



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
201 South Roop Street, Suite 101
Carson City, Nevada 89701-5247
Phone (775) 684-8600 - Fax (775) 684-8604

DRAFT MINUTES

Date: Thursday, May 14, 2015
Time: 8:30 AM
Place: Nevada State Capitol – Guinn Conference Room

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: Flint Wright for Jim Barbee, Allen Biaggi (arrived at 9:42 a.m.), Steven Boies, Leo Drozdoff (arrived at 8:42 a.m.), Gerry Emm, JJ Goicoechea, Mary Grimm (via telephone), Starla Lacy (arrived at 8:38 a.m.), Bevan Lister, Ken Smihula for Amy Lueders, Chris MacKenzie, Tina Nappe, Sherman Swanson, and Tony Wasley

Council Members Absent: Jim Barbee, Bill Dunkelberger, Amy Lueders

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

2. PUBLIC COMMENT – No public comment.

3. REVIEW AND CONSIDERATION OF APPROVAL OF AGENDA

A. Chair Goicoechea noted the presenter for Agenda Item 9, Sandy Gregory, Bureau of Land Management (BLM), is unable to attend, therefore, Item 9 is removed from the Agenda. This item will be added to an agenda for a future Council meeting.

Member Boies moved to approve the Agenda with Item 9 removed; seconded by Member Emm; motion passed unanimously. ***ACTION**

4. REVIEW AND CONSIDERATION OF APPROVAL OF MINUTES

A. Approval of minutes from the meeting held April 9, 2015 – Vice-chair MacKenzie moved to approve the draft minutes; seconded by Member Nappe; motion passed unanimously. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

A. Kacey KC, SETT, noted there were four letters included in Council packets.

Member Lister asked about the letter from the Department of Agriculture (signed by Jamie Greer) and if the issue raised in the letter was a new issue or an ongoing issue. Flint Wright, Department of Agriculture, noted the issue has been ongoing since January.

Tony Wasley, Department of Wildlife (NDOW), noted he was the recipient on the letter as the sitting President for the Western Association of Fish and Wildlife Agencies (WAFWA). WAFWA recently published an invasive species report; Ms. Greer stated in her letter that her input was not adequately incorporated into that report. WAFWA's intent is to broaden input. Other experts characterized the report as very good. In response to Ms. Greer's concern, Mr. Wasley offered to remove her name and that of the Department of Agriculture as a contributing member if that was the desire. He also encouraged her: to participate in a weed summit that will be held in Reno, to continue to work through the Western Weed Coordinators Alliance and to work with WAFWA to provide input. Mr. Wright noted the Department of Agriculture made significant suggestions concerning the report through Ms. Greer. WAFWA chose not to include a majority of the input; therefore, Department of Agriculture is withdrawing its support of the report.

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

6. NEVADA AND NORTHEASTERN CALIFORNIA GREATER SAGE-GROUSE PROPOSED LAND USE PLAN AMENDMENT AND FINAL ENVIRONMENTAL IMPACT STATEMENT - *NO ACTION TAKEN*

A. Jim Lawrence, Department of Conservation and Natural Resources (DCNR), explained to the Council the process the SETT followed in providing comments on BLM's Final Environmental Impact Statement (FEIS) document. The FEIS was released approximately two weeks earlier. It was released to the Cooperating Agencies (CAs), which are those agencies that signed an MOU with the BLM to be part of the EIS process, helping to provide input on the document. The SETT, with DCNR as the lead, signed an MOU to participate as a CA. Comments were due the night before the SEC meeting by 5:00pm. Some Councilmembers contacted the SETT asking to be a part of the process. DCNR reached out to the BLM to ensure this was appropriate. BLM noted it is not appropriate to include Councilmembers in the review process at this time. When DCNR signed the MOU to be a CA they agreed to the conditions put forth by the BLM. Therefore, DCNR and the SETT cannot share the document or their comments concerning the document.

The SETT went through the preferred alternative and the entire EIS line for line and the response at this point was to identify those areas in the FEIS that are not consistent with the State Plan. The SETT comments were submitted by the deadline.

The comments will become public once the document becomes public. The BLM is anticipating release of the document for public review in early June. This starts the Objection Period and the Governor's Consistency Review period. This is when there can be more robust discussions with the Council.

Leo Drozdoff, DCNR, noted the FEIS is planned to be released prior to a Western Governors' Meeting in Denver the second week in June. There will be a 30-day Protest Period. This is when all the comments become public and additional general comments can be received. When that closes, that will trigger the Governor's Consistency Review which may or may not overlap with the Protest Period. There will be a Record of Decision in August. Mr. Wasley, Mr. Drozdoff, and Cory Hunt, Nevada Governor's Office, will be attending the meeting in Denver and would like to share with the Council at the next SEC meeting the discussions from the Denver meeting.

Member Lister noted his understanding is that an action taken by a state or county agency that was not declared confidential is public information. The fact the Council is unable to see the comments submitted by the SETT, a State entity, is concerning. He asked for clarification on what is considered public information in the State and what is not. Bryan Stockton, Nevada Attorney General's Office, noted the issue is complicated. Generally, once a document is finalized, it is a public document. Mr. Stockton is not familiar with federal meeting laws. A public document is public unless made confidential by some statute or regulation. There is a privilege for a working document.

Ms. KC noted DCNR signed an MOU as a Cooperating Agency. The Council is a public board and because of that it would difficult to sign the Council up as a Cooperating Agency.

Member Lister asked for clarification on being a Coordinating Agency versus a Cooperating Agency. He noted he is frustrated with the process and wonders about the value of the work being done by the Council.

Member Boies asked for clarification on if the document would go out for public comment and if the BLM would respond to all the comments point by point. Ken Smihula, BLM, noted he would have to get back to Member Boies. He wasn't sure of the correct answer.

Chair Goicoechea noted there were 125 pages of comments from Eureka County on the draft EIS and there was no response from the BLM on what was incorporated and what was not incorporated.

Member Lister stated he is aware the BLM is able to ignore both federal and state law and wondered what law they adhered to.

Lara Niell Enders, SETT, noted the expectation is there will be an appendix at the end of the FEIS with a list of received comments with a basic response to each comment.

Member Lacy expressed concern over the expectation for Cooperating Agencies to review 1800 pages of information in just two weeks, when the document took a year to write.

There was discussion concerning the process followed by the BLM.

Mr. Cliff Gardner, Rural Heritage Preservation Project, agreed with the comments from the Council. He spoke about the concept of coordination. He requested the Council review the directive from the Governor and the Nevada State Legislature stating the Council was to conduct a more coordinated process where everyone has input.

B. Member Swanson noted the timeline and organization of comments for submission will be extremely important. Chair Goicoechea stated that once the FEIS is made public, Councilmembers should make sure they get it to the stakeholders they represent as soon as it is released and have comments back in time for Council review at the next meeting.

There was discussion about the Council's process for submitting comments on the FEIS.

Member Lister expressed concern that the Council's comments would be considered "public" comments considering the Council was created by the State of Nevada through statute and appointments by the Governor. There was no coordination with the Council by the BLM. Mr. Wasley noted direction from the Council has been incorporated into the SETT's comments and the SETT's comments are a reflection of direction by the Council.

Catherine Clark, Western Lithium, noted she has prepared over 100 NEPA documents. In her experience, every public comment needs to be addressed in the EIS document. Every comment

needs a response. She also had a number of comments in the draft EIS that were not addressed. This may open BLM and the US Forest Service up to an appeal of the EIS.

Mr. Smihula noted the FEIS will be published for public review at the beginning of June. There is no specific date.

Member Lister asked if the BLM would hold workshops once the FEIS is released. Mr. Smihula stated that he could let his office know the desire for workshops. Chair Goicoechea noted workshops throughout the State would be beneficial. Mr. Smihula stated he will check with his office and let the Council know if there will be workshops.

Kelly McGowan, SETT, suggested when Councilmembers go out to stakeholders for comments, there should be some guidance because the document size is overwhelming.

Member Nappe asked for the SETT to send out their comments once the EIS is released to the public.

Member Emm asked Mr. Smihula if tribal consultation was included in the process. Mr. Smihula stated the information he has does not have dates of tribal consultation. Normally, it happens prior to, or just before, the public comment period, however, he has not seen anything concerning it. He will check on it. Member Emm noted this is required by federal law (Presidential Executive Order). Member Emm stated there were some tribes involved in the BLM process as CAs. Chair Goicoechea clarified that tribal consultation is outside the CA guidelines.

Mr. Gardner noted 30 years ago each comment was directly addressed. He wondered if they are required by law to do that.

Ms. Clark asked if the BLM would also include a draft Record of Decision when releasing the FEIS. Mr. Smihula noted typically that would be the case; however, he was not sure about it in this particular case.

Mr. Smihula introduced himself and clarified an earlier comment he made concerning the FEIS. When it is released it is not a Record of Decision (during the public comment period). There are alternatives and preferred alternatives to the plan within the FEIS and one of the alternatives is selected after the 30-day public comment period. Then the BLM moves forward with a Record of Decision.

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

7. DISCUSSION AND EXPLANATION OF SPATIAL MANAGEMENT TERMINOLOGY, PARTICULARLY REGARDING MAPS AND THEIR APPROPRIATE USES- *NO ACTION TAKEN*

A. Ms. Niell Enders reviewed the map spreadsheet and copies of the maps provided to the Council. This is similar to the spreadsheet provided to the Council approximately a year earlier. Some terms do need updating. Ms. Niell Enders reviewed each map individually with terms and updates, taking Council questions during each review.

The Habitat Suitability Index/Management Category map will be updated in June when the Pinyon Juniper layer is completed and anthropogenic indices and telemetry data will be included.

The FEIS has new acronyms for core (Priority Habitat Management Area- PHMA), priority (General Habitat Management Area- GHMA), and general (Other Habitat Management Area- OHMA) management categories. The maps are not publicly available. Because the maps are the same areas using different terminology, the Council may want to change current terms in the State Plan to match those the BLM is using.

Ms. Niell Enders noted the BLM will incorporate the management categories concept in the updated Sage-brush Focal Areas (SFAs) map, which will be made public in the FEIS.

The SETT can produce larger versions of the maps if Councilmembers would like them.

Member Lister asked about providing an interactive map for individuals to access. Ms. Niell Enders noted this was something brought up at the last Council meeting and the SETT has identified it as something that is needed. Ms. KC stated the Division of Forestry did get a grant this year from the federal government to create interactive maps for fire resources and to map areas of concern for fuel reduction projects. The SETT could tack some of this on to that grant and make one interactive webpage for resource and fire issues.

Mr. Smihula asked how many PACs are in the WAFWA zones. Ms. Niell Enders noted the belief is there are twelve; however, they are not called out individually. Mr. Smihula stated this may be significant if The Service uses PACs for ways of collecting data. Ms. Grimm noted there is new and better information about where habitat is so PACs would not apply easily in Nevada. She was not sure how The Service would differentiate it from the rest of the Range Analysis. Ms. Grimm also stated that in Nevada, The Service uses the Management Category Map that came out of the State Plan. Across the range, The Service will take a look at how conservation of the identified PACs in the COT Report is doing.

Member Lister asked at what level Local Area Working Groups (LAWGs) should be working, PMUs or BSAs. Ms. Niell Enders noted LAWGs are focused on a much smaller area, PMUs are appropriate for planning efforts at that scale.

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

8. 2014 NEVADA GREATER SAGE-GROUSE CONSERVATION PLAN (STATE PLAN) AMENDMENTS

Ms. KC noted the information concerning this agenda item is similar to the information provided in the April 9, 2015, meeting packets. The Council was unable to review a majority of the changes so the SETT is resubmitting the changes so the Council can review them. Member Swanson's proposed changes are also included in Council packets.

Member Nappe expressed concern over making the items in the State Plan too general. She acknowledged rangeland management is complex, however, if it is too general it is possible to do nothing or do very little.

There was discussion concerning Member Swanson's proposed changes.

Member Swanson made a motion to approve his proposed amendments, including bolding a sentence per Member Lister's suggestion; seconded by Member Boies; Vice-chair MacKenzie asked if the SETT had concerns in terms of uniformity if the Council adopts the proposed changes in the Plan. Melissa Faigeles, SETT, noted it does change the intent. The way the section was set up it is about specifically creating Sage-grouse habitat objectives based upon the table, with the proposed

language they are resource objectives not necessarily specific to Sage-grouse. Member Swanson noted that in 2003 Amy Lueders, BLM, made a comment when the Rangeland Monitoring Handbook was being updated, that she wanted the Handbook to not require range people to go out and monitor and then on a different day the wildlife people go out and monitor, then the watershed people monitor, etc. She wanted one monitoring tool that worked for all resources, with one team that collects data that is useful for all. This could only be done because they focused on resource objectives. The time for Sage-grouse objectives would be in the planning process that leads to the resource objectives and those are what we hold ourselves accountable to. Thinking about what Sage-grouse might need, there should also be thoughts about what other things the BLM is required to manage. There was discussion concerning if the proposed wording in fact takes the focus away from Sage-grouse. Member Swanson proposed adding the wording, "site specific resource objectives" after "...work towards..." and not removing "...the desired conditions..." in Paragraph two, approximately Line 11 under *4.0 Desired Habitat Conditions for Greater Sage-grouse in Nevada*. Member Swanson amended his motion to include the new proposed changes, including correcting a typo in the last sentence of the paragraph; motion passed unanimously. ***ACTION**

The Council discussed Table 4.1. Member Boies asked for clarification on where the one meter above canopy wording originated and if the Council wanted to limit themselves to that standard. He expressed concern on the measurement. The Council discussed defining a "tall structure" as the term can be subjective. Member Lacy asked about consistency with this table and other management objectives and actions throughout the plan. There are different numbers about transmission lines in other areas. There is concern about not having anything over four feet near a lek or nesting areas. Sean Espinosa, NDOW, noted the NDOW also had concerns with the language spelled out in the Bi-state EIS and wanted clarification on what "tall structures" meant. The NDOW has seen language within the The Service's EIS for Bi-state that included any tree that is within view shed of leks, which they thought was unreasonable for Bi-state and asked for clarification on the language. Mr. Espinosa feels it is a definition issue and if it can be further clarified and qualified, it is a good thing. There was discussion on if the wording needs to be changed or removed. Mr. Espinosa noted the issue is eliminating objects where ravens can nest or perch.

Mr. Gardner noted this issue is at the heart of his concern from the beginning of this process. This is a political discussion. It has nothing to do with facts or science. Mr. Gardner noted the Falcon to Gonder study showed that Sage-grouse were not adversely affected measuring all the various values. This gets us away from what this nation was founded on. Chair Goicoechea reminded Mr. Gardner the current discussion is on predation.

Vice-chair MacKenzie asked for clarification on how a structure above one meter affects habitat three miles away. Mr. Espinosa noted the effectiveness of a raven pair within a nesting habitat can be extreme. Mr. Espinosa disagreed with Mr. Gardner's assessment of the Falcon to Gonder study, stating the researchers found that nest site selection, nest survival, and pre-fledgling chick survival was affected out to nine or ten kilometers away. Mr. Espinosa noted it is more of an issue with scale rather than point on the landscape.

Mr. McGowan noted there are a different set of numbers addressing this issue in the FEIS from what was in the Draft EIS. He also stated the taller the structure, the further the cone of affect it is going to have.

Member Lacy noted there will be disagreement on the results of the Falcon to Gonder study.

Member Boies made a motion to strike the one meter above the shrub canopy and add language in the footnote explaining the intent of the language, including the use of the best current science; motion seconded by Member Lacy; Member Lister noted if there is approximately a 1000 percent reduction in the raven population this becomes a less critical issue. Chair Goicoechea noted The

Service said that if Nevada does its part to eliminate this kind of thing they will look at an increase in take. The Council is doing the job to reduce the perches. Motion passed unanimously. *ACTION

Member Nappe made a motion to make the entire State Plan consistent with Council changes in Section 4.0; seconded by Vice-chair MacKenzie; motion passed unanimously. *ACTION

Member Nappe made a motion to approve the map updating process as an Appendix to the State Plan; 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

9. PRESENTATION AND DISCUSSION ON FIRE AND INVASIVES ASSESSMENT TOOL (FIAT) OUTCOMES AND IMPLEMENTATION STRATEGIES

Sandy Gregory, BLM, is unable to attend meeting so item was removed from the agenda.

10. 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 for May 14, 2015, with amendment removing Item 9
- Approved Minutes from meeting held on April 9, 2015
- Approved proposed amendments to the State Plan, pertaining to Section 4.0
- Approved any changes needed to make entire State Plan consistent with Council amendments to Section 4.0
- Approved wording changes concerning Shrub Canopy
- Approved Map Appendix for State Plan

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

Mr. Drozdoff noted that Chris Iverson, Deputy Regional Forester, The Service, stated that once the FEIS is published in the federal register the 30-day protest period and the 60-day Governors' Consistency Review will start simultaneously. Mr. Stockton explained the difference between a "protest" and a "comment" period, but noted he needed to do more research on each.

The Council decided the dates of their next meetings:

- Friday, June 12, 2015, PEBP Conference Room
- Thursday, June 18, 2015, PEBP Conference Room – If needed
- Tuesday, June 23, 2015, Guinn Conference Room

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

- Final EIS Review and Proposed Comments – Agenda Item for June 12, 18, and 23
- Updated Pinyon Juniper Layer for Coates Map – Agenda Item for June 12, 18, 23
- Fire and Invasives Assessment Tool (FIAT) – Reschedule

Items still needing dates for a future agenda:

- Review adding areas of the Bi-state to be eligible for the CCS
- Review a comparison between the BEA and the State Plan, specifically looking at ratios
- New Versions of HQT and CCS Manual – July Meeting
- Concept of SETT to host a central database for the State on conservation actions
- Establish measurables for the next two years

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 (The Service) – Ms. Grimm noted The Service did their final evaluations of the Bi-state population of Greater Sage-grouse and determined it no longer warranted listing based upon the impressive unprecedented commitment from state, federal and local partners in conserving.
- B. Bureau of Land Management (BLM) – No update.
- C. US Forest Service – No update.
- D. Other – No update.

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

12. STATE AGENCY UPDATES AND COMMENTS:

- A. Department of Conservation and Natural Resources (DCNR) – No update.
- B. Department of Wildlife (NDOW) – Mr. Wasley noted there were two pieces to the finding of not warranted for listing of the Bi-state Sage-grouse. One was the certainty of effectiveness, an action plan that outlined what needed to occur on the landscape. The Service noted it was a good plan, but had some reservations on implementation. The NDOW went out to all agencies, counties, and state partners and provided financial commitments to the implementation of the action plan. With the combination of the scientific justifications behind the actions, The Service was able to reach a not warranted finding.

Mr. Espinosa noted the NDOW finished lek counts and it looks like there is an increase in attendance across the State. The NDOW is attributing this to good recruitment from two years ago. Recruitment last year was mid-range. The NDOW is not sure what to expect this year. Everything was early. Some chicks hit ground around April 25, which is the earliest Mr. Espinosa has seen. Chair Goicoechea noted he heard the NDOW found some large undocumented leks in central Nevada. Mr. Espinosa noted the area is around the eastside of the Antelope Range. This is one of the reasons they expanded that BSU to include the new leks.

Mr. Wasley spoke about the early activity of the leks and attending male population.

- C. Department of Agriculture – No update.
- D. Conservation Districts (CD) Program – No update.

- E. Sagebrush Ecosystem Technical Team (SETT) – Ms. KC noted Sheila Anderson has been selected to fill the Forestry position on the SETT. The SETT will be going out to the Boies Ranch to collect more breeding period data. Once the data is collected, the first pilot project will be completed in the CCS. The SETT is doing data collection on a public parcel and will take that information to the federal agencies to try to push forward the discussion on how credits can be developed on public lands in the CCS. The SETT and EI are finalizing the User's Guide, the calculator, the management plan, and the participant contract, which will come to the Council for review and approval.
- F. Cory Hunt, Nevada Governor's Office, noted the Governor's Office received a couple of letters from counties noting their concern with the administrative draft of the EIS and urging the Governor's Office to use the Governor's Consistency Review to express the concerns of both the State and the counties. Mr. Hunt noted this is the Governor's intention. The Governor is not sure what the FEIS will look like, however, the more engagement there is with the counties to understand their specific concerns, the better. It is challenging for the Governor's Office and State Lands to evaluate all the concerns, especially across such a broad area. Mr. Hunt does appreciate the early engagement. The Governor will determine what is best for the State and how to best use the consistency review. Counties may contact Mr. Hunt about their concerns. The Governor's Office had a couple of companies come in to the office to express interest in participating in the CCS, along with some environmental groups that would like to do credit generation.

Mr. Lawrence introduced Kristin Szabo the new Administrator to Nevada Natural Heritage Program. He also noted Council's concern about the timely distribution of Council Meeting packets. Ms. KC and Andrea Sanchez-Turner, DCNR, will work on getting the information out earlier.

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

- 13. PUBLIC COMMENT** – Member Lister noted it would be helpful for the NDOW to provide data concerning wildlife areas. Mr. Wasley noted they have the data, however, it would require some analysis. Mr. Espinosa stated it would be a difficult analysis to complete.

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

- 14. ADJOURNMENT** – Member Biaggi made a motion to adjourn; meeting adjourned by acclamation at 12:04 PM. ***ACTION**