



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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MINUTES

Date: Monday, April 29th, 2019
Time: 8:30 a.m.
Place: Nevada Department of Wildlife
6980 Sierra Center Parkway #120, Reno, NV 89511

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, Steven Boies, Sherm Swanson, Allen Biaggi, Chris MacKenzie, Bevan Lister, William Molini, John Raby, Jim Lawrence for Bradley Crowell, Justin Barrett, Cheva Gabor for Bill Dunkelberger, Tony Wasley.

Council Members Absent: Gerry Emm, Starla Lacey, Ray Dotson, Jennifer Ott.

1. CALL TO ORDER

Chairman JJ Goicoechea Called the meeting to order at 8:32 AM.

2. PUBLIC COMMENT

No public comment was submitted at this time.

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

Member MacKenzie moved to approve the agenda for April 29th, 2019. Seconded by Member Swanson. ***ACTION**

4. APPROVAL OF MINUTES - *FOR POSSIBLE ACTION*

Mr. Barrett clarified the Lee Ann Carranza will be acting as field office supervisor, and that Mr. Barrett will be sitting in on council meetings until further notice. Council Members offered corrections on the spelling of names. Member Biaggi moved to approve the minutes as corrected, Member Swanson seconded the motion. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

No discussion. ***NO ACTION**

6. NOTICE OF PUBLIC HEARING --- POSSIBLE ADOPTION OF PROPOSED TEMPORARY MITIGATION REGULATION (Called to order 8:36 AM) - *FOR POSSIBLE ACTION*

See separate minutes for this item. ***ACTION**

7. UPDATE ON THE EMERGENCY STABILIZATION AND REHABILITATION ACTIVITIES ON THE MARTIN AND SUGARLOAF FIRES - *FOR POSSIBLE ACTION*

Ms. Robin Wignall from the USFS gave a presentation regarding ESR work on the Sugarloaf fire, justification for application of funding, critical values, burn severities, funding requests, and proposed treatments. This presentation may be found on the Sagebrush Ecosystem Program website. Funding approved from the Washington office was vastly below what was requested. Funding has been applied for through a relief act which is in process with Congress. NDOW donated seed for 2000 acres of the highest priority areas. Chairman Goicoechea asked what herbicide was being used and what was being specifically targeted. Ms. Wignall replied that Cheatgrass was the targeted species and Plateau was the herbicide. Chairman Goicoechea and Ms. Wignall expressed frustration that funding for ESR was extremely low. Chairman Goicoechea asked what future plans the USFS had. Ms. Wignall responded that the herbicide treatment will proceed on the highest concern areas. The BAER team estimated the cost of the no-action alternative if funding was not approved. The team estimated the cost of undoing damage caused by insufficient treatments would be approximately 8.9 million dollars. Chairman Goicoechea asked if bulldozer lines would be rehabilitated. Ms. Wignall responded that bulldozer lines will be treated and stabilized. Ms. Gabor requested information on the treatments that were funded. Ms. Wignall responded that several culverts would be upgraded, and various road protections installed. Several Areas of abandoned mine land would also be rehabilitated. Ms. Gabor emphasized that many of the agencies present at this council meeting participated in a Joint-Chiefs proposal totaling approximately 6 million dollars that did not get funded. Ms. Gabor commented that the program is being phased out, and that there will be a gap in funding. Ms. Wignall commented that the BLM has restoration funding opportunities that the USFS does not. Member Boies asked if there had been any seeding efforts to date. Ms. Wignall responded that NDOW was able to aerially seed 2000 acres of the highest priority areas. Ms. Gabor commented that the fire severity maps indicate that the situation could have been worse. Ms. Wignall indicated that the Washington office was not confident that the procurement of seed would be sufficient for the funding requested. Member Swanson asked if there was a map layer indicating pre-fire resilience of the ecological sites that were burned? Ms. Wignall responded that both data from the Stringham lab as well as internal monitoring data indicate that many sites were dominated by native communities which may speak to elevated resiliency, and the treatments were limited to the areas where both sets of data confirmed the lowest resiliency sites. Mr. Lawrence asked about the process for application of funding and whether funding for rehabilitation is being phased out? Ms. Gabor responded that the funding which is being phased out is a separate pot. The funding that goes through BAER are short-term actions and come out of general appropriations in the Dept. of Agriculture. There is a gap in funding between short term actions (e.g., road work) and long term restoration actions (e.g., seedings etc.). Ms. Wignall mentioned that the strategy used in structuring funding arguments is important and that the USFS thought they had made a good argument through restoring native communities targeted at critical values listed on slide 2. Washington office however determined that available literature indicated seeding as being not cost effective for preserving and restoring native plant communities. Ms. Wignall pointed to the lack of documentation of success rates from various agencies effort's as playing a large part in the denial of funds from the Washington office. Ms. Wignall commented that with the denial of BAER funding, actions then have to be funded through BAR funding (Burned Area Rehabilitation). This funding comes from normal project funding which has to be prioritized with many other concerns including other fires in Nevada.

Derek Messmer and Mike Fettick from the BLM gave a presentation on the Martin fire. The presentation materials may be found on the Sagebrush Ecosystem Program website. 3700 acres of BLM lands affected by the south sugarloaf fire was seeded in cooperation with NDOW. Two separate ESR plans were developed for the Elko and Winnemucca Districts, but efforts were kept similar. No funds were available due to fiscal year logistics, BLM Nevada was able to re-prioritize approximately 1 million dollars for seed purchases which could be applied to the Martin fire. Continuing resolutions and federal shutdowns hampered restoration efforts. NDOW was the agency that filled in the gaps and was able to apply much of the seed that had been purchased by the BLM. Member Biaggi asked who the NGOs were that participated. Mr. Messmer answered that there was a variety of NGOs that participated. Member Biaggi asked about the effectiveness of hand sage plantings? Mr. Messmer answered that fall plantings are more effective than spring plantings, and some 90% survival rates have been seen. Mr. Fettick commented that the federal shutdown affected the drill seeding efforts which were planned on the Elko district. Mr. Lawrence asked if the good neighbor authority was used. Mr. Fettick answered yes, in some areas. Ms. Gabor mentioned that the good neighbor authority still requires available funding and does not address any funding problems. Mr. Lawrence asked if BLM had additional funding if it could be used on the sugarloaf fire. Mr. Raby answered that BLM funding was being prioritized on BLM land. Ms. Gabor commented that there is no shortage of agreements to work, only shortages of funding. Mr. Fettick mentioned that a programmatic good neighbor agreement is being developed. Member Boies commented that the volume of seed is impressive, and asked if funding was not an issue was seed supply sufficient to match the need? Mr. Messmer answered yes, seed was available generally. Member Boies asked specifically about the availability of seed to match all

needs? Ms. Gabor answered that availability is still challenging, but that there are many interagency efforts trying to address the availability issue. Mr. Fettick commented that the BLM was able to procure what they needed with minor substitutions, and they cooperated with other states to be able to acquire what they needed. Member Boies asked if habitat categories play a role in application of seed. Mr. Fettick answered yes. Member Boies also asked if Medusahead gets a higher priority. Mr. Messmer answered that it was a higher priority. Ms. Gabor commented that a future agenda topic might include the Nevada Seed Strategy. Member Swanson asked if the FEMA fire fix applied to seeding or just fire-fighting, and if the budget constraints were more administrative or congressional? Mr. Paul Petersen answered that the fire fix doesn't take place until 2020. Mr. Petersen commented that it is still yet to be seen how the fix would apply to fire rehabilitation. Ms. Gabor agreed. Member Swanson clarified that he was wondering about the program that would be shutting down. Ms. Gabor clarified the program shutting down was the Joint Chiefs program, and that she would get more information on that. Member Lister expressed thanks to NDOW for being able to apply treatments. Member Lister also expressed frustration that opportunities are being missed and that a key purpose of the Council is not being fulfilled. Mr. Petersen thanked the fire staff and NDOW for doing actions that would not have been done otherwise. Mr. Petersen expressed the hope that funding and partnerships can be reallocated to hazardous fuels buildup. Member Boies asked if Permittees were partners. Mr. Petersen pointed to the rancher liaison program and the large amount of collaboration that gives. Ms. Gabor also commented that the USFS is trying to mirror the BLM actions on rancher liaison programs and targeted grazing efforts. Member MacKenzie asked what the 90,000 acres of treatments were that Mr. Petersen mentioned. Mr. Petersen answered that it includes PJ, chemical, and biological control of hazardous fuels. Mr. McGowan mentioned that a presentation from agencies involved in pro-active fuels treatments would be timely for the next council meeting. Member Lister asked how the NRCS and the Sage Grouse Initiative plays into the fire risk areas. Chairman Goicoechea mentioned that this may be a topic for a future agenda item but that much of the NRCS money involves private property partnership. Justin Barrett commented that a Nevada Seed Strategy group presentation would be good. Chairman Goicoechea stressed the need for non-native seed as well. Mr. Barrett agreed that due to the cost of native seed, strategy needs to be employed in the decision making process. Member Boies mentioned that many people have native seed available, but no ability to harvest. Member Swanson mentioned that an outcome based grazing and targeted grazing report may be useful. ***NO ACTION**

8. DISCUSSION TO CONSIDER MITIGATION REQUIREMENTS FOR CERTAIN ACTIVITIES CONDUCTED ON PRIVATE LANDS THROUGH THE NEVADA CCS - *FOR POSSIBLE ACTION*

Member Boies presented a discussion relating to anthropogenic disturbances occurring partially on public and private land. Mr. McGowan communicated that Member Boies asked for scenarios to be prepared that illustrate mitigation of impacts on private lands. Ms. Andrle presented a packet of scenarios illustrating these mitigation scenarios. This presentation may be found on the Sagebrush Ecosystem Program website. Mr. Wasley commented that the checkerboard scenario could affect credit generation, and debit calculations unequally depending on which action (credit generation or debit calculation) occurred first. Ms. Andrle agreed that if any credit generation occurred within the 6km buffer, any credit generation would be reduced. Mr. Wasley asked, if private landowners adjacent to project areas could own credits that may not be available in the future based on future actions? Ms. Andrle answered yes, that if credits had been sold, and affected in the future by indirect impacts, the reserve account would be used to account for that impact on existing credits. Mr. Wasley commented that this underscores the importance of the reserve account. Member Boies commented that the buffer zone can make important habitats unavailable for credit generation that should not have been made unavailable and was unsure of a fix for existing disturbance lessening credit values on private lands. Member Boies expressed the thought that new projects might make isolated private land habitat unavailable for credit generation. Member Swanson asked if the scenario was entirely on private land, there would be no indirect impacts? Ms. Andrle answered that this was correct, projects that would be analyzed would be tied to NEPA in some way, and that would probably not involve actions entirely on private land. Member Lister asked if there was a mine on a piece of private land, and there was a nearby piece of private land that was being considered for entry into the CCS, how that would affect the credit yield of the nearby land. Ms. Andrle answered that the CCS still analyses all existing disturbances in the area, regardless of the mitigation status. Chairman Goicoechea mentioned that there will also be other linear features most likely associated with projects on private lands that will cross public land at some point. Member Boies asked if a mine occurring on half public and half private would have the same requirements on the private land as was required on the public land in the context of environmental laws. Mr. Mike Visher answered that each project will be evaluated on its own merits and will depend on a variety of factors. There are benefits to siting different actions on private land vs. public land, but without specifics of project details it is difficult to answer that question. All actions are evaluated. Reclamation plans are administered by NDEP, so private property reclamation is NDEP directed, however if reclamation is on public and private land the State and the BLM work together implement the plan. The answer depends on the mine plan itself and how the mines change throughout the life of the mine. Member Swanson asked if State mine reclamation laws apply to disturbances on private lands. Mr. Visher answered

that reclamation is required on private land as well. Member Swanson expressed hesitancy to apply state law into private land, but given the need to reclaim land on private land, is there a precedence for sage grouse mitigation to be worked in under such an authority? Mr. Bryan Stockton answered that the authority is not there now, but that it would be a matter of policy choice by the board and that the state has control over private land under the general welfare doctrine, or that the state has authority to protect the health, morals, and welfare of the citizens of the state, but that it would be a policy decision whether to extend that to the actions discussed. Member Swanson mentioned that the council has tied the regulations to NEPA actions, but if the council instead tied it to state or federal permit decisions under existing law, then there could be a partial extension to private lands based on the need for a permit of reclamation plans but that it would only apply to actions for which the state has already claimed an interest in due to reclamation. Member Biaggi commented that some distinctions need to be made, and that reclamation law mandates productive post-mining land use, but does not state what that land use needs to be. It may be sage grouse habitat, but does not have to be. Member Biaggi commented that the council would need to delve very deeply into whether the state would have authority to apply mitigation on private lands and that this type of policy would be a very difficult policy to evaluate. Chairman Goicoechea expressed that conversations were had in the beginning of the program, and that there were decisions made which resulted in the current exclusion of private lands. A change in direction would require a significant discussion. Member Biaggi agreed and commented that mining seems to drive the discussions but that there are other impacts occurring on private lands as well. Chairman Goicoechea commented that the complexity of applying mitigation further than is currently planned was not the intention of the council. Mr. McGowan commented that a recent example has occurred of a right-of-way that spanned multiple private and public parcels. This makes it challenging for the SETT to pick out certain areas that are not analyzed for impacts, but that is currently how the program works. Member MacKenzie mentioned that conceivably mitigation on private lands could involve water rights change applications and how that was a level of complexity not desired. Mr. McGowan commented that industrial use could be a category used in an attempt to limit what the state might be involved in. Member Lister mentioned that credit generation will be important in the future, and if private lands are impacted too much by disturbance there may come a time where there will not be enough credits available. Member Swanson mentioned the need for a mechanism to get credits on public land. Member Boies agreed with Member Lister and pointed to an area of land he owned, which had a lot of credit potential, which was taken out of consideration due to the indirect impacts of disturbance, and how the same disturbance affects other areas as well. Mr. Lawrence commented that the buffers were set based on impacts on science, but acknowledged the buffers create impacts with respect to credit generation. Mr. Lawrence pointed to continuing to use science to adjust the system as opposed to trying to engineer the credit market. Chairman Goicoechea mentioned the need for fine tuning the science and adjusting the buffers based on increased knowledge, and the need for not writing off habitat based on buffers that may not be informed by on the ground knowledge. Member Swanson asked if the SETT has looked at modeling raven predation based on line-of-sight and areas that are included in that line-of-sight. Mr. McGowan mentioned that the SETT had a recent meeting with Dr. Pete Coates and Mr. Coates may have additional information that could be used within the system and the SETT has all intentions of continuing to use available science in the most appropriate ways. Mr. McGowan mentioned that line-of-sight is not so much a concern with raven predation as is the opportunity power lines provide for ravens to travel and roosting. Chairman Goicoechea expressed the desire to keep whatever actions that council takes defensible. Member Lister concurred that an ongoing challenge is reconciling models with actual results. Member Boies mentioned that the result of buffers and certain decisions the council has made is keeping critical habitat out of the system. Member Boies mentioned that more information is needed on predator control and the associated benefits to the sage grouse. ***NO**

ACTION

9. A REVIEW OF ACTION ITEMS AND FUTURE AGENDA ITEMS DISCUSSED/SCHEDULING NEXT MEETING. *FOR POSSIBLE ACTION*

Chairman Goicoechea requested that ARS be included in the reporting of fuels and fire topics as well as BLM and USFS reports of projects on the ground. Member Boies asked for an update on raven take from the USFWS. Chairman Goicoechea requested information on how NRCS money can be used. Chairman Goicoechea mentioned if the meeting is in June a wild horse and burro update could be reported on. Member Biaggi asked when a final hearing on the final regulations would be necessary? Mr. Stockton responded that the regulations passed today could not even be submitted to LCB until July 1st, and LCB has 30 days to review the regulations after that. Some dates may be overlapped. A workshop for the final regulations may not be needed. A workshop may be desired based on some outstanding questions discussed today, but a workshop and hearing need to be separated on different days. If significant changes are made at an adoption hearing LCB has another 30 days to review. Next SEC meeting on June 27th.

***No Action**

10. FEDERAL AGENCY UPDATES AND COMMENTS

- A. U.S. Fish and Wildlife Service
No updates
- B. Bureau of Land Management.
Coordinating with SETT for CCS trainings. Several horse gathers planned for Pershing, Elko, and White Pine Counties, with gathers also planned for Pine Nuts and Fish Creek. Grazing regulations updates are in the works.
- C. Natural Resource Conservation Service.
No updates
- D. U.S. Forest Service
Cooperating agency discussion on plan amendment done. Plan is at regional office. Non-native seeding flexibility is incorporated. June release for FEIS. Followed by objection process. Signed ROD in fall likely. Santa Rosa management plan incorporating outcome based grazing is available for scoping. Year-round grazing possible on 12 allotments. Removal of Fort McDermot horses planned for end of June.

11. STATE AGENCY UPDATES AND COMMENTS:

- A. Governor's Office.
New staff person Jordan Hosmer-Henner.
- B. Department of Conservation and Natural Resources (DCNR).
Projects awaiting final ROD or EIS. DCNR plans on commenting on those projects advocating for mitigation. AJR 3 is scheduled for hearing expressing support for regulations regarding mitigation. Resolution is moving forward without amendments. AB 84 is moving forward regarding conservation bonds and could purchase credits for conservation and have them retired.
- C. Department of Wildlife.
Legislative commission will likely meet in June and regulations will be adopted by consent at that time, and until that time the executive order has authority. Director Wasley expressed thanks to the BLM for cooperating with the seed warehouse and expressed support for key personnel involved in that effort. High mortality of sage grouse in the Sheldon area. Lek attendance is delayed due to snowpack. 3 new leks identified. Baseline noise and stress levels are being established.
- D. Department of Agriculture.
- E. Conservation Districts Program.
- F. Sagebrush Ecosystem Program.
Cooperating with BLM for training at district offices. Adaptive management process begins on Friday to identify areas of concern. Letters to disturbances that have no plan to use the CCS will be sent out. IWJV is hosting a tour in June for news agencies to highlight fire issues. Pete Coates has additional tools that may be utilized in the future. Additional impacts to grouse from horses have been identified by Dr. Coates. Horse summit coming up in June. Working lands for wildlife summit in twin falls also coming up in June. Member Swanson mentioned several graduate students working on horse impacts to riparian systems. Mr. Espinosa mentioned that Dr. Pete Coates may be looking for assistance from the council to support efforts to conduct research on wild horses.

12. PUBLIC COMMENT

Ms. Karen Boeger thanked the council for its continued efforts on behalf of the Sagebrush Ecosystem. Raven predation plans should be site and population specific.

Meeting adjourned at 1:19 PM

13. ADJOURNMENT

Member Biaggi moved to adjourn the meeting. Member Lister seconded the motion. Meeting adjourned at 11:22 AM.