



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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DRAFT MINUTES

Date: Tuesday, March 30th, 2021
Time: 8:30 a.m.
Place: Teleconference Access:
Teleconference Number – 877.422.8614
Participant Code – 3983136#

Council Members Present: JJ Goicoechea, Chris MacKenzie, Bevan Lister, Sherm Swanson, Steven Boies, Starla Lacey, William Molini, Allen Biaggi, John Raby, Marc Jackson, Jim Lawrence for Bradley Crowell, Meghan Brown for Jennifer Ott, Tony Wasley, Tori Sundheim.

Council Members Absent: Gerry Emm, Ray Dotson, Bill Dunkelberger.

1. CALL TO ORDER

Chairman Goicoechea called the meeting to order at 8:30 a.m.

2. PUBLIC COMMENT

Mr. Shane Hall of Crawford Cattle commented on agenda item 9. His 1st concern is the use of the phrasing intentional reversal regarding habitat damage that could occur from trespassing tribal horses. Crawford Cattle operates both USFS and BLM permits surrounding the project area with private owned tribal horses near the areas. They do not feel like they have the responsibility to prevent the trespassing livestock that are not lawfully present in the adjacent lands in the 1st place. If the tribal horses become a problem, those with the specific responsibilities for the horses should be held accountable and they want to be workable and cordial partners with the tribe, the state, the USFS, but any damage that could result from those horses should be treated as unintentional instead of intentional reversal. Additionally, they cannot find in any of the state documentation of the process for deeming a situation intentional reversal. Chairman Goicoechea clarified the comment and stated that they would be addressing these comments later on in the agenda.

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

Member Biaggi moved to approve the agenda, Member Boies seconded the motion. The motion was unanimously approved. ***ACTION**

4. APPROVAL OF MINUTES - *FOR POSSIBLE ACTION*

Member Lister moved to approve the minutes for the meeting on March 16, 2021. Member MacKenzie seconded the motion. The motion was unanimously approved. Allen Biaggi for the record said there was an error on a second motion indicating that he had made it and it has been addressed in revised minutes. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

Chairman Goicoechea mentioned hearing some concerns about the large document uploaded just prior to the meeting, with reasons due to additions to the presentation that were not available until recently. He also thanked Member Swanson and Member Molini for leading the charge on SJR3.

Member Boies stated the importance of the agenda items today and any information that could contribute or add to what is going on over and above that is normal would be helpful.

Member Molini took a moment to thank Chairman Goicoechea and Mr. McGowan and council for participating in the meeting on the 16th to address SJR3 and they really appreciate the support.

6. PRESENTATION AND DISCUSSION ON THE OPEN FILE REPORT TITLED “GREATER SAGE-GROUSE HIERARCHICAL MONITORING FRAMEWORK: IMPLICATIONS FOR DEFINING POPULATION BOUNDARIES, TREND ESTIMATION, AND EARLY WARNING SYSTEM” – *FOR POSSIBLE ACTION*

Dr. Peter Coates of USGS gave the presentation, available online. Cali Roth of USGS then presented by showcasing the associated web-based decision support tools in development, and Dr. Coates then discussed when the tools would be available. Clarifying questions were asked regarding the presentation. Mr. John Raby of BLM brought up the new 5-year plan for Wild Horse and Burro gathers to work toward AML. Chairman Goicoechea asked John to confirm that plan implementation depended on appropriations, which John confirmed. Dr. Peter Coates offered to run different scenarios of the BLM working toward accomplishing the goal of reaching AML through their tool to assess pros and cons, and John Raby reflected interest. ***NO ACTION**

7. STATUS UPDATE AND DISCUSSION ON THE CONTROLS PLANNED FOR 2021 AND THE PROCESSES AND AUTHORITIES RELATED TO INCREASING THE COMMON RAVEN “TAKE PERMITS” WITHIN NEVADA – *FOR POSSIBLE ACTION* (Item presented after Agenda Item 8 due to technical difficulties)

Ms. Kelley Myers of USFWS gave a presentation, available online. Mr. Mark Ono of USDA APHIS Wildlife Services and Kelley Myers followed with his own presentation, which is also available online. Clarifying questions were asked regarding the presentations. Mr. Shawn Espinosa referred back to Dr. Coates presentation that showed GRSG concentration areas overlaid on top the raven density surface, that is one thing in the future they want to focus on. Mr. Pat Jackson of NDOW directed folks to search online for NDOW predator management for past reports. Member Boies asked whether anything else other than 1339 could be used at this time. Mr. Ono simply said eggs were best at targeting ravens and shooting is done sparingly. Further conversation ensued on the topic including that a raven workshop is on the horizon and that ramping up take over time will be costly, yet an EA now covers take up to 19,000 total ravens per year. ***NO ACTION**

8. UPDATE ON CCS MITIGATION TRANSACTIONS AND STATUS OF CREDIT AND DEBIT PROJECTS – *FOR POSSIBLE ACTION* (Item presented before Agenda Item 7 due to technical difficulties)

Mr. McGowan gave a presentation that is available online. Member MacKenzie asked about the bandwidth of the SETT, to which Mr. McGowan responded that increased workload is anticipated and capacity is limited especially with the loss of Ethan Mower. Discussion was then brought up regarding AB433, a bill in review that might help stabilize some of the funding needs through establishment of transaction fees in the CCS. It was explained that the thought behind the BDR is that the SEC would have the authority to adopt regulations regarding recouping some sort of administrative fee for the work on the CCS, and that any sort of fees paid would stay within the account for the sagebrush ecosystem so that the Program would have some funds that are regularly available to fund some of this important research and science work. Member Boies then asked about whether the transactions have been going smoothly, to which Mr. McGowan answered that transactions had generally gone smoothly, though the financial assurances was an area that had at times been challenging to date. He mentioned a potential solution to set up a special account where the SETT could hold on to those financial assurance dollars, which would be interest bearing, and then distributions would be made on an annual basis. Mr. Shawn Espinosa of NDOW asked whether the SETT had seen situations of avoidance of projects already due to mitigative costs. He also requested a further evaluation of some of these credit sites and some rigorous monitoring to make sure that credit sites are truly functioning at a level that is providing adequate habitat for the species. Mr. McGowan answered that in the future, the SETT could compile a list and do a little side by side comparison of avoid and minimization success for the benefit of the Council. For the point on credit projects that might be impacted, Mr. McGowan explained that the annual monitoring is picking those issues up, but that there may be impacts that could occur just before or after those photos are taken. And those areas, the SETT has met with the landowner and talked about the opportunities to do some things to alleviate the pressures. ***NO ACTION**

9. STAFF BRIEFINGS TO THE COUNCIL – *FOR POSSIBLE ACTION*

A. Nevada Gold Mines request to terminate the Conservation Framework Agreement and to expand the Bank Enabling Agreement.

Mr. McGowan spoke on Nevada Gold Mines request to terminate the Conservation Framework Agreement and to expand the Bank Enabling Agreement (BEA). A letter from Mr. Joel Donaldson was recently sent requesting this termination of Conservation Framework Agreement. Chris Jasmine of Nevada Gold Mines then reiterated that Nevada Gold Mines is very bought into Nevada's CCS system and planning to move forward with it in many ways on both the credit and debit side. Discussion was held regarding the history of the BEA. Mr. Jasmine mentioned that all of the obligations that they currently have underneath the BEA using TNCs model are obligations they have bonded for and are planning on moving forward with, but they are not planning on abandoning the CCS. Mr. McGowan said it would be helpful to work with the FWS to gain some level of assurance for all participants using the CCS.

B. Gold Bar Mine mitigation status.

Mr. McGowan then spoke briefly to the Gold Bar Mine Mitigation Plan. Chairman Goicoechea asked whether they had engaged the SETT for an analysis of that South Expansion. Mr. McGowan replied that that the SETT has advised them that any new disturbance requiring NEPA analysis would not be grandfathered in and would be required to use the CCS for analysis of the impacts. Katie Andrie of the SETT added that the SETT received a pre-field HQT submission, so they do intend on collecting field data for the Gold Bar South Expansion this spring and summer field season. The SETT has not any discussions yet with the proponent, only the consultant and BLM to date.

C. Conservation Credit System – Additional anthropogenic disturbance classifications.

Mr. McGowan then discussed a potential improvement to the CCS specific to the existing disturbance categories and that they do not capture all anthropogenic disturbances. That has been known, but there are new types coming online and so the SETT intends to propose some new disturbance categories or amend existing categories to ensure the CCS assesses them in the most relevant manner. Mr. McGowan then showcased the current categories and weights and distances. The types of disturbances seen recently – and the SEP has known about these and the potential for them to occur but didn't have any planned and at that time there was no talk of any of these occurring and so categories were not created-one example would be large new gravel Chairman Goicoechea asked a question for the sake of the record about a new large gravel pit. If they were locate that next to an interstate or next to an improved two lane paved road, there is already 100 weighted debits on those for more than a mile, does it not help to keep those within 2 miles of linear features that are already out there. Mr. McGowan agreed and stated that these were all things a proponent would have some ability to collocate. Mr. Espinosa said it was an interesting concept to collocate some of these things and likely provides some benefit, but too many things located together can really fragment habitat as well so that should be considered.

D. Application of the public health and safety mitigation exemption.

Mr. McGowan then shared his screen which had a portion of the regulation NAC232 on it. He brought up the exemption process within the regulation, which has been brought to the SETT's attention several times. The SETT has had a few projects brought to their attention that do have elements to varying degrees of public health and safety incorporated in them. Chairman Goicoechea asked some clarifying questions regarding the projects. Mr. McGowan asked Tori Sundheim if she had anything to add. She stated that it was within the SEC's purview to interpret the statement, whether that means they want to provide guidance or put on another agenda how they would like to address the statement and what they think an appropriate application might be. Mr. McGowan asked whether it would also be appropriate to handle this on a case by case basis for now without creating tight sidebars. Ms. Sundheim said the SEP can handle in a number of different ways including case by case interpretation and maybe over time develop more comprehensive guidance, but going on a case by case basis and applying it very differently it would open up some risk. Chairman Goicoechea asked Mr. McGowan whether he expecting a plea from the proponent at the next meeting on this, and Mr. McGowan confirmed that was possible depending on the date and he has lined up what they and the SETT will likely have prepared prior to the Council's consideration.

E. Unfenced credit sites and the potential for negative impacts due to livestock, estrays, or free roaming horses (NRS 569).

Mr. McGowan stated that a number of credit projects that are not entirely fenced and have the risk of being exposed to stray livestock or horses and burros. It is currently written into management plans that if impacts are occurring, and they keep occurring and are showing degradation, then the SETT works with them to halt, which may require fencing. If the proponent isn't able to do or willing to do anything and the site is degraded, the credit value is diminished, then it would be considered an intentional reversal.

Discussion was had about the wording in NRS 569, particularly about the Department of Agriculture and the definition of “cultivated lands” as well as discussion about additional challenges in regard to the credit project. Member MacKenzie asked what the recourse was where the credit generator does everything, they are supposed to, but it does not result in the intended outcome. Mr. McGowan replied that general unintentional would be like an act of nature, a force majeure event, one that is unexpected and hard to account for or impossible. In the case where livestock, whether it is a trespass issue or stray issue, he would think the disturbance so long as the animals could be gathered or another mechanism could be used to reduce or eliminate the impacts, they could use the reserve account for a short term to make up for that loss and then once the issue is resolved those reserve credits could go back into the reserve account. Member Swanson commented that it was mentioned by Mr. Hall that in the past the USFS and tribe had removed horses and whether than can again occur. Chairman Goicoechea replied that it was being worked on, but he did not know. Concern by councilmembers was stated regarding the building of a large fence and the implications of requiring such. Mr. Boies mentioned that the program, as a landowner he would be hesitant to participate if he did not have control of that meaning his lands. He worries about the integrity of the program and said landowners have to be able to manage what they are signing their name to in these contracts. Member MacKenzie added that rather than an all or nothing approach maybe a 50% intentional reversal may share the burden with them so both sides have incentive to get this thing taken care of. The Chairman said he has been working with Mr. McGowan and talking with Mr. Hall and Mr. Emm as he knows Mr. McGowan has and the group should continue to work on this and give an update later. Mr. McGowan said in moving forward he wondered if they would be agreeable to having some language in the management plan that if the SETT deemed that an intentional reversal had occurred due to this stray issue that there would be a process that they could bring it to the Council for consideration. Member MacKenzie said that was a good approach to go that but in the meantime to come up with a graduated reversal thing in the regulations and be able to address it when it comes. Mr. McGowan said that might be an improvement or part of one that they might bring, a process for determination of intentional reversal. The Chairman agreed. ***NO ACTION**

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

The next SEC meeting was scheduled on May 11th, 2021. Member Lister asked for update on Sage Grouse plans. Mr. McGowan said it might be possible for May meeting to have new anthropogenic disturbance improvement ready. He said the public health and safety question related to the road realignment may be ready. Member Biaggi suggested the timing would probably allow for a legislative update. The meeting should be planned for virtual with a chance of getting together.

11. FEDERAL AGENCY UPDATES AND COMMENTS:

A. US Fish and Wildlife Service

Mr. Jackson updated the council on the bi-state work and related to the working group they are getting ready to update the MOU and contribute to the coordinator position which is a reason for the group’s success. There is also the litigation related to bi-state decision which is a process. They are getting close to completing administrative record.

B. Bureau of Land Management

Mr. Raby updated the council on a few items. The National Livestock Grazing Regulation effort started about 18 months ago and is being reinvigorated with new DOI leadership. He offered a new draft desk guide for livestock grazing permit renewals to the council for review. He also updated on Outcome Based Grazing. Oil and gas lease sale postponed for March and June sale includes 6 parcels, none in GRSG habitat. Significant transmission projects approved by Nevada Public Utilities Commission and moving along in process. With Secretary Holland in place, she is focused on promotion and development of renewable energy and 23 active projects in the state moving along through process. BLM Nevada has requested additional staffing (22 positions) and other accommodations to ramp up. Meetings also coming up with industry and conservation groups to discuss this development further.

C. US Forest Service

D. USDA – Natural Resources Conservation Service

E. Other

12. STATE AGENCY UPDATES AND COMMENTS:

A. Office of the Governor

Jordan Hosmer-Henner had no updates.

B. Department of Conservation and Natural Resources

C. Department of Wildlife

Mr. Wasley said that NDOW had developed a sagebrush obligate species priority area map for internal and external use. The fire rehab season wrapped up with NDOW crews completing sagebrush seedling planting on Spruce Mountain outside of Wells with the total for the last five years is 422,240 acres treated. Lek counts are not looking good to date. NDOW just provided over 40 locations to Wildlife Services for raven removal to be completed this spring.

D. Department of Agriculture

Ms. Brown noted that the NDA has been engaged in many activities already been presented on. They hosted the 5th Annual Nevada Native Seed forum in the spring to over 75 attendees.

E. Conservation Districts Program

F. Sagebrush Ecosystem Technical Team

G. Other

13. PUBLIC COMMENT

Member Biaggi thanked Mr. McGowan and the rest of the staff for the work that they do and to keep up the good work.

As a representative of local government, Chairman Goicoechea added that three counties are seeking to intervene in the case in front of Judge Windmill in Idaho in an attempt to get some clarity or get that Nevada portion severed and sent back to Nevada.

14. ADJOURNMENT

Member Biaggi moved to adjourn, Member Lister seconded the motion. Councilman Goicoechea adjourned the meeting at 1:53 pm.