



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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MINUTES

Action was taken to approve minutes December 18, 2013.

Date: Monday, November 18, 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, Leo Drozdoff, Gerry Emm, JJ Goicoechea, Ted Koch, Starla Lacy, Amy Lueders, Tina Nappe, and Tony Wasley.

Council Members Absent: Bill Dunkelberger, and Kent McAdoo.

1. CALL TO ORDER – Chairman Goicoechea called the meeting to order at 8:37 a.m.

2. PUBLIC COMMENT

- a. Debbie Struhsacker, representing the Nevada Mineral Resources Alliance. Ms. Struhsacker urged the council to reconsider making major changes to the State Plan as it was recommended by the Governor's Advisory Committee. She discussed Alt. E/ Appendix D and her concerns with the significant modifications between the SETT's revisions vs. the Advisory Committee's recommendations and how that may negatively impact BLM's decision.
- b. Bob Clifford, Fallon NV. Expressed his frustration with the BLM Land Use Planning and Draft EIS documents and the vast size of the documents. He feels the citizens are being assaulted by the federal government with such documents and restrictive deadlines. He noted it is a calculated attempt to overwhelm the citizens and disarm them.
- c. Cliff Gardner, representing Rural Heritage Preservation Project. Mr. Gardner read a statement into the record. A copy was provided to the recording secretary and is available upon request. Mr. Gardner requested to be added to an upcoming agenda to

present, along with a facilitator, possible amendments to the State Plan to provide an equal exchange between the public and the council.

- d. Fred Fulstone, Fallon, NV. Mr. Fulstone read a statement into the record. The statement was provided to the recording secretary and is available upon request. Mr. Fulstone does not feel the bird provides any benefit to mankind and will destroy the economic ability of Nevada and its citizens.
- e. Floyd Rathbun, Fallon ranching consultant and employed by Mr. Fulston. Mr. Rathbun noted his support for Mr. Fulston's presentation. He spoke to his technical experience of 40 years as a Wildlife Biologist and Rangeland Ecologist. He said there is a serious private property issue in that private property rights are not well addressed within the plan. It does not protect the producers and therefore they must attend these meeting to exhibit in future litigation that they have exhausted their administrative remedies. Mr. Fulston spoke of best available science and that the habitat descriptions are inadequate; stating that the decline is not a 100 year gradual decline, but a 30 year abrupt decline.
- f. Jim Falk, Churchill County. Mr. Falk spoke of the testimony provided by Mr. Gardner, Mr. Fulstone and Mr. Rathbun. He would like proof that the federal agency plans have made improvements. He spoke to the reduction of sheep herding and cattle grazing, yet the increase in BLM staff. He noted his discord with the US Fish and Wildlife service and Endangered Species Act and how a minor population of a species can have such a profound and critical impact on a larger human population.

3. **REVIEW AND CONSIDERATION OF APPROVAL OF AGENDA** – Member Boies moved to approve the agenda; seconded by Member Emm, motion passed unanimously. ***Action**

4. **REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES**

A. *Approval of minutes from the meeting held October 10, 2013.* Member Busselman made a motion to approve the minutes; seconded by Member Nappe, motion passed unanimously. ***Action**

5. **COUNCIL MEMBER ITEMS AND CORRESPONDENCE:**

A. Chairman Goicoechea commented regarding the discussion of private lands being addressed within the State Plan. He stated not because of the regulations imposed, as this body will not have regulatory authority, but because of the ripple affect once restrictions are placed on public lands. The Chair noted the Ag community will be forced to develop their land if they can no longer use it to produce to sustain their families. Noting we are all in this together and the importance of addressing all of the potential impacts.

Member Nappe expressed that she has requested papers to be completed on ranching in Nevada as one of the issues needing to be addressed long term. She is concerned with the strong encouragement in the State Plan for supporting livestock grazing when BLM has a problem monitoring effectively and taking corrective action.

Chairman Goicoechea took the liberty of assigning items to Member Boies under upcoming agenda item 10, to bring forward possible agenda items that would provide clarification of private lands within AB461 and the State plan.

B. Mr. Biaggi commented there is congressional action that is moving forward in regards to Sage-grouse and noted the benefit of hearing from congressional staffers at an upcoming meeting – he deferred his comment to agenda item 10.

Member Nappe added that not only is there a federal initiative but a state initiative and expressed her interest in hearing from Washoe County in regards to their recent hearing on AB227, as well as congressional staff.

Mr. Biaggi addressed Ms. Joseph, Deputy Attorney General, and asked for clarification on the decision or resolution pertaining to an issue of council members abstaining as discussed at a previous meeting. Ms. Joseph responded that there is nothing that actually prevents an abstention, but that there is a strong encouragement for members to vote unless there is an absolute conflict. There may be a situation where a vote may be needed to avoid another OML violation; for example, approval of minutes, where it is at the Chair's discretion to require a vote. However, there is no absolute requirement to vote; having said that, the job of the body is to vote unless there is a conflict.

Member Koch referred to two documents he presented to the council. The first, ORDER# 3330, dated October 31, from The Secretary Of The Interior, Sally Jewell. The second, PECE: Policy for Evaluation of Conservation Efforts when Making Listing Decisions, from The US Fish & Wildlife Service / National Oceanic & Atmospheric Administration. Member Koch encouraged the Council to review the documents.

6. DISCUSSION OF THE CONSERVATION CREDIT SYSTEM:

A. Mr. Rubald reported to the Council that there were four respondents to the RFP. The applications were reviewed by the panel last Friday, which included: the SETT, a Purchasing representative, a Fish & Wildlife Service representative and a Nevada Natural Heritage Program representative. A selection was decided after four hours of deliberations. The Letter of Intent (LOI) has been drafted and will be released by State Purchasing today. The contract negotiations will be 2 to 3 days. A signed contract will be to the Board of Examiners (BOE) by Friday and will be placed on the December 3, 2013 BOE meeting agenda. The Contractor is scheduled to begin work on December 4, 2013.

7. PRESENTATION AND DISCUSSION OF THE BLM/USFS SUB-REGIONAL DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS).

A. Mr. Joe Tague, Branch Chief Renewable Resources and Planning and Sub-Regional Program Lead, BLM State Office, provided the Council with a PowerPoint presentation on the Sub-regional DEIS. Council discussed the long-term strategies. Member Lueders noted within the timeline protocols, the draft lacks details on the Conservation Credit System (CCS); the DEIS only has a placeholder for the CCS.

A discussion regarding the consistency between the State Alternative Plan, the BLM Draft EIS and Final EIS ensued. Mr. Tague noted the consistency between the plans to be of great importance. He said the comment period will assist in the consideration and consistency; stating constructive comments, those that would change the analysis, are considered "good" comments.

A question was raised regarding California's "no action" plan. Member Lueders provided clarity, stating: If the Nevada plan is selected, BLM can mix and match selected actions from multiple alternatives, however, can't impose Nevada's plan on California.

Member Busselman noted actions vary in current plans, however, most do not have Sage-grouse specific actions. Mr. Tague agreed and said those that do have limited actions pertaining to Sage-grouse are lacking what they need for the conservation of Sage-grouse.

Mr. Busselman requested the Council to have access to the documentation of the analysis that has been done so the Council could have the ability to understand where there are specific deficiencies or strengths already on the land. He feels this would aid in the Council in developing their comments to the BLM on the DEIS.

Member Koch spoke to Member Busselman's question. He said the places not called "Sage-grouse" in a plan are absolutely important. In the view of the USF&WS, the most important driver for Sage-grouse and the Sagebrush Ecosystem declines is invasive species and fire. However, the Service will look at actions in the plan that go beyond invasives and fire. He said there may be actions in a plan that do not specifically call out Sage-grouse, but that are very important to the Service and their decision whether or not to list.

The chair opened the item for public comment. Mr. Gardner, Mr. Falk, Ms. Struhsacker, and Mr. Rathbun provided their input on the presentation and raised concerns that were captured within the discussion of this item; no action was taken tied to public comments.

Member Boies asked Mr. Tague where predation was addressed in the plan. Mr. Tague sighted Chapter 2, Alt. F – Action Items Table, and Chapter 1. Member Lueders stated issues arise with jurisdiction and limitation due to those jurisdictions. She said this is where predation needs to be built into the State Plan and will prove complimentary. Member Koch noted this is where it's the Services' responsibility to analyze across authorities and ownership and they can add value.

Member Busselman provided direction to the SETT to include current activities in the comments submitted. Member Lacy requested clarification from Member Busselman that he is requesting the SETT to capture and incorporate existing activities as part of the preferred alternative. She expressed her concern that by doing so it would memorialize activities that although working now, may not prove to work later.

Member Busselman made a motion, that the Council will be responsible for submitting Nevada's comments for the BLM DEIS, seconded by Member Biaggi. Member Biaggi made an amendment to the motion to include; 'that doesn't preclude any of the individual members or their representatives of making comments additionally'. The Council will submit comments via email to Mr. Rubald and comments will be compiled and the SETT will draft these responses to be reviewed by the Council at the January meeting. The comments will be submitted on behalf of the Sagebrush Ecosystem Council for the State of Nevada. These comments will be submitted separately from comments of other cooperating agencies. Motion passed unanimously. ***Action /Team Assignment**

Mr. Rubald noted that during the submission of the comments to the BLM for the Administrative Draft, the SETT worked with all of the cooperating agencies to submit one response document on behalf of the State of Nevada and would be happy to coordinate that effort for the comments submitted for the DEIS as well.

Member Emm asked for clarification if decisions on the comments submitted would be acted on based on majority or will the Council be required to reach a consensus. Chairman Goicoechea said majority rules; however, they would attempt to reach a full consensus whenever possible. Member Biaggi noted this was the model used during the Governor's Advisory Committee decisions when developing the plan.

8. DISCUSSION AND CONSIDERATION OF PROPOSED BEST MANAGEMENT PRACTICES, ALSO KNOWN AS 'DESIGN FEATURES', PERTAINING TO THE 'MINIMIZE' POLICY TO BE INCLUDED IN THE REVISED VERSION OF THE 2012 STATE PLAN AND STATE EIS ALTERNATIVE.

A. The Sagebrush Technical Team presented proposed Design Features to be included in the revised State Plan and EIS Alternative, as requested during the October 10, 2013 Council Meeting,

Member Busselman made a motion that in consideration of best management practices, we would be implementing these best management practices within Sage-grouse habitat areas that have been determined under the Sage-grouse Management Area (SGMA) maps, previously approved by the Council, seconded by Member Boies. Member Koch clarified the Service is still unclear on the basis for the SGMA maps, as compared to PPH/PGH maps and the scientific basis or what the conservation outcome will be. After further discussion, it was determined that the Council already took action at the October 10, 2013 meeting under agenda item 8. Member Busselman withdrew his motion. Ms. Neill noted this is a working document and the issue raised in the discussion can be easily remedied by referencing SGMAs in the document rather than PPMAs. ***No Action Taken**

The Council considered and discussed the proposed changes. Mr. Tague provided clarification to the Council and SETT what "Required Design Features" mean and how it would apply to the State Plan within the implementation actions. He said the term originated from USF&WS relating to certainty. It was agreed that the design features are required to be considered in each action.

Member Biaggi expressed his concern that there is prescriptive language that may or may not be in opposition to requirements already in place. He said if these weren't 'required' design features, and there was some ability for the SETT or land manager to have discretionary activities he wouldn't be as concerned. However, by using the term 'required', it reduces flexibility and potentially raises conflict in many locations. Member Boies expressed his concern that there are items in the document that could be problematic in terms of implementation. Member Lacy agreed with Member Biaggi's comments and noted her concerns with items under the right-of-way section. She said she would be in support of going back to language of 'in consultation with'.

Laura Neill, SETT stated that the intent of the design features or best management practices are applicable to the minimize section of the plan. These will be for project implementation moving forward, not retroactive toward existing projects or developments. This will be used in consultation.

Member Lueders recommended 'Consultation Based Design Features, vs. Best Management Practices be incorporated as mentioned by Member Biaggi, which will acknowledge that there is a formal process for consideration. Member Koch asked the Council to be mindful to the PECE policy and the evaluation criteria when formulating their comments to the SETT; referring to A.) The certainty that the conservation effort will be implemented, and B.) The certainty the conservation effort will be effective.

Member Biaggi made a motion that Appendix A will be retitled to, 'Site Specific Consultation Based Design Features', deleting Best Management Practices, and the Council will submit comments on this section to the SETT by the close of business on November 27, 2013.

Seconded by Member Busselman. Public comment/discussion. Chairman Goicoechea encouraged the constituents to formulate their questions and to submit them to their Council representative to incorporate into their comments being submitted to the SETT. The Chair called for a vote, motion passed unanimously. ***Actions/Team Assignment**

To improve efficiency with the short time frame, the SETT will submit the document to the Council in a Word document and the Council will make their edits/comments under a review/track changes format.

The Council recessed for a lunch break.

9. DISCUSSION AND CONSIDERATION OF PROPOSED REVISIONS TO SECTION 3.0 GOALS AND OBJECTIVES OF THE 2012 STATE PLAN.

A. The SETT discussed the revisions to the 2012 State Plan, as directed during the September 12, 2013 and October 10, 2013 Council Meetings. Melissa Faigeles highlighted edits to the document that have been incorporated. Laura Neill reviewed the table and the four management areas referenced.

Mr. Gardner, presented a document to the Council regarding short and long-term changes and his proposed revisions. The copy of the document was given to the recording secretary and is available upon request.

Ms. Struhsacker presented a document to the Council regarding the revisions to the document. A copy was made available to the recording secretary. She urged the Council to return to the plan approved in July 2012 and cautioned the Council when making changes to the original document.

Member Busselman made a motion to amend 3.2.2(c) to insert language, 'including proper livestock grazing'. The sentence would now read, 'fuels management tools may include fuels reduction treatments, including proper livestock grazing, greenstripping, brownstripping, and maintaining riparian areas as natural fuel breaks by managing for proper functioning condition'; seconded by Member Boies. A discussion ensued. Vote was seven in favor with one opposed by Member Nappe. ***Action**

Member Drew made a motion to amend 3.2.1 to include – 'Conservation Objectives – reduce the rate of loss of habitat due to acts of nature', keeping the short and long term language the same; seconded by Member Lacy, motion passed unanimously. ***Action**

Meghan Brown with Congressman Amide's office requested clarification from Member Koch regarding the order and level of importance of the threats. Member Koch stated the priority of the Service is invasive species and fire, instead of fire and invasive species.

Member Busselman suggested elevating the invasive species as a threat in the State Plan. Member Koch noted, for the sake of time, he offered for the Service to research and provide comments to the SETT pertaining to this matter.

B. The Council considered processes and definitions regarding the concept of 'Maximum Allowable Disturbance' (MAD) and cumulative impacts and determination of a process to determine the parameters of these issues. The discussion included the SETT's work with the Science Work Group that was highlighted in the staff report. The conversation covered

whether or not MAD has a conservation value to the species; the 5% soft cap at the PMU level; whether a percentage is the appropriate threshold or if a site specific method should be used. It was discussed how the SETT would identify and direct the conservation credit system contractor moving forward, utilizing MAD as a stopgap.

Member Drew's recommendation is a 5% soft cap at the PMU level as the default, and through consult criteria for future thresholds with mitigation rates driven by critical habitat. Member Biaggi would like to include verbiage to recognize the 5% as a stopgap for short term measures and other long term measures are still in play. Member Koch expressed the importance to ensure the rate of disturbance does not exceed the rate of mitigation. Further discussion ensued.

Member Busselman made a motion that within SGMAs the Council's policy is to make certain that seasonal use habitat, with accumulated impacts, on a population level, will result in increasing mitigation rates; seconded by Member Nappe, discussion. Member Emm moved to table the motion until the next meeting; seconded by Member Boies; motion to table passed unanimously. However, Member Busselman chose to withdraw the motion; Member Nappe withdrew her second, no action was taken on the motion. At the Chair's request, the motion will be revisited at the next meeting.

10. 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:

- Priority of Coordination
- Congressional Update
- Grazing issues
- Brief update on Conservation Credit System
- AB461 – Potential conflicts of private land rights
- Review and Comment BLM Draft EIS
- 3.0 Maximum Allowable Disturbance (revisit) 9B – At the Chair's request, place on next agenda.

Action Items:

- SETT – response to comments collected from Agenda item# 8
- SETT – response to comments collected from Agenda item# 9

B. The Council determined there to be a conflict with the December 12 regular meeting date. Staff will send out a doodle poll to determine an alternative date for the December meeting. In addition, dates for a two day meeting in January, along with a third meeting the latter part of January will be included in the poll. This is to ensure adequate meeting time to respond to the BLM DEIS. Meetings will be held at the Nevada Legislature Building, with a starting time of 8:30 am, room location will depend on availability and will be noticed along with the agenda.

11. FEDERAL AGENCY UPDATES AND COMMENTS:

- A. US Fish and Wildlife Service – Member Koch noted updates were provided under other agenda items. The Service proposed listing of Bi-State Sage-grouse.
- B. Bureau of Land Management – Member Lueders noted that there was a press release from BLM and Forest Service extending the public comment period on the draft for the plan amendment for Bi-State.
- C. US Forest Service – Mr. Dunkelberger was not present to provide an agency update.
- D. Other – No other federal agency updates.

12. STATE AGENCY UPDATES AND COMMENTS:

- A. Department of Conservation and Natural Resources – Member Drozdoff will be attending the Task Force meeting in December. He noted USF&WS released overriding principles on mitigation crediting system, nothing that is in conflict with what the Council is proposing, however, there may be a need to incorporate added language.
- B. Department of Wildlife – Member Wasley provided a brief update that included: Their involvement with the review and comment of the Bi-State DPS Forest Plan Amendment Draft EIS; they are updating their seasonal habitat layers for both nesting and late brood rearing habitat; and they are amending the existing sub-grant with UNR to add funding for FY14 for the Sheldon-Hart Masacre Sage-grouse research project.
- C. Department of Agriculture – Member Barbee noted they did get their fee increase approved through LCB, however failed to put it in as a set-a-side and will have to go back to LCB on December 9. Funds of \$200,000 will be available in spring of 2014 and they are moving forward with the mapping project for invasive and noxious weed issues.
- D. Sagebrush Ecosystem Technical Team – Mr. Rubald noted SGI will be on the agenda in January.
- E. Other – No other agency updates.

13. PUBLIC COMMENT

- a. Member Busselman informed the Council and staff that this would be his last Sage-grouse meeting. He has prepared and will be submitting his letter of resignation to Governor Sandoval. He expressed his appreciation and gratitude to serve on the Council. He will be leaving the State of Nevada and will not be able to continue to serve on the Council. The Council members expressed their appreciation to Member Busselman's contribution to the process, not only on this Council, but for his contribution to the State of Nevada.

14. ADJOURNMENT – Member Nappe moved to adjourn the meeting, meeting adjourned by declaration at 4:41 pm.