



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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MINUTES

Date: Thursday, August 30, 2018
Time: 8:30 a.m.
Place: Nevada Department of Wildlife
60 Youth Center Rd, Elko, NV 89801

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/)

Council Member Present: J.J. Goicoechea, Chris MacKenzie, Steven Boies, Bevan Lister, William Molini, Sherman Swanson, Bill Dunkelberger (Cheva Gabor for Bill Dunkelberger), Carolyn Swed, Jim Lawrence for Bradley Crowell, Jerri Conrad-Williams for Jim Barbee

Council Members Absent: Allen Biaggi, Gerry Emm , Starla Lacy, Mike Courtney, Ray Dotson

1. CALL TO ORDER

Chairman J.J. Goicoechea called the meeting to order at 8:56am.

2. PUBLIC COMMENT

Pam Harrington, Trout Unlimited, proposed a water conservation bill. She noted the proposal would be a voluntary grant program for water conservation projects in urban and rural areas. She suggested utilizing funds generated from marijuana taxes as a funding source.

Sam Mori, Mori Ranches and President of Nevada Cattlemen's Association, commented on the disruption and devastation to wildlife and other species from wildfires. He noted that fire frequency and fire size has increased over the years and stressed the need to change how rangeland is managed and grazed.

3. APPROVAL OF THE AGENDA - *FOR POSSIBLE ACTION*

Approval of agenda for August 30, 2018 – Member Lister moved to approve the agenda; seconded by Member MacKenzie; motion passed unanimously. ***ACTION**

4. APPROVAL OF MINUTES - *FOR POSSIBLE ACTION*

Approval of minutes from the meeting held on July 17, 2018 – Member Swed noted a minor change to the minutes on page 3, section 7, noting that it should refer to Bank Enabling Agreement, not The Nature Conservancy. Member Molini moved to approve the minutes of July 17, 2018 with the minor change to page 3, section 7; seconded by Member Swanson; Motion passed unanimously. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

Member Dunkelberger, USFS Humboldt-Toiyabe Forest Supervisor, provided the council with an overview of the Sugarloaf Fire. A copy of the PowerPoint presentation entitled, "[South Sugarloaf Fire Update](#)," is located on the Program's website.

Member Swanson noted the completion on the third edition of the [Nevada Rangeland Monitoring Handbook](#) and mentioned upcoming training dates in Ely and Winnemucca.

Member Boies thanked Mr. McGowan for coordinating the Martin Fire Tour.

Member Lister asked to hear from State Parks and Nevada Department of Wildlife at a future meeting regarding how recovery is implemented on their lands.

Mr. McGowan noted that this is the second year in a row that over one million acres have burned in Nevada. Later this year his team will provide the council with a comprehensive report detailing this year's fire season, state of recovery in previous burn areas, and proactive approaches.

6. UPDATES AND POTENTIAL REQUESTS FROM NEVADA NATURAL RESOURCE CONSERVATION WORK GROUPS - NEVADA ASSOCIATION OF CONSERVATION DISTRICTS, LOCAL AREA WORKING GROUPS, LOCAL WORKING GROUPS, NATIONAL ASSOCIATION OF COUNTIES, RESULTS ORIENTED GRAZING FOR ECOLOGICAL RESILIENCY, STEWARDSHIP ALLIANCE OF NORTHEAST ELKO, AND NORTHEAST NEVADA STEWARDSHIP – ***FOR POSSIBLE ACTION***

The following groups provided an update to the council detailing significant achievements, activities to date, future goals, and resources needed (refer to the Program's website for presentation material): Gerald Miller of the [Northeastern Nevada Sage-Grouse Local Area Working Group](#), Lauren Williams of the [Lincoln Local Area Working Group](#), Kyra Walton of the [North Central Local Area Working Group](#), Meghan Brown of the [Results Oriented Grazing for Ecological Resilience](#), and Maggie Orr of the [Nevada Association of Conservation Districts](#). The council members asked questions of the various groups and a full account of the discussion is captured in the audio recording, which is available on the Program's website.

Member Molini generally inquired as to how conservation districts and the sagebrush ecosystem interface and assist with local area working groups. Member Lawrence noted that there has been confusion on how to weave together the threads of the conservation districts as each district has different capacities and resources. He noted that a lot of changes have been made with the Department of Conservation and Natural Resources (DCNR), one of which is the hiring of Bettina Scherer as the Conservation District Program Manager and other state support staff throughout Nevada. He noted that these changes help the council become more effective by bringing additional resources and funding to projects.

Ms. Scherer noted that conservation districts are well positioned to cooperate and collaborate with local area working groups through facilitation services or physical attendance. She commented that district boards comprised of locally elected supervisors and districts having the capability to cross jurisdictional boundaries, can and should be an effective partner in collaborative projects. The resource needs assessment is an opportunity through the Nevada Association of Conservation Districts (NVACD) which will yield strategic planning surrounding local resource concerns and better position participating conservation districts to pursue funding opportunities.

Gary Reese, Nevada Division of Forestry, explained that the Northern Nevada Stewardship Group is involved in planning and implementing projects within their coverage area. ***NO ACTION**

7. REVIEW AND POSSIBLE APPROVAL OF THE DRAFT AMENDMENT TO THE 2014 NEVADA GREATER SAGE-GROUSE CONSERVATION PLAN WITHIN THE ADAPTIVE MANAGEMENT SECTION PERTAINING TO THE PROACTIVE AND TARGETED MANAGEMENT OF RANGELANDS - ***FOR POSSIBLE ACTION*** *SETT*

Ms. Katie Andrie, Sagebrush Ecosystem Technical Team (SETT), reviewed updates and changes to the "[State Plan Draft Adaptive Management Section document](#)," a copy is located on the Program's website. Ms. Andrie noted that the plan was approved and adopted with several minor and major changes requested of the SETT. The major change the council

requested was to include proactive approaches to the adaptive management strategy, specifically excessive fuels loads as criteria for habitat warnings and triggers. She indicated that on August 17, 2018, the Science Working Group (SWG) convened to discuss fuel loads but ultimately decided that “fire risk” was a more accurate description when identifying risks of fire. Fire risk was incorporated into the plan as a criteria for habitat loss. Member Swanson suggested moving “fire risk” to the top to the diagram box on page 2 to reflect that it is proactive as opposed to reactive. Chairman Goicoechea suggested moving “fire risk” to another dialog box to the right so it is looked at first.

Ms. Andrlle identified the changes to the “Biological Significant Units and Lek Clusters for GRSG in the Nevada and Northeastern California Sub-region Map” on page 4 of the draft plan. She attempted to overlay the habitat management area on the new BSU’s that are identified on the USGS population modeling to visually show that triggers and responses would only be applied to habitat management areas. Member Boies expressed concerns over various map scales and methodology. Ms. Andrlle noted that the management response team is going to identify the response to particular triggers, whether population or habitat. The response will be targeted at the identified cause (i.e, disturbance, habitat loss, or population decline) after the causal factor analysis.

Ms. Andrlle explained the addition of fire risk under Habitat Warnings on page 5 and provided clarification on disturbance sizes on page 6 of the draft plan. She noted the addition of local government to the statewide technical response team on page 9. Under Step 1 of the causal factor analysis, information was added stating that the response team will meet on a semi-annual basis. Additionally, information was added on data sources that would be used to identify potential for finding high woody fuel loads or high probability for burning again.

Ms. Andrlle noted the additional language under Step 3 – Identify Appropriate Management Responses, includes short term and long term management to identify woody fuel loads to strategically target areas for appropriate fuel break and vegetation treatments to better manage wildfires when they occur. Member Swed asked whether a timeframe should be identified for completing the causal factor analysis. Member Lawrence suggested adding language stating that the analysis should be completed as soon as possible given the availability of data to relay a sense of urgency. Member Gabor noted that the Forest Service will be looking at the list of responses and clarifying which will require further analysis. She suggested stipulating in the list that some of responses will require further analysis by federal partners that slow down the response time. Member Swanson suggested adding to page 12, line 21, “including when appropriate to address fire risk from fine fuels or woody fuels using full force and effect decisions” to address the timeliness.

Mr. McGowan noted the intent is to convene these groups to provide continual updates to the council and voice concerns. Mr. Boies suggested making that clarification in the draft plan.

Mr. Matt Magaletti with the Bureau of Land Management commented that the draft plan is a much better approach to adaptive management than what was previously provided. He noted that the BLM’s draft Environmental Impact Statement (EIS) is due to Washington, D.C. by September 10th and the final EIS will be published by October 12, 2018.

Pam Robinson, Policy Director, Office of the Governor urged the council to work with Mr. Magaletti to move the state plan in the right direction.

Member MacKenzie moved to approve the state plan with the changes noted and allow the SETT to make the appropriate changes based on the council comments ; seconded by Member Molini; motion passed unanimously.

***ACTION**

Member Lister expressed concerns about the amount of emphasis on population thresholds.

Chairman Goicoechea called for a recess at 11:32am, and reconvened at 11:43am.

8. UPDATE FROM THE BLM ON THE MARTIN FIRE, EMERGENCY STABILIZATION RESPONSE, FUEL BREAK STATUS, AND ASSOCIATED TIMELINES FOR RESPONSES - *FOR POSSIBLE ACTION* BLM

Marissa Murphy, Elko BLM, reviewed a PowerPoint presentation entitled “[Martin Fire ESR Treatments](#)” a copy of which is located on the Program’s website. The presentation detailed the emergency stabilization and rehabilitation

treatment plan for Elko District's portion (totaling 117,857 acres) of the Martin Fire. Ms. Murphy outlined the proactive approach taken to identify treatment areas with specified treatments, including Imazapic, fuel breaks, grazing, drill seeding, aerial seeding of Wyoming big sagebrush and Western yarrow, and aerial seeding of Basin wildrye, thickspike wheatgrass, Snake River wheatgrass, and basin big sagebrush.

Member Boies recalled driving by some fire breaks on the tour and asked whether the fire breaks can be more aggressive. Ms. Murphy mentioned that the Martin fire burned through the fuel breaks even though the fuel breaks were expanded from 500 feet to 1000 feet wide. Mr. McGowan noted that fire breaks are only as good as they are maintained, commenting that if there are too many to breaks to maintain, then brown stripping should be considered.

Member MacKenzie inquired about the budget for the ESR treatments. Ms. Murphy noted that the budget is a challenge as treatments vary in cost. She indicated that she is working within a \$7 million budget for the Elko Districts side of the plan and noted the high cost of seed. ***NO ACTION**

9. DISCUSSION AND POTENTIAL RESPONSE TO BLM INSTRUCTIONAL MEMORANDUM 2018-093 REGARDING COMPENSATORY MITIGATION - **FOR POSSIBLE ACTION JA Vacca, BLM**

Mr. JA Vacca, BLM, stated that the [BLM's Instructional Memorandum 2018-093](#) is an update to policy and guidance regarding compensatory mitigation. The instructional memorandum is the last part in a step that the agency started undertaking in March 2017 when the Administration issued Executive Order 13873 promoting energy independence and economic development. That Executive Order prompted the Secretary of the Interior to release a Secretarial Order directing the BLM to review all existing policies and guidance that impacted development. He noted that the BLM then rescinded its Mitigation Handbook and Manual in December 2017 and drafted the new policy outlined in Instructional Memorandum 2018-093. Mr. Vacca noted that the policy prohibits the BLM from requiring compensatory mitigation of public land users unless it is a specific requirement from another federal or state law - compensatory mitigation is now completely voluntary. He indicated that the new policy ends the practice of BLM collecting mitigation fees.

Mr. Vacca noted that there is a net-conservation gain standard included in the sage-grouse plans issued in 2015. He stated that BLM reviewed their authorities under Federal Land Policy and Management Act (FLPMA) and determined that FLPMA does not explicitly mandate or authorize BLM to require public land user to implement compensatory mitigation. Although BLM has not given specific direction, Mr. Vacca noted that there is a sense across sage-grouse planning regions that they will be directed to revise and/or remove the net-conservation gain standard.

Chairman Goicoechea stated that this poses a major problem for Nevada's Conservation Credit System (CCS), and asked if there was a collective push to Washington, D.C. to see what needs to be done to get the CCS and other programs accepted by the BLM.

Mr. Vacca remarked that the BLM is aware of all of the various programs across the states. He noted that the crux of the issue is where the instructional memorandum states, "except where the law specifically requires, the BLM must not require compensatory mitigation from public land users." Mr. Vacca suspects that the BLM may begin to enter into Memorandum of Agreement with states that have a credit system programs to look at what the recommended mitigation would be. This route, however, may complicate things in terms of where authorities lie. Chairman Goicoechea stated that the council has statutory authority to create the CCS program. Mr. Vacca stated if there were a nexus to a state required permit for mitigation, then the BLM could refer to the state law to stay in compliance with state permits.

Ms. Robinson commented that the CCS program and the policy should be reviewed. She noted that the credit system when originally written referred to no-net loss, until they were directed to change the language to net-gain conservation. She questioned if the BLM's interpretation shifted after the language was changed.

Member Lawrence remarked that a legislative requirement would be the strongest. He commented that Nevada is primarily federally managed land and there is a need to look at where permits are being issued. He cited various agencies responsible for permitting activity on federally managed land. He noted that the statutory authority directing the council to carry out a compensatory mitigation is fairly strong. He expressed concern regarding impacts 10 years from now.

Member Swed encouraged Nevada to explore every avenue to find a way to offset impacts to sage-grouse. She noted that the USFWS is in full support of net conservation gain.

Member MacKenzie concurred with Member Lawrence's comments, stating that permitting through the Nevada Division of Wildlife for impact on specified species (primarily sage-grouse) may be the appropriate route.

Member Swanson asked if the council has rulemaking authority. Mr. Bryan Stockton, Deputy Attorney General responded that there is a weak legal argument that authorizes the council to establish a mandatory conservation credit system. He noted, however, there is a stronger argument for rulemaking that under NRS 233B and that instituting temporary regulations may be appropriate.

Chairman Goicoechea suggested drafting a letter to the Deputy Secretary Bernhardt explaining that the BLM's instructional memorandum is inconsistent with the State of Nevada's plan and the CCS, and that a remedy is needed.

Ms. Robinson noted the importance of reviewing the original intent of the council and conservation credit system program. If the council is intending to be a permitting body, and not a council, then there may have to be steps to move towards granting that authority. Secondly, Ms. Robinson noted that the BLM is responsible for managing habitat and we are talking about making changes to require industry to pay to fix the habitat that should be managed properly anyway. She stated that if there is no-net loss or small gain, then we will never have habitat back (sage-grouse included) that needs to be managed and planned for.

Ms. Robinson inquired as to whether there has been a discussion about a waiver for Nevada. Mr. Vacca answered no. He indicated that an amendment to the policy acknowledging the various compensatory mitigation programs may be an option and solution.

Member Lister made a motion to send a letter from the Sagebrush Ecosystem Council to Deputy Secretary Bernhardt; Member Molini seconded the motion; motion passed unanimously. ***ACTION**

Member Molini suggested brainstorming other options/solutions. Chairman Goicoechea concurred and will include as future agenda item.

10. REVIEW OF ACTION ITEMS AND FUTURE AGENDA ITEMS DISCUSSED DURING THIS MEETING AND SCHEDULING NEXT SEC MEETING - *FOR POSSIBLE ACTION*

- A. With staff assistance, the Council will review items discussed, as well as items acted upon during this meeting, and determine which of those they wish to direct staff to do further work on, as well as which items the Council wishes to act on that may not have been acted upon during earlier discussion.
- B. Further discussion on backup plan for the Conservation Credit System (CCS) and receive an update from State Parks.
- C. The Council scheduled their next meeting for October 11, 2018 in Carson City.

11. FEDERAL AGENCY UPDATES AND COMMENTS

- A. U.S. Fish and Wildlife Service (USFWS) – Member Swed noted that the USFWS rescinded its service-wide Mitigation Policy. On August 24, 2018 the Service received a ruling from the Northern District of California regarding bi-state sage-grouse case, receiving a full remand to withdraw the listing. A comment period will be reopened in October.
- B. Bureau of Land Management (BLM) – Mr. Magaletti noted that the sage-grouse planning effort is the primary focus and that October 12, 2018 is the deadline for the proposed amendment to the EIS.
- C. US Forest Service (USFS) – Ms. Gabor stated that the BLM has completed an MOU with the Nevada Cattlemen's Association for cooperative monitoring. She noted that draft EIS for sage-grouse planning amendment will be released on September 20, 2018.
- D. US Department of Agriculture (NRCS) – None.

- E. Other – Martin Paris from Congressman Amodei’s office offered to intervene or assist the council however the council sees fit.

12. STATE AGENCY UPDATES AND COMMENTS

- A. Office of the Governor – Ms. Robinson expressed gratitude to the council for all of their work.
- B. Department of Conservation and Natural Resources (DCNR) – Mr. Lawrence commented that although the issues surrounding the disruption of the credit system is discouraging, there is much more work that the council can do related to improving landscape.
- C. Department of Wildlife (NDOW) – Mr. Tony Wasley stated that he would be happy to update the council with an overall evaluation and assessment of specific impacts to populations as a result of the larger fires. Mr. Alan Jenne with the Habitat Division noted that the Division is working on identifying a plan and setting priorities for rehab this season. The Division is currently working with a \$1.5 million budget.
- D. Department of Agriculture (NDA) – Ms. Brown noted that the rangeland monitoring app is now available. She also noted that NDA has begun training on monitoring methods.
- E. Conservation Districts Program – Ms. Scherer stated that in March 2018 the State Conservation Commission approved four competitive sagebrush habitat projects. The projects are currently being implemented.
- F. Sagebrush Ecosystem Technical Team (SETT) – Mr. McGowan commented that there is a lot of work to do outside of the CCS. He noted that the SETT is currently working on meeting with various industry to open the dialogue, educate them on how the CCS functions, and what it means to protect the sagebrush ecosystem and rangeland in general. He expects the list of improvements to the CCS will be limited, but noted the need to improve efficiencies to reduce costs.
- G. Other – None.

13. PUBLIC COMMENT

Member Lister commented that the template used for reporting by the local area working groups was very helpful.

Gerald Miller noted that there are hotlinks on the Northeastern Nevada Sage-Grouse Local Area Working Group website, including Elko County’s Ecosystem Conservation Strategy.

14. ADJOURNMENT

The meeting was adjourned at 1:38pm.