

**MINUTES
MONTANA SAGE GROUSE OVERSIGHT TEAM**

February 24, 2021 - Meeting Summary
Virtual Zoom Meeting

Members

Mr. Michael Freeman, Chair, Governor's Natural Resource Policy Advisor
Ms. Amanda Kaster, Montana Department of Natural Resources and Conservation, Director
Mr. Malcolm Long, Montana Department of Transportation, Director
Mr. Jim Halvorson, Montana Board of Oil and Gas, Administrator
Mr. Christopher Dorrington, Montana Department of Environmental Quality, Director
Mr. Hank Worsech, Montana Department of Wildlife, Fish and Parks, Director [Absent, Dustin Temple proxy]
Senator Mike Lang, Senate District 17
Representative Rhonda Knudsen, House District 34

Staff Present

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

Call to Order and Administrative Matters

- 00:00:09 Chair Freeman: Called the meeting to order, welcomed MSGOT members, representatives of Clearwater Energy Resources LLC, and the public.
- 00:00:18 Chair Freeman: In the interest of time will defer MSGOT orientation until a future meeting.
- 00:35:43 Chair Freeman: Read Section 1.1 of the Policy Framework to review duties for the meeting today:
- The implementation of full mitigation hierarchy or mitigation sequence, which is avoidance, minimization, reclamation, and compensation using a systematic approach. Directly and effectively address the threat of habitat loss, degradation, and fragmentation, while at the same time allowing development and economic activity. The specific goals in our mitigation decision making are to maintain viable sage grouse populations and habitat, support rangeland health and provide an approach that is flexible, predictable, transparent, equitable and science based, so the state of Montana, federal agencies, and all parties engaged in the mitigation system can make informed, proactive decisions.

Introductions

- 00:01:30 Chair Freeman: Initiated introductions of the new MSGOT members and DNRC staff: Director Amanda Kaster, DNRC; Director Malcolm (Mack) Long, MDT; Director Chris Dorrington, DEQ; on behalf of FWP Director Hank Worsech—Dustin Temple, Deputy Director, FWP; Senator Mike Lang SD17, Representative Rhonda Knudsen HD34; Administrator Jim Halvorson, DNRC Oil & Gas Division; Sage Grouse Conservation Habitat Program Manager Carolyn Sime, DNRC; Shawna Swanz, DNRC.
- 00:04:03 Chair Freeman: Would like to observe Parliamentary Procedure and Roberts Rules of Order for the meeting. Majority of MSGOT members are present. There is a quorum. Prepared to take executive action today. There will be opportunity for public comment. Provided Zoom virtual meeting instructions.
- 00:05:15 Chair Freeman: Called for questions from MSGOT members. None.

Clearwater Wind Project Proposed Mitigation

00:05:22 Chair Freeman: Called for introductory remarks from Director Kaster and outlined format for today's meeting.

00:05:59 Director Kaster: Today's agenda item is to consider a mitigation plan from Clearwater Energy Resources LLC that provides a combination of cash and a corporate guarantee for the proposed Clearwater wind project.

Clearwater has proposed a wind facility to produce approximately 750 megawatts of energy at full build-out along with an approximately 100-mile-long transmission line that would interconnect to the electrical grid through an existing substation near Colstrip, Montana.

Additional infrastructure associated with the project includes roads, underground electrical collection and communication systems, substations, an operations and maintenance building, three meteorological towers, temporary workspaces for construction and lay down areas, and a concrete batch plant.

In February 2021, the Program issued an analysis, and Clearwater submitted a mitigation plan, which includes an initial cash contribution and a corporate guaranty component, accounting for Program and Clearwater differences in interpretation on how policy multiplier should be applied. Clearwater seeks to initiate construction in summer of 2021 and is requesting approval of the mitigation plan from the Montana Sage Grouse Oversight Team to secure necessary state permits, while the parties determine Clearwater's final mitigation obligation.

Clearwater will offset impacts of the project through a contribution to the Stewardship Account in lieu of undertaking permittee-responsible mitigation. Clearwater has voluntarily offered and requests that MSGOT approve and accept an initial cash contribution with corporate guarantee now to enable the permitting process to move forward.

Clearwater would make an initial account contribution of \$2,634,843.13 prior to initiating construction activities—that is the equivalent of the cost of the credits that would be required to offset the number of functional acres lost over the life of the project (i.e. the HQT Raw Score). A corporate guarantee in favor of the State for \$3,802,595.50 would then be provided by Clearwater. The maximum amount represents the outer limit of any remaining mitigation attributable to policy multipliers that could reasonably be anticipated under the Program's analysis. This ensures that sufficient funds would be available for a future contribution once the final mitigation outcomes are determined in the coming weeks.

The question before MSGOT today is: Should MSGOT, through its executive action authority, approve and accept Clearwater's mitigation plan, including an initial cash contribution with corporate guarantee for differences over policy multipliers associated with the project? It is the recommendation of the Program Director to approve and accept this plan.

00:08:48 Chair Freeman: Recognized Clearwater Energy Resources LLC representatives and asked them to introduce themselves.

00:09:02 Clearwater Energy Resources representative introductions:

- Jess Melin, Director of Renewable Development, NextEra Energy Resources
- Greg Dorrington, Attorney, Crowley Fleck
- Dave Galt, Private Consultant, NextEra Energy Resources
- Dustin Jones, NextEra Energy Resources
- Dexter Liu, Project Director, NextEra Energy Resources | Day-to-day Project Manager, Clearwater Wind Project

- 00:10:26 Jess Melin: NextEra Energy is the parent company of the Clearwater Project Company. We are the largest electric utility in the nation. NextEra Energy is incorporated under two main companies: Florida Power and Light (FPL) and NextEra Energy Resources. Most of the energy is generated from natural gas, second largest generation source is nuclear fuel. What brings us to Montana is wind.
- [Presentation of the proposed Clearwater Wind Facility](#) [Jess Melin and Dexter Liu]
Click on agenda item in the PDF link to go directly to the presentation slides.
- 00:25:20 Dexter Liu: Formal request to the Montana Sage Grouse Oversight Team to approve the current mitigation plan that was submitted this month for the cash payment of \$2.6 million and a parent guaranty of \$3.8 million and a formal consultation letter from the Program in a timely manner in order to proceed with permits from the state agencies.
- 00:26:01 Chair Freeman: Called for questions from MSGOT members.
- 00:26:28 Rep. Knudsen: Requested copies of the presentation and the Clearwater Wind Project Sage-Grouse Mitigation Plan Project 3288, February 22, 2021. And also, a copy of the objection letter, if possible
- 00:26:45 Chair Freeman: Confirmed copies would be made available and will work with Clearwater to provide the letter.
- 00:27:09 Chair Freeman: Called for additional questions from MSGOT members.
- 00:27:37 Sen. Lang: We're getting \$2+ million to the Account right away, and then we will have the \$3 million. Is that as high as we could go or is that the lowest that we think it will be at this time? The balance that we are not receiving is going to be discussed later, can you explain that, please.
- 00:28:10 Chair Freeman: Invited Clearwater to respond to Sen. Lang's question.
- 00:28:13 Mr. Melin: We think the final answer is \$4.1 million, the Program's view is currently at \$6.4 million. Those are the bookends. We think the answer will end up at one of those ends or somewhere in between. Right now, the \$2.6 million cash is the undisputed Raw HQT Score. Our number is \$4.1 million. We aren't saying that the policy multipliers don't apply; we are wondering how they should apply. The final answer will be somewhere between \$4.1 million and \$6.4 million in total payments by the Clearwater to the Program.
- 00:29:00 Chair Freeman: Asked Mr. Melin if Clearwater will commit to working with the Program and MSGOT to resolve the issues.
- 00:29:11 Mr. Melin: Absolutely.
- 00:29:17 Director Dorrington: The summary materials say, "in the coming weeks the policy side will be determined". Can we set a date, something that is more definitive?
- 00:29:58 Chair Freeman: Entertain a motion to set a date for the next MSGOT meeting or work with the program to set a date. Asked for other opinions for MSGOT members.
- 00:30:06 Director Kaster: Would like to poll the availability of MSGOT members prior to setting a date.
- 00:30:18 Chair Freeman: That would be preferable. With the legislature going on we want to make sure everyone is available.
- 00:30:24 Chair Freeman: We hope to resolve this quickly. I think we are close. This has been a long process. We have made progress and will continue to make progress and resolve this pretty quickly.
- 00:30:49 Director Long: Clearwater indicated they need the Program letter, but are there other permits ready to be issued?

- 00:31:07 Mr. Melin: We would like to start construction in the next few months, specifically on the transmission line. We have tried to avoid certain areas and times of the year. We are as far as we can go on the permits. The next step is getting that consultation letter. We are moving forward in good faith and putting up the parent guaranty to make sure that you know we won't be a bad actor. To allay any fears that we are a bad actor, you have the money in hand. You just draw on that guaranty. We do need that consultation letter quickly so that we can finish permitting so that we can start construction.
- 00:32:09 Chair Freeman: Called for any additional questions from MSGOT members.
- 00:32:23 Director Long: Asked for clarification on Director Dorrington's earlier question.
- 00:33:09 Director Dorrington: Restated his question about "coming weeks".
- 00:33:29 Chair Freeman: Called for further questions from MSGOT members.
- 00:33:42 Sen. Lang: I will make the motion that the money, as it was presented, is okay and that the process should move forward with a time limit. I defer to Chair Freeman on the time.
- 00:34:13 Chair Freeman: We will inquire on MSGOT member availability and set a time in the next three to four weeks.
- 00:34:30 Chair Freeman: Before we continue with the motion, is there any public comment?
Please introduce yourself and if you are representing someone other than yourself.
- 00:35:39 Ms. Carmen Borchelt, Montana Audubon.
- 00:38:55 Chair Freeman: Called for additional public questions or comments. None.
- 00:39:04 Chair Freeman: Called to approve motion on the table.
- 00:39:15 Sen. Lang: So moved to approve the motion on the table.
- 00:39:23 Director Long: I will second that motion.
- 00:39:28 Chair Freeman: The Question has been called. All those in favor say, Aye.
- 00:39:34 MSGOT responses: Aye
- 00:39:36 Chair Freeman: All those opposed, say No. No responses.
- 00:39:42 Chair Freeman: The motion passes.
- 00:39:50 Chair Freeman: Invited Director Kaster to summarize the next steps for this project.
- 00:39:58 Director Kaster: We look forward to an upcoming MSGOT meeting where we will further discuss the project. Our focus will be on going through the application of the policy multipliers. We look forward to convening in short order.
- 00:40:14 Chair Freeman: That concludes our formal agenda at this time, we will take general comment on anything not related to today's agenda.
Please introduce yourself and tell us if you are representing someone other than yourself.
- 00:40:41 Dustin Temple, FWP: Director Kaster is in receipt of Director Worsech's proxy form. He would like his vote on the previous motion noted, as Aye, for the record.

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.

00:40:59 Chair Freeman: Seeing no more questions, called for motion to adjourn.

00:41:04 Sen. Lang: So moved. Seconded by Director Kaster.

00:41:17 Chair Freeman: Called for voice vote. Approved unanimously.

00:41:23 Meeting adjourned.

Chair for this meeting:

/s/ x *Michael Freeman* [approved by MSGOT March 24, 2021]

Michael Freeman, Governor's Natural Resource Policy Advisor