

Sage-grouse Habitat Conservation Advisory Council

Video-conference – December 18, 2013

NOTES

Council members: Gary Forrester, Carl Wambolt, Jay Gore, Pat Connell, Bob Lee, Ray Shaw, Glenn Marx, Janet Ellis, Jeff Hagener, Paul Callahan, Brad Hamlett

Agencies: John Carlson, Jeff Berglund, Jodi Bush, Rick Northrup, Ken McDonald, Catherine Wightman

Public: Bob Green, Laura Blake, Monica Williams, Dave Galt, Rick Southwick, Bud Glinch, Gary Weins, Melissa Lewis

Updates – Jeff Hagener

- Proposed for listing, bi-state
- Canadian listing
- Western Governors feel Montana is critical to listing decision because of number of birds
- 7 public meetings – 60-150 people attending at each meeting
- Received over 400 comments
- Fish and Wildlife Commission
 - approved breaking sage-grouse management in to zones
 - further discussion about length of season, bag limit, maybe area closures;
 - taking this seriously
- Lesser Prairie Chickens – USFWS has approved business plan
- Third western state wildlife agency director removed from office over T&E issues

Brief summary of written comments – Catherine Wightman

Catherine provided an overview of the comments received that highlighted the main topics that public commented on and also the diversity of opinion relative to those topics. FWP will be preparing a more comprehensive summary for Council.

Response from WY on DDCT – Catherine Wightman

FWP asked WyGISC and WYGFD to provide clarification on how the DDCT is calculated and implemented, based on questions that arose during the public comment period. Catherine will send the specific information to Council members.

- Ray Shaw passed around copies of an email from Rusty Shaw that also provided some details regarding the DDCT
- Gary Forrester suggested the final document includes specific language about how DDCT calculation is derived at. Supported by other Council members.

USFWS comments on draft strategy – Jodi Bush and Jeff Berglund

- Strengths – 5% will be effective in conjunction with 1 mile NSO;
- Need more information about regulatory scope
- Open to SMCA's
- Feel there is a need for higher protection in general areas; don't feel 0.25 mile NSO is sufficient
- Looking for overall "avoidance first" strategy, needs a little more work
- Mitigation – not clear when this would apply, mentioned in some sections, not in others; recommend that it be consistently applied;
- Exemption of coal mining from elements that are more restrictive particularly in core is concern
- Very similar to comments provided to committee in September

Discussion:

- Gary Forrester– valid and existing rights defined in state and federal law; if "as per state and/or federal law"; any attempt to (re)define by Council goes beyond what industry can live with;
- Jodi Bush – not asking for new definition; it wasn't clear to them what valid, existing rights where for some SMCA
- Pat Connell – helpful to write it like a bill is drafted for legislature. Strike-out etc., vs. two documents; clarification – what would increases in general habitat do for development, particularly Otter Creek
- Jodi Bush– they did not do analysis
- Pat Connell – DNRC expressed concerns about USFWS comments to him
- Jeff Hagener– similar discussions with John Tubbs; details that need to be worked out; need to be compliance with ESA as well.
- Glenn Marx– power line, roads – buffer should be 4 miles; neither of you mentioned this, does that mean it is a lesser concern?
- Jodi Bush– other issues we mentioned are of higher concern
- Jeff Berglund – look carefully at comments; recommendation for haul roads is consistent with studies but if you can go to 4 miles it would be better; looked through COT report and provide some suggestions for how you could be consistent with COT
- Ray Shaw – noise, timeline for gravel crushing...
- Bob Lee – # 75 of comments - surface disturbance clarification; can you explain
- Jeff Berglund – wants it clarified that the existing uses are exempt but these activities would be included in surface disturbance calculations
- Gary Forrester – coal and bentonite mining; it would be almost impossible for bentonite to proceed if they lose SMCA status; appears holders of coal rights would be precluded from any development
- Jodi Bush – not FWS position to preclude development, just that it be done in cooperation with species conservation; need to work together about it
- Jeff Hagener – there is a process for petitioning for inclusion of SMCA; some concerns, especially in Phillips Co.;
- Gary Forrester – thinks USFWS language discourages any new development;
- Paul Callahan – feel pretty comfortable with where we sit right now; need to do a better job of articulating each SMCA; 2 criteria – 1) valid and existing rights and 2) by exercising those valid and existing rights the entities would not be able to meet rigid stipulations
- Jay Gore – might have added some SMCA that don't have current, active mining right now; tried to address that through petition process; would like to see pull back on bentonite areas that are being developed currently and they can be petitioned; new coal can be petitioned too.

- Bill McChesney – some wiggle room regarding coal
- Jodi Bush – pretty detailed comments re: SMCA, pretty open to concept but some concerns being discussed here
- Bill McChesney – echo Gary’s concerns, significant portion of MT revenue comes from coal mining; FWS language would create negative economics for MT
- Janet Ellis – how to get through SMCA – do they need to define process or see if industry can come up with a summary for why they feel it fits the criteria? Append in information that would justify SMCA inclusion.
- Jodi Bush – that would be an option. Other would be to use the petition process that you have outlined and apply it to the current SMCA. Haven’t required same level of analysis for the ones included initially

BLM comments on draft strategy – John Carlson

- Detailed portion was pulled together from comments received from the field;
- Clarity and structural changes required
- Clarification between federal permitting process and what state would do; federal actions covered by RMP and USFS management plans; need to make this clear
- Overall goal of what this is trying to do; suggest add 2005 plan goal and see if that is something that should be incorporated
- How will 2005 plan be included? Certain portions of the 2005 plan do a very good job – especially fire and invasive species; encourage the Council to go back and see if there are sections that could be forwarded
- Concerns about how to make bentonite SMCA consistent with BLM planning
- How to work together on implementing a 5% surface disturbance cap? No permitting associated with conversion to agriculture, future permitted actions might be excluded because of non-permitted activities; this may be reason why WY excluded ag conversion in NE portion of state;
- Some measure of impacts of plan, both to industry and to sage-grouse...
- Pat Connell – bentonite might be of shorter duration than coal strip mine, suggest planning horizon is greater than current project.
- John Carlson – a goal is just that, a goal, but how you measure that is something different; point is the goal was not clearly stated but the measurement was;

Council Discussion

Council members agreed to form sub-committees to work on different major topics. The process would be open to input from interested parties. Interested parties can contact a sub-committee member directly to participate. Sub-committees to include:

Regulatory Review – Jeff Hagener, Tim Baker

Coal – Bill McChesney, Bob Lee

SMCA – Paul Callahan, Janet Ellis, Gary Forrester

Core area stipulations – Paul Callahan, Gary Forrester, Brad Hamlett

DDCT revisions – Catherine Wightman, will coordinate with Rusty Shaw

Sage-brush management to include Wildfire and re-vegetation manipulation – Pat Connell, Carl Wambolt, Janet Ellis, Ray Shaw

General habitat stipulations – leave for further discussion at next Council meeting

Connectivity – Glenn Marx, Catherine Wightman, Adam Messer

Predators and hunting – Ray Shaw, Glenn Marx, Brad Hamlett, Janet Ellis

Mitigation – Janet Ellis, Paul Callahan, Brad Hamlett

Other sections of plan not included above – FWP

Products from sub-committees:

- New draft language to insert in to existing strategy
- Summary of justification for recommendation or process used to form new recommendations, if appropriate
- Be prepared to explain to Council the new draft language and thought-process, rationale at the January meeting

TIMELINE

- New language to insert in to existing strategy – **due morning of January 9**
- FWP will prepared a summary of comments, distributed to Council – **no later than January 10**
- FWP will send revised strategy document to Council - **January 10**
- Council meeting at Montana WILD – **January 14, 15, and if necessary, 13 or 16**
- Final document prepared – **January 24**
- May hold a conference call between January 24 - 31
- Submit to Recommendations to Governor – **January 31**

Other items:

Glenn Marx – would like to avoid majority and minority reports, but if we go that route, need to talk about how these would be structured on Jan 14-15 meeting.

Pat Connell – noise is technical issue, wants example of what 10 dBA really is?

Jay – Conservation Fund – need state component that matches federal dollars to help ranching community; mitigation dollars as match...; wants representative and senators to put heads together to figure out how we can establish this fund in Montana;

Glenn Marx – FWS stress issues that we haven't addressed yet

- States regulatory authority – what is voluntary and what is regulatory?
- Push state lands to be far more restrictive than we currently have them; would like Shawn to come to Jan meeting and comment on FWS recommendations;

- Adopt a “no net conifer gain” as part of strategy; not sure what they mean?
- Invasive weeds management – too vague and too voluntary;
- Encouraged to add a recreation section?

Carl Wambolt – need to include “...and Japanese brome...” when referencing cheat grass.