

Sage-grouse Habitat Conservation Advisory Council

NOTES

Meeting 8: Preliminary Draft Review
Location: Capital Building, Room 152, 1301 E. 6th Ave., Helena
Dates: September 24-25, 2013

Sept 24 Working meeting to review preliminary draft

Council representatives: Pat Connell, Janet Ellis, Gary Forrester, Jay Gore, Robert Lee, Brad Hamlett, Bill McChesney, Carl Wambolt, Paul Callahan, Curtis Monteau, Ray Shaw, Glenn Marx, Jeff Hagener

Agency/invited partners:

USFWS: Jodi Bush, Brent Esmoil, Jeff Berglund;

Bureau of Land Management: Sandra Brooks, John Carlson

US Forest Service: Mary Manning

Department of Natural Resources and Conservation: Shawn Thomas

Montana Fish, Wildlife and Parks: Ken McDonald, Rick Northrup, Catherine Wightman

Public: Rich Southwick, GNP; Richard Brown, WYO-BEN; Patrick Farmer, Westech; Laura Blake, ArchCoal; Rusty Shaw, Denbury Resources; Gary Wiens, MT Electric Co-ops; Bob Green, Cloud Peak Energy; Steve Forrest, consultant; Sam Milodragovich, Northwestern Energy; Leo Berry, GNP; Bud Clinch, MT Coal Council; Dave Galt, MPA; Tyler Tetrault, BPM; Jay Bodner, MSGA; Melissa Lewis, ONEOK;

Document

Preliminary draft was distributed to Council representatives on September 20. Hard copies were available at the meeting.

USFWS general comments on preliminary draft

Jodi Bush/Jeff Berglund

Fish and Wildlife Service representatives provided some feedback on the preliminary draft, including the components that they generally agreed with and the components that raised some concerns.

Discussion of preliminary draft document

Council worked through the preliminary document and discussed wording and conceptual changes. The outputs of those decisions were captured in the draft document sent to Council on October 4. Formal motions only are recorded here.

INTRODUCTION AND PROVISIONS

MOTION by Connell – accept introductory material

Gore – seconds

Public comment – none

Unanimous

MOTION by Marx - accept changes to as discussed to section 1.

Ellis - seconds

PUBLIC COMMENT:

Rich Southwick - item #2 on page 6, line 5, "...assure reversal of population declines." Submit that this is an impossible statement to meet. Consider removal of last part of sentence.

Laura Blake from ArchCoal – take other factors in to population declines, sage-grouse is cyclical bird; how can someone prove they are or are not contributing to population reversal.

Amendment: “...may require compensatory mitigation.”

Amendment accepted.

Vote unanimous.

CORE AREA STIPULATIONS

MOTION by Callahan – accept addition of core areas in Garfield and McCone Counties, with additional ground-truthing and in coordination with BLM, DNRC and holders of valid, existing rights in area.

Gore seconded

Group will review final proposal on October 8 meeting.

Vote unanimous.

MOTION by Callahan - addition of special management and connectivity definitions, and make edits to reflect new core area.

Gary – seconded

Vote unanimous.

MOTION by McChesney, move language to provision section from Section III

Lee – seconded

Vote unanimous.

MOTION by Callahan - draft edits accepted as reflected in document (section III).

Marx – seconded

Bob Green – recommends during roll-out reiterating that FWP has no additional authority;

Vote unanimous

MOTION by Callahan – Recommend restructure – section III is stipulations for development, then have permitting and deviation process in separate section

Gore – seconded

Vote unanimous

MOTION by Callahan – Paul’s wording changes regarding maximum disturbance

Hamlett - seconded

Vote unanimous

MOTION by Shaw - to accept process deviation wording as is

Janet – second

Vote unanimous

MOTION by Lee – permitting process as drafted (new section 4)

Hamlett seconded

Public comment:

Wordsmithing suggestion – if you look at list of exempted activities, remove word “existing”

Pat Farmer – point of contact discussion is superfluous; his clients, automatic review that FWP will have its input through regular process; everyone knows sage-grouse is an issue; “FWP will provide consultation and information as requested by proponents...”

Vote unanimous

MOTION by Marx – Paul Callahan will draft a new version of the stipulations section to include a 1 mile NSO in core areas and the 2005 sage-grouse plan for general habitat.

Gore - second

Vote unanimous

Sept 25

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Agency/invited partners:

USFWS: Jodi Bush, Brent Esmoil, Jeff Berglund;

Bureau of Land Management: Sandra Brooks, John Carlson

US Forest Service: Mary Manning

Department of Natural Resources and Conservation: Shawn Thomas

Montana Fish, Wildlife and Parks: Ken McDonald, Rick Northrup, Catherine Wightman

Public: Jeff Herbert, Montana Sportsman Alliance; Leo Berry, GNP; Rich Southwick, GNP; Melissa Lewis, OneOK; Tyler Tetrault, BPM; Bonnie Lorang, MT Independent Telecom Systems; Matthew Dillon, American Colloid Co.; Bob Green, Cloud Peak Energy; Rusty Shaw, Denbury Resources

Document: Paul Callahan handed out a revision of the stipulations section.

HIGH PRIORITY LEKS

MOTION by Marx; advisory Council recommends that Governor directs MSGOT to evaluate all emerging science and develop if appropriate new conservation measures for high priority leks, not necessarily in core.

Wambolt – seconded

Concerns were voiced about focus on high priority leks.

MOTION set aside

SURFACE OCCUPANCY RESTRICTIONS

MOTION by Wambolt – include a NSO of 1.0 mile around active leks for disrupting activities in core areas
Ellis - seconded

PUBLIC COMMENTS

Gary Weins – Montana Co-ops; strongly oppose 1.0 mile; thinks WY plan is adequate; Bob Budd told them population was growing in some areas; real-life experiences in WY are important too

Matt Dillon – American Colloid, Co., Bentonite; site-specific plan that take in to topography, blanket statement doesn't work for them

Jeff Herbert, Montana Sportsman Alliance – like to see Council direct responsible development and responsible conservation; case history usually lean toward development; opportunity as state to develop a well-conceived plan that has foundation to accommodate development and conservation; 1.0 mile stip begins to take in to consideration how widely these birds move across landscape; wouldn't use Cedar Creek as poster child, much reduced population over longer period of time; make sure pieces are balanced; what it takes to recover population

Richard Brown, Wyo-Ben – consider buffer distance in context of overall plan, not stand-alone criteria; why WY ended up with 0.6; urge council to take another look once rest of plan is set up; bentonite needs flexibility to discuss with agencies mitigation strategies that can be used if projects encroach on buffers, e.g., topographic buffers; fails to recognize realities on ground;

Substitute MOTION by McChesney - change 1 mile to 0.6 mile

Connell – second

Forrester – yes, Wambolt – no, Hamlett – yes, Monteau – no, Lee – yes, Connell – yes, Ellis – no, Marx – no, McChesney – yes, Callahan – no, Gore – no, Shaw – yes
6 to 6; motion fails.

Original motion vote

Forrester – no, Wambolt – yes, Hamlett – yes, Monteau – yes, Lee – yes, Connell – no, Ellis – yes, Marx – yes, McChesney – yes, Callahan – yes, Gore – yes, Shaw – no
9:3 vote; motion passes.

SURFACE DISTURBANCE

MOTION by Callahan - agree process for assessing surface disturbance follows WY precisely

Gore – seconded

Substitute Motion by Shaw – remove wildfire from surface disturbance definition

Connell – seconded

PUBLIC COMMENT - None

Vote – opposed Callahan and Ellis, others voted in favor; motion passed, 10 - 2

AMENDED MOTION - accept that we follow WY plan for surface disturbance, including supporting information, to include definition of unsuitable habitat with following exceptions – MT version of suitable habitat and wildfire.

Vote – passes unanimously

SEASONAL USE

MOTION by Ellis - adopt seasonal use stipulations as proposed, with modified dates

Wambolt - seconded

PUBLIC COMMENT

Richard Brown – extra 2 weeks added to exclusionary timeframes; 8 months for operations and if also have winter concentration areas, down to 4.5 months; particularly important for mining. Urge Council to use WY dates;

Vote – passed unanimously

POWER LINES

MOTION by Marx - accept and include Sam Milodragovich’s recommended language regarding powerlines

Connell – second

PUBLIC COMMENT –

Gary Weins, sound fine but they don’t know what it is going to be so Co-ops reserve the right to oppose.

Jeff Herbert – Sam did have some additional suggestions that Council might want to consider.

Bonnie Larang, Montana Independent Telecom Systems – habitat identified corresponds with areas served by rural communication towers, her request is to keep matter open at least through hearings in November, one of the most important things is public safety;

Vote – passes unanimously

MOTION by Forrester - change line 4 ... Locate new overhead power lines and communication towers a minimum of one mile from the perimeter of active sage-grouse leks. Follow USFWS Best Management Practices for tall structures when erecting new communication towers. Co-locate all new power lines with roads, existing power lines, or other linear features when possible. Burying existing overhead lines that have been identified as contributing to decline in sage grouse populations and should be considered as a mitigation option. Raptor proofing poles is encouraged when proven effective.

Connell – seconded

PUBLIC COMMENT

Gary Weins – existing language, absolutely opposed. Not sure about 1 mile but certainly better than 4.
Jeff Herbert – if APLIC guidelines recommend something different from what you have here, then will that be in conflict with something here

No – Monteau, Marx, Ellis, Wambolt, Gore

Yes – Callahan, Shaw, Connell, McChesney, Forrester, Lee, Hamlett

Motion failed.

Substitute motion by Marx – wording suggestion (see document)

PUBLIC – Gary Weins – Co-ops OK with language, reserve right to revisit

Motion passed unanimously

NOISE

MOTION by Forrester – language change “New noise levels, at the perimeter of a lek, should not exceed a site-specific decibel level as agreed upon by project proponent and authorizing agency. “

Hamlett - second

PUBLIC COMMENT - none

Vote: Hamlett, Gore, Ellis, McChesney – no vote; Connell, Shaw, Monteau, Lee, Wambolt, Callahan, Marx, Forrester – yes vote

Motion fails, 8-4 vote.

MOTION by McChesney - accept language as is with addition of Special Management Areas language

Connell – second

PUBLIC COMMENT

Dave Galt – MPA, I think you ought to star this; WY group has problems with noise restrictions and it is under revision. Council might want to consider

Vote – passes unanimously

SPECIAL MANAGEMENT CORE AREAS

MOTION by Callahan – accept language with following changes, add 2 oil/gas areas, and bentonite areas, change last sentence, add noise language

Gore – second

PUBLIC COMMENT

Dave Galt – MPA; need to star and validate that elk basin and bell creek are in core areas; think elk basin is; bell creek may be outside of core areas, not sure; make sure these are in core areas – pull out if there are not within

Leo Berry, Great Northern Properties – strongly recommend an off-ramp for other SMCA in future.

Can't anticipate what you will run in to in future. Need it in plan. It could be restrictive

Richard Brown, WYo-Ben – editorial changes needed at line 4 and line 5, duplicate with last sentence; line 7 ...long-term reduction in trajectory of surface disturbance... suggest remove 'trajectory' just surface disturbance; line 12 – “...at a high ratio...” recommends be removed;

Amended MOTION, Paul – additional adjustments

Amended MOTION by McChesney; seconded by Connell

Passes unanimously

GENERAL HABITAT

MOTION by Wambolt - same language #10 in core as in general and delete 15% total canopy cover targets

Callahan - seconded

Vote passes unanimously

MOTION by Marx - remove "sacrifice " wording
Seconded
Passed unanimously

MOTION by Forrester - propose remove NSO buffer of 0.25 mile around active lek from general habitat stipulations
Second – Shaw

PUBLIC COMMENT

Gary Weins – power lines all over in general habitat, OK with seasonal restrictions, weren't involved with developing 2005 plan and are not pleased with it; OK with compromised restrictions in core areas – concessions, may be OK with other things in table; didn't oppose adding additional core areas, hoping it will give them more flexibility elsewhere

Rich Southwick, Great Northern Properties – much of coal habitat is in general; general is starting to look more like core; going to be difficult to develop coal with 0.25 buffer in general;

Voice vote, but clearly did not have 9 votes to pass;

MOTION Failed

CORE HABITAT STIPULATIONS continued

MOTION by Wambolt - proposed language in sagebrush treatment section in core

Janet – seconded

NO Public comment

Vote – passes unanimously

MOTION by Marx - language changes to #11 in core

Bob Lee – seconded

NO public comment

Vote – passes unanimously

MOTION by Lee - accept language on page 4

Gore – second

NO public comment

VOTE – passes unanimously

MOTION by Ellis - change #16 core to be consistent with other language

Marx – seconded

NO public comment

Vote – passes unanimously