



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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DRAFT MINUTES

Date: Monday, October 27, 2014 – 8:30 AM
Time: The Nevada Legislative Building
Place: 401 S. Carson Street, Room 4100, Carson City, Nevada 89701

The meeting could be viewed on the internet at: <http://www.leg.state.nv.us/App/Calednar/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, Bill Dunkelberger, Leo Drozdoff, JJ Goicoechea, Ted Koch, Starla Lacy, Amy Leuders, Bevan Lister, Chris MacKenzie, Tina Nape, Sherman Swanson, Tony Wasley

Council Members Absent: Gerry Emm

1. CALL TO ORDER – Chairman Goicoechea called the meeting to order at 8:33 AM.

Chairman Goicoechea took the opportunity to acknowledge the passing of Elko County Commissioner Grant Gerber, who was a passionate advocate for Sage-grouse in his county.

2. PUBLIC COMMENT – Mr. Cliff Gardner acknowledged submitting a document with comments for the record concerning the loss of water production and water flow in the State of Nevada.

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

3. REVIEW AND CONSIDERATION OF APPROVAL OF AGENDA

A. Member Boies moved to approve the agenda; seconded by Vice-chair MacKenzie; motion passed unanimously. ***ACTION**

4. REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES

Mr. Dunkelberger, US Forest Service, noted that his name was inadvertently left off the meeting attendee list and asked it be added. Member Boies noted there was a misspelling of his name. Mr. Koch, US Fish and Wildlife Service, proposed a change on Page 5 to the first sentence of the second

paragraph for clarification purposes. Member Swanson moved to approve the minutes; seconded by Member Nappe; motion passed unanimously. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

- A. Member Nappe spoke about a letter from US Fish and Wildlife Service and asked that Councilmembers be sent a copy of the letter. Jim Lawrence, Department of Conservation and Natural Resources, acknowledged receipt of the letter, but was unaware Council had not been provided copies by the author. Kacey KC, SETT, will email Councilmembers a copy of the letter. Member Nappe asked for clarification on how the letter will be addressed. Chairman Goicoechea noted the letter was written before the approval of the State Plan that took place at the SEC Meeting on October 1, 2014, and felt the issues in the letter should be worked out by the State and the agency.

Ms. KC acknowledged the letter to Council from Assemblyman Ira Hansen concerning The Sheldon. Member Boies proposed adding an Agenda Item on The Sheldon to a future Council meeting.

A full account of the discussion is captured in the audio recording, which is available on the Program's website

6. DISCUSSION AND CONSIDERATION OF WATER POLICIES ON FEDERALLY MANAGED LANDS

- A. Member Lister noted that water distribution and availability is a key part of Sage-grouse habitat. Many water sources are not nearly as abundant as they have been before and this has a significant impact. There are some policies in place by federal agencies that affect water. There are pieces of state law and practices and procedures that are not written in stone that also affect water.

Mr. Dunkelberger stated the US Forest Service objective is to obtain the water necessary to maintain the National Forests, which were originally set aside for providing a sustainable amount of timber for the American public. The Forest Service holds two kinds of water rights. Federal Reserve Water Rights, which is water that was not claimed prior to the date of National Forest Service reservation. The Forest Service objective is to acquire the minimum water necessary for its primary purpose, which is sustaining the forest vegetation. Nationwide Reserve Rights represent about 5 percent of Forest Service water rights. The Forest Service obtains rights through the appropriate state law. In Nevada, the Forest Service holds few Reserve Rights. Nevada has recognized Forest Service water rights for administrative facilities and firefighting water uses, not for the benefit of wildlife. Should someone want to exercise a water right on Forest Service land, the Forest Service accommodates that by issuing a Special Use Permit. This would require an environmental analysis on some level and mitigation for any impacts it might cause to the land. Intermountain Region Forest Service Policy, which Nevada is in, has been in place since 2007. It is under review by the current Regional Forester. For the past several years The Forest Service has not authorized any new livestock water developments without obtaining some kind of interest in water rights. Grazing is one of the multiple uses for land management by the Forest Service and they require some kind of assurance that water will remain on allotment for grazing purposes. Mr. Dunkelberger stated the policy of the Forest Service has always been the use of water on Forest Service land is for public proposes.

Sarah Peterson, Bureau of Land Management (BLM), noted BLM is similar to the Forest Service in how they apply for water rights. BLM can apply for appropriated water rights through the State. BLM mainly applies for wildlife water rights. BLM's policy for livestock use is if BLM is going to expend federal funds on an improvement, they want to hold an additional wildlife water right on that water source, so they can pay federal funds to help put in the improvement. If BLM

decides not to hold a wildlife water right, Amy Leuders (BLM), can authorize an exception. BLM does allow maintenance and permittees to pay for it all themselves. Ms. Peterson also noted that Public Water Reserve (PWR) was an Executive Order signed by President Calvin Coolidge in April 1926, to prevent monopolization of all important water resources on all public land. If a spring was in existence before 1976 and was on public land in 1926, BLM can claim a PWR and then go through the water right adjudication process through the Division of Water Resources, who would determine if the claim is valid. Member Boies asked if BLM held any current livestock water rights with Nevada. Ms. Peterson noted that BLM does have some from before State Bill 76 came into existence, and BLM still holds those. If challenged on these water rights, BLM would do a change in use to wildlife.

Member Lister asked what BLM sees as a solution concerning horse management. Ms. Peterson noted that some permittees will shut off their water system when their cattle aren't present. State Statute NRS 533367 requires that wildlife have access to all surface waters.

Vice-chair MacKenzie noted that the impact of guzzlers needs to also be included in analysis of water. Tony Wasley, Department of Wildlife, noted there are over 1700 guzzlers and Sage-grouse do in fact use them. There is significant photo documentation of the guzzlers. The placement of these units is to minimize conflict or competition for forage. They are put in areas where there may not be any other water or livestock, horses are excluded. The hope is there is an intact under story, where grasses and other species benefit as well.

Ms. Leuders noted the state comprehensively addressed wild horse management in the State Plan. The Strategic Action Plan can be utilized to identify the wet meadow areas that need restoration. Council could identify issues for specific situations to enhance the habitat before addressing the issue of water policies. Ms. Leuders acknowledged that water rights are not a comprehensive overriding issue.

Member Swanson noted that it is important to provide water and time to allow the riparian vegetation to recover.

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

7. PRESENTATION AND DISCUSSION REGARDING THE CONSERVATION CREDIT SYSTEM

- A. Eoin Doherty, Environmental Incentives (EI), reviewed the objectives of the PowerPoint presentation, including 1.) Gain understanding of the Credit System implementation timeline; 2.) Gain understanding how the Credit System ensures "additionally" and will determine site-scale regional credit baseline; 3.) Gain direction to refine proposed limiting habitat mitigation ratio; and 4.) Gain direction to refine reserve account factor – adverse impacts from wildfire.

Ms. KC noted the Conservation Credit System (CCS) is up and running with pilot projects, and is ready for new projects as they come up. The manual on the Habitat Quantification Tool (HQT) will be finalized in December 2014. This is an adaptive process and as items are identified for improvement, changes will be made. Also, there is a website currently being developed. If someone has a possible project for the CCS, they should contact the SETT. Ms. Leuders asked if she and Mr. Dunkelberger would be receiving an official letter stating the CCS is up and running, including timeline and next steps. Ms. KC stated a letter would be sent.

Jeremy Sokulsky, EI, presented some of the challenges faced by the CCS, including Indirect Disturbances, Valid and Existing Rights (Locatable Minerals), and Delivering On-the-Ground Outcomes.

Mr. Koch noted that in Jackson Hole, Wyoming there is a group of birds that lek at the end of an airport runway. It is not necessarily the existence of the runway or the road itself that causes the disturbances. It is when you use it. The airport doesn't use the runway in the early mornings in the springtime. It works for the birds. Mr. Koch asked Mr. Sokulsky for clarification on the literature stating that avoiding impacts conserves habitat. Mr. Sokulsky clarified that with the avoidance there is nothing to do to stop valid and existing mineral claims from being developed. It is an impact, but it cannot stop it. As a result there needs to be a system in place to mitigate it. Mr. Koch agrees, for valid and existing rights it would be difficult for a federal agency to say no, and that is why The Service is interested in the CCS. Protecting good habitat is a good thing.

Both Mr. Sokulsky and Mr. Doherty presented on the Credit System Credit Calculation, including Credit Amount, Credit Baseline, and FWS Framework Considerations. Mr. Wasley asked for clarification on the calculation of the baseline considering the landscape has a tremendous amount of variability. Mr. Wasley was curious what unit of measure or scale was used to calculate baseline. Mr. Doherty and Mr. Sokulsky explained the specific components of the baseline formula, including landscape-scale, priority, core and limiting habitat, and functional acres. The Surrounding-scale includes the habitat suitability model, including Pinyon-Jupiter and other features that are site-specific.

Melissa Faigeles, SETT, noted the CCS takes the average value of attributes, which is then plugged into the HQT to come up with nine credit baselines, one per season habitat-type within each WAFWA Management Zone. Mr. Koch noted The Service will find this concept important and felt the terminology used may be problematic, he asked if he could replace the wording "site-scale regional" in the baseline formula with "WAFWA Management Zone." Ms. Faigeles answered, yes, that would be acceptable, but noted that there are nine credit baselines, but there is also going to be a correction factor with the third and second order scores that will modify the site-specific basis. Mr. Koch clarified that "site-scale regional" equaled WAFWA Management Zone and Habitat Type, and was told that was correct.

Mr. Dunkelberger asked if the WAFWA Management Zone included zones outside of Nevada. Ms. Faigeles noted the CCS includes only the WAFWA Management Zones within the State. Mr. Dunkelberger also noted the presentation references BLM Lands only, the Forest Service does have some ecological monitoring sites and will provide the information to the SETT.

Member Swanson noted that there is variability within the WAFWA Management Zones only partially reduced by seasonal habitats and there will still be a great deal of variation causing a precise, but not accurate baseline. Any refinement that is possible and practical should be done. Mr. Wasley agreed with Member Swanson's statement and concerns of the variability in calculating a baseline in the WAFWA Management Zones. Ms. Faigeles noted that the appropriate scoring curves were used.

Mr. Sokulsky acknowledged that the SETT has done a tremendous job with the CCS and as they accumulate information from pilot projects and apply it on the ground, there will be real data to analyze and it will be more accurate. Mr. Wasley agreed with his statement and applauded the efforts of everyone. He also noted this is an opportunity to challenge concepts so they are clearly understood. He does not want the SETT to interpret his questions as criticism. It is simply an attempt to understand where the CCS is going. He asked how the CCS measures habitat condition during the time of year the birds are present when the project scheduling may not accommodate it. Ms. Lara Niell, SETT, did discuss this at the last meeting, setting permissible windows for field seasons. The data collection will be done during the nesting season and lek brooding.

Mr. Koch agreed with Mr. Sokulsky and Mr. Wasley concerning the work done by the SETT. He acknowledged the challenge of a draft CCS Manual being submitted in mid-November for review by the Council for possible adoption at the December meeting. There is interest in getting The Service buy-in by then. The Service is eager to have the conversation, however, there is concern with the uncertainties being discussed and the timeframe for when to figure them out. The Service won't want to commit beyond that, unless it is figured out. It is this kind of discussion that keeps The Service engaged and excited about the CCS. The Service would like to continue to be engaged and have a robust discussion at a policy level with Mr. Drozdoff and at a technical level with the SETT and EI on how to move forward incrementally together. Mr. Sokulsky noted that during the last data phone call concerning the credit baseline there were a number of personnel from the US Fish and Wildlife Service participating and Mr. Sokulsky did not hear any concern about the baseline. Cory Hunt, Governor's Office, noted the SETT and EI have been developing all these products consistently engaging members of the US Fish and Wildlife Service. This has not been developed through only EI and the SETT. Mr. Sokulsky acknowledged receiving valuable input from Mr. Koch's staff directly and other US Fish and Wildlife Service members. Mr. Koch agrees and considers the questions he's asked not criticisms, but with a goal of being more informed with the help of the SETT and EI to communicate to upper management in The Service, so The Service can respond to the State in a timely and incremental way. Mr. Koch acknowledged asking Mr. Sokulsky to conduct a webinar with upper level personnel in The Service. Mr. Koch will work with EI to establish a venue for The Service that will benefit everyone after the draft CCS is received in November and before the SEC meeting in December. Mr. Drozdoff will work with Mr. Koch to establish who is the audience, what is the venue, being as specific as possible, as soon as possible.

The SETT wanted to introduce the concept of how they are developing the credit baseline and ensure the Council was comfortable with the methods and proposal. If there are changes to be made before the December meeting those discussions should happen now. Ms. Leuders noted that one item to discuss before the December meeting is how the current assumptions of baseline relate to the requirements under NEPA, where there is site-specific and cumulative impact analysis. This is further discussion for Mr. Dunkelberger and Ms. Leuders to have.

There were questions concerning the CCS and public land. Ms. Leuders noted BLM is working on the durability mechanism for federal land. There was discussion with EI on the durability piece. Ms. Leuders is optimistic that durability mechanisms will be identified for public land. One aspect to be considered is assurances about competing uses. Ms. Leuders thinks the initial projects will occur on private land because of the ease and simplicity, but believes the ability for them to occur on public lands is present. Member Biaggi asked if the mechanism to address this issue is in the land use management plans, the modifications to them, and the hopeful adoption of the State Plan into the federal land management strategies. Ms. Leuders noted there are site-specific mechanisms to look at durability in terms for the specific action of a credit that might not be addressed at the land use plan level. There are a number of discussions happening concerning what the specific mechanism for a specific credit would look like. The benefit would exist for the life of the project that it is being used to off-set. Some of it is in the plan, but some of it is specific to the specific credit that is generated.

Chairman Goicoechea noted that this agenda item has generated a lot of discussion and questions that may best be addressed at the next meeting, which would be set up as a "workshop" for Council to ask questions of EI. Mr. Koch agreed that this would be beneficial and asked Jim Lawrence, DCNR, for clarification on how fire and invasive species would be addressed in the CCS. Mr. Lawrence noted fire is currently being addressed through the reserve account. As the CCS is implemented, the fire issue will be addressed through other components of the State Plan and reserve account, but SETT will need to be mindful of the issue as the adaptive management component is worked through to ensure it is hitting the mark. Mr. Koch

would like to spend time on this issue, as one of the ways he's been selling the CCS is as an opportunity to spend money addressing the threat from invasive species and fire. Fire is not listed first, because not all fires are equal. If the CCS encourages credits to be located in areas that are more resistant and resilient that may create a circumstance where the CCS misses the opportunity to address the biggest threat in the most important areas. This is a triage approach, maybe you don't go to the most resistant and resilient areas first and you don't go to the least resistant and resilient areas, you go to the in-between habitats where you might have a chance to reduce the threat of catastrophic regime shift from sage-brush ecosystems to cheat grass monocultures. He asked if going to areas that still provide Sage-grouse habitat that are heavily infiltrated by cheat grass (example 30 percent in the understory) and somebody treats those areas and reduces the cheat grass (to 5 percent), how do you quantify the conservation benefit from that scenario. Ms. Faigeles noted yes that is an attribute to HQT. Site-specific scale looks at cheat grass cover. Mr. Koch asked if this could motivate individuals to control cheat grass. Ms. Faigeles said, yes.

Chairman Goicoechea asked for a timeline for the CCS Manual to be adopted. Mr. Lawrence clarified that there are commitments to our federal partners that this would be done by December 4. Council needs a workshop to clearly understand what is before them.

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

Lunch Break at 12:54 PM to 2:10 PM.

8. DISCUSSION REGARDING THE STRATEGIC ACTION PLAN

- A. Kelly McGowan, SETT, noted the timeline is to have a draft of the Strategic Action Plan (SAP) submitted to Council for the December 4, 2014, meeting. The SETT will then bring the SAP back to the Council a chapter at a time, submitting a draft final of the whole plan for adoption in April 2015.

Member Boies noted that a plan on how to encourage private land owners to participate needs to be included in the SAP. Chairman Goicoechea acknowledged this was a concern of The Service and in fact needs to be addressed. He also noted the Council needs to utilize this document to fill in any gaps left by the State Plan, including the concerns voiced by The Service.

It was noted the SAP should include information on working with the local working groups, conservation groups, and the Conservation Districts.

Member Biaggi moved that the SETT staff develop a draft outline for the Strategic Action Plan and a timeline for completion of that document for consideration at the next SEC Meeting on December 4, 2014, including items discussed at this meeting; seconded by Member Swanson; motion passed unanimously. ***ACTION**

Mr. Koch commented on the public land/private land issue to reiterate using mitigation dollars to reduce the risk of invasive species and fires, as this is high on his priority list. Over time it has become increasingly clear that one of the strengths of the Plan is using mitigation debits incurred on public land to empower private land conservation. Mr. Koch does not want to lose sight of that and whether it is public or private land the invasive species threat reduction issue is important. Also, recently, within The Service there have been questions raised about mitigating for public land impacts on private lands. Mr. Koch wants to encourage the Council to continue to discuss mitigation credits on public lands.

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

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

- A. With staff assistance, the Council reviewed items discussed, as well as items acted upon during this meeting, and items directed to the SETT.

Approved Items

- Approved Agenda for October 27, 2014
- Approved October 1, 2014, meeting minutes with amendments
- Approved SETT creating Draft Strategic Plan and timeline
- Approved having workshop with EI on December 3, 2014, and regular SEC meeting on December 4, 2014

- B. The Council determined specific items they would like to work on at their next scheduled Council meeting.

Vice-chair MacKenzie made a motion to have a workshop-style meeting with EI concerning the CCS on December 3, 2014, and have the regular SEC meeting on December 4, 2014; seconded by Member Boies; motion passed unanimously. ***ACTION**

Mr. Koch asked for clarification about the December 4 meeting concerning the decision to adopt the CCS Manual and what that means. There are pilot projects currently in place and it will take a couple of years of adaptive management to finalize the program, Mr. Koch wants to ensure that the Council has appropriate expectations of what "yes" to adopting the CCS Manual looks like. The Service wants to offer as much support as they can by December 4, 2014; however, clearly there are questions that will not be resolved until they come up in time as the CCS is implemented. The Council should not have expectations that all those issues will be answered. Chairman Goicoechea reiterated that it has been clearly stated many times that this is a document that will change as necessary and as required. Ms. Niell noted adaptive management is a huge part of the CCS through which there will be a series of changes that will need to be addressed concerning how items are evaluated and how things are working, including backstops to ensure positive outcomes are achieved. Mr. Koch asked Mr. Dunkelberger how it will work for the Forest Service with NEPA, adopting this system, including the adaptive management portion. Mr. Dunkelberger stated the Forest Service will make an affirmative statement in the record of decision saying, they will work with the State to make changes per adaptive management and the use of the system where it makes sense on federal lands.

The Council decided the dates of their next two meetings will be:

- Workshop with EI concerning CCS on Wednesday, December 3, 2014, starting at 8:30 AM
- Thursday, December 4, 2014, starting at 8:30 AM

The following items were requested to be placed on the upcoming agenda.

- Strategic Action Plan (SAP)
- Conservation Credit System
- US Forest Service Letter
- The Sheldon
- Private Land Discussion

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

10. FEDERAL AGENCY UPDATES AND COMMENTS:

- A. US Fish and Wildlife Service – Mr. Koch noted The Service has been working closely with the Forest Service and BLM on the Bi-state Sage-grouse Plan. They have come up with a powerful analysis of livestock grazing impacts on Sage-grouse, and he suggested this be a future agenda item.
- B. Bureau of Land Management – Ms. Leuders stated BLM continues to work to put together the final EIS. The final EIS should come out in early 2015. Now that they have the final US/GS Map, BLM is trying to figure how to incorporate that into interim guidance and the plan. Ms. Leuders will let Council know when that is worked out.
- C. US Forest Service – Mr. Dunkelberger noted the draft Bi-State Sage-grouse Plan is closed for public comment. The Forest Service did get quite a few comments and will be incorporating those comments into the final EIS and the proposed planned amendment. This should be out in early January. The Forest Service will also develop a plan for the US Fish and Wildlife Service indicating the conservation measures they will put in place for their finding in April. The Forest Service is consolidating three Ranger Districts in Elko County: Mountain City, Ruby, and Jarbidge. Mr. Dunkelberger's staff has a name contest going and they voted for Humboldt Ranger District, however, he is open to other suggestions. The Forest Service has also consolidated Austin and Tonopah districts and they are calling it Austin Tonopah Ranger District.

11. STATE AGENCY UPDATES AND COMMENTS:

- A. Department of Conservation and Natural Resources – Mr. Lawrence noted that several members of DCNR would be attending the BLM Interagency conference on fire and invasive species and how they affect the Sage-brush ecosystem in Idaho the following week. Mr. Drozdoff noted at the conference they will point out all the good areas where BLM has made progress and tie that into the work the State has done with regard to wild-land fire and the reworking of the NDF program.
- B. Department of Wildlife (NDOW) – Mr. Wasley noted the NDOW had some interactions in implementing the new map. There is a need to present this to the Council so there is consistent information with the timeline and implementation. BLM is planning on issuing an internal memo to its staff to ensure understanding. NDOW has referenced this map in some of their participation on a project and were somewhat chastised for doing so. Mr. Wasley would like to have a discussion so everyone is on the same page when and where NDOW is using the new map as opposed to the old map. It is the Coates Model for Habitat Mapping. Mr. Wasley wants to ensure that it is not being said that NDOW is dictating what map is being used in these processes.

Ms. Neill acknowledged that the maps in the Plan are open for business as is the CCS. The maps dated August 2014, are the current maps being used and are open to the public. They will be posted on the website. The SETT is anticipating new versions coming out in January 2015, and will replace the August 2014 maps with the new versions. Mr. Hunt acknowledged contacting Dr. Coates to confirm the maps were final and noted there should be a process in place to make sure everyone who receives the new maps is informed when the newer version is available (i.e. a user database).

C. Department of Agriculture – Mr. Barbee noted that Department of Agriculture will be having its Governor's Conference on Agriculture on November 13, 2014. The State Farm Bureau's conference is the next day.

D. Conservation Districts Program – Nothing to report.

E. Sagebrush Ecosystem Technical Team – Nothing to report.

12. PUBLIC COMMENT – Mr. Floyd Rathbun, FIM Corporation, spoke about private property rights, habitat suitability, and also asked Mr. Koch what three or four things should be done not to list Sagegrouse.

Member Lister noted the whole reason behind the creation of this Council is purely political and wants to ensure the Council remembers the bird itself, and hopes that its success includes human success.

Mr. Koch again asked about private land and the approach taken on it, he would like the Council to continue to have that conversation not just in the context of the CCS but beyond it.

A full account of the discussion is captured in the audio recording, which is available on the Program's website.

13. ADJOURNMENT – Member Lister moved to Adjourn. Meeting adjourned by acclamation at 3:04 PM.
***ACTION**