

**MINUTES
MONTANA SAGE GROUSE OVERSIGHT TEAM**

October 27, 2020 Meeting Summary
Virtual Zoom Meeting

Members

Mr. John Tubbs, Chair, Montana Department of Natural Resources & Conservation, Director
Mr. Mike Tooley, Montana Department of Transportation, Director
Mr. Jim Halvorson, Montana Board of Oil and Gas, Administrator
Mr. Shaun McGrath, Montana Department of Environmental Quality, Director
Ms. Martha Williams, Montana Department of Wildlife, Fish and Parks, Director
Senator Mike Lang, Senate District 17
Representative Rhonda Knudsen, House District 34
Ms. Diane Ahlgren, Rangeland Resources Committee
Mr. Patrick Holmes, Governor's Natural Resource Policy Advisor

Staff Present

Ms. Carolyn Sime, Sage Grouse Habitat Conservation, Program Manager
Ms. Shawna Swanz, Administrative Attachment Coordinator

Call to Order

00:05:10 Director Tubbs: Called the meeting to order and announced that the meeting is being recorded and initiated oversight team member introductions.

MSGOT Program, and Partner Reports

00:08:10 Mr. John Tubbs, Director, DNRC

DNRC's Governor's budget report is in final review. The Cares Act has put a strain on the budget; however, Montana is doing better than most states. It is a very, very lean budget due to the economy and declining oil prices. This comes at a difficult time for the Sage Grouse Program. The Program will have exhausted the initial \$10 million allocation at the end of this biennium. DNRC continues to work with contractors to ensure that MSGOT process is sustained and improved.

00:09:37 Mr. Shawn McGrath, Director, DEQ

DEQ is in the same budget situation.

00:09:56 Mr. Mike Tooley, Director, MDT

The budget situation at MDT is better than DNRC and DEQ. The agency has had the best year ever in terms of contractor payments to highway construction companies in the state. MDT is seeing about a six percent decrease in fuel tax collections, however, that is much higher than anticipated. MDT continues to supply road construction projects and highway maintenance activities. The department continues its work with the Sage Grouse Program to improve understanding of sage grouse populations and habitat and mitigation efforts/requirements.

00:11:04 Ms. Diane Algren, Rangeland Resources Committee

Microphone issues being addressed

00:13:12 Senator Mike Lang, Senate District 17

Frequent summer travel in Valley and Phillips Counties revealed a good sage grouse hatch. The large infestation of grasshoppers provided abundant food. Observed sage grouse in cultivated fields sitting on hale bales plucking off grasshoppers. Also, increased presence of predators currently flying through the area is disheartening but understand its part of the ecosystem.

00:14:11 Representative Rhonda Knudsen, House District 34

Constituents expressed dismay with initial mitigation results, but think they came to resolution. Hoping that lines of communication remain open so that issues/obstacles can continue to be addressed and resolved.

00:15:17 Senator Lang: Expressed need to talk with Ms. Sime Sime and John Carlson on road access and right-of-way easements. A county is having trouble getting a permit to go through on an existing road. Would like some answers on that today.

Pause to work on technical issues.

00:16:44 Mr. John Carlson, BLM MT Sage Grouse Implementation Lead

As the result of BLM staff reorganization, Mr. Carlson will soon move into a Branch Chief position for resources and science, however, he will remain the BLM representative for the Oversight Team.

Nationwide, BLM is developing a five-year Assessment Report on implementation of land use plans. All the states have provided reports to the BLM National Operations Center. The Montana portion has been completed. The BLM biologist in the Glasgow Field Office was a great help with compiling the Montana report. Assistance from the Sage Grouse Program staff who devoted time to help with statistics needed for the report was really appreciated.

BLM continues to work on individual projects, including the one in Phillips County mentioned by Senator Lang. Several field offices have worked through, issues, concerns, etc. with the Program to meet BLM obligations in the land use plan, as well as the Governor's Executive Order.

00:19:24 Director Tubbs: In light of Senator Lang's discussion about road work in Phillips County, asked Mr. Carlson for more information about the process used by the project sponsor, BLM and MSGOT to uploaded data and information on to the Program's website. How then does BLM work with resulting data provided by the Program?

00:19:48 Mr. Carlson: Explained that one of the BLM field offices/staff is assigned to a project and then work directly with the MSGOT program. The pertinent information is provided either by the proponent and/or with assistance from the BLM and is submitted to the Program, so environmental assessments can begin. There is a disturbance cap in the BLM Land Use Plan for Priority Habitat Management Areas that needs to be met. The mitigation obligations and the Program help BLM assess what those should be as the projects work through NEPA and the approval process. There is a strong coordination at that initial level to make sure BLM is using the same information to make decisions to meet Land Use Plan obligations, but also that same information is used to assess the Governor's Executive Order to ensure BLM is meeting those obligations as well. This works well. When BLM has both state and federal permits involved it is less straightforward than when there are only BLM permits involved. Particularly centered around the mitigation component because there were some policy changes in national level direction versus what BLM has in current Land Use Plans from 2015. As issues come up and are identified by field staff, BLM works through the Program with the proponent to address those issues and concerns to ensure that Land Use Plan guidance is met and also assist proponents in moving ahead with their projects with appropriate design features, mitigation, etc. to meet that BLM Plan requirement.

00:21:58 Director Tubbs: Called for questions for Mr. Carlson.

- 00:22:10 Senator Lang: Expressed concern in Phillips County that we have the need for the Federal Lands Access Projects to get gravel. There is a pit on the Valley County Phillips County line. There is a road there that is called Carnahan Road. I think it goes through some state land also but there is an approval for the right of way from the State of Montana and I thought in our last MSGOT discussions we gave any work that was going to be done within a right of way on a road an exception so that project was not going to have mitigation. From what I am hearing, the county commissioners are being told by BLM that they are waiting to hear from the Sage Grouse Program. That's all the details I know, but I would have thought that if there is a road easement already there, they could work within it. The BLM or commissioners mentioned that there are a couple historical sites or something that the BLM might need to work around. Just wanted to let you know about that, John or Ms. Sime, whoever wants to pipe in here.
- 00:23:45: Director Tubbs: Said there will be opportunities off-line to go into detail. Invited Ms. Sime to respond.
- 00:23:52 Ms. Sime: Explained that one of the things we are trying to understand about the Carnahan Project is whether any state permits would be required at all. At this point in time, I don't know if the details of the project have been ironed out to the point where that can be determined. Once we know whether state permits would be required, then we would proceed accordingly.
- One additional clarification: the June MSGOT meeting addressed mitigation for projects that would be implemented through trenchless methods --fiber optic, minor pipelines, those types of projects. There was a facet of that policy exception that did deal with rights of way, but only for projects that would use a trenchless method for buried features like utilities. I think our next step, will be to schedule a meeting with the local BLM and the county commissioners so that we can endeavor to get the details of the project and to at least discern whether or not any state permits will be required. Enough of the project has to be nailed down to determine that much. If additional archeological surveys are needed those would need to be completed before the final route is determined. There are a few more areas of research by all parties first and then we can decide what the appropriate next steps are.
- 00:25:40 Director Tubbs: We will certainly keep track of that as roads and gravel pits are common across the state. We've got to plan this one correctly. Thank you for bringing it up Senator.
- 00:25:45 Director Tubbs: Call for any other questions for Mr. Carlson?
- 00:26:02 Senator Lang: I guess I would ask Director Tubbs where do you think we could go with this issue or when can we talk about it? I think, if this is the case, then we as the committee have to address this, because this could be a problem for any county road that needs work. If there is an easement there and they stay within the easements and it's been there (for this one since 1920) I'm questioning whether since 1920 if we make any changes in there or stay within the easement. Why that can't just be done. Especially when it's the state and these counties have federal grants; they need to get out the door to get gravel on the roads for whatever the federal fund public road process is.
- 00:26:56 Director Tubbs: Asked Senator Lang to repeat the name of the road.
- 00:21:28 Senator Lang: It's called Carnahan Road. It runs from Philips to Valley County across the Valley County line. It is used by recreationists and farmers and ranchers all the time. I think they wanted to do some improving because they are going to haul some gravel out of that pit, so that the trucks can be a little safer.
- 00:27:29 Director Tubbs: And you're right. That is part of the discussion Director Tooley has been working with the Program because the Department of Transportation faces similar issues across the state.
- 00:27:42 Senator Lang: I think we have to address whatever is being done for the public good, as long as it is preexisting, we better work on that and get that ironed out.
- 00:27:57 Director Tubbs: Called for any other questions for Mr. Carlson. None.

- 00:28:05 Director Tubbs: Verified Ms. Ahlgren's audio problems were resolved.
- 00:28:16 Director Tubbs: Thanked Mr. Carlson for the BLM report.
- 00:28:36 Ms. Diane Ahlgren, Rangeland Resources Committee Report
- We've had a good year for the birds, I believe. It seems like they have seen quite a few in our area. I would have to say we have seen more prairie chickens than sage hens.
- 00:29:16 Mr. Patrick Holmes, Governor's Natural Resource Policy Advisor
- Added thanks to all the partners and the staff. It's a busy season for everybody and pleased at the progress being made.
- 00:29:45 Ms. Sime: Instead of Mary Manning from the U.S. Forest Service, we have Josh Hemenway. We are in the process of getting him online for the Forest Service report.
- 00:29:55 Director Tubbs: Discussed the HQT, policy modifiers and HQT scores and importance of avoidance and minimization when projects are planned. There is a learning process and oftentimes a back and forth with new project sponsors as they are educated on how to reduce impacts and what can be done to mitigate impacts on their own beyond payment to the Account.
- 00:33:34 Director Tubbs: Invited Ms. Sime to review the process for public comment from attendees.
- 00:33:45 Ms. Sime: Explained the process within Zoom and reminded the public of the opportunity to provide written comments for the next two weeks.
- 00:33:55 Mr. Josh Hemenway, Wildlife Program Manager, Custer-Gallatin National Forest
- [PowerPoint presentation](#)
- 00:47:34 Director Tubbs: Called for questions from MSGOT members for Mr. Hemenway.
- 00:47:41 Director Tubbs: With the cross-boundary priorities that the USFS set in the plan, are there any granting programs or partnership with NRCS that involve private landowners in southeastern Montana? This is an area where MSGOT has not generated its own credits. Denbury has created its own credits by working with Montana Land Reliance which put a ranch into conservation easement. Denbury is using those credits to provide mitigation for their own projects. In its cross-boundary work with private landowners, is the Forest Service able to prioritize any projects that could generate credits?
- 00:49:02 Mr. Hemenway: Yes, I believe so. This is part of the goal to work collaboratively with landowners and with the State in order to meet all the different conservation objectives. There is not a lot of sage grouse habitat on the Custer Gallatin National Forest, but it is a possibility going forward to use that as a tool to develop credits.
- 00:49:29 Director Tubbs: One area that always catches my attention in the type of landscapes you manage is conifer encroachment. I know that is one area where private landowners could use assistance to defray the costs of different approaches to conifer encroachment, especially where you can't use fire as a technique for tree removal because you are in deep sage grouse country. You must manually take out each tree. I know that this is an area that we can generate credits. Landowners may not know to contact the Program when those good benefits can happen. Because you are an educated member of the community, I ask for you to remember that your private partners may be generating credits as they work on projects along your boundaries. If they are interested, I am sure the Program would be interested as well.
- 00:50:49 Mr. Hemenway: Thanked Director Tubbs for the information.

- 00:50:55 Director Tubbs: Called for any additional questions from the committee.
- 00:50:57 Ms. Ahlgren: Asked Mr. Hemenway if grazing is part of the management plan. It has been shown that grazing is very beneficial for sage grouse when done properly and with fire mitigation.
- 00:51:30 Mr. Hemenway: Yes. Today I have presented the wildlife specific plan components, but a grazing section discusses grazing with the intent of maintaining healthy communities and benefits to wildlife and fuel reduction, etc. It is part of the plan. I did not present those specific plan components. The plan is far more interactive than what was presented today. Typically, the vegetative management sections include statements such as: “maintain the landscape within a certain desired range of natural variability” that breaks down into wildlife, range and some of the other resource areas that have specific plan components to address grazing and fire.
- 00:52:40 Director Tubbs: Called for any additional questions.
- 00:52:42 Senator Lang: There have been numerous wildfires in the area. Do you have any documentation of how sage grouse habitat has been affected by fire over the last 10-15 years?
- 00:53:23 Mr. Hemenway: A good example would be the Ashland Ranger District where they have experienced extensive amount of burning over the last 10 years. As a result, we have mapped and do track all the potential loss habitat from those fires. Currently on the Ashland Ranger District, we do not have any active leks. There has not been activity for some time. I don’t believe we have any active leks on the Custer-Gallatin Forest currently. While we track that information, we have not been able to correlate that with impacts to sage grouse. Given the lack of activity per se of sage grouse on the Custer Gallatin National Forest, it is a tough question to answer. However, we do have acreage and have mapped fire boundaries and disturbance areas.
- 00:54:52 [Ms. Catherine Wightman, Montana Department of Wildlife, Fish and Parks: 2020 Greater Sage-grouse Population Report](#)

As a reminder, FWP monitors sage grouse by counting male birds on their display grounds (leks) in early spring and then we use these counts to reflect trends in the populations. We have consistent data from 1980 that we use to understand these long-term monitoring trends and we use these data to make management decisions that the Department has authority over, such as hunting seasons. We use these longer-term trends and compare those relative to our longer-term averages. We work with our partners to survey many leks as possible each year. This helps provide some robust information across the state.

In the meeting packet is the [2020 Greater Sage-grouse Population Report](#). This report is prepared in compliance with HB211 which requires an annual population estimate of how many birds are in the state and a count of the number of leks. We work with the University of Montana to estimate the number of birds. We use lek count data and mixture models based on certain assumptions. We also estimated the variation around the population estimate so that we have an idea of how confident we are in the estimate. We have 95 percent confidence that the actual estimate is somewhere within the light blue area on the graph. For this analysis we can go back to 2002. We do have data using this technique back to the 1980s.

The population estimate this year is 77,977 sage grouse. This is an increase over the last couple of years and likely the result of favorable weather conditions in 2019. I suspect this positively influenced food resources, which will lead to higher survival and higher recruitment.

From what we heard from Senator Lang and Ms. Algren; it sounds like we may have had another good summer for food resources. We can be optimistic. Depending on the winter, we may have another strong year next year.

We took our first attempt this year to step reporting down to look at regional trends. It is outside of the population report here, but just a few weeks ago we worked with the BLM and generated some estimates and monitoring reports for the three main populations in Montana: north Montana, Yellowstone, and southwest Montana.

The 2020 report also indicates that Montana has just shy of 1,000 confirmed active leks.

- 00:59:57 Director Tubbs: Called for questions from MSGOT members.
- 01:00:10 Director Tubbs: I noticed that the blue “confidence” area is wider when the population rises and narrower when the population decreases. What drives that?
- 01:00:38 Ms. Wightman: The confidence intervals are based on the standard error. When there is more variation in the data, we are going to have bigger confidence intervals. In years when our numbers are down, they are typically down across the board. We are not seeing big leks anywhere; the numbers are more consistent. In years when we are having higher numbers, we get more variation in the counts. We are getting big leks and smaller leks and more burns on the landscape.
- 01:01:28 Director Tubbs: That makes sense. When it has gone bad, it has gone bad for everybody; when it gets good, only some of the populations are responding and others haven’t had the habitat turn toward the food supply quite as well or maybe it was a tough winter in one spot and not another.
- 01:01:43 Ms. Wightman: Possibly, or that in good years we see satellite leks that will be attended by just a few birds. In addition to having some high numbers on some of our longer-term leks, we get leks that are only occasionally used with just a few birds so, again, you get this wider spread of numbers that are reflected in the report.
- 01:02:11 Director Tubbs: Thanked Ms. Wightman for the report and asked for any additional questions.
- 01:02:31 Director Tubbs: Took a question from the public from the Zoom Q & A. “How does that compare to sage grouse populations of other states?”
- 01:02:47 Ms. Wightman: Based on reports from other states this year, we have seen a significant increase in our statewide numbers compared to most of the other western states. Many states saw their population numbers remain relatively stable. Montana had the strongest up-tick this year.
- There is considerable concern about the populations in Washington state due to recent fires, but that won’t be reflected in their 2020 spring count data.
- 01:03:31 Director Tubbs: One of the things that the drought advisory committee recently discussed is the extreme drought now occurring in southeastern Montana. (D3 categorization on the NOAA Drop Map). The range conditions in an area that would receive 14-20 inches of rain annually look more like the driest of the dry of the Breaks Country where nine inches of moisture is a good year. There are pockets in southeastern Montana that are very bad. Conditions where it is not going to support a lot of food for anything because it is so dry. We will see if it can recover, but next spring this is an area that is of high concern in general.
- 01:04:37 Ms. Wightman: As we continue to work on trends at a regional scale, we hope to identify concerns for sage grouse in any of those areas.
- 01:04:43 Kyle Tackett, USDA-NRCS, District Conservationist, Dillon
- Ms. Sime: Reported that Kyle Tackett and NRCS provided a [written report](#) and [Infographic](#) that was included in the meeting materials. She conveyed Mr. Tackett’s enthusiasm for the work that NRCS has planned in Montana and that he hopes to join MSGOT at a future meeting.

01:05:19 Director Tubbs: In Montana, NRCS has stepped up big in sage grouse country. As measured by the federal government, they lead the nation in sage grouse habitat improvements. NRCS also continues to do good work with private landowners to conserve sage grouse habitat and to provide technical and financial assistance to producers across the state. MSGOT appreciates NRCS' efforts.

Modified Mitigation Policy Approach for Unsuccessful Oil & Gas Wells (Dry Holes) if Properly Plugged and Abandoned

01:06:12 Director Tubbs: This is a unique issue for the oil and gas industry due to the speculation that is built into oil and gas. We don't know what is under the earth's surface until we put a hole in it. Dry holes are real, and this is an approach to try to balance the MSGOT mission with the producer's actual results, post approval.

01:06:47 Director Tubbs: Invited Ms. Sime to introduce the topic.

01:06:58 Ms. Sime: I will also look towards Mr. Halverson to help carry this agenda item.

This addresses circumstances that are unique to the oil and gas industry, as described by Chairman Tubbs. The scope of this agenda item is limited to this project type. When oil and gas proponents decide to offset the impacts of their projects through the Stewardship Account, that choice is discretionary on their part. Proponents could also implement permittee-responsible projects, but the focus today is on the Stewardship Account mitigation option.

Impacts are calculated using the Habitat Quantification Tool and we work with project developers to minimize impacts so there are as few multipliers as possible. However, in the end, some wells are not successful.

The underlying goal is to try to find a way to account for the fact that once a developer discovers that their effort is not going to produce quantities at an economically viable level, the developer removes all infrastructure from the landscape and the site is reclaimed. At some point that developer then works with Mr. Halvorson's group and the Board of Oil and Gas to demonstrate that reclamation efforts have satisfied any requirements of the Board and the Board's rules. At that point in time, the developer would be eligible to come back to MSGOT and request a refund of any funds that they provided to offset their impacts to the Stewardship Account. The modified approach accounts for and better aligns the duration of impacts on the landscape with the mitigation obligation, and accounts for the fact that if the well is unsuccessful and the site is fully reclaimed, those impacts no longer exist on the landscape.

[Process to Implement](#) flowchart was presented. The flowchart reflects, at a high level, the overall workflow and shows the coordination between the Program, Mr. Halvorson's group and the Board, and DNRC. Some implementation details have yet to be finalized. The policy modification is specific to oil and gas and includes a two-year time horizon within which developers can request a refund.

01:11:00 Ms. Sime: The Program recommendation is that you do approve this proposed policy modification specific to oil and gas wells when they are not successful.

01:11:17 Director Tubbs: Invited Mr. Halvorson to respond.

01:11:23 Mr. Halvorson: This policy is necessary. The number of successful wells is generally low. Historically, one in 19 wells are successful. The real issue is contributing to the Stewardship Account for 30 years of activity that is not going to occur when a well would move directly from the construction phase to the reclamation phase if dry.

There are some issues that we are going to have to work on. There were some changes made in the draft exhibit that was sent out to the members after I had the opportunity to review them a couple of weeks ago and those deal primarily with the timing of when the payment is made to the Stewardship Account and when the Board issues its permit to drill to the operator.

I haven't had the opportunity to get an attorney review on this yet, but our permit to drill is authorization to drill the well. The way the proposed language is, we would issue our permit and then we would wait for a contribution to be made to the Stewardship Account before the developer could drill their well. One of the complexities in that is that it moves our enforcement of that payment requirement to the field (to see if the payment was made prior to actual drilling of the well). There is no office-related stop point required of the operator between the issuance of a permit to drill and the actual drilling of a well.

Another issue to consider is wells that are never drilled. There may not be surface disturbance and the permit possibly expires [i.e. the Program completes a review, the operator decides on the Stewardship Account option, obtains a permit but does not actually drill].

I reviewed our current expired permits and over 50 percent of those have a location built, even though the well was never drilled. We will handle this issue with Ms. Sime in the future to take care of our notice to the Program so that everybody is aware of the status of a permitted well.

I support it conceptually. We will work on the little notification issues in order to make this work, if adopted.

01:14:11 Director Tubbs: Called for public comment.

01:14:49 Mr. Alan Olson, Montana Petroleum Association: I am pretty much in agreement with Mr. Halvorson. A few things need to be worked out. I will work with Mr. Halvorson and communicate with Ms. Sime, as well. This is a step in the right direction.

01:15:37 Director Tubbs: The chart presented today is a simplified version of a more complex chart that Mr. Halvorson reviewed for the Program. The questions here lie with another chart that we are not approving within the policy having to do with financial timing, permitting details, check collection, project launch, etc.

Contributions are typically made after permits are issued, but before implementation. Projects can be suspended or cancelled so we must be sure the project is in process before money is collected. Once the project is permitted, a deposit to the Stewardship Account or generation of mitigation credits is provided.

This policy applies when an operator drilled an unsuccessful well. Currently HQT generates 30 years of active operation on that dry hole, but there are no operations. The new policy allows for a refund to the operator in this case.

01:17:28 Director Tubbs: Invited Ms. Sime to respond to the issues.

01:17:33 Ms. Sime: No concerns about trying to figure out the precise timing of how this can work, given the existing authorities and frameworks for the Board and Mr. Halvorson's review. The main point is that it would be inappropriate for money to be deposited in the Stewardship Account for projects that are not implemented. At some point, after a developer obtains their permits, it will become clear whether they are going to move forward with the project right away or whether they will wait for more favorable market conditions or for the spring weather to break into summer or for some other reason there is a delay before a project is actually implemented. All those details can be worked out within the existing authorities of the Board and in a way that streamlines it as much as possible for the Board and it is convenient for developers.

01:18:29 Director Tubbs: Called for questions from MSGOT members.

- 01:18:39 Ms. Ahlgren: This looks like a good modification that needs to be taken care of, once the details are all worked out. The one thing I would point out at the bottom of the summary page, it talks about the site needs to be properly restored according to the laws and regulations implemented by the Board. I wanted to comment that we have had personal experience where a site(s) was not restored back to native seeding. I would want to make sure that when it is properly restored, it would include what has been agreed upon by the landowner and the oil folks.
- 01:19:49: Director Tubbs: Invited Mr. Halvorson to respond to Ms. Ahlgren's comment.
- 01:20:03 Mr. Halvorson: I believe the seed mixture is in the Executive Order and probably included in the Sage Grouse Program recommendations. That is an issue that we have had to address in the past. Some counties recommended seed mixtures that are different from native seed mixtures due to the speed at which it re-vegetates. The Sage Grouse Program has probably clarified this now that it is in effect.
- 01:20:51 Ms. Ahlgren: This has been several years ago, so it has probably been cleared up. I just need to make sure that land is properly restored with native seed mix in mind.
- 01:21:20 Director Tubbs: Called for any additional questions or comments by MSGOT members.
- 01:21:27 Director Tubbs: I would entertain a motion.
- 01:21:32 Senator Lang: One of the things that I experienced in my consulting work for gas companies in northeast Montana was that even though nothing had ever been growing in a specific area—no sagebrush or grass due to sodium levels in the soil, the company was required to re-seed because adjacent lands had grasses and sagebrush. There are just some soils that will not vegetate. We did work this issue out with the BLM. Some common sense must be put into the equation of reclamation.
- 01:23:03 Director Tubbs: This is a shared responsibility. The Sage Grouse Program, with the limited staff, can't get too granular. Under his regulations, Mr. Halvorson has authority in terms of what a properly abandoned and reclaimed site looks like. While neither of the offices have a large staff, between the two of them, I think they can get the job done and understand what you are talking about.
- 01:23:35 Director Tubbs: I believe the policy that we are approving is sufficiently described, the implementation of that policy needs to be clarified among Mr. Halvorson, Mr. Olson and Ms. Sime. The general concepts are good. It does address the issues with the industry and is fairly addressed so we do not take money from an oil and gas developer, when the impacts that were paid to mitigate during operations never in fact occur for dry holes. It is important for equity and fairness to have this pass.
- 01:24:21 Director Tubbs: I would again entertain a motion to a adopt the Modified Mitigation Policy Approach for Unsuccessful Oil & Gas Wells (Dry Holes) if Properly Plugged and Abandoned.
- 01:24:26 Senator Lang: I would make a motion to accept this modification.
- 01:24:30 Director Tooley: Second.
- 01:24:35 Director Tubbs: Called for any further discussion.
- 01:24:39 Director Tubbs: Welcomed Director Martha Williams to the meeting.
- 01:24:58: Director Tubbs: All those in favor, say aye. Voice vote.
- 01:25:04 Director Tubbs. Any opposed. None.
- 01:25:07 Director Tubbs: Motion passes.

Sage Grouse Habitat Conservation Program Report and MSGOT Adaptive Management Discussion

- 01:25:21 Director Tubbs: The Program does want to get direction from MSGOT. This meeting may not finalize recommendations. The presentation is your introduction to the types of priorities that we need to set forth for the Program staff so that they can have a productive year and address the priority issues as MSGOT sees it. We do have upcoming meetings to finalize recommendations.
- 01:26:00 Director Tubbs: Invited Ms. Sime to present the Program Report.
- 01:26:13 Ms. Sime: Welcomed Director Williams.
- 01:26:21 Director Tubbs: Welcome Director Williams.
- 01:26:32 Director Martha Williams: I'm sorry to have joined late.
- 01:26:59 Ms. Sime: My presentation will highlight the results of the 2019 Annual Report. I will plant some seeds for your discussion around adaptive management to the extent that we can explore some key priorities and perhaps carry that into the next meeting.

The 2019 Annual Report was prepared as an all-hands effort. Thank you to everyone. Montana's success is a collective effort.

Reported to MSGOT members that the 2018 Annual Report has been completed and will be on the website soon.

The 2019 report is today's focus. This report is specific to a discrete point in time between January 1 and December 31, 2019. The data are extremely dynamic. We pause, look at the information for that specific window of time, glean any lessons we can, and then move forward. For this report we are considering completed reviews for any development projects where the program completed its work by December 31, 2019. We also include credit projects that have either been closed, representing Stewardship Account grants where those projects have closed and recorded with the county or permittee-responsible projects implemented by developers as of December 31, 2019. This period of time represents the first full year of implementing a mitigation framework. I will cover a few slides under each of these three points.

We will do a primer on our goals, strategy, and framework. We will talk about the workflow and cover a few key concepts of mitigation. I also have a few slides in each of those data areas. We will talk about some key findings and then shift into the adaptive management discussion.

[PowerPoint presentation](#) – Pages 1-17.

- 02:06:18 Director Tubbs: That information is a lot to consume. I need to review the information to help me understand what the priorities and next steps are. In order that MSGOT members and the public don't feel like we are moving too quickly, we will wait until the next MSGOT meeting to weigh in on priorities and come up with a good set of tasks and work to do for the next year to take this Program into 2021.
- 02:07:33 Director Tubbs: Asked for questions.
- 02:07:53 Ms. Sime: Remarked that she is in absolute agreement with the director. It has been a long time in its development and preparation. The PowerPoint presentation and everything from today's meeting is available on the Notes link in the MSGOT web archive. The full report will also be made available on the website in the coming days.
- 02:08:34 Director Tubbs: Private landowners were mentioned a couple of times in the presentation as the cornerstone of how we can generate credits. The State Trust lands, or other state lands could also generate credits, for example, a conifer encroachment project. The federal agencies, while they may not count their conservation investments as credit, their work is critical to the overall goal of habitat

conservation and being able to meet the test in a five-year status review (or whenever that status review is). While we don't generate credits for HQT debit offset, those federal investments are being tracked and will be important as a measure of meeting the overall goal, which is protection of the bird and its habitat into the future.

While you hear us talk a lot about private land that's because these are the financial transactions those other investments are going to be key. Finally, it is the project as it interacts with the habitat that drives the credits or debits. The same project in poor habitat will generate a different number than the project in high quality habitat. Compliance with stipulations will not trigger multipliers. Projects that move forward and trigger the multipliers will cost more. It was a conscious decision when we adopted the rules, and in fact it is baring out now. If you put a project through Core habitat that has significant impacts, it will generate a large debit.

One of the key things to remember is that in Montana that type of project can move forward by providing mitigation. In other states, like Wyoming, that project would not be allowed in the corridor. All of what we learned three years ago, and how we got to the policies and HQT that we adopted in 2018, is playing out as expected, in my view. If you are in the middle of the Core and you have a long and impactful project, it is generating a lot of debits. If you are avoiding minimizing and staying out of Core habitat, your project is not generating those debits and that is reflective of protection of the birds.

I think the policies and statutes are being implemented. So, as the US Fish and Wildlife looks at Montana, we will stand out again as a strong leader in protection, thereby keeping the bird managed by Montana and not turned into an endangered species under the statute.

02:12:23 Director Tubbs: Invited Ms. Sime to present the Adaptive Management Discussion.

02:12:30 Ms. Sime: [PowerPoint presentation](#) – Pages 18-20.

02:23:38 Director Tubbs: I want to put it in context. MSGOT and Program staff continue to work on SB299 implementation. We are still working with MDT on operation and maintenance and implementation on Sections I and Section III of SB299. This will also help address the county road issues as to maintenance vs. expansion. The Program is also continuing to review development projects. When you are looking at the two charts of potential priorities for new, focused efforts into the next year, it is within context that the Program is not going to stop doing what it is currently doing. We are talking about new additional work. The basemap adjustment seems like a very reasonable and timely thing to do to keep it present. For example, the fire landscape changes from 2016 to 2020 are not being reflected in the data today. The data also probably does not reflect the recovery of fires that happened from 2010 to 2015. Consider the Ashland area and type of recovery that some of that landscape has seen since it burned. Some of it burned again in 2012. So that seems like a good one.

I question the third level analysis, not because it isn't contemplated in our rules, but it is a big lift for staff. We should pick one or two things to put on the shoulders of the staff that we think can be accomplished. I would like to get them all accomplished. But there is a limit that we consistently face—what can the staff improve upon while maintaining its effort to review new proposed development projects on time. It is the same group of people.

02:26:04 Director Tubbs: Called for public comment.

02:26:21 Director Tubbs: Second call for public comment.

02:26:28 Director Tubbs: Call for discussion by MSGOT members.

02:26:37 Director Tubbs: Reviewed the slides noting the two priorities of basemap revision and working with stakeholders, MSGOT, and permitting agencies on a feedback mechanism. There will be an agenda item on the next meeting to set the priorities for the Program.

These abbreviated summary minutes and the audio recording will become the official adopted minutes at the next Montana Sage Grouse Oversight Team Meeting when they will be approved. Until then, they are considered a draft.

- 02:27:42 Director Tubbs: The Program will re-send the ideas to MSGOT members so they can review prior to the next meeting.
- 02:28:21 Director Tubbs: Called for final round of public comments.
- 02:28:34 Director Williams: I concur with that plan. I appreciate the presentation and some time to revisit it. At first blush, it sounds like really sound priorities.
- 02:28:56 Director Tubbs: Called for public comment for any item not on the agenda.
- 02:29:30 Director Tubbs: Call for additional public comment. None.
- 02:29:41 Director Tubbs: Asked Ms. Sime to clarify public comment opportunities.
- 02:29:51: Ms. Sime: We invite comments via email.
- 02:30:04 Director Tubbs: I just want to remind the public that even though we adjourn there is still opportunity to provide comments to the Program.
- 02:30:16 Director Tubbs: Will take motion to adjourn.
- 02:30:18 Senator Lang: So moved.
- 02:30:20 Director Tubbs: Called for a Second.
- 02:30:21 Director Williams: Second.
- 02:30:22 Director Tubbs. Second. All those in favor. Passed unanimously.
- 02:30:31 Director Tubbs: This meeting is adjourned.

Chair for this meeting:

/s/ John Tubbs [approved by MSGOT December 14, 2020] x

Director John Tubbs