



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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MINUTES

Action was taken to approve minutes November 18, 2013.

Date: Thursday, October 10, 2013 8:30 a.m.
Time: The Nevada Legislative Building
Place: 401 S. Carson Street, Room 4100, Carson City, Nevada 89701

Video Conference was not available, but could be viewed on the internet at:
<http://www.leg.state.nv.us/App/Calendar/A/>

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

Council Members Present: Jim Barbee, Allen Biaggi, Steven Boies, Doug Busselman, Jeremy Drew, Gerry Emm, JJ Goicoechea, Kent McAdoo, Tina Nappe, and Tony Wasley.

Council Members Absent: Leo Drozdoff, Bill Dunkelberger, Ted Koch, Starla Lacy, Amy Lueders

1. **CALL TO ORDER** – Chairman Goicoechea called the meeting to order at 8:35 am.
2. **PUBLIC COMMENT**
 - a. Cliff Gardner, representing Rural Heritage Preservation Project. Mr. Gardner requested clarification of the authority AB461 gives to the Sagebrush Ecosystem Council in way of regulatory enforcement and the intent of the Council to enforce these regulations on private land owners. He requested the item be agenized in the future.
 - b. Debbie Struhsacker, representing the Nevada Mineral Resources Alliance. Ms. Struhsacker urged the Council to be conservative when discussing maximum allowable disturbance limits; noting using a market based approached for MAD.
 - c. Floyd Rathbun, Fallon ranching consultant. Mr. Rathbun discussed points outlined in Mr. Fulstone’s packet presented to the council. Mr. Fulstone urged the Council to recognize the obligation to protect the citizens’ rights to due process.
3. **REVIEW AND CONSIDERATION OF APPROVAL OF AGENDA** – Member Nappe moved to approve the agenda; seconded by Member Boies, motion passed unanimously. ***Action**

4. REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES

A. *Approval of minutes from the meeting held September 12, 2013.* Member Busselman made a motion to approve the September 12 minutes; seconded by Member Nappe, motioned passed unanimously. ***Action**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE:

A. Council members may make comments at this time and the Program Manager will bring forward any pertinent correspondence directed to the Council.

Mr. Rubald referenced the FIM Corp. document presented to them in their meeting packets.

Vice-Chairman McAdoo made note that he appreciated receiving material presented to the SEC during public comment period. One such article that was submitted, "Rangeland Scientist at Home in Sagebrush" was especially pertinent, since it highlighted a prominent range researcher, Dr. Kirk Davies, USDA-ARS, Burns, Oregon. According to Member McAdoo, much of Dr. Davies's research, especially that related to the benefits of moderate livestock grazing, has been largely ignored in recent agency literature review documents on Greater Sage-grouse. Most recently, a 170-page report (Summary of Science, Activities, Programs, and Policies That Influence the Rangeland Conservation of Greater Sage-Grouse (*Centrocercus urophasianus*)), prepared by the USGS and BLM in 2013, made no mention of Davies's pertinent studies on livestock grazing and those of some other range scientists as well. The omissions, whether intentional or accidental, are glaring. The impacts of grazing, depending on how it is implemented, can be neutral, beneficial, or detrimental. The SEC and the management agencies must be careful to examine all legitimate science.

Member Nappe said the Council needs to demonstrate how to "protect". She expressed concern that the Council is not working quick enough to address potential projects. She said as is, the plan does not "protect", only costs more to do business.

Member Boies requested information be distributed earlier to the Council by the SETT prior to meetings. He thinks the federal agency information is one-sided. He believes collaborating with landowners is the direction of success.

Member Biaggi noted the draft decision made regarding the Bi-State population. He said the Mining Industries' footprint of 150,000-160,000 acres, could be wiped out with fire in one afternoon. He expressed the need of the Council to focus on fire and invasives.

6. DISCUSSION OF CONSERVATION CREDIT SYSTEM:

A. Released RFP for the Conservation Credit System – Mr. Rubald provided an updated and aggressive timeline for the process. He noted the RFP was released on Monday, October 7, 2013. He introduced Jennifer Newmark, Administrator for the Nevada Natural Heritage Program (NNHP). NNHP has been added as a collaborative partner for the Conservation Credit System, along with the SETT and Steve Abel from USFWS as reviewers of the submissions by respondents. Mr. Rubald noted once the contractor is selected, policy issues will be brought before the council. Key dates include: 10/7 – RFP Released; 10/15 – Intake of questions from potential contractors; 10/18 – Answer questions from respondents; 11/5 – Bid Opening; 11/21 – Review group meeting; 11/22 – Letter of Intent;

11/25 – Contract Negotiations; 11/27 Wrap-up negotiation period; 12/10 – Approved BOE contract.

7. PRESENTATION ON THE SAGE-GROUSE INITIATIVE :

A. The presentation to be made by the Sage Grouse Initiative (SGI) was cancelled and will be rescheduled due to the US Federal shutdown.

8. PRESENTATION OF NDOW’S SAGE-GROUSE POPULATION DISTRIBUTION MAPS

A. Mr. Shawn Espinosa, Upland Game Staff Biologist, NDOW; and Mr. Chet Van Dellen, Wildlife Staff Specialist, NDOW; provided a presentation to the Council of Sage-grouse population distribution maps that present various percent population distributions across Nevada’s three management zones, as identified in the COT report. These maps, utilizing 2012 data, will help guide discussions and facilitate understanding of key Sage-grouse areas in the state. The Council discussed at length the many facets and factors of the data that included: how a lek is defined, ranked, and the status of the lek; breeding density; methodology; and review processes. The Council agreed utilizing the 85% breeding maps is the preferred starting place. The presentation is available on the website.

Member Busselman made a motion that the Council will use the prioritized Sage-grouse management areas on the management zone basis, for our conservation efforts; triggering SETT consultation, verifying habitat or non-habitat status, and developing enhancement projects, as well as moving forward with implementation of the avoid, minimize and mitigate strategy; seconded by Vice-Chairman McAdoo, further discussion of the motion ensued. Vote was seven in favor with one opposed by Member Drew. ***Action**

9. AVOID PROCESS

A. Melissa Faigeles and Laura Niell of the SETT presented a staff report including a table to the Council for review and discussion. The Council discussed and considered the possible process steps for the “Avoid” principle to be included in policies, as requested during the September 12, 2013 Council Meeting, Agenda Item 9.

Member Biaggi made a motion to approve the proposed avoid process, with the inclusion of the footnote, recognizing that the exact terminology and definition will be defined by the input from the USGS and NDOW, and to include a notation that the exact suitability category be conducted in consultation with SETT, associated state agencies, and the project proponent. The Council will move this item forward for the time being for the purposes of the EIS and to give staff the certainty they need; seconded by Member Drew, further discussion ensued. Vote was six in favor with one opposed by Member Busselman. ***Action**

The Council recessed for a lunch break.

10. OBJECTIVES FOR ACTS OF NATURE

A. John Copeland of the SETT reviewed Section 3.2 of the 2012 Plan, the section on Acts of Nature. The Council discussed the possible objectives for “Acts of Nature” established in the revised State Plan, as requested during the September 12, 2013 Council Meeting, Agenda Item 9.

Member Biaggi made a motion to approve Section 3.2 Acts of Nature – Fire and Invasive Species with the changes referenced on page two; seconded by Member Drew, further discussion, motion passed unanimously. ***Action**

The SETT fielded a question from Mr. Gardner regarding the revisions of the document, Mr. McGowan noted the Science Work Group participated in the 3.2 revision process. Member Busselman requested Mr. Gardner submit what he propose as a definition for 'restore naturally occurring wildfire return intervals' and submit it to the SETT for them to bring forward to the Council.

Member Emm made a friendly amendment to amend the third bullet on page one to add language of 'and other obligate species of the Sagebrush Ecosystem'. Vice-Chairman McAdoo moved to approve Member Emm's amendment and made a friendly amendment to strike the word 'naturally occurring' in the third bullet on page one; amendment seconded by Member Biaggi, no further discussion, motion passed unanimously. ***Action** Following approval of the amendment, Chair Goicoechea brought the Council back to the motion. The vote was take and was approved unanimously.

11. DISCUSSION OF RESPONSES TO THE SETT'S SUGGESTED CHANGES TO SECTION 3.0 GOALS AND OBJECTIVES TO THE STATE PLAN. CONSIDERATION OF ITEMS FOR INCORPORATION INTO AN UPDATED VERSION OF SECTION 3.0 WILL BE DISCUSSED.

A. The Council discussed and considered issues related to "Minimize". Melissa Faigeles presented the revision on page two of the document. A lengthy discussion ensued regarding unannounced site visits from the SETT or a designee. It was determined the designee would be either SETT staff or staff from a sister agency. Further discussion regarding enforcement. Staff noted this is more of a monitoring function vs. a regulatory function.

Member Biaggi made a motion to include 'such as' language, as a narrative list of indirect impacts/disturbance to be included in the section, i.e.: potential BMP's (design features) to reduce footprints, reduction of noise, etc.; seconded by Member Nappe. During discussion, it was suggested using the NTT list as a springboard for the list, as applicable to Nevada. No further discussion, motion passed unanimously. ***Action**

Laura Niell from the SETT requested direction from the council on page three, paragraph three, regarding the language pertaining to unannounced site visits – inspections by the SETT, as the Council does not have regulatory authority.

Member Busselman made a motion to strike language of 'unannounced site visits' and the entire last sentence of the paragraph; seconded by Vice-Chairman McAdoo. During discussion, it was suggested the monitoring function be placed within the coordination details of the MOU and regulatory oversight would then default to the land managing agency issuing the permit. Motion passed unanimously. ***Action**

Member Biaggi made a motion to approve the minimize portion of the 3.0 revision, with the changes reflected; seconded by Member Nappe, motion passed unanimously. ***Action**

B. The SETT led the Council in a discussion regarding Maximum Allowable Disturbance. Discussion to determine cumulative impacts, PMU's, criteria of 640A/5%, various

thresholds, soft and/or hard caps, and habitat connectivity were discussed at length. The Council discussed possible consideration of processes and definitions regarding issues with the concept of Maximum Allowable Disturbance. The Council requested clarification and practical guidance from the Science Working Group regarding long term Sage-grouse conservation and applying it on a landscape level. Ms. Struhsacker spoke to the council regarding MAD being prefaced on the concept that habitat fragmentation is very problematic for Sage-grouse, however, the data varies. Her recommendation to the Council is the decision regarding MAD should be made on a project by project and site specific basis. Mr. Lawrence noted three core questions; the first – what is the percentage; the second – what is the definition of ‘disturbance’; the third – what is the tool for defining the geographic area.

Member Drew made a motion to ask the SETT work with the Science Working Group to clarify;

- What range of anthropogenic maximum allowable disturbance (MAD) is acceptable for Sage-grouse conservation?
- How should ‘natural disturbance’, such as fire, be accounted for?
- What level should MAD be calculated on? (i.e.: PMU/Seasonal habitat, per DDCT analysis)
- Definition of ‘habitat’ and ‘disturbance’, with a basis in existing knowledge and literature.

Motion seconded by Vice-Chairman McAdoo, motion passed unanimously. ***Action**

C. The Council discussed indirect impacts and determined the parameters of these issues. The Council had discussed this during an earlier discussion. Scenarios were discussed to determine if the language in the section is acceptable and required.

Member Drew made a motion that consideration of indirect impacts will be made when a project is occurring within a Sage-grouse management area adjacent to habitat; seconded by Member Boies, motion passed unanimously. ***Action**

12. REVIEW OF ACTION ITEMS AND FUTURE AGENDA ITEMS DRAFTED ON FLIP CHARTS DURING THIS MEETING

A. The Council, with staff assistance, reviewed items discussed as well as items acted upon during this meeting, and determined which of those they wished to direct staff to further work on, as well as which items the Council wishes to act on that may not have been acted upon during earlier discussion. ***No Action Taken**

Possible Future Agenda Items:

- Develop BMPs
- Reschedule SGI Presentation
- Updates from SANE and other local working groups
- Brief update on Conservation Credit System
- Cliff Gardner was requested to define “naturally occurring wildfire return intervals” and provide his definition to the SETT
- Leo Drozdoff/Cory Hunt to present on Regulatory implications of AB461 – intent and authority
- Review of Draft EIS, if available
- The Governor has expressed interest in participating in the November meeting, dependant on scheduling.

Action Items:

- SETT to incorporate Section 3.0 revision updates, including SEC comments and BMPs and minimization strategies
- Mr. Rubald to provide clarification on the abstention rule.

B. The Council determined they will meet Monday, November 18, 2013. The meeting will be held at the Nevada Legislature Building, Room 1214, with a starting time of 8:30 a.m.

13. FEDERAL AGENCY UPDATES AND COMMENTS: Due to the US Federal shutdown, Federal partners were on furlough and unable to attend.

- A. US Fish and Wildlife Service – no report
- B. Bureau of Land Management – no report
- C. US Forest Service – no report
- D. Other – no report

14. STATE AGENCY UPDATES AND COMMENTS:

- A. Department of Conservation and Natural Resources – Mr. Lawrence noted updates were covered under other agenda items.
- B. Department of Wildlife – Member Wasley noted he did not have an agency update, however, wanted to clarify what USGS actually stated: "Fragmentation, not disturbance in and of itself, generally begins to have significant effects on a population of wildlife (not specific to Sage-grouse), when suitable habitat becomes 30 to 50% of the landscape."
- C. Department of Agriculture – Member Barbee provided an update on the Pesticide Regulation changes to increase fees; noting a hearing will be held on October 17. The increase is estimated to generate \$250,000 in revenue to fund on the ground noxious and invasive species efforts as well as fund Kelly McGowan's SETT position.
- D. Sagebrush Ecosystem Technical Team – updates covered under other agenda items.
- E. Other – Cory Hunt from the Governor's Office was not in attendance.

15. PUBLIC COMMENT: Floyd Rathbun, Fallon ranching consultant. Mr. Rathbun discussed points relating to mule deer populations and how they coincide with Sage-grouse populations. He noted treatment of the sagebrush through land treatment promotes Sage-grouse habitat. He discussed livestock water ponds and how livestock improvements are critical to Sage-grouse breeding grounds. Mr. Rathbun discussed the Sage-grouse habitat attributes and the importance of state and transition models and NRCS' ecological site descriptions. He urged the Council to refer to the OMB peer review standards when reviewing scientific papers; cautioning the Council not to deem papers as authoritative when they are actually editorial.

16. ADJOURNMENT – Vice Chairman McAdoo moved to adjourn the meeting, seconded by Member Emm, meeting adjourned by declaration at 4:45 pm.