

MINUTES
MONTANA SAGE GROUSE OVERSIGHT TEAM

May 24, 2023
Meeting Summary
DNRC Building, Big Sky
Conference Room and
Virtual Zoom Meeting

Members Present

Mr. Michael Freeman, Chair, Governor's Natural Resource Policy Advisor
Ms. Diane Ahlgren, Rangeland Resources Committee Chairman
Representative James Bergstrom, House District 30
Mr. Benjamin Jones, Montana Board of Oil and Gas Conservation (MBOGC), Administrator (Proxy Dir. Kaster)
Ms. Amanda Kaster, Montana Department of Natural Resources and Conservation (DNRC), Director
Senator Mike Lang, Senate District 17 (Proxy Rep. Bergstrom)
Mr. Malcolm Long, Montana Department of Transportation (MDT), Director

Staff Present

Mr. Mark Bostrom, DNRC Conservation and Resource Development Division, Administrator
Mr. Logan Cain, Sage Grouse Habitat Conservation Program, GIS Analyst
Ms. Therese Hartman, Sage Grouse Habitat Conservation, Program Manager
Mr. Adam Kauth, Sage Grouse Habitat Conservation Program, Biologist
Ms. Jamie McFadden, PhD, Sage Grouse Habitat Conservation Program, GIS Analyst
Ms. Emily Moran, Sage Grouse Habitat Conservation Program, Biologist
Ms. Erin Reather, Sage Grouse Habitat Conservation Program, Biologist
Mr. Nate Wold, Sage Grouse Habitat Conservation Program, GIS Analyst
Ms. Robin Graham, Representing Montana Fish, Wildlife & Parks (FWP), Acting Deputy Director
Ms. Heather Harris, Representing Montana Fish, Wildlife & Parks (FWP), Sage Grouse Coordinator
Mr. David J.A. Wood, PhD, Representing Bureau of Land Management (BLM), Conservation Biologist

Call to Order and Administrative Matters

9:04 am: Chair Freeman called the May 24th, 2023 Montana Sage Grouse Oversight Team (MSGOT) meeting to order.

Chair Michael Freeman introduced the Montana Sage Grouse Oversight Team members in attendance. The executive action of approving the draft October 27, 2022 MSGOT meeting minutes was postponed until a quorum was confirmed, or until the June 2023 MSGOT meeting.

Representative Bergstrom was the designated proxy for Senator Lang for the May 24th, 2023, MSGOT meeting.

Director Kaster was the designated proxy for Administrator Jones for the May 24th, 2023, MSGOT meeting.

Rule Making Change: HQT Technical Manual Presentation – PowerPoint Presentation

9:07 pm: Dr. Jamie McFadden presented the proposed rulemaking change to the Habitat Quantification Tool (HQT) Manual.

See 'Rule Making Change: HQT Technical Manual' presentation.

About a year ago, Program staff identified an error in the HQT Technical Manual that impacts potential updates to the HQT Basemap. The current basemap in use is version 1.0 from 2018 and it does not contain this error. This is the basemap that the Program has been using for all project reviews. In short, no project reviews have been impacted by this error in the technical manual.

The Executive Order identifies Unsuitable Habitat and provides a good definition. For clarification, the technical error has to do with this layer called Unsuitable Lands and where in the process of creating the basemap that it's brought into that workflow. From the beginning, Montana identified Unsuitable Habitat or Unsuitable Lands as an important aspect to account for in the basemap. Unsuitable Lands in short is an area that does not, has not, and will not provide any habitat value to sage grouse. This includes areas such as badlands or canyons, rocky outcrops, conifer cover areas. Through the early years of Program development, there was a stakeholder process in 2017 which also provided emphasis on accounting for Unsuitable Lands and specifically to the HQT with the goal of not wanting any Unsuitable Lands areas contributing to a project's impacts for mitigation.

Currently, the HQT Basemap version 1.0 developed and versioned in 2018 preserves this 0 value for Unsuitable Lands, effectively making any projects in Unsuitable Lands areas having no mitigation or having no negative impacts on sage grouse habitat. The technical manual was published and adopted in 2019, after the HQT Basemap was developed. The workflow for the basemap in the technical manual, if followed today, would result in some value greater than 0 for Unsuitable Lands. That would ultimately result in debits or credits for projects located in such areas.

The solution the Program wants to implement in the technical manual is to move the Unsuitable Lands layer over to the disturbances layers with the anthropogenic scores. All the Population and Habitat variables come together through averaging (where the Unsuitable Lands layer currently resides as written in the technical manual). All the Anthropogenic variables are brought together through multiplication. That would be the way to maintain the 0 value for Unsuitable Lands. If Unsuitable Lands is allowed to be averaged, it would still maintain some value in those areas which provide no habitat value to sage grouse.

All the layers going into the basemap range in values from 0 to 1. Unsuitable Lands is a binary layer, 1 or 0. When a landcover type is identified as suitable, when it's in the Unsuitable Lands, it has a value of 1. Unsuitable Lands have a value of 0.

Since the Program is still using the 2018 Basemap, it is really important to the Program to get this error fixed so that the Program can provide an updated basemap for Montana and that would allow for more relevant project reviews.

Showed maps and Discussed a few examples of how this error would impact any update to the Basemap>

Conifer Cover is identified as an Unsuitable Land cover type. In the aerial imagery shown (on the slide), there is conifer cover to the north of the road and no conifer cover to the south of the road. The Program takes the National Land Cover Database that has all these areas identified at a 30-meter pixel. With that data, varying degrees of forest cover to the north of the road are identified and no conifer cover to the south of the road is identified. When the data is broken down according to how Unsuitable Lands is defined in the EO and in an appendix of the technical area, all the blue areas have a 0 value and all the red areas have a value of 1. This feeds into the basemap with all the other layers that represent various aspects of habitat. If the Program was to follow the workflow outlined in the technical manual

today, the basemap would result in a quite blue area north of the road, but it's not a solid blue similar to what the road is. The Program wants to preserve that 0 value for all the forest cover areas, and for those areas to still be a 0 value by the time they reach the basemap. If the Program implements the correction, the dark blue areas indicate a 0 value for conifer cover. If a project were to be located in that area, the Program wants to preserve the aspect of no impact to the habitat in those areas. <flipping between the two basemap versions> The 2018 basemap version preserves the 0 value for Unsuitable Lands area and the 2019 technical manual would not. The Program would like to update the 2018 basemap by following the stakeholder process.

Another example is an open water/reservoir area. Viewing an aerial image of a reservoir and the National Land Cover Database which breaks down every area into 30-m pixel and identifies broadly and coarsely what is there. In this example, the dark blue is open water. Open water is identified as an Unsuitable Land type, so all the dark blue will maintain a 0 value and all the red will have some value other than 0 depending on the values of the other layers going into the basemap. If the Program follows the technical value today, all the areas would still have some value for projects located in the Unsuitable Lands area. If the Program follows the stakeholder process and the 2018 basemap, any projects having activities in open water would receive 0 mitigation.

The proposed rule change is to edit the written HQT Manual to reflect the 2017 Stakeholder process and the 2018 HQT Basemap, no process change is required.

Ultimately, the Program wants to edit the technical manual to reflect the 2017 stakeholder process and be consistent with the 2018 HQT Basemap. That includes cutting and pasting the section on Unsuitable Lands from one portion of the technical manual to putting it in another portion of the technical manual to reflect that difference in averaging vs. multiplication. To reiterate, there's been no impacts to past or current projects that the Program has reviewed as they've been based on the 2018 HQT Basemap that does not contain this error. Results of this proposed change include the Program would be providing a consistent approach for updating the HQT Basemap over time and perhaps providing more frequent updates to the HQT Basemap based on data updates. This would follow recommendations provided by the stakeholder process in 2017 and ultimately avoid the perpetuation of errors associated with this error in the technical manual.

The Program is seeking to edit the HQT Manual to reflect the 2017 Stakeholder process and the 2018 HQT Basemap. The proposed edit will allow the Program to update the 2019 Basemap as stakeholders intended

9:18 am: MSGOT Discussion

Chair Freeman: Concurred with the Program that unsuitable land areas should be binary and there should not be varying degrees of unsuitable lands that result in mitigation.

Director Long: Praised the Program for easy-to-follow visuals.

9:19 am: Mark Bostrom: Stated that the proposed change is a change in math. If an unsuitable land habitat, represented by a value of 0, is incorporated by being averaged with other Habitat and Population variables, the result will be a value greater than 0. If an unsuitable land habitat, represented by a value of 0, is incorporated by being multiplied by other Anthropogenic variables, the results will be a value of 0 and will not be assessed mitigation.

Chair Freeman: Observed that as the HQT Manual is currently written with the identified error, open water areas look as if they could provide degrees of suitable habitat for sage grouse, which is not true. The proposed change is needed.

Jamie McFadden: Reiterated that this error has not affected any past or current projects.

Mark Bostrom: Clarified that a rule change is needed for the proposed change because the HQT Manual is written in Rule.

9:21 am: Diane Ahlgren: Ms. Ahlgren appreciated the Program's reference to open water. Many times, rancher's incorporate stock ponds on their property which provides mesic habitat around the ponds, but the open water does not provide habitat. Ms. Ahlgren believes the change to be beneficial and straightforward. Ms. Ahlgren will rely on stakeholder's comments on the change.

9:22 am: Public Comment

Dave Galt, Montana Petroleum Association: Mr. Galt agrees with the mathematical change from averaging to multiplication but questions if the Unsuitable Lands designations should move into the Anthropogenic variables. He also questioned if moving the Unsuitable Lands variable from the Population and Habitat variables to Anthropogenic variables could cause future problems. Mr. Galt asked Mr. Wood if the BLM classifies the unsuitable land variable an anthropogenic variable.

David Wood, BLM: Mr. Wood explained that the BLM incorporates the unsuitable land variable within the DDCT differently than an anthropogenic variable. The BLM does not assess direct impacts from unsuitable lands but does assess indirect impacts that can occur within and because of unsuitable lands in sage grouse habitat.

9:24 am: Chair Freeman: Chair Freeman added that if the Unsuitable Land variable was incorporated into the Anthropogenic variable and was given a value of 0, all other anthropogenic variables would result in 0, meaning that no anthropogenic variable has an impact on sage grouse habitat in relation to the project.

Mark Bostrom: Mr. Bostrom reiterated that the Population and Habitat variables are averaged together and that the Anthropogenic variables are multiplied together.

9:26 am: Rusty Shaw, Denbury Inc.: Mr. Shaw wanted clarification from the Program that the proposed change is only a technical change to the HQT Manual and that the HQT assessment is already incorporating the proposed solution.

Jamie McFadden: Confirmed that the HQT is already operating with the proposed solution since the Program first began running the HQT using the 2018 Basemap. The proposed change is a technical change to the HQT Manual.

9:28 am: Chris Pfister: Mr. Pfister questioned if conservation projects that undergo restoration to transform current unsuitable lands to high quality habitat are affected by the proposed change.

Therese Hartman: Ms. Hartman deferred to the Program Geographers but explained that the Program has the ability to change pixels within the project to reflect the potential quality habitat.

Jamie McFadden: Ms. McFadden added that the Program is able to remove unsuitable land areas from the project to reflect the expected restoration potential.

9:29 am: Therese Hartman: Ms. Hartman informed MSGOT that the Program will be accepting public comment on the proposed HQT Technical Manual Rule Making Change. A public comment notice will be sent out to the Program's subscriber list, posted on the Program's website, and

posted on the DNRC website. All public comment received will be given to MSGOT for consideration before the June MSGOT meeting.

Net Present Value Review Presentation – PowerPoint Presentation

9:30 pm: Ms. Therese Hartman, Dr. Jamie McFadden, and Mr. Mark Bostrom presented a brief overview of the history of the Mitigation System and reviewed the application of the Net Present Value (NPV) discount method to the cost of the debits and credits.

See '3% Discount Review: application of the Net Present Value to credit and debit pricing' presentation.

After the creation of the Stewardship Account in 2015, MSGOT held the first grant cycle. At the time of the first grant cycle, the HQT had not been developed and consequently there was no way to estimate the number of credits the funded conservation projects produced. By the time the second grant cycle opened in 2018, the preliminary HQT was applied to the funded conservation projects and an estimate of the number of credits produced was available.

By 2019, the HQT and associated Policy Guidance was implemented to establish the Mitigation System and pricing system for debits. The pricing system designated \$13 per credit based on all funds required to implement conservation chosen for funding in the first two grant cycles in 2016 and 2018: pre HQT. Application of the 3% Net Present Value (NPV) was included as a way to decrease the relative higher costs associated with a couple of long duration development projects. pre the final HQT. The application of the 3% NPV has effectively reduced the average cost per credit or debit over time.

In 2020, the third grant cycle was held, which allocated the final amount of legislative appropriated funds and included the availability to estimate credits generated from conservation projects using the HQT. Most recently, MSGOT held the fourth grant cycle in 2022 which funded conservation projects solely utilizing contributions to the Stewardship Account made by development project proponents. The fourth grant cycle remains open.

The Program calculated the average cost per credit by dividing the total funds allocated per year by the total credits generated per year. In 2018, MSGOT paid \$13 per credit which is what the Mitigation System is based on to date. However, through the subsequent years, the average cost per credit increased, but the cost of a debit remained at \$13; with the application of the 3% NPV over the life of a development project, the price per debit is quite less. The increasing cost of a SA credit are a result of a few characteristics, included those projects coming with less matching funds and greater grant amounts required to close the projects along with those projects producing few credits in some instances.

The concept of NPV take into account the value of future money and assess its value in today's money. It accounts for the future decrease value of a dollar's current investment or purchasing power. NPV is mainly used in investment planning to assess a project's projected profitability over time. If NPV greater than 0 it indicates a good investment, if NPV less than 0 it indicates a bad investment. When NPV is applied to our mitigation system, the initial cost is \$13, as it is applied over the life of the project, the cost is devalued by 3% each year. The average cost at the 30-year mark is \$8.75, at 50 years it is \$3, and at 100 years it is \$0.70. It is important to note that the 3% NVP is also applied to purchasing credits for perpetual conservation easements and shorter conservation leases. The cost per credit at the 30-year mark is \$5.51 per credit.

To date, the Program has reviewed over 2,300 development projects. Of those 2,300, approximately ten percent have been assessed mitigation that resulted in a contribution to the Stewardship Account. 210 of the 230 projects that have made a contribution to the

Stewardship Account are less than 30 years in duration, the remaining 16 projects are 31-50 years in duration. The longer duration development projects receive a greater discount than shorter duration projects due to the application of the 3% NPV. The Program and MSGOT applied the 3% NPV discount to conservation projects during the fourth grant cycle. When evaluating conservation projects, which are typically 100-years in duration, the projects see a reduction of 67% discount per credit from the \$13. 30-year conservation leases see an approximate 29% reduction from the base \$13 per credit.

The Program has found that the application of the 3% NPV creates an imbalance of impacts to habitat by incentivizing long-term disturbances and short-term conservation. Likewise, it disincentivizes short-term disturbances and long-term conservation. The Program is struggling to purchase credits with the funds generated from the debits. The Program would like to optimize the loss/gain of the habitat, minimize impacts to the SA solvency, and maintain the ability to offset impacts entrusted to the State by developers. The Program is asking MSGOT to consider starting a stakeholder driven process before making adjustments to the credit and debit system. The Program has been in correspondence with State economists and is willing to hire third-party economists to assess the use of NPV, engage stakeholders in a stakeholder process, and to bring options and potential solutions to MSGOT. Currently, the Program has identified two possible outcomes. The first outcome is that no action is taken, this is an unsustainable option and would require the SA receive additional appropriation. The second option is to adjust the pricing mechanism, this could create a more sustainable system and would not require additional appropriation. It is important to note that the Program is not requesting a stakeholder review of the entire mitigation system at this time.

9:49 am: MSGOT Discussion

Chair Freeman: Acknowledges that NPV is a very complex topic and looks forward to the outcome from the stakeholder process. Clarified that the 3% NPV discount method is applied to both the debits and credits. Chair Freeman asked the Program to expand upon how applying the 3% NPV results in the divergence of the debits and credits.

Mark Bostrom: Mr. Bostrom explained that the State was never intended to be the holder of all the credits when the mitigation system was created, the intention was for credits to be bought and sold from a third party, similar to the concept Common Ground Capital group that presented at the June 28, 2022 and October 27, 2022 MSGOT meetings. Taking the information from Common Ground Capital's presentation, from speaking with Conservation groups like the Montana Land Reliance, and working with the State economists, it has become clear to the Program that the NPV discount is not being used properly by incentivizing long-term disturbances on the landscape and short-term conservation. Mr. Bostrom reiterated that the Program would like to initiate a stakeholder process to brainstorm possible solutions.

Chair Freeman: Looks forward to digesting what has been presented today and reviewing public comments received.

9:54 am: Director Kaster: Asked the Program if there will be an open public comment period for the 3% NPV topic after the meeting, similar to the public comment opportunity provided for the Proposed Rule Change.

Therese Hartman: Since the 3% NPV topic is very complex, Ms. Hartman would like to hold one or two stakeholder meetings to discuss possible solutions. The Program has visited with Montana Fish, Wildlife & Parks (FWP) to review how they price conservation easements and leases and is looking into the possibility of incorporating FWP's pricing method. MSGOT would be required to take executive action to initiate the stakeholder process.

Director Kaster: Believes the stakeholder-driven approach to find a solution is very valuable.

9:55 am: Public Comment

Dave Galt: Mr. Galt agrees that initiating a stakeholder process would be beneficial.

9:56 am: Miles Hutton, Blaine County Commissioner: Mr. Hutton, the Blaine County Commissioner, asked the Program for clarification on what the mitigation money in the SA was used to purchase, specifically if the money purchased conservation easements or leases.

Therese Hartman: Ms. Hartman reported that the fourth grant cycle awarded funding to two perpetual conservation easements and three conservation leases.

Miles Hutton: Mr. Hutton suggested addressing the avian predator issue.

9:58 am: Brad Hansen: Added that Montana Land Reliance looks forward to participating in the stakeholder process and offers any data relating to the changing of land values and the price of securing a conservation easement.

9:58 am: David Galt: Mr. Galt is interested in reviewing the presentations shown today and requested a list of development projects the Program has reviewed since its conception.

Therese Hartman: Ms. Hartman stated that the Program will look into sharing a list of development projects with redacted information.

Update of Grant Applications

10:00 am: Brad Hansen: Montana Land Reliance, Update on Perpetual Easements

- **High Ridge Land Conservation Easement**

Brad Hansen: Mr. Hansen gave a brief update on the High Ridge Land project. Mr. Pfister has secured the EQUIP funding that was required by MSGOT during the October 27, 2022 MSGOT meeting. Before the next MSGOT meeting Mr. Hansen and Mr. Pfister are going to update the High Ridge Land application to ask MSGOT to fund \$553,000 for restoration work and \$120,000 for the conservation easement. The High Ridge Land project will produce 160,000 credits in the Central Service Area. Mr. Hansen has been able to secure additional funding to put towards the conservation easement. Both the High Ridge Land project and the Johnson Properties projects are asking for the \$13/SA credit.

10:03 am: Chris Pfister: Mr. Pfister shared that he has secured funding from the Natural Resources and Conservation Service (NRCS) EQUIP program for \$304,000 over a total of five years. Mr. Pfister has been researching and working with the NRCS to tackle the crested wheat monoculture on the property and has begun implementing test plots on the High Ridge Land property to test the efficacy of cover crops. From the direction of the NRCS, Mr. Pfister's goal is to implement cover crops over the entire crested wheat grass area for two years before planting native plants. Funding from the State would be used to purchase sage brush seedlings. Mr. Pfister's project is already underway and is beyond 'shovel ready'.

Chair Freeman: Thanked Mr. Pfister for returning to the Program and looks forward to the uplift the project can bring.

Chris Pfister: Mr. Pfister informed MSGOT and the Program that the Wyoming Sage Grouse Oversight Team will meet the next day to discuss the expansion of Wyoming's sage grouse habitat to include connectivity area. Mr. Pfister's project is located in General Habitat but has the potential, through restoration, to increase the Core habitat.

- **Bruce Johnson and Dan and Mary Ann Johnson Conservation Easements**

10:10 am: Brad Hansen: Mr. Hansen gave brief overview of the Bruce and Dan and Mary Ann Johnson projects that were presented to MSGOT during the October 27, 2022 meeting. Mr. Hansen noted that the Johnson's reduced their request to adhere to the \$13/SA credit, with additional matching funds. Mr. Hansen indicated that the Dan and Mary Ann Johnson project will be asking for about \$335,000 with lek multipliers and the Bruce Johnson project will be asking for about \$171,000 with lek multipliers at the June MSGOT meeting. The two projects combined produce 120,000 credits in the Central Service Area.

10:13 am: Bruce Johnson: Mr. Johnson provided an update on both properties. Since October 2022, the Johnson's have rotational grazed their pastures, added an additional three miles of cross fencing with electric fence, as well as an additional four miles of waterline and six water tanks through NRCS. The Johnson's are working with the local Rangeland Specialist with the NRCS to focus on the riparian and water areas on the properties. Mr. Johnson has notices that the pasture rotation grazing method has increase sage brush on the properties and is excited to move forward with the proposed easement. Mr. Johnson reiterated that the State funding will be used for succession and to purchase a neighboring ranch, which is also in sage grouse habitat.

Chair Freeman: Thanked Mr. Johnson for returning and his willingness to work with the Program.

- **LO Ranch Conservation Easement- Permittee Responsible Mitigation**

10:15 am: Brad Hansen: Mr. Hansen provided an overview of the LO Ranch project. In 2022, Rusty Shaw with Denbury Resources, Inc. (Denbury) approached the MLR with the goal of partnering on a permittee-responsible conservation easement to offset debits that Denbury had amassed from implementing development projects. Mr. Hansen has been working with the landowners of LO Ranch and Denbury to finalize the conservation easement. The due diligence for the conservation easement is scheduled to be complete by the end of summer 2023 or sooner. The conservation easement is located within a Core Area and will generate around 338,000 credits, which will completely offset the debits created by Denbury's past development projects.

10:17 am: Rusty Shaw: Mr. Shaw expanded upon Mr. Hansen's overview, adding that the credits created from the LO conservation easement will be used as permittee-responsible mitigation to offset debits created from Denbury's Snowy River CO2 Sequestration project, which is south of Ekalaka in a Core Area for sage grouse. The Snowy River project will consist of 15 injection wells, pipelines, and will include 450 million tons of CO2.

Therese Hartman: Ms. Hartman thanked Rusty, Denbury, and Mr. Brad Hansen for executing a permittee-responsible mitigation project. Ms. Hartman hopes to see more projects like this in the future.

10:20 am: Brad Hansen: Mr. Hansen shared a story from a Colorado Sage Grouse Biologist exemplifying how sage grouse know how to navigate back to leks, even as their habitat disappears.

10:21 am: The Program shared an editable spreadsheet to discuss different funding scenarios.

Jamie McFadden: Dr. McFadden gave an overview of the funds awarded at the October 27, 2022 MSGOT meeting. MSGOT approved funding for the Roen Ranch conservation easement and restoration project at 50% Baseline with lek multipliers and the Brewer Ranch conservation easement at 40% Baseline and lek multipliers for a combined total of \$780,716.13, leaving \$3,923,168.87 remaining in the Stewardship Account to offset 651,364.29 debits. It is important to note that the total funding of \$780,716.13 does not include the MSGOT approval of the Schultz – Gran Prairie conservation lease, Haywire Ranch conservation lease, or the Nowlin Ranch conservation lease.

Therese Hartman: Reported that if the Bruce Johnson Ranch conservation easement was funded at \$13 per credit with a 40% Baseline and lek multipliers applied, the project would produce 40,508.63 credits. If the Dan and Mary Ann Johnson conservation easement was funded at \$13 per credit with a 40% Baseline and lek multipliers applied, the project would produce 79,231.78 credits. If the High Ridge Land conservation easement was funded at \$13 per credit with a 50% Baseline and lek multiplied applied to the restoration portion, the project would yield 159,253.56 credits.

Jamie McFadden: Noted each conservation project estimation takes into account the application of the 3% NPV discount, which brings the average price of a credit to \$4.23 over the lifetime of a perpetual conservation easement.

10:27 am: 10 Minute Break

10:37 am: **Program, Update on Conservation Leases**

Ms. Therese Hartman presented an update of the conservation leases approved by MSGOT at the October 27, 2022 meeting.

See 'Montana's Greater Sage Grouse 2022 Grant Cycle Proposed Projects' PowerPoint presentation.

The October 27, 2022 MSGOT meeting began with \$4,703,885 in available funds and an outstanding debit balance of 830,504. During the meeting, MSGOT was presented five perpetual easements and three conservation leases within the Central Service Area. MSGOT approved the expenditure of \$2,140,169 in grant requests; in total, the funded projects will generate 289,903 credits once they close, leaving a remaining debit balance of 540,601.69. There is a remaining \$2,848,181 in the SA for future grant projects. In specific, the Schultz – Gran Prairie conservation lease was approved for funding at \$561,504.20. The Nowlin Ranch conservation lease was approved for funding at \$238,295.33. The Haywire Ranch conservation lease was approved for funding at \$332,487.49. The Roen Ranch conservation easement, which has closed, was funded at \$353,116.13 and generated 96,029.74 credits, and the Brewer Ranch conservation easement, which is in the process of closing, was funded at \$370,300.00. Once the Brewer Ranch conservation easement closes in Fall 2023, 96,029.74 credits will be available to go towards the debit balance.

Since the October 27, 2022 meeting, the Petroleum County Conservation District has agreed to hold the three conservation leases and conduct annual site monitoring at each property for a fee outlined in the MSGOT materials. The Program has been working with the DNRC legal counsel and the conservation lease landowners to draft the lease agreements. The DNRC legal counsel has strongly recommended that the Program includes a Title Leasehold Policy or at a minimum, a Title Report to protect the States interest in the leases. Ms. Hartman has been working with Flying S Title and Escrow in Lewistown, MT on receiving estimates for title searches and filing of the leases with the counties.

Ms. Hartman is asking MSGOT to consider one of two options. Option one is to go forward with a Title Leasehold Policy on the leases, which would include a title search for the rightful owner(s), any liens or title restrictions that might affect the lease to go forward on the property. The Title Leasehold Policy would also include having the title company handle the closing and recording of all required documents with the county and conservation district. Option two is to go forward with Title Reports for each property. A Title Report would include the title search but would not provide the State with any protection against loss. The Title Report option would not include closing and recording of the leases.

- **Schultz – Gran Prairie Conservation Lease**

10:44 am: In the October 27, 2022 MSGOT meeting, the original Schultz – Gran Prairie conservation lease was approved for funding at \$561,504.20 plus conservation district fees. The Schultz - Gran Prairie conservation lease included 8,190 acres of deeded private land. The majority of the property was proposed for a 20-year conservation lease with a separate portion proposed to be held under a 25-year conservation lease. Restoration activities were also included in the project, including reseeded of 115 acres and conifer removal on 120 acres. Since October, the Schultz – Gran Prairie conservation lease has been modified in several ways, including changes in the property boundary, project duration, and dropping of the restoration and conifer removal. Modifications to the property boundaries resulted in a decrease in the total physical acres from 8,190 to 8,023. The HQT metrics changed slightly with these modifications, including a slight increase in the Functional Acres Gained per Physical Acres per Year metric from 0.38 to 0.39 due to some acres of low-quality land being removed from the lease for building envelopes. The project duration changed from a partial 20-year and 25-year lease to all physical acres being held for a total of 20 years. Lastly, Mr. Schultz has decided not to do the restoration and conifer removal activities which removed 3760 credits from the October proposal. The changes resulted in 1,475.34 fewer credits. The updated Total Stewardship Account Grant Amount request is now \$555,055.21 which results in a total of 55,725.81 credits over 20 years on 8,023 acres of land. The Petroleum Conservation District has requested \$14,450.00 to hold and monitor the lease. Depending on whether MSGOT votes to go forward with a Title Report or a Title Leasehold Policy, the project will require an additional \$1,400 to \$3,500 of funding. The approximate total cost of the conservation lease will be \$573,000.00.

10:48 am: Nick Schultz: Mr. Schultz shared that the project has been simplified since the October MSGOT meeting. Mr. Schultz is still open to re-visiting portions of the project that has since been taken out at a later date.

10:50 am: MSGOT Discussion

None.

10:50 am: Public Comment

Brad Hansen: Mr. Hansen asked the Program and MSGOT if any conservation leases or conservation easements that have undergone significant changes will require a new MSGOT vote of approval.

Therese Hartman: Ms. Hartman had previously notified MSGOT that new executive action will be required for the three conservation leases in this instance.

Chair Freeman: Chair Freeman seconded that MSGOT would like to re-vote on the conservation leases that have undergone large changes.

Mark Bostrom: Mr. Bostrom shared that MSGOT and the Program has given its best judgement in past grant cycles for small changes to the projects.

10:52 am: Miles Hutton: Commissioner Hutton asked for clarification on who will administer the Schultz – Gran Prairie conservation lease.

Therese Hartman: Ms. Hartman clarified that the Petroleum Conservation District will hold the conservation lease because neither MSGOT nor the Program can hold a conservation lease or conservation easement.

Miles Hutton: Commissioner Hutton asked the Program who holds the other conservation

easements.

Therese Hartman: Ms. Hartman replied that the MLR holds the conservation easements approved in the fourth grant cycle and the Nature Conservancy (TNC) holds conservation easements from previous grant cycles.

Miles Hutton: Commissioner Hutton expressed favor to conservation leases as opposed to conservation easements.

Therese Hartman: Ms. Hartman stated that the grant opportunity is still open and welcomes other conservation leases.

- **Haywire Ranch Conservation Lease**

10:54 am: In the October 27, 2022 MSGOT meeting, the original Haywire Ranch conservation lease was approved for funding at \$332,487.49 plus conservation district fees. The Haywire Ranch conservation lease include 4,518 acres of deeded private land for a 15-year conservation lease. Since October, the boundary for the conservation lease has been modified, resulting in a decrease of the physical acres included in the project from 4,518 to 4,317. As a result, the HQT metrics changed slightly, including a slight increase in the Functional Acres per Physical Acre per Year metric from 0.38 to 0.39 due to some acres of low-quality land being removed for building envelopes. The duration for the conservation lease remains the same at 15 years. After accounting for the modifications to the boundary, the Program updated the HQT results for this project, which include an updated Total Stewardship Account Grant amount of \$289,986.60 which results in a total of 27,211.93 credits over 15 years on 4,317 acres of land. The Petroleum Conservation District has requested \$12,400.00 to hold and monitor the lease. Depending on whether MSGOT votes to go forward with a Title Report or a Title Leasehold Policy, the project will require an additional \$800 to \$2,600 of funding. The approximate total cost of the conservation lease will be \$305,000.00.

- **Nowlin Ranch Conservation Lease**

10:56 am: In the October 27, 2022 MSGOT meeting, the original Nowlin Ranch conservation lease was approved for funding at \$238,925.33 plus conservation district fees. The Haywire Ranch conservation lease include 4,510 acres of deeded private land for a 15-year conservation lease. Since October, the boundary for the conservation lease has been modified, resulting in a decrease of the physical acres included in the project from 4,410 to 3,624. As a result, the HQT metrics changed slightly, including a slight increase in the Functional Acres per Physical Acre per Year metric from 0.44 to 0.46. The duration for the conservation lease remains the same at 15 years. After accounting for the modifications to the boundary, the Program updated the HQT results for this project, which include an updated Total Stewardship Account Grant amount of \$224,062.90 which results in a total of 21,025.75 credits over 15 years on 3,624 acres of land. The Petroleum Conservation District has requested \$9,250.00 to hold and monitor the lease. Depending on whether MSGOT votes to go forward with a Title Report or a Title Leasehold Policy, the project will require an additional \$750 to \$2,600 of funding. The approximate total cost of the conservation lease will be \$235,900.00. The Program found that the Nowlin Ranch conservation lease may take longer to close and may require additional funding for the title search because there are multiple property owners, all of whom will need to be included in the lease agreement.

11:00 am: The Program shared an editable spreadsheet to discuss different funding scenarios.

If all three conservation leases were re-approved at \$13 per credit with a 40% Baseline and lek multipliers applied, the projects would produce, in total 103,963.49 credits. Leaving a remainder of 547,400.80 statewide debits to be offset and \$2,854,064.17 funds remaining in the Stewardship Account. It is important to note that each conservation project estimation takes into account the

application of the 3% NPV discount. which brings the average price of a SA credit to \$6.53.

If all three conservation leases were re-approved and the three conservation easements (Bruce Johnson Ranch, Dan and Mary Ann Ranch, and High Ridge Land) were funded at \$13/SA credit with a 40% Baseline and lek multipliers applied, noting that the High Ridge Land conservation easement would be funded at \$13 per credit with a 50% Baseline and lek multipliers applied. the projects would produce, in total 382,957.46 credits. Leaving a remainder of 268,406.84 statewide debits to be offset and \$1,673,614.65 funds remaining in the Stewardship Account.

11:03 am: MSGOT Discussion

None.

11:03 am: Public Comment

Brad Hansen: Asked the Program how funding would be obtained for attorney fees if a conservation project landowner was to violate the lease or easement terms.

Therese Hartman: Ms. Hartman has been working with the DNRC legal counsel to add language into all conservation easements and leases which allows a joint agreement to prosecute any violations.

Brad Hansen: Asked for clarification on if the State or Conservation District would enforce the terms of the agreement.

Mark Bostrom: Clarified that the Conservation District would enforce the agreement, but DNRC and the Program retains the third-party right to step in if enforcement actions fail.

Brad Hansen: Mr. Hansen asked if the State or the Conservation District would be responsible for the cost of an attorney or any legal action. Mr. Hansen also asked the Program if they intent to ask the landowner to provide a Title Report for future projects.

Therese Hartman: Ms. Hartman clarified that the lease and grant agreement will contain a clause which states that the loser of the legal proceedings will pay any legal fees. Based on the fourth grant cycle, the Program is working with the DNRC legal counsel to modify the application process to require a Title Report after a preliminary HQT has been run. If the project is approved for funding, the cost of the title work will be included in the final funding.

Mark Bostrom: Mr. Bostrom stated that County Attorney is the primary attorney for any Conservation Districts, by law. If in an event the County Attorney's office cannot take on a case, it will be moved to the Montana Department of Justice. The Conservation Districts also have a general legal counsel contract, as back up.

Bureau of Land Management Land Use Update – Presentation

11:08 am: Ms. Therese Hartman introduced Dr. David Wood, Conservation Biologist, Montana/ Dakotas Bureau of Land Management (BLM) State Office.

David Wood: Dr. Wood presented an overview of the BLM Greater Sage-Grouse Planning Amendments.

See 'Greater Sage-Grouse Planning Amendments Status and Strategy Preliminary Planning Discussion – BLM MT/Dak Update to MSGOT: May 2023' presentation.

The BLM has Land Use Plans are in place to determine multiple land uses, allocate

resources and provide strategies to protect resources, as well as to establish systems to monitor effectiveness. These plans are typically reviewed and modified every 10 -15 years. Currently, the BLM is looking to amend the Greater Sage-Grouse management listed within the Land Use Plans (LUPs). From building on the foundation of prior planning efforts, the BLM looks to incorporate new science and work to address concerning trends to improve Greater Sage-Grouse (GRSG) conservation. The goal is to provide the BLM with locally relevant decisions that slow or stop the decline of GRSG populations through effective habitat management.

The 2015 plans had adaptive management triggers, since then 48 have been tripped. The BLM needs to amend the LUPs for GRSG to incorporate recent developments in relative science, evaluate ongoing sagebrush habitat challenges, consider consistency with State plans and Department of Interior priorities, and to address court concerns and improve durability.

The Montana State Executive Order categorizes habitat as a Core Area, General Habitat, and Connectivity Habitat. The BLM uses Priority Habitat Management Areas, General Habitat Management Areas, and Restoration Habitat Management Areas to categorize habitat. Primarily the habitats match up, but there are a few inconsistencies in the northeast and southeast part of Montana. The planning effort has been initiated and the BLM has met with cooperating agencies, including the Program and is currently developing a list of alternatives. The BLM is specifically focusing on updating habitat boundaries and state-level consistency issues. This is a national level planning effort that is engaging national level partners as well as state partners. After the range of alternatives is developed, an Environmental Impact Statement will be published. The most recent GRSG Planning Updated can be found in the BLM 'Greater Sage-Grouse Planning' newsletter dated March 29, 2023.

The current range of alternatives developed consist of Alt 1: remain consistent with the 2015 BLM plans, Alt 2: incorporate the 2019 BLM plans, please note that Montana is exempt from the 2019 plans and would remain consistent with the 2015 BLM plans, Alt 3: adjust habitat boundary with State and other feedback to capture current habitat; all areas managed would be priority, please note that alternative three is the most protective approach. Alt 4: adjust Habitat Management Areas (HMA) boundaries with State and other feedback based on new information and science, Areas of Critical Environmental Concern (ACEC) will be considered This alternative adjusts management to clarify approach and/or incorporate new information. Alt 5: adjusts HMA boundaries with State and other feedback based on new information and science. This alternative looks at select issues, different approaches and values (for example, no net loss vs. net gain). See BLM's 'Greater Sage-Grouse Planning' newsletter dated March 29, 2023 for detailed concepts and approaches.

11:26 am: Director Kaster: Requested information about potential ACECs under alternative 4 be available for cooperating agencies.

David Wood: Dr. Wood confirmed the information is available and that the potential ACECs would only be for GRSG since the planning effort is a targeted effort.

11:27 am: The BLM's next steps are to develop alternatives with cooperators, specifically focusing on considering new data and management issues to stop GRSG habitat loss and population decline. The BLM will evaluate ACEC nominations received during the scoping period, analyze alternatives in the Environmental Impact Statement and will release a draft for a 90-day public comment period. Once the comment period has expired, the BLM will respond to comments and adjust alternatives, etc.

11:28 pm: MSGOT Discussion

Therese Hartman: Ms. Hartman asked for clarification if the Sage Grouse Focal Areas would also be included in the alternatives.

David Wood: Dr. Wood confirmed that the Sage Grouse Focal Areas (SFA) were included in the 2015 BLM plans, so they would be included in alternatives one and two for Montana. The different alternatives include a different level of management. Alternative one has SFAs, alternative three includes all PHMA, alternative four has ACECs, and alternative five does not include any special category and only focuses on habitat management.

Chair Freeman: Inquired if the BLM can 'mix and match' the different alternatives.

David Wood: Dr. Wood stated that a preferred alternative is selected at the draft stage, but many different management tools can be selected from different alternatives to create the final EIS and Record of Decision (ROD).

11:29 am: Director Kaster: Director Kaster asked Dr. Wood if the BLM intends to sign one ROD for all of the states. Historically, the BLM has signed State-level EIS, but this time only one EIS will be done.

David Wood: Dr. Wood confirmed that the BLM will only conduct one EIS to address the cumulative effects dialogue, but the BLM does have the option to issue RODs at different levels. If there will be State-specific circumstances, a State-level ROD can be issued.

Director Kaster: Director Kaster asked Dr. Wood when the BLM would know if State-level RODs will be issued.

David Wood: The timeline is out of Dr. Wood's preview and cannot announce anything publicly at this point.

11:30 am: Brad Hansen: Mr. Hansen inquired if there were any incentives or benefits for landowners who participate in a conservation easement or conservation term lease. If landowners participate in sage grouse conservation on their deeded acres, will the BLM provide any benefits to the landowners if they have a BLM lease.

David Wood: Dr. Wood explained that nothing is explicitly noted in the plans. But, when analyzing cumulative effects of all projects, the conservation easements and conservation leases undertaken are noted in the final EIS. The BLM intends to cooperate with individual landowners to incorporate local-level land use into the current and future plans. The BLM is also looking for cooperative local-level work to implement restoration work on private lands.

Therese Hartman: Ms. Hartman clarified that when the Program undertakes a conservation easement or lease, credits are only provided for portions of the land that are deeded, private land. But there are many conservation projects that are made up of 'checkerboard' ownership and contain BLM parcels within the private land, these situations may see benefits.

11:34 am: Director Kaster: Director Kaster asked Dr. Wood how the Greater Sage-Grouse Planning Amendments fit into other national BLM efforts, Specifically the Grazing Rule update and the Conservation and Health Rule.

David Wood: Dr. Wood clarified that the planning effort falls under the current regulations. There are multiple on-going EIS, including changes to the grazing regulations, a solar programmatic EIS, and a local North Dakota Draft Resource Management Plan that are being coordinated together. At this moment, the Public Lands Rule are separate entities.

11:35 am: Rep. Bergstrom: Representative Bergstrom asked for an update on sage grouse numbers over the past ten years.

Heather Harris: Ms. Harris shared that the sage grouse population estimates in Montana are

typically cyclical following an eight-to-ten-year cycle. 2020 yielded good numbers followed by a slight downward trend in 2021 and 2022, which is not surprising given the drought conditions. The 2023 data has not been completed but Ms. Harris believes it will be difficult to determine a population estimate due to access issues. The late winter and large amounts of mud on the landscape prevented FWP staff from collecting three counts to determine high-trend numbers, which will be taken into consideration when completing her analysis. Ms. Harris hopes to present the population trends and potential avenues to complete lek surveys to MSGOT by late summer or fall. Ms. Harris estimates that the Statewide population is a bit below average, but the population varies depending on which portion of the State. Overall, Ms. Harris believes the Montana sage grouse population is doing okay.

Rep. Bergstrom: Rep. Bergstrom wanted clarification if Montana is holding its own with the sage grouse population.

Heather Harris: Ms. Harris stated that the Montana sage grouse population is currently within a valley, which follows the cyclical highs and lows typically seen in the Montana population. But Ms. Harris believes that Montana is still holding their own and should not be concerned.

Rep. Bergstrom: Inquired if Montana has a goal a population number.

Heather Harris: Ms. Harris explained that Montana does not have a specific number goal, but uses population estimates and evaluate lek trends based off high-male counts and create a long-term average. There are designated leks across the State that are measured each year called Adaptive Management Leks that are used when analyzing changes in season setting. When creating population estimates, the FWP staff try to collect data from as many leks as possible to assess long-term trends. If the population is below 45% of the long-term trend for three years in a row, FWP will look into closures and changing the season settings. It is important to note the Montana is not close to this trigger.

Rep. Bergstrom: Thanked Ms. Harris and all presenters for the information.

Public Comment on Other Matters

11:40 pm: None.

11:40 am: Therese Hartman: Ms. Hartman shared that the next MSGOT meeting is scheduled for Tuesday June 27th, but will most likely change to Thursday June 29th. Executive action will be taken, and a quorum is necessary. Presently, five members have confirmed their attendance for the June 29th meeting. At the next meeting, MSGOT will be taking executive action to approve the proposed edits to the HQT Technical Manual.

Chair Freeman: Chair Freeman clarified that the executive action will be to move the Rule Change Request forward, and not a finalization of the rule.

11:41 am: Chris Pfister: Mr. Pfister noted that he is not available to present at the June 29th meeting and asked if he can submit a presentation for the Program to share on his behalf.

Chair Freeman: Ensured that a message can be shared and that him and the Program can work together after the meeting.

Therese Hartman: Ms. Hartman suggested Mr. Pfister could submit a pre-recorded message.

11:42 am: Therese Hartman: Ms. Hartman continued that MSGOT will also be taking executive action to approve the initiation of the stakeholder process regarding Net Present Value. Ms. Hartman anticipates the stakeholder process will be long. Lastly, MSGOT will be asked to take executive action to vote on the two Johnson conservation easements, High Ridge Land conservation

easement, and to approve the changes to the three conservation leases. All the materials and meeting recording from today's meeting will be posted on the Sagegrouse.mt.gov website as soon as possible.

11:43 am: Chair Freeman: Adjourned the May 24, 2023 MSGOT meeting.

Chair for this meeting:

/s/  x

Michael Freeman, Governor's Natural Resource Policy Advisor