

**Sagebrush Ecosystem Program**

201 S. Roop Street, Suite 101  
Carson City, Nevada 89701  
Telephone (775) 684-8600  
Facsimile (775) 684-8604

www.sagebrusheco.nv.gov

BRIAN SANDOVAL  
Governor



**Tim Rubald**, Program Manager  
**John Copeland**, Forestry/Wildland Fire  
**Melissa Faigeles**, State Lands  
**Kelly McGowan**, Agriculture  
**Lara Niell**, Wildlife

**STATE OF NEVADA**  
**Sagebrush Ecosystem Program**

**SAGEBRUSH ECOSYSTEM COUNCIL**  
**STAFF REPORT**  
**MEETING DATE: February 13, 2014**

**DATE:** February 9, 2014  
**TO:** Sagebrush Ecosystem Council Members  
**FROM:** Sagebrush Ecosystem Technical Team  
Telephone: 775-684-8600  
**THROUGH:** Tim Rubald, Program Manager  
Telephone: 775-684-8600, Email: timrubald@sagebrusheco.nv.gov  
**SUBJECT:** Discussion and possible consideration to incorporate SEC adopted management area and category terminology into the revised State Plan.

---

**SUMMARY**

The purpose of this item is to incorporate the management area and category terminology adopted by the SEC at the January 23, 2014 meeting into the revised State Plan, so that a final version can be submitted to BLM for inclusion in the EIS. This item does not recommend making additional changes to the revised State Plan.

**PREVIOUS ACTION**

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

**April 22, 2013.** The Council directed the SETT to further develop the Nevada State Plan and the EIS Alternative to incorporate the concerns expressed by the USFWS.

**July 30, 2013.** The Council adopted the Sagebrush Ecosystem Strategic Detailed Timeline, which included revision of the State Plan/ EIS Alternative.

**July 30, 2013.** The SETT presented proposed revisions to the 2012 State Plan. The Council assigned the SETT to address Council comments, questions, and concerns on the revisions for the following Council meeting.

**September 12, 2013.** The Council approved a definition for “avoid”, to include no new mandatory set-aside areas or exclusion zones and directed the SETT to develop a proposal for the “avoid process.”

**October 10, 2013.** The Council approved the following items related to the proposed revisions to the 2012 State Plan: any proposed anthropogenic disturbance within

SGMAs will trigger SETT consultation; the proposed “avoid process”; revisions to the “Acts of Nature” objectives section; and indirect impacts should be evaluated for all disturbances within SGMAs.

**October 10, 2013.** The Council directed the SETT to work with the Science Work Group on questions related to maximum allowable disturbance (MAD) and directed the SETT to develop Best Management Practices (BMPs) for the “minimize” policy for Council consideration.

**November 18, 2013.** The Council further discussed revisions to the 2012 State Plan and provided direction to the SETT on revisions.

**December 18, 2013.** The Council adopted the revisions to Section 3.0 Goals and Objectives of the 2012 State Plan and directed the SETT to work with NDOW and the USGS to develop definitions for the Management Categories.

**January 23, 2014.** The Council adopted the initial draft Nevada Sage-grouse Habitat Suitability map; definitions for the Management Categories; and the revised Sage-grouse Management Area (SGMA) boundary.

## **DISCUSSION**

On December 18, 2013 the SEC adopted revisions to the Goals and Objectives section of the 2012 State Plan with placeholder terminology for the Management Categories. At the January 23, 2014 meeting the SEC adopted the initial draft of the Nevada Sage-grouse Habitat Suitability map; definitions for the four Management Categories; and the revised SGMA boundary. The point of this item is to incorporate the new management area and category terminology adopted on January 23<sup>rd</sup> into the Revised State Plan Goals and Objectives section so that a final version can be submitted to the BLM for inclusion in the EIS. This item does not propose any changes to the Revised State Plan previously adopted by the SEC.

The attachment to this staff report provides the incorporation of the newly adopted management area and category terminology into section 3.1.2, which describes the “avoid” policy (see Attachment 1). The new terminology (Core, Priority, and General Management Areas) replaces the placeholder terms (High Population Density and Habitat Suitability Category A & B Management Areas), as well as the associated caveat “exact terminology to be defined with input for USGS and NDOW”. An appendix to the State Plan will be developed that provides detailed definitions and the methods used to develop the management categories. The SETT will provide this to the Council for review when ready.

In addition, throughout the section, the plural “SGMAs” was replaced with the singular “SGMA” as the 2012 SGMAs were comprised of 15 distinct polygons, while the newly adopted 2014 SGMA map is one unit that encompasses the entire sage-grouse habitat range in the State of Nevada.

Finally, within the avoid process, criteria that references SGMAs for what is now the Core, Priority, and Non-Habitat Management Areas, has been changed to Population

Management Units (PMUs). Due to the revised SGMA boundary and that monitoring is currently done at the PMU level (this is also the monitoring scale at which the State and the BLM anticipate moving forward with under the FEIS), the monitoring scale has been changed to PMU instead of SGMA.

**FISCAL IMPACT**

There is no fiscal impact at this time.

**RECOMMENDATION**

Staff recommends the SEC incorporate the new management area and category terminology into the revised State Plan.

**POSSIBLE MOTION**

Should the SEC agree with the staff recommendation, a possible motion may be: “Motion to incorporate the new management area and category terminology into the revised State Plan.”

**Attachments:**

1. Revised State Plan (as adopted at December 18, 2013 meeting) with new management area and category terminology

mf: TR

### 3.0 CONSERVATION GOALS AND OBJECTIVES

The State’s goal for the conservation of sage-grouse in the state of Nevada is to provide for the long-term conservation of sage-grouse by protecting the sagebrush ecosystem upon which the species depends. Redundant, representative, and resilient populations of sage-grouse will be maintained through amelioration of threats; enhancement and/ or protection of key habitats; mitigation for loss of habitat due to anthropogenic disturbances; and restoration or rehabilitation of habitat degraded or lost due to Acts of Nature.

The State’s goal for the conservation of sage-grouse will provide benefits for the sagebrush ecosystem and for many other sagebrush obligate species. Sage-grouse are known to be an “umbrella species” for many sagebrush obligate and associated species. The enhancement and restoration measures that bring resiliency and restore ecological functions to sagebrush ecosystems will also serve to ensure quality habitat for sage thrasher, sage sparrow, Brewer’s sparrow, sagebrush vole, pygmy rabbit, pronghorn antelope, mule deer, and many other species.

The State’s goal will be met through conservation objectives for anthropogenic disturbances and Acts of Nature, principally large acreage wildland fires and subsequent invasion by non-natives species. This combined strategy creates the regulatory framework through which sage-grouse habitat can be conserved and the decline of sage-grouse populations can be stopped in the state of Nevada. This section of the Plan details related polices and an adaptive management approach that will provide guidance to achieve these objectives.

The guiding principles that create the balanced foundation and vision for a coordinated, management approach for conservation of sage-grouse and the sagebrush ecosystem in Nevada are as follows:

- Conserve sage-grouse and their habitat in Nevada while maintaining the economic vitality of the State.
- Due to the broad reach of sage-grouse habitat, effective management and implementation of sage-grouse conservation actions must be conducted through a collaborative, interagency approach that engages private, non-governmental, local, state, Tribal and federal stakeholders to achieve sufficient conservation of the sage-grouse and their habitat.
- Adaptive management will be employed at all levels of management in order to acknowledge potential uncertainty upfront and establish a sequential framework in which decision making will occur in order to learn from previous management actions.

#### 3.1 Anthropogenic Disturbances

##### 3.1.1 Conservation Objective – No net unmitigated loss due to anthropogenic disturbances

The overarching objective of Nevada’s plan is to achieve conservation through no net unmitigated loss of sage-grouse habitat due to anthropogenic disturbances within *the* Sage-Grouse Management Areas (SGMA~~s~~) in order to stop the decline of sage-grouse populations. No net unmitigated loss is defined as the State’s objective to maintain the current quantity of quality of sage-grouse habitat within *the* SGMA~~s~~ at the state-wide level by protecting existing sage-grouse habitat or by mitigating for loss due to

1 anthropogenic disturbances. Mitigation requirements are determined by the Conservation Credit  
2 System. This objective will be measured by the credit to debit ratio.

3  
4 Anthropogenic disturbance is defined here as any human-caused activity or action and/ or human-  
5 created physical structures that may have adverse impacts on sage-grouse and/ or their habitat. The  
6 term anthropogenic disturbance and its associated conservation policies will include, but not limited to  
7 the following project categories: mineral development and exploration and its associated infrastructure;  
8 renewable and non-renewable energy production, transmission, and distribution and its associated  
9 infrastructure; paved and unpaved roads and highways; cell phone towers; landfills; pipelines;  
10 residential and commercial subdivisions; special use permits; right-of-way applications; and other large-  
11 scale infrastructure development. Livestock operations and agricultural activities and infrastructure  
12 related to small-scale ranch and farm businesses (e.g. water troughs, fences, etc.) are not included in  
13 this definition, though Section 6.5 and Appendix A address how to minimize impacts to sage-grouse and  
14 their habitat from these activities.

15  
16 *3.1.2 Conservation Policies – “Avoid, Minimize, Mitigate”*

17  
18 ***The state of Nevada’s overriding policy for all management actions within the SGMA~~s~~ is to “avoid,***  
19 ***minimize, and mitigate” impacts to sage-grouse habitat.***

20  
21 This is a fundamental hierarchical decision process that seeks to:

22  
23 **Avoid** – Eliminate conflicts by relocating disturbance activities outside of sage-grouse habitat in  
24 order to conserve sage-grouse and their habitat. Avoidance of a disturbance within  
25 sage-grouse habitat is the preferred option.

26  
27 **Minimize** –If impacts are not avoided, the adverse effects will need to be both minimized and  
28 mitigated. Impacts will be minimized by modifying proposed actions and/ or developing  
29 permit conditions to include measures that lessen the adverse effects to sage-grouse  
30 and their habitat. This will be accomplished through Site Specific Consultation-Based  
31 Design Features, such as reducing the disturbance footprint, seasonal use limitations,  
32 co-location of structures, etc. Minimization does not preclude the need for mitigation  
33 of a disturbance. Any disturbance in habitat within a ~~the~~ SGMA will require both  
34 minimization and mitigation.

35  
36 **Mitigate** – If impacts are not avoided, after required minimization measures are specified,  
37 residual adverse effects on designated sage-grouse habitat are required to be offset by  
38 implementing mitigation actions that will result in replacement or enhancement of the  
39 sage-grouse habitat to balance the loss of habitat from the disturbance activity. This  
40 will be accomplished through the Conservation Credit System.

41  
42 Proposed anthropogenic disturbances within ~~the~~ SGMA will trigger consultation with the SETT for  
43 assessment of impacts to sage-grouse and their habitat and compliance with SEC and other relevant  
44 agency policies. Project proponents considering projects in sage-grouse habitat not located within ~~the~~  
45 SGMA~~s~~ are encouraged to contact the SETT for voluntary project planning guidance to avoid, minimize,  
46 and mitigate potential disturbances. Specifics of the SETT consultation are detailed in a Memorandum  
47 of Understanding (MOU) in **Appendix XX**. SETT consultation is designed to provide a regulatory

1 mechanism to ensure that sage-grouse conservation policies are applied consistently throughout the  
2 State and streamline the federal permitting process.

3  
4 Determination of sage-grouse habitat will be based on the USGS Habitat Suitability Map (Figure XX). At  
5 the onset of a proposed project, habitat evaluations or “ground-truthing” of the project site and its  
6 surrounding areas shall be conducted by a qualified biologist with sage-grouse experience using  
7 methods as defined in Stiver et al (2010) to confirm habitat type. Evaluations can be conducted by the  
8 SETT or NDOW at the request of the project proponent.

9  
10 The specific steps for the implementation of the “avoid, minimize, mitigate” policy are as follows:

11 **Avoid**

12 Project proponents must first seek to avoid disturbance in sage-grouse habitat within *the* SGMA~~s~~. If the  
13 project is located entirely outside of habitat, but within *at*the SGMA it will still be analyzed for indirect  
14 effects, such as noise and visual impacts. A project will only be considered to have avoided impacts if it  
15 is physically located in non-habitat and it is determined to have no indirect impacts effecting designated  
16 habitat within *the* SGMA~~s~~. If this is determined, no further consultation with the SETT is required.

17  
18 It is important to note that the avoid step is not an “all or nothing” concept. If the entirety of a project  
19 cannot be relocated to non-habitat, alternatives will be explored to relocate portions of the project to  
20 non-habitat. (For example, if a mine cannot be relocated into non-habitat, power distribution lines  
21 associated with the project may be relocated to non-habitat.) This may reduce minimization and  
22 mitigation requirements for the project proponent.

23  
24 Anthropogenic disturbances should be avoided within *the* SGMA~~s~~. If avoidance is not possible, the  
25 project proponent must demonstrate why it is not possible in order for the SETT to consider  
26 minimization and mitigation alternatives. The process to demonstrate that avoidance is not possible  
27 (the “avoid process”) is determined by four management categories, which consider both sage-grouse  
28 breeding population density and habitat suitability within *the* SGMA~~s~~. This approach was taken in order  
29 to conserve large and functioning sage-grouse populations, as well as the habitat needed to support  
30 sage-grouse survival. *Definitions and methods for developing the management categories are provided*  
31 *in Appendix XX.*

32  
33  
34 The burden of proof to demonstrate that avoidance is not possible within *the* SGMA~~s~~ will be on the  
35 project proponent and will require the project proponent to demonstrate the specified criteria listed in  
36 Table 3-1 as determined by the management categories the proposed project is located in. Exemptions  
37 to the avoid policy will be granted if all the criteria in Table 3-1 is met. A higher burden of proof is set for  
38 project proponents to demonstrate that avoidance is not possible in areas that have higher densities of  
39 sage-grouse populations and ~~highly~~-suitable habitat.

40  
41 *“High Population Density” Core Management Areas<sup>‡</sup>*

42 The *“High Population Density” Core* Management Areas supports ~~the areas of~~ high ~~est breeding~~ densities  
43 of sage-grouse *and areas of high estimated space use in suitable habitat* in the State of Nevada. These  
44 areas include approximately ~~X~~85% of *space use by sage-grouse the breeding male sage-grouse counted*  
45 ~~during lek surveys and encompass approximately~~ ██████████ ~~of the known leks~~ in the State of Nevada. These

<sup>‡</sup>Exact terminology to be defined with input from USGS and NDOW.

1 areas represent the strongholds (or “the best of the best”) for sage-grouse populations in the State of  
2 Nevada and support the highest density of breeding populations. Thus, the management strategy is to  
3 conserve these areas by avoidance of anthropogenic disturbances in order to maintain or improve  
4 current sage-grouse population levels.

5  
6 Project proponents must seek to avoid disturbances within *the* SGMA~~s~~. If the project proponent wishes  
7 to demonstrate that avoidance is not possible within these areas, exemptions will be granted to this  
8 restriction as part of the SETT consultation. The project proponent must demonstrate that all of the  
9 following criteria listed below (also see Table 3-1) are met as part of the SETT consultation process in  
10 order to be granted an exemption:

- 11 • Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and  
12 need of the project could not be accomplished in an alternative location;
- 13 • Demonstrate that the individual and cumulative impacts of the project would not result in  
14 habitat fragmentation or other impacts that would cause sage-grouse populations to decline  
15 through consultation with the SETT;
- 16 • Demonstrate that sage-grouse population trends within the *SGMA-PMU* are stable or increasing  
17 over a 10-year rolling average;
- 18 • Demonstrate that project infrastructure will be co-located with existing disturbances to the  
19 greatest extent possible;
- 20 • Develop Site Specific Consultation-Based Design Features to minimize impacts through  
21 consultation with the SETT; and
- 22 • Mitigate unavoidable impacts through compensatory mitigation via the Conservation Credit  
23 System. Mitigation rates will be higher for disturbances within this category.

24  
25  
26 ~~“Habitat Suitability Category A” Priority Management Areas<sup>‡</sup>~~

27 ~~The “Habitat Suitability Category A” Priority Management Areas encompass~~ *are* areas that are  
28 determined to be highly suitable habitat for sage-grouse by the USGS Habitat Suitability Model *and*  
29 *areas of high space use that* ~~, but~~ are not contained within the ~~“High Population Density” Core~~  
30 Management Areas.

31 Management in these areas provide more flexibility to project proponents, though avoidance in these  
32 areas is still the preferred option and project proponents are encouraged to develop outside of these  
33 areas whenever possible. Anthropogenic disturbances will be permitted in these areas if the criteria  
34 listed below (also see Table 3-1) are met as part of the SETT consultation process:

- 35 • Demonstrate that the project cannot be reasonably or feasibly accomplished elsewhere – the  
36 purpose and need of the project could not be accomplished in an alternative location;
- 37 • Demonstrate that project infrastructure will be co-located with existing disturbances to the  
38 greatest extent possible. If co-location is not possible, siting should reduce individual and  
39 cumulative impacts to sage-grouse and their habitat;

---

<sup>‡</sup>~~Exact terminology to be defined with input from USGS and NDOW.~~

- 1 • Demonstrate that the project should not result in unnecessary and undue habitat fragmentation
- 2 that may cause declines in sage-grouse populations within the ~~SGMA-PMU~~ through consultation
- 3 with the SETT;
- 4 • Develop Site Specific Consultation-Based Design Features to minimize impacts through
- 5 consultation with the SETT; and
- 6 • Mitigate for unavoidable impacts through compensatory mitigation via the Conservation Credit
- 7 System.

8 ~~“Habitat Suitability Category B”~~ *General Management Areas*<sup>‡</sup>

9 ~~The “Habitat Suitability Category B”~~ *General Management Areas* ~~are~~ encompass areas determined to be

10 suitable habitat for sage-grouse, though less suitable than ~~“Habitat Suitability Category A”~~ *Priority*

11 *Management Areas* and are not contained within the ~~“High Population Density”~~ *Core* *Management*

12 *Areas*. Management of these areas provides the greatest flexibility to project proponents.

13 Anthropogenic disturbances will be permitted in these areas if the criteria listed below (also see Table 3-

14 1) are met as part of the SETT consultation process:

- 15 • Demonstrate that the project cannot be reasonably or feasibly accomplished elsewhere – the
- 16 purpose and need of the project could not be accomplished in an alternative location;
- 17 • Demonstrate that project infrastructure will be co-located with existing disturbances to the
- 18 greatest extent possible;
- 19 • Develop Site Specific Consultation-Based Design Features to minimize impacts through
- 20 consultation with the SETT; and
- 21 • Mitigate for unavoidable impacts through compensatory mitigation via the Conservation Credit
- 22 System.

23 *Non-Habitat Management Areas*

24 ~~The~~ *Non-Habitat Management Areas* ~~are~~ encompass areas determined to be unsuitable for sage-grouse

25 by the USGS Habitat Suitability Model. As specified above, all proposed projects within *the* *SGMAs*,

26 including in non-habitat within *SGMAs* must conduct habitat evaluation or ground-truthing to confirm

27 presence or absence of sage-grouse habitat. If areas are confirmed by habitat evaluations to be non-

28 habitat, an analysis for indirect impacts on sage-grouse within their habitat in *the* *SGMAs* will be

29 required to determine if Site Specific Consultation-Based Design Features to minimize impacts and

30 compensatory mitigation are necessary as part of the SETT consultation process (also see Table 3-1).

31 **Minimize**

32 If a project cannot avoid adverse effects (direct or indirect) to sage-grouse habitat within *the* *SGMAs*,

33 the project proponent will be required to implement Site Specific Consultation-Based Design Features

34 that minimize the project’s adverse effects to sage-grouse habitat.

35

36 Minimization will include consultation with the SETT to determine which Site Specific Consultation-

37 Based Design Features would be most applicable to the project when considering site conditions, types

---

<sup>‡</sup> ~~Exact terminology to be defined with input from USGS and NDOW.~~

1 of disturbance, etc. Some general examples could include: reducing the footprint of the project, siting  
2 infrastructure in previously disturbed locations with low habitat values, noise restrictions near leks  
3 during breeding season, and washing vehicles and equipment to reduce the spread of invasive species.  
4 Land use specific Site Specific Consultation-Based Design Features are included in Appendix A.

5  
6 A list of Site Specific Consultation-Based Design Features for the project must be specified and agreed  
7 upon by the SETT and project proponent prior to the start of the project and will become part of the  
8 permit/ contract requirements issued for the project. The project proponent will be required to  
9 implement, maintain, and monitor the required DFs in good working order throughout the duration of  
10 the project.

11  
12 **Mitigate**

13 Mitigation involves the successful restoration or enhancement of sage-grouse habitat and is designed to  
14 offset the negative impacts caused by an anthropogenic disturbance. Mitigation will be required for all  
15 anthropogenic disturbances impacting sage-grouse habitat within *the* SGMA<sup>s</sup>. Mitigation requirements  
16 will be determined by the State's Conservation Credit System (Section 8.0).

17  
18 Options for mitigation will be identified in the State's Strategic Action Plan for Mitigation. The State's  
19 Strategic Action Plan for Mitigation will identify prioritized areas on public and private lands to  
20 implement a landscape scale restoration effort. This will spatially identify where the primary threats to  
21 sage-grouse habitat are located throughout the State and provide management guidance for how to  
22 ameliorate these based on local area conditions and ecological site descriptions. The prioritization  
23 includes efforts to use mitigation funding in areas where sage-grouse will derive the most benefit, even  
24 if those areas are not adjacent to or in the vicinity of impacted populations. This Strategic Action Plan  
25 for Mitigation will be updated at least every five years to reflect improvements in understanding and  
26 technology for mitigation activities.

**Table 3-1. The "Avoid Process" for Proposed Anthropogenic Disturbances within the SGMA's**

Anthropogenic disturbances should be avoided **in habitat** within the SGMA's. If project proponents wish to demonstrate that a disturbance cannot be avoided, exemptions will be granted if the criteria listed in the table can be met for the applicable management category.

<i>Management Category</i> *	<b>High Population Density Core ("best of the best")</b>	<b>Habitat Suitability Category-A Priority</b>	<b>Habitat Suitability Category-B General</b>	<b>Non-habitat (within SGMA's)</b>
<i>Required Avoid Criteria</i>	<ul style="list-style-type: none"> <li>• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location;</li> <li>• Demonstrate that the individual and cumulative impacts of the project would not result in habitat fragmentation or other impacts that would cause sage-grouse populations to decline through consultation with the SETT;</li> <li>• Demonstrate that sage-grouse population trends within the <b>SGMA PMU</b> are stable or increasing over a ten-year rolling average;</li> <li>• Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible;</li> <li>• Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and</li> <li>• Mitigate unavoidable impacts through compensatory mitigation via the Conservation Credit System. Mitigation rates will be higher for disturbances within this category.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location;</li> <li>• Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible. If co-location is not possible, siting should reduce individual and cumulative impact to sage-grouse and their habitat;</li> <li>• Demonstrate that the project should not result in unnecessary and undue habitat fragmentation that may cause declines in sage-grouse populations within the <b>SGMA PMU</b> through consultation with the SETT;</li> <li>• Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and</li> <li>• Mitigate for unavoidable impacts through compensatory mitigation via the Conservation Credit System.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate that the project cannot be reasonably accomplished elsewhere – the purpose and need of the project could not be accomplished in an alternative location;</li> <li>• Demonstrate that project infrastructure will be co-located with existing disturbances to the greatest extent possible;</li> <li>• Develop Site Specific Consultation Based Design Features to minimize impacts through consultation with the SETT; and</li> <li>• Mitigate for unavoidable impacts through compensatory mitigation via the Conservation Credit System.</li> </ul>	<ul style="list-style-type: none"> <li>• Demonstrate that the project will not have indirect impacts to sage-grouse and their habitat <b>within SGMA's</b>. If it cannot be demonstrated, the project proponent will be required to develop Site Specific Consultation Based Design Features to minimize impacts and compensatory mitigation will be required.</li> </ul>

\* Exact terminology to be defined with input from USGS and NDOW upon Council direction