

**MINUTES
MONTANA SAGE GROUSE OVERSIGHT TEAM**

March 24, 2021 - Meeting Summary
Hybrid Meeting

Members Onsite

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. Christopher Dorrington, Montana Department of Environmental Quality, Director
Mr. Hank Worsch, Montana Department of Wildlife, Fish and Parks, Director
Representative Rhonda Knudsen, House District 34

Members Online

Mr. Jim Halvorson, Montana Board of Oil and Gas, Administrator
Senator Mike Lang, Senate District 17

Staff Present

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

Call to Order and Administrative Matters

Chair Freeman: Called the meeting to order, welcomed MSGOT members, representatives of Clearwater Energy Resources LLC, and the public.

Administrative matters to wrap up from prior MSGOT meetings and two agenda items today.

Administrative

Approval of draft minutes for prior MSGOT meetings,

1-Executive Action

Consider final compensatory mitigation for the Clearwater Wind Project. This is carried forward from our meeting on February 24.

2-Information/Education

Sage grouse monitoring and population numbers presentation from Montana Fish, Wildlife & Parks.

Introductions

Chair Freeman: Initiated introductions of MSGOT members and DNRC staff. The Governor's Office is working diligently to complete the MSGOT appointment from the Rangelands Resources Committee. That appointment was not completed in time for today's meeting, however, look forward to seeing the Rangelands Resources Committee member join us at the next MSGOT meeting.

Chair Freeman: Covered logistics for meeting.

There is a quorum and are prepared to take executive action. There are no outstanding proxy votes.

There will be opportunities for public comment.

Chair Freeman: Call for questions. None.

Review and Approve Minutes

Director Kaster: **November 30, 2020 minutes.** MSGOT continued discussing the first mitigation adaptive management review process after hearing a summary of the Program's 2019 Annual Report and some initial discussion during the October 27, 2020 meeting. MSGOT took executive action and identified two priorities for the first mitigation adaptive management review.

They were to: 1. Update the HQT basemap; and 2. Develop mechanisms to close the knowledge gap about the ultimate disposition of development projects reviewed by the Program. This appears on the bottom of page 4.

Also, during the November 30 meeting, MSGOT selected the 2020 Stewardship Account grant projects and determined funding levels, including the option for grant applicants to request project costs allowed by MCA 76-22-110(4). This appears on pages 13-15.

Director Kaster: **December 14, 2020 Minutes.** MSGOT did not take any executive action, but there were several informational items of interest.

MSGOT heard a wrap up of 2020 accomplishments for the Program and MSGOT. Two notable accomplishments refine mitigation policy. They included:

- MSGOT adoption of a modified approach to mitigation for low impact development projects implemented using trenchless methods applicable to several development sectors. It was developed through a stakeholder process and implemented a 2019 amendment to the Stewardship Act carried by Sen. Lang.
- MSGOT also adopted a modified approach to mitigation for new oil and gas wells that resulted in a dry hole. If oil and gas wells turn out to be a dry hole and steps have been taken to plug and abandon the well and reclaim the site to the specifications of the Montana Board of Oil and Gas Commission, the developer would be eligible for a refund of contributions to the Stewardship Account for up to two years after the Board certifies the proper plugging and abandonment of the well. This effort was developed collaboratively between the Board, the Montana Petroleum Association, and the Program.

MSGOT also discussed and affirmed the 2020 Stewardship Account grants awarded during the prior meeting.

Lastly, MSGOT was treated to the occasional Conservation Spotlight Series where speakers are invited to share their work and MSGOT can learn more about all the positive conservation work that is occurring outside the auspices of formal activities by the Program. MSGOT heard presentations from around Montana on voluntary collaborative conservation activities and successes. There were also presentations on research and field studies from several parts of the state.

Director Kaster: Unless Sen. Lang has anything else to add, move that MSGOT adopt the Draft December 14, 2020 minutes as final.

Chair Freeman: Second. Call for corrections or additions. None.
Call for question. None. Voice vote. Motion passes.

Director Kaster: **February 24, 2021 Minutes.** MSGOT heard a presentation from Clearwater Energy Resources LLC and took executive action to approve Clearwater's February 22, 2021 mitigation plan.

It was discussed that a decision about the final compensatory mitigation obligation would be made during today's meeting.

A part of that discussion and executive action also entailed MSGOT approving a phased payment approach by Clearwater through a corporate guaranty concept.

Director Kaster: Move that MSGOT adopt the Draft February 24, 2021 minutes as final.

Chair Freeman: Second. Call for corrections or additions. None.
Call for question. None. Voice vote. Motion passes.

Chair Freeman: The Program will finalize minutes and publish to MSGOT's meeting archive web page.

Determine Clearwater Energy Resources LLC's Remaining Contribution to the Stewardship Account to Fulfill its Compensatory Mitigation Obligation

Director Kaster: Introduction.

On February 24, 2021, the Montana Sage Grouse Oversight Team (MSGOT) approved a mitigation plan (Plan) proposed by Clearwater Energy Resources LLC (Clearwater) for the Clearwater Wind Project (Project). The final compensatory mitigation outcome must be considered and approved by MSGOT.

The February 22, 2021, Plan approved by MSGOT outlined an approach to compensatory mitigation that Clearwater believes is consistent with the Greater Sage Grouse Stewardship Act, administrative rules, Executive Order 12-2015, and Montana's mitigation framework documents (Policy Guidance Document October 2018 v 1.0, Habitat Quantification Tool Technical Manual October 2018 v1.0). See Section 4.4 and Appendix C. The Plan also contained draft mitigation results dated November 2, 2020, which are no longer timely (Appendix B).

Since February 2020, Montana and Clearwater have worked towards finalizing an approach that both squarely addresses Clearwater's concerns stated in a letter dated December 2020, while also squarely addressing the requirement to mitigate impacts to sage grouse habitat and populations in the Rosebud Core Area reasonably attributed to the newly-proposed 345 kilovolt transmission line. Since the Program's November 2020 draft mitigation results, several efforts were undertaken to both refine results and address Clearwater's concerns.

MSGOT and the Sage Grouse Program have carefully considered all the facts surrounding the public benefits of the Project as a whole, Clearwater's articulated concerns about how mitigation policy is applied to development projects, Project impacts calculated using the Habitat Quantification Tool (HQT), and what, if any, policy-based adjustments through site-specific multipliers would be appropriate under the circumstances.

Public benefits to Montana accrue through increased economic activity and employment in rural Montana counties, as well as the addition of 750 megawatts of renewable energy and a major outgoing transmission line (which has historically been a limitation to renewable energy development in Montana). Additionally, the Project highlighted areas where the mitigation policy is less than clear, and Clearwater's concerns are well taken. Lastly, there is no dispute that impacts to sage grouse habitats and populations are reasonably reflected by the HQT Raw Score.

Clearwater's estimated compensatory mitigation debit obligation of 602,551.84 is a reasonable balancing of the facts and circumstances, while also mitigating impacts on sage grouse. Clearwater's proposed total debit amount includes the HQT Raw Score, the Reserve Account and Advanced Payment policy multipliers applicable to all development projects, along with four site-specific multipliers for deviating from the Core Area Seasonal Use stipulation of Executive Order 12-2015. Clearwater proposed a final contribution to the Stewardship Account of \$4,059,431.00. See Tables 3 and 4 of the MSGOT-approved Clearwater Wind Project Sage-Grouse Mitigation Plan, February 22, 2021 (page 9).

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.

Clearwater's contribution to the Stewardship Account could occur as a single payment or through a phased approach using a corporate guaranty (which MSGOT has previously approved). The parties will work to finalize those arrangements in the near future.

PROGRAM RECOMMENDATION:

The Program Manager recommends MSGOT finalize and approve a compensatory mitigation obligation of 602.551.84 debits and a contribution to the Stewardship Account of \$4,059,431.00 by Clearwater Energy Resources LLC.

MSGOT Discussion

Chair Freeman: Recognizes Clearwater Energy Resources.

Dexter Liu: Clearwater available for questions. Have no comments at this time.

Chair Freeman: Appreciate the collaboration to identify opportunities for improvement and future engagement on Montana's Strategy and mitigation in particular.

Call for questions or additional discussion from MSGOT members. None.

Chair Freeman: Call for Public Comment.

Recognize Glenn Marx, Executive Director, Montana Association of Land Trusts

Glenn Marx:

Chair Freeman: Call for additional MSGOT Discussion or Executive Action

Sen. Lang: Move to accept Program Managers recommendation.

Rep. Knudsen: Second.

Chair Freeman: Call for question. None. Voice vote. Motion passes.

Chair Freeman: Invites Director Kaster to summarize the next steps for this project.

Director Kaster: After today's executive action, the Program will provide an updated written correspondence back to Clearwater that: 1. reflects the proper entities; 2. updates one of the maps; and 3. Incorporates today's MSGOT decision.

The parties will work together to finalize arrangements for Clearwater's contribution to the Stewardship Account.

Overview of Montana Sage Grouse Population Numbers by Montana Fish, Wildlife, and Parks

Chair Freeman: Recognize Ken McDonald and Dave Messmer.

[PowerPoint Presentation](#)

Discussion:

Public Comment on Other Matters

Chair Freeman: Call for public comment on other matters.

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Recognize Rusty Shaw, Denbury

Rusty Shaw:

Chair Freeman: Call for additional public comment? None.

Adjourn

Chair Freeman: Call for motion to adjourn.

So move.

Chair Freeman: Second. Voice vote. Motion passes. Meeting adjourned 5:40 pm.

Chair for this meeting:

/s/ x _____

Michael Freeman, Governor's Natural Resource Policy Advisor