

BRIAN SANDOVAL
Governor

Sagebrush Ecosystem Program

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

www.sagebrusheco.nv.gov



Jennifer Cello Program Manager
Chris Katopothis Forestry/Wildland Fire
Melissa Faigeles, State Lands
Kelly McGowan, Agriculture
Vacant, Wildlife

STATE OF NEVADA
Sagebrush Ecosystem Program

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Public Comments Processing
Attn: Docket No. FWS-HQ-ES-2015-0126
Division of Policy, Performance and Management
U.S. Fish and Wildlife Service
5275 Leesburg Pike, ABHC-PPM
Falls Church, VA 22041-3803

Dear Director Ashe,

The Sagebrush Ecosystem Program appreciates the opportunity to comment on the Proposed Revisions to the U.S. Fish and Wildlife Service (FWS) Mitigation Policy, 81 Fed. Reg. 45 (March 8, 2016).

The Sagebrush Ecosystem Program was established in Nevada as a multi-agency and multi-disciplinary program with a shared goal of addressing the resource and habitat concerns currently facing the Greater sage-grouse and its ecosystem. The State of Nevada has made a significant investment in developing the Nevada Conservation Credit System (CCS). The CCS is a pro-active solution that ensures impacts from human activities generate a net benefit for Greater sage-grouse, while enabling human activities vital to the State economy.

In general, we are supportive of many elements of the Revised Policy. We understand the need for consistent standards and effective mitigation across our state. Our primary concern is the Revised Policy is deficient in defining roles and responsibilities, lacks clear definitions and workable standards. This response letter provides further clarity to our concerns.

Roles and Responsibilities

The Revised Policy states FWS must work in collaboration with other governments, agencies and entities to implement the FWS' revised mitigation policy (ID 12387). We request the FWS clarify the processes used to engage states and define the stages at which program review, implementation, collaboration and coordination will occur. Furthermore we encourage the FWS to give deference to state plans, policies, and programs. From our program perspective, adoption and implementation of specific approaches should rest with the state as it bears responsibility for managing state interests and properly managing its natural resources. Furthermore, Nevada has had close partnerships with the federal, state, and local agencies to confirm that its plan is

complementary to those agencies. Pioneering plans such as ours should be highlighted and preferred.

Definitions of Baseline and Net Conservation Gain

There is ambiguity in the definition of the term “baseline” in the Revised Policy. We would like to see a clear distinction and use of terms such as “reference state” (those conditions pre-human influence), “pre-project” (for pre-existing conditions), and “baseline” (the starting point for calculating credits and debits, or representative state). It is our preference that the Revised Policy clarifies these terms and refrains from implying the pre-project condition is always the starting point for calculating credits and debits. We encourage the use of tools such as Ecological Site Descriptions, State and Transition Models, site potential, and present state in determining any baseline.

Additionally, our program is concerned that the Revised Policy does not delineate how the agency will determine “Net Conservation Gain” and that the lack of a definition will result in the agency requiring continuous amendments to meet this goal. We request that the policy consider the tools the states have developed to ascertain “Net Conservation Gain”. Identification of the factors that will be used in making this assessment should also be clearly outlined in the Revised Policy.

Workable Standards

We understand that federal funds intended for voluntary natural resource restoration and protection should not be used to generate credits to offset the impacts of the private sector. However, it is not workable to prohibit a site that has received federal funds to generate credits. We suggest draft policy encourages the pooling of resources and the investment of mitigation dollars in the most valuable sites regardless of whether federal funds have been invested on the site, especially for those uses not directly related to restoring Greater sage-grouse habitat. However, we do believe that thoughtful discussions and pertinent accounting will ensure that federal funds are not used to generate credits to offset the impacts of the private sector or create a conflict with the rules of additionality.

Again thank you for the opportunity to provide our response. We look forward to your consideration of our comments.

Sincerely,



Jennifer Celio
Program Manager,
Sagebrush Ecosystem Program