



STATE OF NEVADA  
**SAGEBRUSH ECOSYSTEM COUNCIL**  
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### DRAFT MINUTES

**Date:** Wednesday, December 4, 2014 – 8:30 AM  
**Time:** Nevada Department of Wildlife  
**Place:** 1100 Valley Road, Conference Room, Reno, Nevada 89512

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/](http://sagebrusheco.nv.gov/Meetings/Sagebrush_Ecosystem_Council_Meeting/)

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**Council Members Present:** Allen Biaggi, Steven Boies, Bill Dunkelberger (arrived at 9:24 AM), Leo Drozdoff (arrived at 9:26 AM), Gerry Emm, JJ Goicoechea, Ted Koch, Starla Lacy (left at 4:30 PM), Amy Leuders (arrived at 9:46 AM), Bevan Lister, Chris MacKenzie (left at 4:37 PM), Tina Nappe, Sherman Swanson, Tony Wasley, and Proxy: Tina Mudd for Jim Barbee

**Council Members Absent:** Jim Barbee

- 1. CALL TO ORDER** – Chair Goicoechea called the meeting to order at 8:37 AM.
- 2. PUBLIC COMMENT** – Jeff White, Newmont Mining Corporation, noted the Conservation Credit System (CCS) is complex to administer. He acknowledged the SETT is performing above and beyond duty and capacity, however, he wondered if there is enough capacity currently within the system. In regard to the Habitat Quantification Tool (HQT) document, he had concerns about Table 3, page 21, mine size, and Appendix D about reliance on a single study pertaining to surface mining coal in another state. He was also concerned with the thresholds that Environmental Incentives (EI) indicated concerning a difference in 10 percent, he asked the Council to reconsider what was intended with this issue. He also asked the Council to look at the equity in measurements of debits and credits and the financial assurances in regard to perpetuity (what is appropriate on intent, being legal and practicable).

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**

At discretion of the chair, Chair Goicoechea removed Item 6 – PRESENTATION OF THE DRAFT STRATEGIC ACTION PLAN OUTLINE, from the agenda.

Member Lister moved to approve the agenda with proposed changes; seconded by Member Boies; motion passed unanimously. **\*ACTION**

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

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

At the discretion of the Chair, this item was also removed from the agenda. These minutes will be placed on the agenda for the January 8<sup>th</sup> SEC meeting.

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

A. Member Swanson provided an update on the Monitoring Committee meeting held on Tuesday, October 28, 2014. Gordon Toevs, Bureau of Land Management (BLM), attended the meeting to explain BLM's AIM process. Cliff Gardner, Rural Heritage Preservation Project, also spoke about the monitoring he's been doing at the Sheldon. The Monitoring Committee discussed the monitoring agreement, the need for a repository of data, and recommendations for updating the Rangeland Monitoring Handbook, which should begin after the beginning of the year.

Chair Goicoechea clarified a comment from the day before by Mr. Gardner asking if the CCS was state-regulated. Chair Goicoechea stated it is. What is done on private property through the CCS is the building of credits, but the intention is the CCS will be incorporated into the EIS and this gives regulatory assurances.

Ted Koch, US Fish and Wildlife Service (The Service), asked for clarification on the meaning of Mr. Gardner's comment from the day before concerning the CCS as a regulatory program on private land. Mr. Koch's perception is, yes, for those who choose to participate. Chair Goicoechea agreed with Mr Koch's perception.

Mr. Koch noted the regulatory nature of the program for those who choose to participate needs to be addressed, as the Council will be supporting the State when it needs to pursue "bad actors." It needs to be clear that the Council knows this is a possibility and could result in difficult circumstances.

Member Lister proposed the Attorney General's Office give a presentation on the responsibilities of the Council and legal aspects concerning the CCS.

#### **6. PRESENTATION AND DISCUSSION OF THE DRAFT STRATEGIC ACTION PLAN OUTLINE**

At the discretion of the Chair, this item was removed from the agenda. This item will be placed on the agenda for the January 8<sup>th</sup> SEC meeting.

#### **7. DISCUSSION, CONSIDERATION, AND POSSIBLE ADOPTION OF CONSERVATION CREDIT SYSTEM MANUAL AND HQT SCIENTIFIC METHODS DOCUMENT**

A. Jeremy Sokulsky and Eoin Doherty, EI, noted they have “redlined” suggested changes from the day before in the CCS Manual. Additional proposed changes will be made during the meeting on the presentation screen.

Mr. Sokulsky reviewed Section 3.3: Adaptively Managing The Credit System, which is a yearly cycle and outlines the process for how the CCS is updated and administered. The SETT and the CCS Administrator will be responsible for making judgment calls, but no significant changes will be done without Council approval. When a person signs up for the CCS they will be locked into the rules in adherence at the time they signed up.

Member Biaggi noted that transparency is the key, there needs to be public input, and there needs to be deliberations by the Council.

After discussion on what constitutes significant changes, Mr. Sokulsky reviewed the different categories of changes and their levels. Chair Goicoechea wanted assurance that the SETT would be clear on what changes to bring forward for Council approval. There was wording added to the section to clarify when and what should, or should not, be brought before the Council.

Mr. Koch noted that what The Service needs to provide their full support to the CCS is certainty that the plan will not be incompatible with The Service’s needs under federal law. He noted the last sentence in the Category 3 changes description addresses this issue. On Category 2 changes, The Service has non-voting representation on the Council, which is the oversight committee referred to in that category description.

Mr. Sokulsky stated that typos and Category 1 changes, including those submitted by Member Swanson, will be redlined and submitted in a batch at the next meeting for approval.

Mr. Doherty highlighted the current Pilot Project of the CCS. The SETT and EI are working with a landowner to go through the CCS process and complete the administrative requirements for the site, however, there is no requirement that they sign up for credits/debits. This is an opportunity to use real project examples

The landowner of the pilot project is Member Boies. Member Boies provided background on the project and how he became involved. There was not a decision at this time for the Boies’ to sign up for credits, but Member Boies found it helpful to work through process.

Mr. Koch noted The Service’s interest in pilot projects goes far beyond what is covered during the current conversation. The Service is interested in outcomes achieved and how the process works. His confidence level is already high because of the current process and the pilot project. Mr. Koch noted that Lee Corum, The Service, has been involved in the process and asked that continue to be the case. He also stated The Service is interested in as many iterations of projects as possible, the reflections by the Council about the process and plan, and decisions on adaptations of the Plan. These will give The Service confidence months down the road on the CCS.

There are other pilot projects being reviewed, however at this time, this is the only pilot project in the process. Mr. Koch noted the more pilot projects the better. Lara Niell, SETT, stated the SETT had done field work on a second site; however, it may not meet the requirements for the CCS.

Member Boies noted privacy issues could be a problem for some potential participants. Cassandra Joseph, Nevada Attorney General’s Office, clarified any documentation provided to a public entity is subject to FOIA and/or state records requests, unless it is marked “Confidential” in a way that can be supported as trade secret or another confidential aspect, which probably would not be possible. Member Boies asked if that would include the value of credits. Ms. Joseph noted it would include the

value of credits also stating the only information protected is personal identification. Mr Sokulsky added that the State is not negotiating the price of the credits, that is being handled by a third party and therefore the State won't have that information in many instances, so it would not have to go out in a public request.

Member Lister noted the measure units referred to in the Manual is confusing as they are referred to in both metrics and miles. After discussion it was decided to refer to measurement in miles with metrics in parentheses.

Mr. Koch and Amy Leuders, BLM, noted the need for a discussion on pursuing a strategic approach for developing credits in areas that would most benefit from Sage-grouse conservation at the time. The thought was the Strategic Action Plan may be the place to address this.

Member Emm noted there should be a discussion concerning the inclusion of tribal and trust land in the CCS sometime in the future.

Floyd Rathbun, FIM Corporation, asked for clarification on how disagreements will be resolved in the CCS. Chair Goicoechea noted, as stated in the Manual, if there is a disagreement that cannot be settled through the CCS Administrator or the creditors, it comes back to the Council. The monetary agreement between the two parties is set outside the Council and is market-driven. Mr. Rathbun also asked how privately owned water rights on public lands would be addressed in the CCS. Chair Goicoechea noted that when you enroll in the CCS to generate credits, then everything in the Manual will apply as if it was private property.

There was discussion about whether the US Fish and Wildlife Service would "propose" or "decide" to list Sage-grouse as an endangered species. Mr. Koch clarified that by September 2015, the Service will decide whether to propose or withdraw the initial finding that a listing is warranted. If it were proposed there would be a year of public comment, then a review, and would be finalized in 2016.

Member Biaggi noted the inequality between the debits and credits is worrisome. If you are offsetting credits and debits in equal amounts there should be a zero sum gain. There is concern about this issue. Mr. Koch stated The Service agrees that credits and debits should be equal. Jim Lawrence, SETT, noted there would never be exact equality because of the proximity factor. If going outside the area you are going to get more credits. Ms. Niell clarified the formula for a functional acre is exactly the same when dealing with credits or debits. Because of the indirect effects of a debit project, there is a larger footprint. Mr. Koch stated The Service agrees with the general concept of equitability, however, this issue is one of the reasons they want pilot projects, because if it doesn't work, it can be addressed through Adaptive Management. Member Biaggi noted the opportunity to modify the numbers and the Council's commitment to do the Adaptive Management that may be necessary along with a ratio cap is good progress in addressing the inequality.

Addressing some concerns from the mining industry on the inequality issue, Mr. Koch noted the CCS was developed with the SETT, whose members have relevant expertise, and also the technical review group on the HQT. There is faith in the technical expertise and in the initial effort from the ground up approach rather than addressing a shocked response to an extreme example on the debit side provided by EI. Everyone is in agreement on an equitable approach. It appears the Council is leaning toward making a commitment to increase credit ratios and create a debit ratio cap on the debit side. It would be detrimental if Barrick decides not to participate in the CCS. The only way to figure out this issue is by running projects through the CCS that are not extreme and evaluating the outcomes. Chair Goicoechea noted the Council cannot make a policy decision without the science. Member Biaggi stated that the mining industry is not suggesting ratio caps run forever, just as the System rolls out.

In regards to the inequality issue, Chair Goicoechea noted the Council agrees with the direction they are going as a policy, however, the formulas for achieving the hard numbers needs to be adjusted. Mr. Koch stated there is an urgency to approve the CCS Manual today and he agrees with the urgency. He suggested the mining and energy industries provide the SETT with 5 theoretical projects from their "real world" experiences to work through both sides (debit and credit) of the equation. Member Boies suggested also seeking other examples from the private sector. Meghan Brown, Congressman Amodei's Office, noted that NRCS can also provide examples of projects. Member Biaggi stated it may be premature to discuss ratio caps at this time. Chair Goicoechea noted the agreement to revisit the numbers after project examples have been run through the system. Mr. Sokulsky will add language in the CCS Manual noting that the numbers will be revisited.

There was discussion concerning credit duration and how it relates to Right-of-Way (ROW). Ms. Leuders stated one piece on this issue is the durability of protecting the habitat and a second piece is the maintenance of the habitat addressed through NEPA, and assuring whatever you do is not undone by anthropogenic disturbances. Member Biaggi noted the general wording in the CCS Manual addressing this issue was accurate. Gordon Toevs, BLM, indicated NEPA documentation describes the mechanism for offsetting protection and provided some wording for the Manual.

Mr. Koch noted if there is to be agreement in the future with The Service, he had suggested wording to add to the Manual: "Actions proposed as compensatory mitigation should exceed what is otherwise required by Federal, State, and local regulations." The proposed wording was added.

Lunch Break at 12:27 PM to 12:49 PM.

Mr. Toevs and Ms. Leuders proposed changes to wording in the Manual concerning land designation.

Council reviewed changes proposed by Member Swanson. EI received written comments from Member Swanson that will be reviewed and added as appropriate.

Joe Tague, BLM, proposed new language concerning grazing. There was discussion about grazing practices with Ms. Leuders ultimately suggesting language for the Manual.

Mr. Koch brought up the issue of enforceability for mitigation banks is often difficult and comes down to contractual agreements and contract law. One of the things that is beneficial with the CCS is that it is backed by state law. Mr. Koch proposed language to add NRS 321.594 to the manual. Leo Drozdoff, Department of Conservation and Natural Resources (DCNR), noted that the contracts can be on private land and public land. There has been discussion with The Service about private land and Mr. Drozdoff asked if the Council contemplates adding the proposed wording from The Service and enforces it, would it help to clear the hurdle of private land and add more teeth to the issue? Mr. Koch, said, yes, he believes the CCS commitments are enforceable. Ms. Leuders agrees it helps. Mr. Koch noted it is already implied in the CCS, however, this wording will strengthen it.

Due to technical issues, the recording was interrupted for approximately 10-15 minutes.

There was discussion on the process for making changes to the HQT. Member Swanson and others had some proposed changes for the HQT, however, it was decided to review those changes at a later date, perhaps, through Adaptive Management.

Mr. Koch proposed having an agenda item continuing the discussion on the CCS Manual and HQT at the January 2015 SEC meeting. Chair Goicoechea noted this would be an agenda item at every meeting for the next few months.

Member Biaggi asked for clarification on if the Council approves the CCS Manual and HQT during this meeting, how this would fit into the EIS process, and will the preferred alternatives be locked in at some point so you cannot change them? If so, how would Adaptive Management and changes with the EIS process be addressed? Ms. Leuders noted that the CCS Manual broadly talks about mitigation and acknowledges work on State Conservation Credit System. Until the CCS officially exists and is open for business, it is difficult to tie mitigation of the EIS to the CCS. This can always be done at a later point. It is an integral piece of the State Plan and having the CCS open before the Record of Decision would be beneficial. Mr. Drozdoff noted that board action is in everyone's best interest.

Mr. Rathbun asked if the distinct population of Bi-state greater Sage-grouse is included in the CCS. It is not. Mr. Koch noted The Service has Sage-grouse specialists that have reached out and offered help on conservation programs specifically with the Bi-state.

Tony Wasley, Nevada Department of Wildlife (NDOW), noted the one issue that causes some concern for NDOW, from a biological viewpoint, is the Dynamic Offset.

Mr. Koch noted there are areas that are of particular value for habitat/conservation where the federal agencies would want to encourage development of credits and proposed having the CCS incentivize these areas. Mr. Sokulsky suggested proposed language to address this issue for federal agencies.

Member Lacy will provide wording concerning conservation easements to be reviewed later.

There was discussion concerning Dynamic Offset with Mr. Lawrence noting it would not be beneficial to have a lot of 1-year projects stacked up, so it was decided that the Dynamic Offset of credit projects needs to be a duration of 30-years. Mr. Wasley wondered if limiting total sites per project was beneficial. Mr. Koch would like to see the duration of the credits match the life of a project. Thirty years is not ideal for The Service. Ms. Leuders noted if everything is done through Dynamic Offset, it would not be beneficial. BLM is not comfortable with anything less than 30-years. It is a good compromise. If the CCS ends up with only Dynamic Offsets, the Council will need to revisit this issue.

Mr. Koch clarified the deadline for The Service to possibly list the Sage-grouse. September 2015 is the deadline to propose listing and September 2016 is the deadline for finalizing the listing. If the CCS is in place and only implements credit projects that protect and do not restore, while debit projects are taking away, that is not a net conservation benefit, it is a decline. It is a concern for The Service. There was discussion on if this should be listed on the Adaptive Management list to be reviewed later. Ms. Leuders expressed concern about putting it on the Adaptive Management list because of short window for demonstrating an up curve and not a down curve. Mr. Koch noted this was an advocacy opportunity. There were suggestions made to add this to the Strategic Action Plan (SAP). Chair Goicoechea noted the SAP should be added to the January agenda with this item high on the list for review. Mr. Koch is encouraged by the discussion.

There was a discussion on fee structure. It was decided to revisit this issue toward the end of the first quarter. Large upfront fees would be a disincentive for people to participate.

Proposed changes were made on the presentation screen during the meeting.

Vice-chair MacKenzie made a motion to approve the draft Conservation Credit System (CCS) Manual Version 1.0 (November 2014) with proposed changes and with the implication the Council will review information from pilot projects and change the numbers accordingly; seconded by Member Boies; motion passed unanimously. **\*ACTION**

Member Nappe made a motion to adopt the HQT Version 1.0 Manual; seconded by Vice-Chair MacKenzie; Member Swanson clarified with the idea that the Council will engage in Adaptive Management soon; motion passed unanimously. **\*ACTION**

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

## **8. REVIEW OF ACTION ITEMS AND FUTURE AGENDA ITEMS DRAFTED ON FLIPCHARTS 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, with proposed changes, for December 4, 2014
- Approved Conservation Credit System (CCS) Manual Version 1.0 (November 2014)
- Approved the HQT Version 1.0 Manual

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

The Council decided the date of their next meeting will be:

- Thursday, January 8, 2015, Guinn Room, Carson City, NV

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

- Strategic Action Plan (SAP)
- HQT Cleanup
- Attorney General's Update – Cassandra Joseph

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## **9. FEDERAL AGENCY UPDATES AND COMMENTS:**

A. US Fish and Wildlife Service – No update.

B. Bureau of Land Management – No update.

C. US Forest Service – No update.

D. Other – No update.

## **10. STATE AGENCY UPDATES AND COMMENTS:**

A. Department of Conservation and Natural Resources – Mr. Drozdoff noted the good work and accomplishments achieved by the Council and the SETT. He also noted there are conversations taking place with BLM, the US Forest Service, and to some extent the Fish and Wildlife Service.

B. Department of Wildlife (NDOW) – Mr. Wasley noted NDOW is analyzing new data on harvest and recruitment. Some numbers are up and some numbers are down from previous years. John

Tull, NDOW, noted one unusual trend is the fledgling grades are good, but brood counts are low. The numbers are not yet final.

C. Department of Agriculture – No update.

D. Conservation Districts Program – Tim Rubald, Conservation Districts noted that Doni Brulend left the Elko position and Gerry Miller has been hired to replace her. Mr. Miller has been around the Conservation Districts for years and is very familiar with NCRS and BLM.

E. Sagebrush Ecosystem Technical Team – No update.

**11. PUBLIC COMMENT** – Ms. Brown spoke for Congressman Amodei and herself acknowledging the accomplishments of the Council and the SETT. She noted the thoughtfulness, thoroughness, and professionalism exhibited by Councilmembers and the SETT. She acknowledged the hiring of great people and having great volunteers, who made the best of a situation that was often uncomfortable. From her perspective, this shows great leadership. She is very proud of the State.

Member Lister noted his appreciation and the tremendous work done by the SETT and EI. It is a monumental effort. The complete success of the System is entirely dependent on the certainty of the creditors and debtors having some sort of protection from the heavy hand of federal regulations.

Member Nappe was impressed with the amount of work and the products produced, and acknowledged the contribution of John Copeland, SETT, who will be retiring in December.

Member Swanson noted the magnitude of both the CCS Manual and the State Plan. It is a lot of work and will get better.

**12. ADJOURNMENT** – Member Lister moved to Adjourn. Meeting adjourned by acclamation at 4:39 PM.  
**\*ACTION**