the Strategy are those that target specific threats including: wildfire, invasive species, and infrastructure, as primary threats; and recreation, West Nile virus, improper livestock grazing management, and livestock grazing infrastructure as secondary threats. The Implementation Team/Commission

referenced in the Strategy is meant to ensure proper action is taken when a trigger is tripped. As such, for the purposes of our review, we will evaluate the Implementation Team/Commission as a separate operational element of the strategy.

Foundational Elements

Our review of the Strategy revealed a thoughtful, science-based and outcome-driven adaptive management approach to the conservation of GRSG in Idaho. This approach is consistent with the COT report. The Thematic Approach, Conservation Areas, Adaptive Triggers, and Population Objectives are consistent with the COT report and the Service strongly supports these aspects of the State's Strategy.

Examples of how the four Foundational Elements of the Strategy are consistent with the General Conservation Objectives and Specific Conservation Objectives related to Priority Areas for Conservation (PACs) in the COT report include:

1. The designation of a Core Habitat Zone (CHZ) of approximately 5.5 million acres which by itself is currently home to approximately 73% of the male GRSG in Idaho. The CHZ captures the COT report intent of avoiding development in priority areas for conservation (PACs). The Strategy reflects that the development of infrastructure (a primary threat to GRSG) is prohibited in CHZ; with a process for limited exceptions. The Service commends the State for ensuring that any exceptions to the prohibition to infrastructure in CHZ, must meet the conservation standard in the Important Habitat Zone (IHZ; see discussion in next paragraph). While we support the configuration and intent of the CHZ, we look forward to working with the State to clarify how exceptions are determined and specific mitigation strategies if exceptions occur are implemented (see Specific Elements and Implementation Team/Commission headings, below).
2. The designation of an Important Habitat Zone (IHZ), of approximately 4 million acres which by itself is currently home to 22% of the male GRSG in Idaho. The IHZ also captures the COT report intent of stopping the population decline in that while infrastructure is permitted; it is permitted in a way that must demonstrate it will not affect the population trend for the Conservation Area in question. IHZ serves an equally important role in the Strategy as it can serve to buffer loss of habitat due to fire (see #5).
3. The Strategy's use of a measureable population objective, and utilizing monitoring to ensure that objective is met; and setting metrics that trigger changes in practices or review of current practices to ensure the Strategy's conservation objective is met long-term.
4. The use of four separate Conservation Areas in which the adaptive triggers are individually applied adds an increased level of sensitivity to change, that we expect to translate to more timely changes in management if necessary, which will translate to an enhanced ability to ensure the population objective of the

Strategy is met state-wide (the Service appreciates and concurs with the State's desire to have additional peer review of the adaptive triggers).

5. The use of a "hard trigger" that, if tripped, requires IHZ be managed as CHZ, with infrastructure development subject to the same standards in both zones. In essence, if applied to all Conservation Areas, the CHZ would almost double in size. This would add the conservation benefit of CHZ to IHZ until no longer necessary.
6. The COT report also references the importance of incentive-based conservation actions in developing a conservation strategy. The foundational elements of the Strategy provide a context for incentivizing actions to maintain population numbers and intact habitat; and help ensure the conservation and restoration of GRSG in Idaho. The structure of these foundational elements of the Strategy (and specific elements consistent with the COT report and others as they are refined) will help provide stakeholders predictability with regard to GRSG conservation needs.

Specific Elements

Livestock Grazing Management: This specific element of the Strategy is consistent with the COT report. The Service supports this aspect of the Strategy because it requires Idaho Rangeland Health Standards (IRHS) be met and it does so in the context of the Strategy. The COT report identifies that if the riparian (IRHS 2) and upland (IRHS 4) rangeland health standard is met, that is the minimum needed to address the threat of grazing on GRSG based on our expertise under the ESA. To achieve this, the Strategy provides an adaptive management process by which adjustments in grazing based on ecological site potential and habitat characteristics would be prioritized as needed outside of normally scheduled permit renewals based on population triggers and cause of declines within each Conservation Area in the Strategy. Additionally, the adaptive management approach the Strategy provides an important framework for deciding what, in addition to IRHS 2 and 4, might be required under IRHS 8 (Threatened, Endangered or Sensitive Species) for GRSG conservation.

As noted above, the COT also references the importance of incentive-based conservation actions in developing a conservation strategy. The Service believes the Livestock Grazing Management Element address the conservation needs of GRSG while providing an important incentive to permittees to be good stewards.

An additional important benefit to the Service of the Livestock Grazing Management element is that the regulation of improper grazing as a threat to GRSG when permits had not yet been analyzed by BLM to meet IRHS for GRSG (IRHS 2, 4; and 8 as needed) would be accomplished through the Strategy on an as needed basis based on population status. This approach is in contrast to requiring all individual permits be conditioned to meet IRHS 2, 4 and 8 (as needed), by the time the Service makes its listing determination—a goal that is likely not achievable. To be clear, the Service supports

adherence to IRHS. Our support for the approach of this element is due to it being a wise approach for regulating the appropriate conservation action for the secondary threat of improper grazing to GRSG where needed, until IRHS necessary for GRSG conservation are achieved at the management area scale. This adequacy of regulatory mechanisms under ESA is an important consideration. Pending more clarity in how the Implementation Team/Commission is staffed and operates once a trigger is tripped; the Service would expect to fully support this element of the Strategy. While we would defer to the BLM on their permit-specific application of these triggers in the context of requirements to enhance and restore rangelands under Federal Lands Policy and Management Act (FLPMA), the Service supports the Livestock Grazing Element in the interim as long as no triggers have been tripped within a Conservation Area.

Infrastructure: The specific actions in the infrastructure element are consistent with the COT pending a clearer understanding how the Implementation Team/Commission operates to determine exceptions to CHZ development, development in IHZ, and how referenced mitigation of impacts will work.

Mitigation: Mitigation is referenced in multiple elements in the Strategy but there is no explanation of the how mitigation for impacts in CHZ, IHZ and potentially GHZ will work. The Service is aware of preliminary work by your Task Force and the work of the Idaho Sage-grouse Advisory Council and this element and encourages the State to build on these efforts for this element of the Strategy.

Restoration: The Service recognized in our letter of August 1, 2012, that one of the many strengths of the Strategy is that habitat in need of restoration was included in and adjacent to CHZ as a priority commitment for restoration and to expand Core habitat. However, the Strategy is largely silent on the important relationship between mitigation and restoration for restoration to occur; what constitutes habitat that is lost versus gained back; and restoration monitoring. The need for how direct and indirect loss of habitat is quantified and what constitutes restored habitat is a missing component of the habitat trigger as well.

Wildfire Management: Wildfire and invasive species associated with fire are the greatest threat to long-term persistence of GRSG in the Great Basin and the threat most difficult to manage. The Strategy has been refined to help manage this threat in a significant way. The addition of legislative changes and funding to support the creation of Rural Fire Districts (RFDs) is a significant addition to the Strategy and one the Service supports and that is consistent with the COT report. Viewing wildfire management in the context of Prevention, Response and Restoration and tailoring actions within each is likewise an important refinement. The Service looks forward to working with the State and other partners to help establish more RFDs; and to identify more specific actions under each category of Prevention, Response and Restoration.

One aspect of the strategy that is not a specific fire management action but that the Strategy notes and the Service likewise acknowledges as one of the strongest attributes of the Strategy is how the overarching construct of the Strategy is designed with fire in

mind. The conservation objective of maintaining between 95% and 73% of the males on leks, the establishment of refined habitat triggers that catch declines and adapt practices earlier and by Conservation Area, the identification of areas in need of restoration, the commitment to IRHS are all mechanisms to reduce fire, buffer the effects of fire, and provide for refinement in management in an adaptive construct to reduce the effects of fire in the long term.

Management on non-Federal Property: The Strategy to date has focused on Federal properties. This is understandable due to the ongoing Resource and Land Use Management Plan revisions and amendments underway by BLM and the U.S. Forest Service. The Service looks forward to working with the State to ensure the Strategy applies where necessary and appropriate to all properties with adequate state or local regulatory mechanisms.

Implementation Team/Commission

Many of the specific elements of the Strategy are in the Service's view conditionally consistent with the COT pending more clarity how the Implementation Team/Commission is staffed and operates; and how it interacts with scientific support. Because the Strategy is an outcome-based, adaptive strategy, its efficacy is achieved through a balance between proactive actions and reactive steps to adapt and or change actions if necessary. Therefore, the Service needs to understand in more detail how the Implementation Team/Commission functions to evaluate data and inform decisions to adapt management that ensure the Strategy objective is met (e.g., see Infrastructure, above).

Summary

In summary the Strategy is a robust approach to conserving GRSG in the Great Basin. Many components of the Strategy are strong, in particular the underlying foundational elements and grazing management; with wildfire and infrastructure similarly strong pending additional clarity and refinement as noted. The State of Idaho and the stakeholders on the Governor's Task Force have done remarkable work in a compressed timeframe as these aspects of the plan address threats to GRSG in the Great Basin in a way that gives the Service more regulatory certainty, stakeholders more operational certainty, and provides for the conservation of GRSG and sage-brush in Idaho that helps ensure more resiliency to large wildfires. The elements of the Strategy that the Service would welcome more conversations with the State to refine, add or clarify in the Strategy include non-federal properties, restoration, mitigation, and the operation of the Implementation Team/Commission.

codes line by line. As an aside, did you ever wonder who anti-hunters and their technical experts cite as proof that you do not have to hunt deer or elk populations to keep those animals from destroying the range? Why none other than Graeme Caughley! For he "proved" that plants and herbivores will reach equilibrium without any need for predators, be they carnivore or human. Sweet! Finally, predator enthusiasts object to characterizing wolves and mountain lions as killers. Instead they call them "adorable" and take tame wolves into schools to show the peaceful disposition of the animals.

But what about site-specific and intraspecific aggression? In a 15 year study of an un hunted mountain lion population in New Mexico, Logan and Sweanor reported that cats killed cats at a rate of 18% per year. Meanwhile David Mech and his co-workers reported that un hunted wolves in Alaska killed wolves at

36% per year. Thus, mountain lions kill mountain lions at a rate of 18,000 per 100,000 per year, while wolves kill wolves at a rate of 36,000 per 100,000 per year. This is how the FBI reports crime statistics. For comparison, the murder rate in the U.S. is around 7 people per 100,000 per year. So the mountain lion homicide rate, as reported in New Mexico, is 2,500 times the human murder rate. While the wolf homicide rate, as reported in Alaska, is 5,000 times the U.S. murder rate. In addition, lions kill wolves and other predators whenever they can, and wolves return the favor killing cats and any other predators they can catch. This is not predation, as the victims are seldom eaten. But it does prove that predators kill out of instinct and, at times, just for the act of killing.

A few years ago there was a nature special on TV about lions and hye-

nas in Africa. The entire hour was devoted to lions killing hyenas and hyenas killing lions. Finally, nature depicted how it really is, "Red in Tooth and Claw."

The next day a member of my department asked me what I thought about the African nature special and I said, "It was great!" She, however, admitted that she had to turn the TV off as it was too violent and it upset her moral sensibilities. Violent yes, untruthful or unnatural.....no. Whatever else wolves and mountain lions may be, the one thing that is without doubt is that they are stone cold killers.

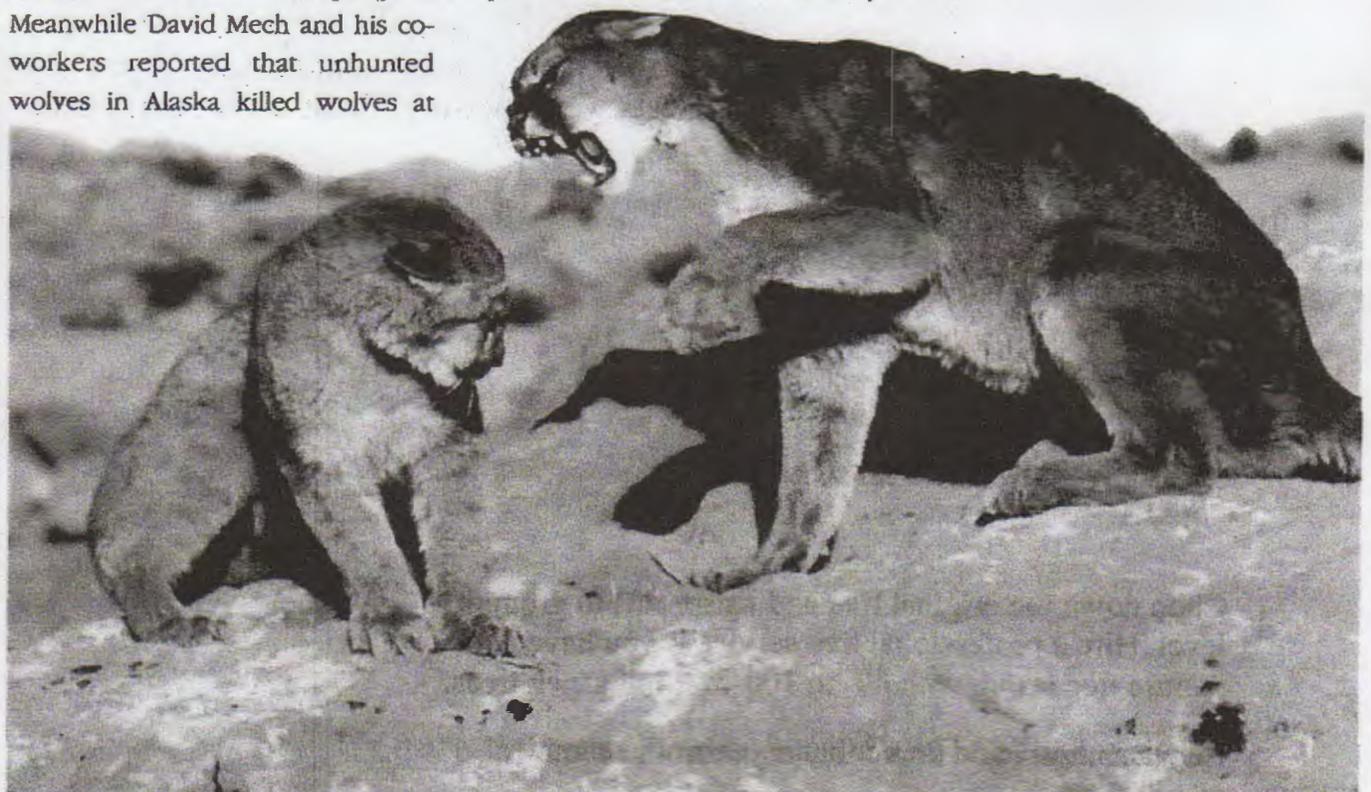


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