



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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DRAFT MINUTES

Date: Wednesday, October 1, 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/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, Gary Emm, JJ Goicoechea, Starla Lacy, Bevan Lister, Chris MacKenzie, Tina Nappe, Sherman Swanson, Amy Leuders, Ted Koch, and Leo Drozdoff (left at 11:20 AM, returned at 1:08 PM)

Council Members Absent: Tony Wasley

- 1. CALL TO ORDER** – Chairman Goicoechea called the meeting to order at 8:34 AM.
- 2. PUBLIC COMMENT** – Mr. Cliff Gardner acknowledged submitting a document with comments for the record, however, he did not read the comments.

Mr. Floyd Rathbun, FIM Corporation, referred to documents submitted by Mr. Fred Fulstone, FIM Corporation, concerning the benefits of livestock grazing to Sage-grouse and Sage-grouse habitat.

Member Nappe distributed a copy of the Sagebrush Sea put out by the American Land Alliance, a copy of the Defenders of Wildlife Analysis of state plans as they were originally submitted (without the current updates), and a selection of pages from an autobiography she thought Councilmembers would find interesting.

Mr. Fulstone spoke about the effects of listing the Sage-grouse on local inhabitants and industries of Nevada, as well as his personal experience concerning the Big Horn Sheep when they were listed as endangered.

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 Biaggi moved to approve the agenda; seconded by Member Swanson; motion passed unanimously. ***ACTION**

4. REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES

A. Member Boise moved to approve the minutes from the August 21, 2014, meeting; seconded by Vice-chair MacKenzie; motion 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.

Tim Rubald, SETT, reviewed several items of correspondence to the Council including:

- Letter addressed to Senators Reid and Heller
- Coalition of Nevada Wildlife Letter
- Wildfire Burden Article
- Mr. Cliff Gardner's Written Comments

6. DISCUSSION, CONSIDERATION, AND POSSIBLE ADOPTION OF THE NEW 2014 STATE PLAN

A. Melissa Faigeles, SETT, informed the Council that all changes presented to the Council on August 21, 2014, are incorporated into the document. The "tracked changes" in the current document represent comments received after the last meeting. Chair Goicoechea provided each member of the Council an opportunity to propose changes to the Plan. Councilmembers took the opportunity to commend and thank members of the SETT for their hard work on the Plan. Councilmembers pointed out minor typos and asked the SETT to closely review and ensure the Plan has consistent wording throughout, and does not contradict itself (from section to section) or the reference/supporting documents referred to in it. Some of the proposed changes were made to the document on the presentation screen during the meeting.

Member Biaggi proposed the Threats Table referred to throughout the Plan should be included as a reference document. Chairman Goicoechea will provide copy.

Member Biaggi asked for clarification concerning the "temporary use of a right-of-way (ROW)" wording on Page 150 of the Plan. Having the word "temporary" could prove problematic as it can be subjective. Chair Goicoechea agreed "temporary" should be defined. Amy Leuders, Bureau of Land Management (BLM), stated BLM considers "temporary" to be less than two years. If it is a road only used to access exploration, BLM would allow it, however, BLM would not like to have it exist in perpetuity. The goal is to limit permanent roads in priority habitat. Chair Goicoechea proposed removing the language concerning public land and allow those regulations to fall under the federal agencies. Both Ms. Leuders and Bill Dunkelberger, US Forest Service, agreed the language could be removed.

Member Biaggi proposed removing language about fluid minerals for reservoir design, as the steps described do not work for hard-rock mining, the reference to Dougherty should also be removed. Chairman Goicoechea noted the statement still addressed the concerns of the West Nile Virus with Member Biaggi's proposed change.

Member Biaggi asked for clarification of Lines 15 and 16 under Reclamation and the conflict it may have with state and federal regulations. The ambiguity of the language and SETT Consultation is of concern to the mining industry. Ms. Leuders suggested adding a bullet with language about keeping

an eye on reclamation leading to Sage-grouse habitat, if possible. Chairman Goicoechea noted the first four lines under Reclamation address the concerns and proposed removing Lines 15 and 16. Ms. Leuders and Mr. Dunkelberger agreed the lines could be removed. Ted Koch, US Fish and Wildlife Service, asked for clarification on the context of the discussion, he thought this would be addressed under the Conservation Credit System (CCS). He asked what is the relationship between those two. Kelly McGowan, SETT, explained a creditor may be held to task on retaining a credit until such time that the disturbance area reaches a point that it is functional again at some level until the CCS releases the creditor from the liability. If the disturbance is accounted for properly at the beginning, it will keep the creditor held accountable, if current laws for reclamation do not address it.

Ms. Leuders clarified that because Lines 15 and 16 were stricken, it means that generally large operations will be in the mitigation credit system, because they cannot get to a point of restoration with reclamation alone. There will always be a mitigation component for mining operations in Sage-grouse habitat.

Mr. Koch noted if Lines 15 and 16 are stricken, is the issue addressed in the CCS so whatever credits that are being paid are mitigating for the loss long-term. Jim Lawrence, clarified, if a mining operation is coming in and doing a disturbance on the landscape and if their remediation plan can achieve whatever the standard is to go back to pre-disturbance conditions in 30 years, they would still have to buy 30 years' worth of credits. If the disturbance is beyond 30 years, mostly in perpetuity, then the credits would have to be bought on a type of restoration or reclamation project where there is durability for more of a perpetuity timeframe. Mr. Koch thanked Mr. Lawrence for the explanation.

Member Biaggi proposed adding qualifying language on Page 176 concerning a buffer-zone on habitat, stating that the decision will be site and activity specific.

Member Boise noted there needs to be work done on the definition of AUMs and AUM use in conjunction with BLM. The best option is to work on this during the Action Plan that will be developed.

Member Lacy clarified that the agreement concerning perch devices was that they would go on *new* power lines. The current language implies that energy companies would have to go back and look at existing lines. Mr. McGowan explained that the SETT added the language so it did *not* exclude work on existing power lines. Member Lacy proposed adding a sentence addressing the consideration for retrofit on existing power lines that could be done on a case by case basis.

Member Lacy proposed adding the actual document in Appendix A, Lines 10 -12, referred to as "the document that came out in April 2010" to the Appendix.

Member Swanson proposed adding the words, "the wise sustainable use" to the definition of Conservation.

Member Swanson asked about the modification process to Table 4.1. Lara Niell, SETT, acknowledged the need to bring the BLM, US Forest Service, and State of Nevada together for consistent habitat objectives to develop a table valuable to all groups. Mr. Dunkelberger stated the Forest Service was developing its own table. They eventually partnered with the US Fish and Wildlife Service, BLM, the SETT, USGS, and NDOW.

Member Swanson proposed adding the words "and sage-brush ecosystems" on Page 123, Line 8. Member Biaggi expressed concern that adding this wording was beyond the scope of the Council. Chairman Goicoechea proposed adding the words "and Sage-grouse habitat" instead.

Member Swanson proposed adding the language "...unless a project reduces their risk of being lost to wildfire or a lack of resistance/resilience..." to Page 169, Lines 1-3. Ms. Niell suggested, "...unless a project reduces the risk of the area being lost..." Member Swanson agreed with Ms. Niell's wording. Mr. Koch clarified that old sage-brush monocultures may or may not be resistant or resilient; it is more a function of moisture and soil temperature. Chairman Goicoechea proposed, "...manage all remaining large decadent sage-brush patches particularly at low elevations in order to increase resistance and resilience to reduce the risk of being lost, i.e. wildfire..." Ms. Niell suggested the following language to retain the meaning of the original wording, "...maintain all remaining large intact sage-brush patches particularly at lower elevations through active management in order to increase..."

Member Swanson acknowledged that the Monitoring Committee has not met to review the Cooperative Monitoring Agreement included in the State Plan. A meeting will be scheduled in conjunction with the next SEC meeting.

Member Nappe voiced concern over the livestock portion of the Plan and the exemption to livestock grazing, which is the most pervasive use of lands and creates more change than any other use. There needs to be a working group created to evaluate the future of ranching in the State of Nevada. Member Boise noted the Council needed to stay within the boundaries of what it was charged with accomplishing.

Member Lister proposed clearly identifying "leking habitat" on Page 176. Chairman Goicoechea proposed, "...new roads are located within 3-miles of a lek should have seasonal restrictions..."

Member Lister expressed concern over the Plan not adequately addressing the roles of local area working groups and the Conservation Districts, however, this could be addressed in the Strategic Action Plan.

Chairman Goicoechea noted there were additional changes proposed in the Staff Report from the SETT.

Member Biaggi made a motion to adopt the final 2014 State Plan and authorize the SETT to make any necessary additional formatting and editorial changes including those addressed today, which do not alter the content or the intent of the document, including the changes suggested in the Staff Report; seconded by Member Swanson; motion passed unanimously. ***ACTION**

The Council addressed two additional considerations: what is the status of the State Plan if BLM and the US Forest Service select a different alternative for the sub-regional Sage-grouse EIS; and what is the status of the State Plan if the US Fish and Wildlife Service lists Sage-grouse under the ESA.

Chairman Goicoechea asked if there needs to be a statement in the Plan addressing these issues?

Mr. Drozdoff noted the State of Nevada is the only state to have a law to support Sage-grouse habitat efforts. It is the only state to have created a team like the Council, which has been in existence for over a year, addressing the issues of the Sage-grouse. The tools the Council is providing, including mapping and the CCS have shown more than a little bit of good faith. What Nevada is proposing to do and the manner in which to accomplish it, is different than what is traditionally done and what other states are doing. The hope is to establish some of the suggested methods by incorporating as much of the State Plan as possible. Nevada has met in good faith with federal land managers about trying to have as little dissidence between their Preferred Alternative and the State Plan. Nevada is sensitive to the required needs to provide a proven certainty and a level of consistency in the methods. Nevada will continue to work with our federal partners to bridge any gaps.

Chairman Goicoechea noted he did not believe there needs to be a statement in the Plan addressing the two considerations.

Ms. Leuders agreed with Mr. Drozdoff's statement. The draft Plan and the Preferred Alternative are 85 percent similar. The question concerns the additive material, especially the unproven certainty piece that the US Fish and Wildlife Service specifically requires. Not having implemented all of the components and being unable to demonstrate the methods and provide the certainty may require additional prescriptions beyond the void. Regardless, there are lots of components of the Plan that are similar to the Preferred Alternative.

Mr. Koch stated if the Sage-grouse is listed the status of whatever plan that is agreed to will remain unchanged and move forward. Whether or not an agency writes the name of an animal on a list should make no difference. If people are committed to conservation, they should conserve. This Council is evidence of this commitment. In short, if the bird is listed the hope is that nothing changes.

Chairman Goicoechea asked Mr. Koch, if the Sage-grouse is listed, will the US Fish and Wildlife Service entertain giving Nevada a 4-D Exemption, acknowledging the use of the adopted State Plan. Mr. Koch stated if the Sage-grouse is listed as *threatened*, yes, but if it is listed as *endangered*, no. The final alternative as incorporated by BLM will be cited by the US Fish and Wildlife Service. Although the Plan has been approved, the CCS is still being worked on and the map still needs work. Everyone will continue to work together to finalize the CCS and other parts. Mr. Koch did not want the Council to view just today, or an assessment of today's decisions, as a final word. This is an ongoing dialogue. The process involved with this Council is akin to what was envisioned in section 10A, 1-B of the Endangered Species Act. When Congress passed this amendment in 1978, they used the term "creative partnership" to describe what they envisioned to occur between different agencies. He asked if the State Plan had been approved, as he had stepped out of the room. Chairman Goicoechea informed Mr. Koch the State Plan had been approved earlier in the meeting. Mr. Koch does not want the Council to get caught up on just one decision. The Council needs to keep pushing towards conservation.

Member Lister noted that the State Plan was duly adopted by an appointed board of the State of Nevada. The expectation is that no matter what happens, there will be respect from the federal agencies for what the State of Nevada is doing. There will be, at the very least, full coordination with the newly adopted Plan. Also, that at every turn and instance the State of Nevada will defend the action that it is supporting and taking.

Chairman Goicoechea referred to the next question before the Council, does the State Plan, specifically the SETT Consultation and the avoid, minimize, mitigate process, apply to state and local government lands? The Council hopes the federal agencies, to include local governments, give due diligence to the Plan. The Plan should be implemented across the board.

Member Lister moved that the State Plan, specifically the SETT Consultation and the avoid, minimize, mitigate process *does* apply to state and local government lands; seconded by Member Boise. Member Biaggi asked for clarification. Kelly McGowan, SETT, noted this issue came up in regards to the operation of the CCS and what might occur on county and city Lands. Will they have to go into consultation with SETT? Who will that involve, BLM? The question is if you can create a credit on county and city lands. SETT has discussed the issue with their federal partners on how to accomplish this on federal lands. Mr. Rubald clarified that in his discussions with Mr. Lawrence, the expectation is that state lands will follow the State Plan. Mr. Rubald acknowledged there was no specific conversation about county and city land. Member Emm noted that the Council should ensure tribal lands are also able to participate. Mr. Rubald acknowledged that some Conservation Districts

are currently working with tribal groups to do projects on tribal land. It is up to the discretion of the tribes. Member Boise acknowledged that the issue of permittees being allowed to generate credits on public land is already happening. NRCS has already started down this road. If the State plans to have the impact and success hoped for, this issue must be included. Member Nappe asked if the Council should consider adding tribal lands. Member Emm stated tribal land falls under NEPA and this would create jurisdictional issues. Mr. Rubald clarified that tribal lands, according to State Statute, should be treated as private lands, meaning tribes can participate as long as they invite the SETT onto their lands. The Program has no authority over tribal lands.

Chairman Goicoechea restated, Member Lister moved that the State Plan, specifically the SETT Consultation and the avoid, minimize, mitigate process *does* apply to state and local government lands; seconded by Member Boise; motion passed unanimously. ***ACTION**

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

Lunch break at 11:38 PM – 1:08 PM

7. PRESENTATION AND DISCUSSION OF THE NEVADA DEPARTMENT OF AGRICULTURE'S (NDA) EDDMAPS, A NOXIOUS WEED DATA BASE AND MAPPING SYSTEM

- A. Tina Mudd, Nevada Department of Agriculture, presented program updates via PowerPoint on: EDDMaps, NDA- IPM/Sage-grouse Project, and the NDA Range Monitoring App.'

The EDDMaps is an online database tool for invasive plant management. Anyone can log on and map invasive plants and their locations. NDA is asking the public's help in locating the plants. The plan is to attach photo points to document the progress made from treatments of the invasive plants.

The Rangeland Monitoring App is landowner-focused and is based on the University of Nevada Cooperative Extension's Nevada Rangeland Monitoring Handbook, and the Ranchers' Monitoring Guide. The plan is to roll it out in April 2015.

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

8. INFORMATION ON PROJECTS RECEIVING FUNDING FROM THE NEVADA DEPARTMENT OF AGRICULTURE'S RECENT RFP

- A. Ms. Mudd reviewed, via PowerPoint, the five proposals selected for funding from NDA's recent RFP, along with funding amounts.

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

9. PRESENTATION AND DISCUSSION REGARDING THE CONSERVATION CREDIT SYSTEM

- A. Eoin Doherty, Environmental Incentives, reviewed the four objectives of the presentation; to gain understanding and input of the Credit System timeline; to gain understanding of HQT scoring approach with proposed measurement methods; confirm understanding of "what counts as mitigation"; and obtain conceptual approval of field data collection timing proposal. EI provided a PowerPoint presentation covering the objectives, with examples and explanations.

The timeline reflects the CCS being ready to issue Credits and Debits in early 2015. Mr. Drozdoff asked for clarification on the timeline, as the CCS is already up and running with pilot projects and with beta testing. He expressed concern the timeline gives the impression that the system is not up and running when in fact it is currently being tested and running with a few projects..

Discussion and questions included: how baseline is determined; prevention and pre-suppression vs. fire protection and how Pinyon Juniper removal differs from pre-suppression; and how credits will be distributed and their value and length.

EI will provide another update at the next meeting.

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

10. 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 1, 2014
- Approved August 21, 2014, meeting minutes
- Approved 2014 State Plan
- Approved the section of State Plan stating specifically the SETT Consultation and the avoid, minimize, mitigate process *does* apply to state and local government lands

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

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

- Monday, October 27, 2014
- Thursday, December 4, 2014

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

- Update from EI
- Water Projects/Management/Availability – Federal land management issues
- Strategic Action Plan – Steps moving forward

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

11. FEDERAL AGENCY UPDATES AND COMMENTS:

- A. US Fish and Wildlife Service – None
- B. Bureau of Land Management – Ms. Leuders stated BLM continues to have discussions with the states. She had a conference call this week and the Sage-grouse Taskforce meeting is next week. She noted there will be changes to the current published schedule, with the final EIS being completed at the beginning 2015.

Member Biaggi asked about the timeline on Land Use Management Plans. Ms. Leuders noted the Greater Sage-grouse Plan amendment for BLM and the Nevada publication of the final EIS will be at the beginning of 2015 and the law subsequent to that date. Member Biaggi asked when the changes for the RMP actually occur. Ms. Leuders stated the changes in terms of implementation are effective upon signing of the Record of Decision. The process is: the final EIS; a 60-day Governor Consistency Review and a 30-day protest period running concurrently; Protest Resolution and the Record of Decision.

- C. US Forest Service – Mr. Dunkelberger noted the comment period for the revised draft of the Bi-State Sage-grouse Plan closes on October 9, 2014. The Service has only received 5 comments. He asked the Council to encourage people to comment. The next steps would be to prepare the final EIS, issue the FEIS, and release a draft Record of Decision for post-plan amendment early in December.

12. STATE AGENCY UPDATES AND COMMENTS:

- A. Department of Conservation and Natural Resources – Mr. Drozdoff noted that the Council is trying to find a balance which allows for as much of the State Plan to move forward and have both consistency and some level of certainty of the outcomes with BLM and their decision. He expressed appreciation to Ms. Leuders and her staff for being available for productive discussions.
- B. Department of Wildlife – No update.
- C. Department of Agriculture – Ms. Mudd provided update during her presentation.
- D. Conservation Districts Program -- Mr. Rubald said he added this agenda item so in his new capacity as Program Manager of the CDP he can make regular reports to the Council. He does not have anything significant to report at this time, but there are projects ongoing among the CDs. He will not be able to attend the Council meeting on October 27, 2014, but will provide an update at the December 4, 2014, meeting.

Mr. Drozdoff noted that Mr. Rubald is moving back into the Conservation Districts Program role, as Mr. Rubald wants to ensure the work of the SEC and the SETT are integrated into what the Conservation Districts are doing. Many thanks to Tim for all his hard work. The new team lead will be in attendance at the next meeting. Her name is Kacey KC. She comes from the Division of Forestry and is very excited to work with the Council, SETT, and Mr. Rubald. Mr. Rubald thanked the Council for their support and acknowledged all the work they accomplished together. Mr. Lawrence personally wanted to thank Tim for his hard work and dedication, acknowledging that doing this work from scratch was not an easy endeavor.

- E. Sagebrush Ecosystem Technical Team – Nothing additional to report.
- F. Other – Mr. Hunt thanked the Council, on behalf of the Governor, for agreeing to serve and for their service to the State. He is grateful to the SETT for putting everything together, answering technical questions, and compiling everything into one document, including multiple comments and amendments. Mr. Hunt thanked Mr. Rubald for his hard work; Mr. Drozdoff, Mr. Lawrence, Mr. Wasley, Mr. Barbee and their staffs for all the support. He also thanked the federal agencies for participating on the Council and assisting in moving the Plan from a policy level to implementation. The Governor is excited about the work being done here.

13. PUBLIC COMMENT – No public comment.

14. ADJOURNMENT - Chairman Goicoechea moved to Adjourn. Meeting adjourned by acclamation at 3:16 PM. ***ACTION**

DRAFT