



STATE OF NEVADA
SAGEBRUSH ECOSYSTEM COUNCIL
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DRAFT MINUTES

Date: Thursday, March 2nd, 2023
Time: 8:30 a.m. Following the Public Workshop
Place: Nevada Department of Wildlife
6980 Sierra Center Pkwy #120
Reno, NV 89511

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Council Members Present: Chris MacKenzie, Kyle Davis, Bevan Lister, Steven Boies, Sherm Swanson, William Molini, Alan Shepherd for John Raby, Kris Boatner for Bill Dunkelberger, Justin Barrett, Jay Gibbs, JJ Goicoechea, Alan Jenne, James Settlemeyer

Council Members Absent:

- 1. CALL TO ORDER**
Member MacKenzie called the meeting to order at 8:40 a.m.
- 2. PUBLIC COMMENT**
There was no public comment.
- 3. APPROVAL OF THE AGENDA - *FOR POSSIBLE ACTION***
Member Boies moved to approve the agenda with no changes. Member Molini seconded the motion. ***ACTION**
- 4. APPROVAL OF MINUTES - *FOR POSSIBLE ACTION***
Member Lister moved to approve the minutes for the meeting on December 8, 2022. Member Molini seconded the motion. The motion was unanimously approved, while Member Davis abstained. ***ACTION**

5. COUNCIL MEMBER ITEMS AND CORRESPONDENCE

No council member items.

Program Manager correspondence, Mr. McGowan notified the Council that there is a push to have more green energy development in Nevada, and that is what the Program is seeing. There may be an update of how the Program addresses green energy in the HQT. The Program received a registered letter from R Plus Energies for an amendment of the ARMPA. They are in a no surface occupancy area and still in limbo about as to how to move forward. This process is going to be led by BLM and the SETT will provide updates as needed.

6. REVIEW NAC 232.400 – 232.480 AND DISCUSS POTENTIAL OPPORTUNITIES TO STREAMLINE, CLARIFY, REDUCE, OR OTHERWISE IMPROVE THE REGULATION TO ENSURE IT PROVIDES FOR THE GENERAL WELFARE OF THE STATE WITHOUT UNNECESSARILY INHIBITING ECONOMIC GROWTH. THE COUNCIL MAY PROVIDE GUIDANCE AND INSTRUCT STAFF TO COMPILE A LIST OF COMMENTS TO BE CONSIDERED AT A FUTURE PUBLIC HEARING. - *FOR POSSIBLE ACTION*

Member MacKenzie opened the floor to the Council members’ concerns or comments for the regulation. Hearing none, he asked the SETT for their recommendations or concerns. Mr. McGowan reminded the Council about the need for a Hearing to finalize this process. He then introduced his list which is summarized as follows:

- Section 232.475: to clarify the issuing of a certification of mitigation under NAC 232.475 subsection 1, adding language to ensure the certification is to certify the debits generated and their obligation to offset those debits and their requirements.
- Section 232.475 Subsection 1A: The number of credits- “and term” should be included, as it is important to outline the term, which is a minimum of 30 years for most projects.
- Section 232.475 Subsection 2: add previously proposed language “Prior to any ground disturbance being authorized, the person or entity...” to make clear that mitigation must be completed prior to any ground disturbance.

Member Lister asked if there would be a benefit for having the certification broken down to list what the certification would include in a credit project vs debit project. Mr. McGowan agreed that it’s worth considering as there is a difference between the two. Ms. Boatner asked about the debit certification, if a timeframe or expiration date could be included, as projects can start this process very early. Mr. McGowan replied that a project proponent’s HQT data is only good for 5 years as per the Program. If there are any changes – siting, etc., then they need to get ahold of the SETT to rerun the project. Mr. Barrett asked about baselines, is the HQT ran when the mining company starts exploration or when a project is permitted. The exploration can change the habitat quality in the area before the mine comes in. Mr. McGowan replied that they can collect fieldwork years prior to authorization, but that is the data that is used. There can be instances where updates may be permitted, such as a fire or large disturbance, but for the most part, the data that is collected is the data that is used. Mr. Barrett asked if that data is collected prior to exploration or after. Ms. Petter replied that exploration must mitigate as well, so the habitat loss is already accounted for mitigation-wise. Ms. Boatner commented that exploration under 5 acres does not have to mitigate, so it could be many years of notice level projects not mitigating, which would affect the baseline. Mr. Barrett asked if the SETT is looking to address notice level exploration. Mr. McGowan pointed out that mineral exploration is exempt in the regulation but they are not supposed to piece notice level projects together. Mr. Shepherd and Ms. Boatner agreed, unless there are multiple companies in the same area. Many questions were asked, and ideas put out there about how to deal with the disturbance caused by notice level exploration. Member MacKenzie reminded the Council that this discussion relates to the Executive Order and has a tight timeline, and the ideas may require more than a brief regulation change. Mr. Gibbs stated that USDA-NRCS would have issues with the conservation of sagebrush obligate species if the regulation was softened any. He did not recommend doing so. Mr. Barrett also echoed that he is hesitant to make changes as they are unsure how changes would affect the Program as a whole. Mr. Davis made a motion that no regulation changes are proposed at this time, and the SETT is to complete a report that would represent the discussion on the regulation and include the SETT’s recommendations into the report. Member Swanson seconded the motion, all approved. ***ACTION**

7. REVIEW THE PROPOSED IMPROVEMENT TO THE CONSERVATION CREDIT SYSTEM’S HABITAT QUANTIFICATION TOOL TO MORE ACCURATELY ACCOUNT FOR IMPACTS TO POPULATIONS THROUGH THE ADDITION OF THE MOST CURRENT GREATER SAGE-GROUSE SPACE USE DATA AND MODELING. THE SEC MAY CONSIDER ADOPTION OF THE PROPOSED APPROVEMENT OR MAY ASK STAFF TO EXECUTE CERTAIN EDITS. - *FOR POSSIBLE ACTION*

Mr. McGowan introduced the proposed update to the Habitat Quantification Tool (HQT).

Mr. Small presented on new science that has led to the need for updating the HQT to include space use data. The SEC asked questions about presented publications to clarify the meaning and intent behind each publication. Topics include: renewable energy, non-renewable, mining, and powerline impacts to greater sage-grouse. SEC requested clarification on topics of: nest success, press disturbance, does press disturbance include noise, change in press disturbance significance, leks with energy structure metric clarification (utility scale), agriculture exemptions were addressed, clarification on lek disturbance and distance, densities of sage-grouse predation, distinction of transmission and distribution electrical lines (low and high voltage), distance from transmission lines questioned in relation to avoidance, SEP decay curve was discussed, powerlines effects on lek trends and lek persistence, how new science is being incorporated into the update of the HQT.

Ms. Petter presented on Coate's space-use layer- the continuous raster space use layer based on population. Questions/topics of SEC discussion related to Ms. Petter's presentation include: debit project change in total debit (some went up and some went down based on distance to lek and space use of associated lek), what is the parameter of the space use index, genetic conductivity and potential inclusion into this update (hopeful to have the ability to include in in the next few years), what time frame are you looking at for updating the layer, 100% value being placed on preservation credits that is not resulting in conservation and find ways to emphasize restoration over preservation, layers removal of uniform distance and use of space use to determine distance, definition of raster, update is not retroactive, field work is consistence and tool changes if adopted, source and satellite lek incorporation into space use index, attendance at the lek influence on space use index, thresholds for source leks, space use index is a average of multiple years averages.

Vice Chair opened public comment:

Chris Brooks: When is new revision going to take place? SETT Response: 90-days after pass.

Josh Vittori: Are there concerns about credit projects are being penalized because they are not getting the updated multiplier. Are there concerns for liabilities in that. SETT Response: this update will drive credit need; credit producers are already heavily incentives in existing multiplies and uplift can be a significant incentive.

Chris Jasmine: This update does penalize entities like Nevada Gold Mine that produces both credits and debits. Does NDOW feel this is a good solution to lose of leks? NDOW: This update will not address lose of leks, we do not have mitigation for loss of source leks. This update is trying to get to the point of we want to hold large populations at current rates and not continue to lose populations. USFWS is taking another look at the bird in the future and trying to continue to protect populations.

Continued discussion of updated by SEC:

Mr. Barrett: The goal of this program is to avoid and minimize impacts to sage-grouse. If we are continuing to preserve habitat and not restore habitat we still need to come back to the table, we are missing the intent.

Mr. McGowan: Addressed placement of projects on private and public lands (future uplift projects), addressed benefit of uplift to sage-grouse and producers.

Member Lister: Expressed discomfort with singular metric of lek data on the status of this bird, modeled data extrapolated to a non-uniform landscape.

Reopened for Public Comment:

Margaret Walch: Models have assumptions built in and are imperfect, I would like to have discussion on the assumptions and limitations of this update. As well I would like to discuss the imperfect detection of lek counts, techniques and methodology of incomplete lek data.

SETT responded discussing predictions in the model, space use, resource selection, GPS data that helps predict within the model.

Margaret Walch: How is this SUI update going to differentiate impacts to the landscape, how is it going to ensure developers are not being penalized for impacts out of their control like ravens.

SETT responded: Distance is how we account for that.

Margaret Walch: What is the urgency in passing this update today?

Vice Chair MacKenzie: That's the responsibility of the SEC.

SEC Discussion:

Member Boise: We are refining this system, why do we have great habitat in regions and have no birds? We need to discuss ravens and start to put an emphasis on control.

SETT responded: Addressing impacts on the landscape by fire cycles, horses, ravens, invasive annual grasses. All impacting sage-grouse.

Member Swanson: Addressed the downward trend of sage-grouse populations across the state. If new leks are not being searched for we may be unknowingly documenting downward trends.

Mr. Jenne: New approaches are being deployed in raven surveys, and lek searches. We continue to look for them. New leks are found because we look for them, new leks are not being developed by sage-grouse. Conditions of survey sites can be a challenge to these efforts.

Reopen of Public Comment:

Glen King: Environmental Manager for Orla Mining with a project south of Carlin. We are committed to doing things in a responsible way. I think there needs to be more collaboration with industry in Nevada. This update can drastically impact debit producers. I don't know that there are credits on the books to cover this update. I think this update will have a severe impact to industry.

SEC Discussion:

Member Molini: In my experience these downward trends have extreme habitat impacts. We have waited too long to address this. When I was still working, we had lots of sage-grouse, we have lost extensive populations. The avoidance of source leaks is critically important. I am in favor of the SETTs update.

Member Molini motioned that we accept the update the SETT has presented.

Seconded by Member Swanson.

Member Davis: Thanked the SEP for presenting to industry in Winnemucca. Questioned process. Expressed need for more time. Expressed support of waiting for the energy representative on the SEC to be filled prior to making any decision on this proposed update.

The motion was voted on.

Motion failed*

Member Lister: Expressed the need for use of space use on debit and credit side.

Mr. Barrett: Expressed interest in needing time to absorb the proposal, and the need to account for all threats on the landscape. Expressed caution in incentivizing the credit side without uplift.

Member Boise: I would like to see predation addressed. Something that shows raven populations along side sage-grouse populations. It is extremely important to include this.

Member Swanson: We need to incentive credit development in the right place for the benefit of sage-grouse. We need to address what is threatening sage-grouse in different management units. So, we can incentive the right action.

Mr. Barrett: Addressed fire cycle and invasive annual grasses as well as raven impacts.

Mr. Small: Some impacts can be masked by surface disturbance. It has an overriding effect on populations. Anthropogenic disturbances have the largest impact.

Member Davis: How does the science support anthropogenic disturbance is the driver behind population decline.

Mr. Small: Modeling supports the overall conclusion. Kelly supported with Coates modeling description.

Member Lister: Addressed model assumptions and challenges with site specific implementation.

Vice-Chair MacKenzie: Requested direction be given to the SETT.

Member Swanson: The science presented the discrepancies in results that didn't line up. Requested Pete Coates be included in future discussions. Better visuals and examples of curves could benefit this presentation and help clarify the update.

Member Lister: Motioned to bring this back with further analysis and addition to improvements regarding focused credit development.

SS: Seconded motion

Motion Approved.

***Motion Failed**

8. REVIEW THE LETTER SUPPORTING THE DEPARTMENT OF INTERIOR'S CONTINUED FUNDING FOR WILD HORSE AND BURRO GATHERS IN NEVADA TO PROTECT, ENHANCE, AND PRESERVE NEVADA'S ECOSYSTEMS, MULTIPLE USES, WILDLIFE, AND ECOLOGICAL DIVERSITY. THE SEC WILL CONSIDER APPROVAL OF THE LETTER AS PROPOSED OR MAY ADOPT CERTAIN EDITS WITHIN THEIR APPROVAL. - *FOR POSSIBLE ACTION*

Member Lister: Motioned to approve letter. Member Swanson seconded motion. ***ACTION**

Motion approved

9. STAFF BRIEFINGS AND UPDATES TO THE COUNCIL

A. CCS Projects and Transactions

Mr. Huser presented on topic.

Discussion by SEC: The CCS can be used to evaluate impacts outside of the system, tracking conservation efforts discussed;

B. Recent workshops to coordinate efforts in updating the NV Strategic Action Plan and NDOW's development of the Sagebrush Habitat Framework

Mr. McGowan presented on topic.

C. Consideration of updating the Habitat Management Areas Map in Nevada

Mr. McGowan presented on topic.

SEC Discussion and Question: space use data incorporated into new mapping products, expression to have Pete Coates available for meetings.

D. Next steps in reviewing and providing recommendations to NAC 232.400 – 232.480

Mr. McGowan discussed the need for a hearing for NAC 232.400 – 232.480.

Discussion ***ACTION**

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

Mr. McGowan requested direction from SEC on bringing the update back to the table. Discussion on timeline and vacant seats was had.

Vice-Chair MacKenzie: Addressed need to have an election at next SEC meeting, topic added to next meetings agenda.

Member Lister: Update on SEP outreach and communication to better facilitate local actions and involvement.

After discussion the Regulation Hearing was proposed for Wednesday, April 5, 2023, and Mr. McGowan would send out a Doodle Poll for the May meeting. Mr. McGowan was to reach out to nominees for the empty seats on the Council.

Member Lister asked for a report what the outreach or communication is for Local groups, or if there are other ideas on how to better facilitate local groups and local actions being taken. Member Swanson requested agency update on what sage grouse efforts are occurring. ***NO ACTION**

11. FEDERAL AGENCY UPDATES AND COMMENTS:

A. US Fish and Wildlife Service

Mr. Barrett informed The SEC that the Service has finished completing the five-year review for cutthroat trout. The Service received \$50 million to be used over 5 years in 8 states. Nevada for Fiscal Year 22/23 received a million dollars each year on the ground for projects. Project proposals for deadline for April 14th and reach out to Lara Enders for more information. For the 2020 sage grouse update, it started off in USFWS effort, but is now a WAFWA effort. They are still going through comments but should have a final product in the next few months. Human Resources is still trying to fill field supervisor position. It has been advertised but they are not comfortable with the pool.

B. Bureau of Land Management

Mr. Shepard informed the SEC that BLM continues to work on the national sage-grouse planning amendment. Will be having a Nevada meeting on this at the end of the month. The RMP modernization state-wide project is working on acquiring funding for the survey portion of the project. Hoping to get additional funding to complete the process. Provided update on drought EA regarding flexibility of grazing and LCT management. Discussed upcoming meetings to discuss the EA across the state. Anticipated to get this EA completed in 16 months. EA will affect ~40 permits across Nevada. BLM discussed drought responses and encouraging operators to apply for non-use when they are not going to be using their AUM. In grazing year 2022, 144 AUMs were put into non-use. Discussed the protection associated with non-use, conservation associated, reasons for applying for non-use, and benefit for producers. Discussion was had amongst SEC about non-use, WHB AML, AUMs, conservation strategies. BLM stated its biggest restriction is staffing, and funding prioritization. Renewable energy projects are continually being submitted. Lots of projects planned for Fuels and habitat restoration. Kelly McGowan suggested the BLM revitalize cooperative meetings to discuss proposed renewable energy projects (meetings have not been conducted in the past year years).

C. US Forest Service

Ms. Boatner gave update, sitting in for Bill Dunkelberger. The USFS is not updating their sage-grouse planning documents. USFS is waiting on BLM efforts, instead working as a cooperating agency on BLM plan and not implementing their own. The Humboldt-Toiyabe is going to be a focus of the USFS, and shared stewardship projects. This process gave way to Wildfire Crisis Strategy Landscapes (Sierra and Elko selected). Implemented projects will be shared stewardship regions and will not primarily be on USFS land it will include surrounding lands to USFS. Implementing projects funded by the inflation reduction act, and the bipartisan infrastructure funding. Projects will focus on fuels, weeds, targeted grazing and other activities to protect communities. USFWS is going to be ramping up its infrastructure to implement this work, including partnership development, agreements with USFWS, historic preservation officers, etc. Leveraging all resources to implement the total of 56 million dollars this year. All funding may not be allocated looking to implement 40-45 million this year, addressing big picture projects. USFS hired a new Range Program Manager, Annie Dickson. USFS recently issued a decision on the Little

Fish Lake joint management area for wild horses, tiering to the BLMs decision; supporting interjurisdictional gathers of wild horses in the future. USFS is working with BLM on Green Link transmission project, the initial plan was rejected and we are working on a minimization plan to reduce the projects impact on sage-grouse through an alternative route. Prescribed fires were discussed by the SEC.

D. USDA – Natural Resources Conservation Service

Mr. Gifford, gave update, sitting in for Suzy Daubert (active state conservationist). NRCS stated with mentioning job vacancies impacting the agency. The massive amount of money being funneled through the inflation reduction act will greatly benefit NRCS programming. Will be channeled into existing programs. Currently accepting application or equip, and CSP. NRCS budget in Nevada for the next three years is approximately 60 million dollars. NRCS is implementing infrastructure to implement this workload. NRCS has the ability to cost share imazapic/rejuvra.

Discussion was had on virtual fencing by SEC.

Discussion about SEC letters supporting wild horse and burro management was brought forward by Mr. McGowan. Discussion was had to draft a letter requesting funding for Nevada wild horse and burro management. Item 8 was reopened, and SETT was instructed to draft letter for immediate delivery.

Mr. McGowan brought up the topic of corvids and the impacts to sage-grouse, addressing a future topic of what the SEC could do to address this issue. Similar to current support of wild horse and burro management.

12. STATE AGENCY UPDATES AND COMMENTS:

A. Office of the Governor

Mr. Robb had no significant comments and thanked the SEC for presentation, information sharing, and overall work being accomplished.

B. Department of Conservation and Natural Resources

Mr. Lawrence update focused on

C. Department of Wildlife

Mr. Jenne addressed access to lek sites in 2023 due to above average snowpack, looking at alternative survey techniques, and focal areas. Last fall (December 2022), while working with the Summit Lake Paiute Tribe, NDOW documented a positive case of highly pathogenic avian influenza in a sage-grouse. Sage-grouse wings from hunter harvested birds determined 1.6 chicks per pen. This is the highest recruitment rate since 2013. NDOW and partners restored many burned sites, with 20,296 acres of herbicide treatment, 34,752 acres of seeding. Resulting in 55,048 total treatment acres across 19 treatments. Since 017 NDOW has treated 560 thousand acres of burned areas across Nevada.

SEC discussed snow levels impacting sage-grouse.

D. Department of Agriculture

Mr. Goicoechea discussed the historic winter and snow levels. Nevada has requested assistance from FSA to help producers in livestock challenges. Winter conditions have greatly impacted cattle producers across the state. NDA is advertising for its agriculture literacy coordinator to help with outreach. Scheduling regular coordination meetings with partners to improve communication and collaboration. The Foundation Seed Program is accepting applications, elaborating on the program. Native Seed Forum is happening April 11-13 in Elko. Noxious Weed Program is hosting early detection rapid response coordination meeting currently. Engagement in LCT recovery is ongoing and NDA is participating. NDA is busy producing cooperative agreements and expanding NDAs engagement.

E. Other

13. PUBLIC COMMENT

Wyatt Mesna: Gibbs Ranch (North Central Nevada) Mule deer, LCT, and sage-grouse are all out the backdoor. I am a producer trying to participate and engage. The credit system is potentially running out of credit producers. The maps discussed show that there are many debits to be produced in critical habitat (white area). Listening in today it seems credit producers are not receiving the same adjusted value in critical habitat. I think you are going to lose potential creditors, too much information is lost between this level and the landowners.

14. ADJOURNMENT

Member Swanson moved to adjourn, and Member Molini seconded the motion. Vice-

Chairman MacKenzie adjourned the meeting at 1:59 pm.

All details not covered in these minutes can be heard on the meeting recording at <https://sagebrushco.nv.gov/Meetings/Meetings/>.