



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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DRAFT MINUTES

Date: Tuesday, March 19th, 2019
Time: 8:30 a.m.
Place: Department of Conservation and Natural Resources Building – PEBP Room
901 South Stewart Street, Carson City, NV 89701

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: JJ Goicoechea, Chris Mackenzie, Allen Biaggi, Bevan Lister, Sherman Swanson, William Molini, Gerry Emm, John Raby, Meghan Brown for Jennifer Ott, Jim Lawrence for Brad Crowell, Carolyn Swed, Ray Dotson, Cheva Gabor for Bill Dunkelberger, Tony Wasley.

Council Members Absent: Starla Lacy.

1. CALL TO ORDER

Chairman JJ Goicoechea Called the meeting to order at 8:34 AM.

2. PUBLIC COMMENT

No public comment was submitted at this time.

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

Approval of Agenda for March 19, 2019 SEC meeting – Member Molini moved to approve the agenda, Member Biaggi seconded the motion. ***ACTION**

4. APPROVAL OF MINUTES - *FOR POSSIBLE ACTION*

Approval of minutes for December 12, 2018 meeting. Member Mackenzie pointed out a discrepancy in dates for the December meeting. The SETT will clarify the dates. Member Swanson moved to approve the minutes, Member Lister seconded the motion. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

Mr. McGowan discussed a last chance effort to utilize 1.2 million dollars in RCCP funds that have been available through a partnership with the NRCS. An announcement for availability of the funds is out currently. Applications are due June 21st 2019. ***NO ACTION**

6. REVIEW DRAFT MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF LAND MANAGEMENT AND THE NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES FOR COMPENSATORY MITIGATION IN GREATER SAGE-GROUSE HABITAT IN NEVADA - *FOR POSSIBLE ACTION*

Mr. McGowan explained the process, roles, and responsibilities of agencies tasked with administering mitigation in the State of Nevada. Jim Lawrence discussed the format which will hopefully make communication easier between signatories, makes clear the utilization of the HQT as a consistent metric, and points to the CCS as a mitigation pathway if mitigation is required. Member Biaggi asked what mechanism the BLM would be able to use for compensatory mitigation and would like to see the explanation clearly laid out in this MOU. Member Molini clarified that this was an MOU between BLM and DCNR, with mention of NDOW several places. Member Molini clarified that the statutory framework for the SEP is within DCNR, and asked Tony Wasley if he was satisfied with NDOW's role in the document? Mr. Wasley indicated he was satisfied and that NDOW has additional responsibilities in addition to this MOU. Chairman Goicoechea asked John Raby what would happen in the case of non-compliance with permit authorization as stated in the last box of responsibilities? Chairman Goicoechea asked what options were available to the BLM when required to rectify the situation? Mr. Raby responded that the BLM would notify the project proponent of state regulatory non-compliance through the National Environmental Policy Act evaluation (e.g., Environmental Assessment or Environmental Impact Statement) and would analyze the alternative for the appropriate mitigation and would notify the proponent of the requirement to follow all applicable state and federal laws and regulations. The project proponent would be on notification, and would go the state process. The BLM would have a coordination role through the MOU so that it is a unified federal and state process. Chairman Goicoechea asked if a delayed signing of a record of decision could happen if all ducks were not in a row? Mr Raby indicated that a delay would be an option, but that a conditional approval could be issued with a follow-up requirement from the proponent to fulfill other regulatory requirements. Member Biaggi welcomed Mr. Raby to the State. Member Lister commented that the whole strength of the regulation depends on the MOU. Member Lister thought that the MOU looked good and asked who would sign this from DCNR? Mr. Lawrence responded that it would be Director Crowell. ***NO ACTION**

7. NOTICE OF PUBLIC HEARING --- POSSIBLE ADOPTION OF PROPOSED TEMPORARY MITIGATION REGULATION (Called to order 8:50) - *FOR POSSIBLE ACTION*

See separate minutes for this item. ***NO ACTION**

8. REVIEW AND POSSIBLE APPROVAL OF THE 2018-2019 CONSERVATION CREDIT SYSTEM CONTINUAL IMPROVEMENT RECOMMENDATION RELATING TO THE BURIAL OF CERTAIN ANTHROPOGENIC DISTURBANCES- *FOR POSSIBLE ACTION*

Ms. Andrlle presented a discussion relating to anthropogenic disturbances within the CCS. Please see the Sagebrush Ecosystem Website for the recommendation document. Member Lister asked about height requirements for linear features and asked if post height would be included? Ms. Andrlle replied that the program would not be looking at that fine of scale for fences. Member Lister asked about the right of way width (25 feet) if that was the actual right of way width or if that was the actual disturbance width. Ms. Andrlle replied that it would be the ground disturbance width. Member Lister also commented that metric and imperial measurements should be kept consistent. Member Biaggi asked if the SETT was coordinating with NDEP to make sure that landfills are following best practices? Ms. Andrlle answered that she had obtained a list of Class I, II, and III NDEP permitted landfills within 3km of sage grouse habitat, and next steps might be to investigate what minimization measures (e.g. covering landfill) are currently being followed. She also stated that the list of permitted landfills have already been added to the Urban anthropogenic disturbance layer as existing disturbance and those same areas have also been removed from the Habitat Management Category map as habitat. Member Mackenzie moved to approve the improvements presented. Member Swanson seconded the motion. ***ACTION**

9. A REVIEW AND REVIEW AND POSSIBLE APPROVAL OF UPDATES TO THE CCS MANUAL AND SCIENTIFIC METHODS DOCUMENT/HABITAT QUANTIFICATION TOOL. *FOR POSSIBLE ACTION*

Mr. Mower presented changes made to the CCS manual. Presented changes were only the substantial ones, a full document with presentation of all the changes was distributed, but not discussed. Please see the Sagebrush Ecosystem Website for associated documents. Ms. Swed indicated that the USFWS was hesitant to endorse a higher volume of shorter duration credits and the implications for the future of the CCS. Ms. Lara Enders commented on the idea of dynamic credits and that shorter termed credits represent a challenge for the recovery of sage grouse. Ms. Swed commented that the USFWS is not objecting, but expressed concern over the idea of making shorter duration credits equivalent to a conservation agreement that extends for a longer period of time. A right balance needs to be struck with the availability of credits on the market. Member Mackenzie asked if stacking credits was the initial intent of the program. Mr. McGowan clarified that the dynamic credit idea would make possible the purchase of multiple credits from different areas and combine them to satisfy a debit obligation. Chairman Goicoechea asked if it was possible to buy one 30 year credit and two 15 year credits and combine them to equal one 60 year credit even though the project is still continuing? Mr. McGowan replied that it is still unclear how the combinations will work and that a prorating formula is in the works to address discrepancies in terms. Mr. Mower expressed the intent behind the language changes in the manual as being vague enough to provide some indication of a direction, but not specific enough to bind anything. More information and better conversation at the next meeting will be forthcoming. Ms. Swed expressed the desire for more conversation in the future in trying to achieve a net conservation gain. Mr. Mower commented that the process for credits on public lands may look different than the process on private land. Ms. Enders also commented that continued conversation is needed. Ms. Brown asked if the proximity requirements will still apply? Mr. Mower replied that yes, the proximity ratios are still applicable. Chairman Goicoechea expressed confusion about where this process is going. Mr. McGowan expressed the complexity of the ideas being discussed, with both private and public land, but that answers are needed relatively soon. Member Mackenzie commented recognizing that net gain is built into the system in a few ways. Ms. Swed reiterated that she recognizes the efforts being made. Chairman Goicoechea instructed the SETT to continue working with USFWS to make sure everyone is comfortable with changes being made. Member Biaggi moved to approve updates to the manual and the HQT. Member Molini seconded the motion. ***Action**

10. REVIEW AND POSSIBLE APPROVAL OF UPDATES TO THE 2014 NEVADA GREATER SAGE GROUSE CONSERVATION PLAN *FOR POSSIBLE ACTION*

Mr. Huser introduced the changes made to the State Plan. Member Biaggi asked if the definitions of PHMA, GHMA, and OHMA were consistent with NDOW and USFWS? Mr. McGowan answered that they were consistent with BLM and USFS. Ms. Swed asked what the CCS was doing with the 2 version of the BSU maps? Mr. McGowan answered that we are using the map used by NDOW for our CCS, and the BSU map created by the USGS for our adaptive management process. Ms. Andrlle clarified that the USGS map is where population triggers are generated from, but all other management decisions would be based on the previous map. Mr. Huser continued to talk about changes made relating to exploration in the document. Member Lister asked for clarification on exploration greater than 5 acres. Member Biaggi pointed out that the notation in the state plan says greater than 5 acres, but the text does not indicate the 5 acre rule. Chairman Goicoechea asked for inclusion of the greater than 5 acres rule. Member Mackenzie commented that the exception does not need to be included in this section, because it is defining anthropogenic disturbance, and the regulation makes the exception for less than 5 acres. This section is only the definition of anthropogenic disturbance. A discussion ensued about the purpose of the plan. Member Biaggi acknowledged that this document defines what anthropogenic disturbance is, and that the regulation creates the exception for the disturbance. Mr. Huser then discussed the avoid and minimize definitions. Member Biaggi commented on the inclusion of the “when feasible” language. Mr. Lawrence commented that it is covered in the document elsewhere in detail and the need to address it here is not needed. Mr. Huser discussed the alignment with regulations under the goal and scope of section 8.0 of the state plan. Mr. Vaca asked if inserting the word direct opens the door for private landowners needing to mitigate for indirect impacts. Ms. Petter clarified that the indirect impacts may need to be mitigated for on public land. Mr. McGowan clarified that a disturbance that occurs on public land with indirect impacts that occur on private lands are still required to mitigate for the indirect impact on private land. If access is not possible to determine impacts, project proponents will use the HSI to determine impacts. Member Lister clarified that what Mr. Vaca was referring to was the possibility that even though private landowners do not have to mitigate for direct actions on private land, they may need to mitigate to indirect impacts if not spelled out specifically that they do not. Mr. Vaca indicated that the specific inclusion of the word “direct impacts” leaves open the interpretation that private landowners may have to mitigate for

indirect impacts off of the private land. The word “direct” was removed. Mr. Huser explained the removal of specific tolerance thresholds and inclusion of future regulations and adaptive management. Member Swanson recommended the inclusion of language he will provide regarding the consequences of doing nothing and crossing ecological thresholds. Mr. Huser then discussed changes to table 9.1 based on available data. Ms. Brown indicated the replacement of a list of weeds with the statute containing the noxious weeds list instead. A discussion of the utility of the table ensued. The inclusion of the statute will be included. Member Goicoechea commented that he would like to leave predation in the table of reported actions. Chairman Goicoechea continued with a discussion related to de minimis actions and routine functions related to local governments. Member Lister also wanted to determine who decides what actions are trivial? Mr. Drew provided language included in the BLM Land Use Amendment Plan on page 2-13. It was decided that the program manager could decide de minimis actions in consultation with the project proponent and the federal land manager. Mr. Lawrence indicated that it is not important to capture routine admin functions as existing disturbances calculated from the HQT would be zero. Ms. Gabor indicated that significant coordination with the USFS would be needed because the language in the USFS land use plan is different from the BLM. Mr. Lawrence recommended that de minimis be defined as things that are not in the manual. Member Biaggi indicated that there might be projects that do not fall in the manual, but wouldn’t be de minimis. Mr. Lawrence indicated that anything that falls outside the HQT would be de minimis. Further discussion ensued and Mr. Huser recommended that de minimis would be “An anthropogenic disturbance that is too trivial or minor to merit consideration for mitigation as defined in the CCS Manual or determined by the SETT in cooperation with the project proponent and land manager.” A motion to approve the changes was made by Member Swanson, seconded by Member Lister ***ACTION**

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

Chairman Goicoechea commented that a hearing would be had at the next meeting. Mr. McGowan commented that a future agenda item would be a request from Member Boies concerning mitigation on private land specifically as it relates to checkerboarded land. Chairman Goicoechea asked about the possibility of uplift credits. Mr. Mower indicated that it can be scheduled when the schedule allows. Member Swanson asked about progress relating to the generation of credits on public lands? Ms. Gabor answered that the USFS is currently at capacity with the land use plan amendment, and that after those efforts were complete the topic could be revisited. Mr. Raby concurred. Mr. Vacca commented that the brainstorming has been derailed and needs some additional meeting to be able to revisit. Mr. Mower indicated that the discussion relating to uplift would be related to private land and not public. Mr. McGowan expressed the desire to implement some sort of prioritization of certain conservation actions that can specifically help sage grouse in different areas. The SETT would like to begin this type of process in the future. Ms. Swed commented in support for that action. Member Lister asked about getting a report on rehabilitation efforts for burned areas. Member Swanson indicated that this should be a part of the adaptive management process and how that would be addressed in the next meeting. Monday April 29th will be the next meeting. ***NO ACTION**

12. FEDERAL AGENCY UPDATES AND COMMENTS

- A. U.S. Fish and Wildlife Service
Ms. Swed is leaving the USFWS. Leanne Cranza will be acting until the position is filled. The USFWS continues to reassess the bi-state sage grouse. Conservation efforts database is open and available for contribution. Data will be used in the 2020 review. Proposed rule issued to de-list the grey wolf in the lower 48 states.
- B. Bureau of Land Management.
Record Of Decision on the Land Use Plan Amendment is out. 27 total ESR plans current. Wild Horse and Burro gathers in Carson City, Ely and Elko districts. Public Review for Targeted Fuel Break Treatments EIS in April. External trainings for the Record Of Decision will be available.
- C. Natural Resource Conservation Service.
Interim rules for the new farm bill are available. The NRCS is waiting to hear about the joint chief’s proposal and hopes to be able to use funds on the South Sugarloaf fire.

- D. U.S. Forest Service
No lease decision released for the Ruby Mountains. 45 day objection period ends on April 30th. Low to no oil availability and high recreation potential contributed to the decision. Meeting on April 8th for cooperating agencies for land use plan amendment. Forest Service is working on a landscape scale targeted grazing initiative. Annual report was sent out for the HT forest.

STATE AGENCY UPDATES AND COMMENTS:

- A. Governor's Office.
- B. Department of Conservation and Natural Resources (DCNR).
Mr. Jim Lawrence commented on Assembly Joint Resolution 3 in support of the program. Also AB 84 is a funding authority to purchase credits to be retired. Also general provisions to fund watershed funding and fire restoration.
- C. Department of Wildlife.
- D. Department of Agriculture.
Stockmanship workshops will happen June 11-14th in Roaring Springs, OR, and another workshop at Cottonwood Ranch in October. Range app is completed with a finalized segment that can incorporate ESD's. Funding for sage grouse weed control RFP are reviewed. Ag days at legislature on April 30th. Native seed forum was a success. Jennifer Ott is new Director.
- E. Conservation Districts Program.
- F. Sagebrush Ecosystem Program.
Verifier training is planned for next week. Adaptive management is upcoming. Mr. McGowan asked if phone-in option is still desired by the council?

14. PUBLIC COMMENT

No Public Comment was made at this time.

15. ADJOURNMENT

Member Mackenzie moved to adjourn the meeting, Member Biaggi seconded the motion.

Meeting adjourned at 1:19 PM