

# Sage-grouse Habitat Conservation Advisory Council

## NOTES

**Meeting 10: Final Strategy**  
**Location: Montana WILD, 2668 Broadwater Ave., Helena**  
**Dates: January 14 – 15**

### January 14

Council: Bill McChesney, Gary Forrester, Ray Shaw, Brad Hamlett, Paul Callahan, Bob Lee, Jeff Hagener, Tim Baker, Janet Ellis, Jay Gore, Pat Connell, Curtis Monteau, Glenn Marx

Agency:

USFWS – Jeff Berglund, Jodi Bush

BLM – Sandy (Brooks) Leach, John Carlson

DNRC – Monte Mason, Kevin Chappell

USFS – John Hegengruber

FWP – Ken McDonald, Rick Northrup, Catherine Wightman

Public: Rusty Shaw, Randy Robichaux, Eric Detmer, Monica Williams, Mike Rowlands, Matthew Dillon, Lyndon Bucher, Bob Green, Nola Freestone, Hope Stockwell, Richard Brown, Rich Southwick, Mark Lambrecht, Mara Johnson, Sam Milodragovich, Jeff Tiberi

### Welcome

**Jeff Hagener**

- Draft a plan that is defensible; preclude the need to list
- Lesser Prairie Chicken business plan – USFWS approved; still going to list but will give a 4(d) rule so if people buy in to business plan, they are covered that way
- This meeting is largely an Executive Session
- To change or add anything to the November 1 draft, Council must vote in with 75% majority, there are only 11 Council members present, 8 of 11 is 72% so need 9 of 11 to vote something in
- Council agreed at first meeting they would not allow a proxy for votes; percentage falls to the % present

### General Updates

**Tim Baker**

- Thank you for work so far.
- Goals remain unchanged – retain state leadership, develop a structure and process that endures, protection for bird that balances need of economy
- Stewardship Fund – Governor committed to a Fund; funding for private lands actions that can help protect habitat
- Keep in mind long-term goal; western states are in various stages of agreement and disagreement;
- Regulatory authority
  - Don't focus on this;
  - Framework will help Gov Office look at issues of regulatory authority; tell Gov Office what they need to do, they will figure out what regulatory authority is and how to proceed from there;
- Process for finalizing document
  - Meeting on January 29 – formal handoff to Governor, ceremony with Governor in morning, 1 or 2 Council members will present and offer comments, Gov will express appreciation, coffee afterward.
  - Governor will turn around a package in March; after end of January need to draft Executive Order, work on regulatory issues, etc.; the Executive Order will be Governor's decision – becomes

enforceable mechanism; Expected that USFWS will provide some comments on what Governor's Office puts out

- Majority/minority reports, if necessary
  - These are valuable; Governor's Office is aware of public discussion and fraction of issue; maybe at one point they were hoping for consensus; think about role in long-term; don't be disappointed if you can't reach consensus; WY has group of people that are still working on this issue and trying to make it better

#### **Questions of USFWS and BLM from Council**

- None

#### **Summary of Public Comment**

**Catherine Wightman**

- FWP summarized all 377 comments; document was sent to Council members on Friday, January 10
- Organized to correspond with sections in the current Strategy; hope is this will help Council members review comments on a particular section when discussing that section

#### **Draft Strategy**

- Draft Strategy sent to Council (dated January 10) includes language from subcommittees and changes suggested by USFWS. All new language is marked as new and the reason for the suggested inclusion (i.e., "per USFWS letter").
- SMCA and predator sections were not changed in draft because subcommittees will be providing language at this meeting
- The Core Area subcommittee did not provide any recommended edits, so FWP did flag a few areas where USFWS had specific comments in that section.

#### **Subcommittee Report & Council Decision: SMCA**

**Paul Callahan**

- Consensus that concept is good
- Concerns that SMCA inclusion of project areas was "half-baked"
- Subcommittee recommends the specific SMCA's be removed from the strategy now but the process be retained so project proponents can apply for SMCA status. Steps:
  - Define valid, existing rights
  - Process for petition for SMCA status
  - Capped as previously, certain amount of area
  - These current areas deserve priority for designation of SMCA status
  - Timelines for MSGOT to make determinations
- Can keep specific SMCA in Strategy but then need to do a lot of work to justify inclusion; but without full justification, more susceptible to criticism; just using a process is more clean, less uncertainty
- There was considerable discussion among Council about whether retaining specific SMCAs in plan provided more certainty to industry; Coal and Bentonite advocated strongly for retaining specific SMCAs in plan
- Tim Baker recommended Council provides a Statement of Intent to Governor that flags the issue

MOTION – Callahan – Keep SMCAs explicit in plan but within next 10 days receive succinct description of valid, existing rights for each SMCA;

- Industry must provide their justification to FWP within 10 days so it can be incorporated in to the document presented to the Governor. If FWP has not received justification for a given SMCA within this timeline, the SMCA will not be included in the final package.

- Letter from companies stating the nature of their rights is probably sufficient; don't want to go through full review process at this time.

Amendment MOTION – Hamlett – include Elk Basin as SMCA, includes rest of Paul's motion

### **Subcommittee Report & Council Decision: Core Areas**

Bob Lee — “Where there is a conflict...” change language to “where there is a conflict, the specific stipulations will apply”;

MOTION – Bob Lee page 15, line #14, and page 19, line #6 “where there is a conflict between the basic and the specific stipulations for any given activity, the more specific will apply.”

Seconded – Hamlett

Motion passes unanimously

McChesney – page 15, line #4-5 – doesn't like this; USFWS addition so doesn't go in unless someone adds it;

Bob Green – SMCRA should apply, not these stipulations even if they are not as restrictive; MDEQ permit is site-specific, conveying intent of stipulations but not have conflict;

MOTION Marx – page 15, a), i change from “general stipulations” to “basic stipulations” to avoid confusion with general habitat

Seconded – Shaw

Vote passes unanimously

MOTION – Ellis, page 15, line 12 – accept deletion of clause

Seconded

Vote passes unanimously

### NOISE

MOTION – Callahan, keep 10 dBA in there but follow outcome of WY review and litigation and amend plan

Seconded – Ellis

Connell – 10 dBA is not valid; method for measuring is not effective

Paul – without better information, follow WY's lead, send someone to participate directly with noise deliberations in WY; not defending 10

McChesney – say it is not working in WY; they threw out 40 dBA above ambient... as defensible dBA

Vote – McChesney, Forrester, Lee, Connell, Hamlett opposed – motion fails

Rick – OR adopted 40 dBA that were causative by outside noise, so assume this is above ambient

MOTION – Bob Lee, change to 40 dBA above ambient but still follow WY review and litigation and amend plan accordingly

Seconded – Callahan

Attach this study to scientific review appendix so folks understand why a number has been tied to a study

Connell wants this to be an average; doesn't want this to include peak noise

McChesney – how do you take an average at sunrise? Need parameters.

Vote – 10/1 – Connell opposes; motion passes

MOTION – Connell, noise over ambient will be an average according to normal laboratory practices

Second – Hamlett

Vote – Callahan, Shaw, Lee, Ellis, Marx opposed – motion fails

**Subcommittee Report & Council Decision: DDCT revision****Catherine Wightman**

MOTION – Bob Lee – accept changes regarding surface disturbance clarifications on page 17, 21, and 38; to include edits suggested by USFWS.

Second – Janet Ellis

Gary Forrester – has problem with language re: demonstrating that proposed activities will not cause declines in sage-grouse populations in Core Areas; tie it with 3 year monitoring it becomes problematic.

Vote – 10:1 – Forrester opposed; motion passes

**Subcommittee Report & Council Decision: Connectivity****Glenn Marx, Catherine Wightman**

- Connectivity area that USFWS flagged as vital; this particular one, and only this particular one, is proposed to have same stipulations as core habitat and any new connectivity areas proposed will be evaluated by MSGOT;
- Worked with grazing interest & DNRC - this area is identified in range management, OK with including grazing language for this connectivity area;
- Annual migration that occurs every spring or fall;
- What about landowners that didn't see this during public process?

MOTION – Jay Gore – accept language for connectivity

Seconded by Ellis

Vote passes unanimously

**Subcommittee Report & Council Decision: Mitigation****Janet Ellis**

- Sequence of decisions for surface disturbance activities – inserted in to page 15 and page 32
- Intent of avoidance first language is to demonstrate that activities are unavoidable; Army Corp has this same wording for wetlands, and they approve 98% of proposed projects that move forward

Glenn – e.g., when siting a pipeline or power line there would be options for avoiding habitat, but e.g., Otter Creek cannot re-locate coal location so not avoidable; language helps made decisions, not stop projects

Paul – language looks pretty safe; options for showing permitting agency rationale, consider options for minimizing disturbances, etc.

MOTION – Bob Lee – approve changes as written on pages 15, 32 and 40, 41 as written

Seconded – Marx

Discussion about whether following stipulations equates to minimizing disturbance to the extent that mitigation does not apply

**\*\*Subcommittee will add some language about reclamation/rectification – will include Monte**

Bob Green – pg 9, line #8, line 22 – understood this to mean that following stipulations were consistent with minimizing impacts to sage-grouse

Substitute MOTION – Callahan –page 16, line 14 “If project impacts are unavoidable and core area stipulations cannot be met, mitigation measures shall be required...”

Seconded – Hamlett

Vote – 9/1 – Forrester opposed, motion passes

MOTION – Bob Lee, page 32, line 19 “if project impacts are unavoidable and general stipulations cannot be met, mitigation measures may be required...”

Seconded – Ellis

Vote – 8/2 – Forrester, Connell opposed – motion passes

MOTION – Hamlett, page 16 – Add “Mitigation can include reclamation.”

Callahan – reclamation is considered as part of permit minimization; this is what bentonite folks are saying  
Second – Connell

Monteau – reclamation is just bringing back to current state, mitigation is going beyond, so not same thing;  
Ellis – not an offset for impacts, required part of process

Bob Green – using reclamation too broadly; can bring to what was there or enhance beyond what was there;  
Callahan – coal industry might use those terms interchangeably, but here they are talking about the former, which is primarily minimization.

Amended MOTION – change to “...enhanced reclamation.”

Passes unanimously

Janet – move vegetation removal, reclamation and existing activities from ‘core area specific stipulations’ to ‘core area basic stipulations’ – suggestion; no objection.

MOTION – Hamlett – page 41, line 23, “...predicted at high risk of conversion from grazing to farming or non-native grasses or forage;”

Seconded – Gore

Vote passes unanimously

#### **Subcommittee Report & Council Decision: Range Mgmt**

**Glenn Marx, Kevin Chappell**

- Glenn worked with Stockgrowers, MT Farm Bureau, DNRC went through USFWS comments; Kevin came up with language
- Kevin Chappell – comfortable doing this in core and connectivity; doing it in general triples amount of state land covered; Gov would direct to establish criteria for evaluating grazing leases; general leases are 10 years – try to get out year before lease comes up for renewal;
- BLM - #iii is making decisions for federal lands; already have requirements that are different than what is says in document; they can’t change at state level; their recommendation is to delete;

MOTION – Connell, accept language as proposed and amended by Glenn

Seconded – McChesney

Vote – passes unanimously

Amended MOTION – Bob Lee, strike language on federal lands

Seconded by Forrester –

Vote – 8:2 motion passes, Hamlett and Connell oppose

#### **Subcommittee Report & Council Decision:**

**Janet Ellis**

##### **Sagebrush Management, Invasive species (including conifers), Wildfire & prescribed fire**

- Subcommittee – Carl Wambolt, Pat Connell, Ray Shaw, Janet Ellis, but only consensus between Janet and Carl
- Pg 25, #8 – sagebrush treatments – encourage agencies not to conduct treatments; no net conifer expansion; other language suggested by USFWS;
- Pg 26, #9 – conversion of cropland agriculture; recommended remove BIA because they are a federal agency;
- Pg 26, #11 – wildfire and prescribed fire – some edits
- Where cheatgrass, added Japanese brome in a number of locations
- Pg 35, #11 – veg removal – wasn’t a parallel in general and they thought they should add it;
- Pag 35-36 – conifer encroachment – addresses 0.6 mile for removal if identified as problem near lek;
- Pg 37, #15 – wildfire & prescribed burns – case by case basis;
- Bob Lee – BLM does not allow prescribed burns in sage-grouse habitat but could do it on private lands;
- Pg 44, b) edits and response to USFWS

- Pg 48 – just added state agencies directed to adopt recommendations
- Included language to allow MSGOT to determine how case by case specifications might be determined but they wouldn't actually approve each case; it would be agency that would do final determination but they would have to meet parameters established by MSGOT; also changed conifer to 'no net conifer expansion' but also asked MSGOT to come up with what exceptions might be

MOTION – McChesney, page 25 #8 second line, and #35 [sagebrush treatment sections in core and general]  
 "...private lands unless those treatments can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat and are approved by MSGOT."

"...except that ...will not be included as part of 5% disturbance..."

Seconded by Hamlett

Vote – Forrester, Connell, Monteau – oppose; does not pass; revert back to current language

Gore – on behalf of Carl, papers Carl provided that talked about burning of sagebrush, typically doesn't do anything positive for sagebrush;

MOTION – Connell – add Japanese Brome as another invasive species where it says Cheat grass; also add in coal where it says "weeds"

Second – Ellis

Vote passes unanimously

MOTION Hamlett – page 27, 37, line #6 add "Burn outs, back fires, and all other public safety measures are appropriate for fighting wildfires."

Seconded – Connell

Vote – passes unanimously

Re-Introduce MOTION McChesney – pg 25, 35 "...private lands unless those treatments can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat and are approved by MSGOT."

Shaw – seconded

Vote passes unanimously

MOTION – McChesney – page 25 "Sagebrush treatments that have been approved by MSGOT will not contribute to 5% disturbance factor"

Shaw – seconded

Vote passes unanimously

MOTION – McChesney – pg 26, 37 "Prescribed burns will be prohibited in sagebrush habitat in Core Areas unless those prescribed burns can be satisfactorily shown to result in no loss of habitat or be beneficial to sage-grouse habitat and are approved by MSGOT."

Connell – seconded

Vote passes unanimously

MOTION – Marx – page 26, 36 incorporate as worded by subcommittee regarding conifer encroachment & removal

Seconded by Gore

Vote – 8/2 – Forrester and Connell opposed; motion passes

**Subcommittee Report & Council Decision: Predators**

**Glenn Marx, Janet Ellis**

- Handed out new proposed language for this section

MOTION – Marx – accept language as drafted  
Seconded – Lee  
Vote passes unanimously

MOTION – Connell – “state of MT actively pursue the application of a waiver for take of ravens and magpies where Fish and Wildlife Commission identifies appropriate areas”; (note: not exact wording)  
Seconded - Lee  
Gore – hope legislature keeps predator control focused and find funding outside of sportsmen’s dollars;  
Vote – Ellis, Marx, Gore – oppose, 8/3 fails

**Adjourn at 5:45pm**

**January 15**

Council: Bill McChesney, Gary Forrester, Ray Shaw, Brad Hamlett, Bob Lee, Jeff Hagener, Janet Ellis, Jay Gore, Pat Connell, Curtis Monteau, Glenn Marx

Agency:

- BLM – Sandy (Brooks) Leach, John Carlson
- DNRC – Monte Mason, Clive Rooney
- USFS – John Hegenbruber
- FWP – Ken McDonald, Rick Northrup, Catherine Wightman
- DEQ – Chris Yde

Public: Bob Green, Sam Milodragovich, Dave Galt, Mara Johnson, Lyndon Bucher, Patrick Farmer, Hope Stockwell, Jeff Fox, Rusty Shaw, Leo Berry, Gary Weins

**DEQ: Coal Mine permitting in Montana**

**Chris Yde, DEQ**

HANDOUT: All Montana Rules or subsections of Rules

- SMCRA (federal) then MSUMRA (passed 1973); permit is issued only under MSUMRA, exception is ceded tribal land, that one requires dual permit; DEQ does not issue federal permit
- Considerable discussion about effectiveness of reclamation activities, especially for shrub reclamation
- DEQ program will have to operate under guidelines; but coal mining operator and private land owners will have discussions about their agreement

**Subcommittee Report & Council Decision: Coal**

**Bill McChesney, Bob Lee**

- Bob has minor change to language that he will provide to FWP. “The conservation measures will be developed for and imposed on coal mining operations on a case-by-case basis via....” Attach to “...terms and conditions”

MOTION – Bob Lee – proposing language on coal to include change above; in general take out first line and repeat language from core in general, word for word identical;

Seconded – McChesney

Discussion about review process to include FWP

Vote – passes unanimously, 10/0 vote

**Subcommittee Report & Council Decision: Core Areas - continued**

John Carlson – BMPs for noise; ambient is general 20-22 dBA, generally recommending 10 dBA above ambient, therefore resulting in 30-32 dBA measured at perimeter at lek OR direct measure of not exceeding 39 dBA at

perimeter of lek; so 40 dBA above ambient is 60-62 dBA, which well exceeds what has been determined to have impacts to sage-grouse;

Gary – what is BLM doing in WY related to 10 dBA?

John – still using it with addition of language that is allowing it to change as new information becomes available

MOTION – Gore, delete the word “above ambient” on page 18, line 4

Seconded – Glenn Marx

Connell – wind in Livingston alone can be above 40 dBA

Vote – Forrester, Connell, ... 6/4, motion fails

#### Overhead Power lines and Communication Towers

Sam Milodragovich – USFWS recommendations: page 19-20, “perch inhibitors installed...” add “anti-collision measures should be installed within 1 mile of known concentration areas, such as leks, winter ranges, etc. in areas where icing conditions are known to occur”

Perch inhibitor – “Industry and their suppliers are encouraged to develop effective perch prohibitors and if they are identified to be effective, they should be applied ...”

Page 40, line 2 – general habitat, similar wording re: anti-collision

Page 40, line 2-3 – power lines have legal requirements to go out in emergency situations; this would make sense for Council to consider for routine maintenance;

APLIC – schedule 3-4 April to review last draft of document; not putting any distances, timing restrictions in there, deferring to state recommendations but BMPs would be complimentary to those dates

Gary Weins – OK with adding language Sam suggests to existing language but Co-ops strongly opposed to USFWS language, this it is not feasible;

MOTION - Bob Lee – in favor of adding language that Sam recommended but leaving rest of language as it was; “Anti-collision measures should be installed within 1 mile of the perimeter of known sage grouse concentrations areas such as leks, winter ranges, etc in areas where icing conditions are unlikely to occur.

Industry and their suppliers are encouraged to continue efforts to develop effective perch preventers. If effective perch preventers are identified they should be installed within one mile of known concentration areas such as leks, winter ranges etc.”

Seconded – Connell

Vote – passes unanimously

MOTION – Forrester, page 20, line #13, replace “when possible” with “when economically feasible”

Seconded – Monteau

Vote – passes unanimously

MOTION – Ellis, page 21, line 3-4, insert language from USFWS regarding following guidelines

Seconded – Marx

Connell – I don’t know what guidelines are; calling them voluntary, but may not necessarily voluntary;

Ellis – language says “should” so doesn’t actually require it

Vote - Connell, Shaw, Monteau, Forrester opposed – motion fails

MOTION – Lee – create new category of bentonite, peat, scoria, sand and gravel mining – need to follow DEQ

Jeff – would need something in writing for folks to look at; fairly sweeping changes;

Ellis – how important is changing tight center languages?

Richard Brown - ...closer to timing of when mining will actually occur;

Matt Dillon – state does not regulate drilling permits for Bentonite

MOTION – Ellis, change tight centers language, 50x50

Seconded – Lee

Vote – motion passes

Forrester – page 27, regarding operations will cease;

MOTION – Forrester page 28, line 4 add “Operations necessary to provide essential services like delivery of electricity are excluded from requirements to cease activity if it shown to have caused a decline in sage-grouse after 3 years.”

Seconded – Lee

Vote – Opposed – Monteau, 9/1, motion passes;

MOTION – Ellis, page 28, line 7-8

Seconded – Gore

Glenn – if exceptions are not going to cause declines, then what is mitigation for?

Motion withdrawn

MOTION – Marx, “any exceptions...populations or deterioration of sagebrush habitat.”

Seconded – Gore

Vote – 8/2 – Forrester and Connell opposed. Motion passes

MOTION – Hamlett – add “natural occurrences and their effects on sage-grouse and sagebrush habitat will be considered in all cases.” Put this in section 12.

Seconded – Lee

Vote – passes unanimously

MOTION - Marx - “...,however, in the interim the operator, permitting agency, FWP and MSGOT will create additional adaptive management efforts to restore sage-grouse population numbers, base line numbers and restore project operations.”

Seconded – Shaw

Vote – passes unanimously

MOTION – Gary, page 16, line 17, industry has continually asked to revert back to 0.6; Move to re-insert 0.6 mile where 1.0 mile still is; Dr. Ramey contradicts the other science presented; we don’t have any science that 0.6 is not working in Wyoming;

Seconded – McChesney

Gore – read scientific information differently than Gary does; summarizing information from WY – read through this, number that comes up consistently is a 3 mile buffer, 1 mile isn’t biologically as good as 3 miles; derelict in duties keeping it at 1 mile;

Glenn – cannot vote to reduce this, departed in significant ways from WY – eliminated wildfire from DDCT calculation, significantly departed from noise restrictions, there are 9 other states, 0.6 is not magical, disregarded many of the recommendations from USFWS, if continue to diminish conservation of the document, they will fail in their duties

Lee – 1) follow WY plan, excluded industrial areas, if we do that, can’s support this; 2) 0.6 buffer in core and 0.25 in general, can vote for 0.6 in core, do not think this will fly with USFWS, then they will list it and USFWS buffer will be more than 0.6 or 1.0 mile, if industry wants to take that chance, then they can; sacrificing habitat in general but increased in core; if USFWS likes MT plan, then maybe they will say follow our plan and go; will vote for motion but thinks there is a risk;

Connell – Council charged with sage-grouse conservation and economic viability of state; they were not charged with negotiating with USFWS;

Hamlett – keep in mind, this is beginning, best available science is being created as we speak; MSGOT can fine-tune this issue based on new information; understand industry position but don't want to get bird listed; will oppose;

Ray Shaw – information from Legislative Service (handout to Council); don't make it more restrictive than it needs to be; let Governor increase it to 1 mile if he needs to;

Glenn – economic numbers of jobs and contributions from industries; want to keep numbers going up; best way to do this is to do what they can to keep bird under state management; owe it to people whose jobs are reflected in numbers

VOTE – McChesney- y, Forrester-y, Marx - n, Shaw-y, Lee-y, Ellis-n, Hamlett-n, Gore-n, Monteau – n, Connell- yes; motion fails

### **General habitat stipulations**

MOTION – Gore, change 0.25 mile NSO in general to 1 mile NSO

Seconded – Ellis

Vote – 2/7 – motion fails; Gore and Ellis supported

Ellis, Gore, and Wambolt will be part of drafting a minority report for this topic

Jeff – obligation to bring forth a document to the Governor; will make it clear if document isn't fully supported by Council; if there is dissension on parts, will bring that forward to Governor;

MOTION – Marx – page 32, “In part, because Montana 2005 plan, created a 0.25 buffer for leks, and in part because this strategy indicates MT populations appear to be stable, the Council recommends 0.25 mile buffer. ....If NSO buffer appears to be contributing to declines in sage-grouse... FWP and MSGOT should take steps to modify the buffer to prevent future declines.” [Not full language]

Seconded – Shaw

Vote – 5/5 – motion fails, McChesney, Forrester, Shaw, Lee, Connell - opposed

MOTION – Lee, accept language, pg 33, #3

Seconded – Ellis

Vote unanimous

MOTION – Lee, make consistent with core, page 33, #5 including language about follow WY

Seconded – Monteau

Vote 8/2 – opposed Ellis, Gore; motion passes

MOTION – Lee, page 34 include lines 2-3, line 10-12, but not lines 5-6 or lines 13-14.

Seconded – Hamlett

Vote – Forrester opposed, 9/1 – motion passes.

MOTION – Lee, page 35, #10, include USFWS suggestions

Seconded – Gore

Forrester – rated #2 for wind potential in US; effectively precludes new development of wind facility in Baker, if things were to change, MDU and NW Energy would be in ...caution of taking

Gore – more potential is outside of core energy so they are not totally precluding wind development in MT

Hamlett – USFWS is green energy but “blood red” when it comes to eagles;

Motion withdrawn

MOTION – Lee, page 35, #10, add lines 12 and 15-16 but not #11

Seconded – Gore

Vote – 6/4 – Forrester, Shaw, Lee, Connell – opposed; motion fails

MOTION – Ellis, page 35, add lines 15-16

Seconded – Lee

Vote – unanimous

### **Exempt Activities**

MOTION – Lee, accept changes suggested by USFWS in exempt activities, d and e

Second – Monteau

Vote – Forrester, Shaw – no; 8/2 motion passes

MOTION – Lee, page 39, remove “in unsuitable habitat”

Second

Vote – Ellis-opposed; motion passes

MOTION - Ellis – propose that term “rectification” is stricken

Seconded – Lee

Vote passes unanimously

Monte – page 41, line 12-13; concerned about internal conflict within document; need to change to make it consistent with other parts of document;

### **Management Recommendations**

MOTION – Lee, pg 50 WNV; included “per BLM guidance (Appendix X)” but not include addition under b; this motion includes adding BLM guidance as an Appendix

Second –

Vote- passes unanimously

MOTION – Gore, accept language proposed for g) recreation except line a.

Second – Ellis

Substitute MOTION McChesney – “...Accordingly, management of those activities should be such to minimize disturbance as feasible”.

Second – Hamlett

Shaw – leave the entire section out

Motion withdrawn

MOTION Marx – “Adoption of this strategy by federal agencies will be negotiated by the State of Montana.”

Replace “The Advisory Council’s goal is this strategy can be coordinated with federal land managers.”

Second

Vote passes unanimously

### **OTHER ISSUES**

#### **MSGOT composition**

MOTION – Jay Gore – all 3 changes

1. Add “executive level representatives from relevant state agencies....” to include cons groups etc. but all need to be executive level folks
2. MSGOT shall be “appointed by Governor Bullock within 60-days of issuance of EO”
3. MSGOT shall “provide all permit-related recommendations to agencies and issue all permit-related decisions within 120 days of receiving completed applications.”

Callahan - seconded

Substitute MOTION – Forrester, ex. Level people would be Director of FWP, DNRC, DEQ, Dept of Commerce would be executive committee only

No second – substitute motion fails

Back to original MOTION

Vote – Shaw, Marx, Connell – opposed; 7:3 – motion fails

MOTION – Callahan

1. MSGOT shall be “appointed by Governor Bullock within 60-days of issuance of EO”
2. MSGOT shall “provide all permit-related recommendations to agencies and issue all permit-related decisions within 120 days of receiving completed applications.”

Seconded – Monteau

Vote passes unanimously

MOTION – Callahan – The team should consist..., of executive level state agencies, tribes...” [federal agencies removed]

Gore - seconded

Vote – 1 opposed (Forrester); others in favor, motion passes

MOTION Glenn – MSGOT has more and more duties; in this section “The advisory Council recommends that MSGOT meets at least on a quarterly basis”.

Seconded – Callahan

Vote – passes unanimously

MOTION – Ellis, re-insert “federal agencies”

Second – Marx

Vote – Connell, Forrester oppose, 8/2 – motion passes

### **Bentonite mining**

Lee – Richard Brown has provided language

Richard Brown provided new draft language similar to Coal stipulations.

- It simplified things for Coal and something similar could be done for Bentonite; have to get permits from DEQ just like coal
- Went through and substituted appropriate code and statutes for Bentonite, sand & gravel industry;
- **\*\*Substitute for current section 5 (applies to bentonite, peak, scoria, sand & gravel) and that section would be for “all other mining” = a new section 7, pg 21\*\***

Council discussion about ramifications of including this language, especially since it was coming in so late and no one was present from DEQ to explain their permitting requirements.

MOTION – Lee, approve language regarding bentonite as presented

Second – Marx

Vote – Ellis, Gore opposed; 8/2 motion passes

### **Introduction**

A few changes to make it present tense. Accurately reflect process and where Council is at in process.

No objections.

### **Performance standard & Plan Goal**

Discussion of comments and feedback received from USFWS, BLM, public but no changes made.

MOTION – Ellis; page 6-7 additions of performance standards, with clarification of Management Zone  
No second

### **General Provisions**

MOTION -Forrester – page 7, lines 20-21, does not achieve substantive economic growth... “...habitats while concurrently achieving substantive social growth.”

Shaw – second

Marx – will vote no; have tried to find ways to perpetuate economic growth; not a slap of anyone;

Lee – public comment “no action will be as expensive as an ESA listing”

Vote – 3 in favor, Forrester, Shaw, Connell; 7 opposed; motion failed

MOTION – Ellis, accept USFWS suggestions on page 7-8 related to threats, same way as COT report

Second – Gore

Vote passes – 9/1 Forrester opposed.

MOTION – Hamlett, pg 8, line 18-19; “State trust lands have valid and existing rights and responsibilities under Enabling Act at Statehood, November 8, 1889.”

Second – Connell

Vote passes unanimously

MOTION – Gore, page 9, line 2, support removal of (e.g., UGBHEP, Habitat Montana) “The Governor shall direct and prioritize an appropriate amount of state funds available for conservation of habitats for protection...”

Second – Ellis

Vote – unanimous

Pg 9, #5 – discussion regarding “existing rights and activities are exempted” language

Leo Berry –philosophical question; this is one of them; are you trying to exempt “permitted activities”? pg 18 inconsistencies, could have a permitted area but part of it hasn’t been occupied yet, pg 18 seems to prohibit using that area that hasn’t been occupied; Showed map of valid existing rights for GNP but most of them are not permitted; you certainly want to exempt those activities that are already there and have already been permitted; but do you want to extend that to valid existing rights?

MOTION Glenn - #5 “Activities conducted pursuant to a permit or permit application prior to January 31, 2014 will not managed under the stipulations found in this strategy.”

Second – McChesney

Vote – passes unanimously

MOTION – Glenn, #5, retain “provided...” but add last sentence

Second – Monteau

Vote passes unanimously

MOTION – Glenn, page 10, line 8-9 inclusion

Seconded – Ellis

Vote – 9/1 – Forrester opposed

MOTION – Hamlett – “State of Montana will implement a policy of keeping a yearly survey of sage-grouse and leks statewide using agency biologists, wardens, and applicable public.”

Second – Connell

Vote - Passes unanimously

MOTION – “This strategy supercedes the 2005 Montana Management Plan”

Second – Hamlett

Vote - unanimous

### **Definitions**

MOTION – Glenn, accept removal of line 20-22, page 62

Second – Hamlett

Vote – Connell – no; 8/1 – motion passes

MOTION – Glenn, adopt BLM definition for valid and existing rights as a placeholder

Second – Monteau

Vote passes unanimously

Flag for Governor’s legal staff to take a look at;

### **Conservation FUND**

MOTION – Glenn, pag 14, line 1-3; new language,

Second

Vote –passes unanimously

MOTION – Gore, page 14, line 10-11; strike language about “individuals not eligible for funding.”

Second Hamlett

Vote – passes unanimously

MOTION – Glenn “Sage-grouse Advisory Council recommends funding for the Montana Sage-grouse Strategy in the Governor’s budget.”

Second – Ellis

Vote passes unanimously

### **PUBLIC COMMENT**

Lynden Bucher, American Colloid Co and member of WY SGIT – commend Council; past and future operations in Phillips Co is a significant concern; main operations in Carter and Carbon Co. – if they continue to mine in Carter and Carbon without being throttled back, they won’t have a need to mine in Phillips Co.; need to meet demands of customers;

Sam Milodragovich, Northwestern Energy & Sportsmen – Thank you. Asked to do way too much in way too little time; commend the respect shown each other; sportsmen have long funded the bills, e.g., data presented by Rick and Catherine funded by sportsmen; long cooperative process; plan calls for appropriation of funds to support sage-grouse habitat, other options for those funds, e.g., brucellosis funding; a lot of demand on those funds; vigorously defend Habitat MT funds, inadvertently lost some funds, perhaps regain those to support sage-grouse habitat; Proposal to fund 6 FTE – Sage-grouse management and recovery program; there will be a need to back off when funds get tight, carry message forward that everyone needs to pay for this; support viable, fair source for long-term funding separate from sportsmen’s dollars so we are all paying for this; As Governor develop MSGOT, consider local working groups for input which will bring ownerships from local interests – WY using that as well;

NW Energy –federal agencies should be on MSGOT, when they do large project, BLM is part of it and doing NEPA, provides additional burden if federal agencies are not on MSGOT  
Recognize FWP –

Gary Weins, Montana Rural Co-ops – pg 20 and 34, burying powerlines, add language “where economically feasible”

**Implementation (costs, funding sources, timeline)**

Gore – funding should be taken out of “user” funds, not regular FWP funds

**FINAL DOCUMENT**

MOTION – Hamlett, send draft plan to Governor

Second – Lee

Connell – voting for this motion does not constitute support or rejection of the report in total; everyone has areas they did not prevail in; voting to send on is without implication of unanimous support of all elements

Jeff – FWP cover letter will reference that; 3 people will talk to governor

Vote – McChesney - Y, Forrester-N, Marx -Y , Shaw – Y, Lee - Y, Hamlett - Y, Ellis - Y, Gore-N, Connell – Y, Monteau – Y = 8/2, motion passes

Minority report: Ellis and Gore – noise, 0.25 mile, compensatory mitigation in core, new mining; Forrester will not do a minority report;

**Timeline**

Completed package to Council by January 24

Minority reports by January 24

FWP cover letter by January 28

January 29 – Reception to hand recommendations to Governor

**Adjourn at 5:30 pm**