

**MINUTES**  
**MONTANA SAGE GROUSE OVERSIGHT TEAM**

Friday, February 19, 2016 Meeting Summary  
Montana State Capitol, Room 152  
Helena, MT

**Note:** Pursuant to Senate Bill 261 Section 1 (2015 Montana Legislature), meetings of the Montana Sage Grouse Oversight Team (MSGOT) are to be recorded electronically. These summary minutes provide an abbreviated summary of the action taken and public comment. The time designations listed are approximate and may be used to locate the referenced discussion on the audio recording of this meeting. Access to the electronic copy of these minutes and the audio recording is provided from the Sage Grouse Habitat Conservation Program webpage hosted by the Montana Department of Natural Resources and Conservation at <https://sagegrouse.mt.gov>. The agenda, summary minutes, MSGOT meeting materials, and audio recordings are listed by meeting date on the MSGOT Meeting Archive webpage.

**Members Present**

Tim Baker, Governor's Office  
John Tubbs, Montana Department of Natural Resources and Conservation Director  
Jeff Hagener, Montana Fish, Wildlife & Parks Director  
Tom Livers, Montana Department of Environmental Quality Director  
Mike Tooley, Montana Department of Transportation Director  
Senator Matt Rosendale, Glendive Montana (telephone)  
Representative Mike Lang, Malta Montana (telephone)  
Diane Ahlgren, Rangelands Resources Committee (telephone)  
Jim Halvorson, Montana Board of Oil and Gas Administrator (telephone)

**Staff Present**

Carolyn Sime, Sage Grouse Habitat Conservation Program, Program Manager  
Mark Bostrom, DNRC Conservation and Resource Development Division Administrator

**Call to Order**

00:00:10 Mr. Baker called the meeting to order.  
Montana Sage Grouse Oversight Team introductions.

**Administrative Matters**

00:01:30 Director Livers moved to approve the December 15, 2015 draft meeting minutes, Director Tooley seconded the motion. The motion carried unanimously. Future meeting dates are set for, April 19, 2016, DNRC Central Land Office and May 24, 2016, Montana State Capitol - Rm 172. Noted both meetings are tentatively scheduled for 9:00 a.m. to 5:00 p.m. Times will be finalized based on the agenda.

**Updates**

00:03:35 Ms. Sime introduced Therese Hartman and Dale Tribby, who will work for the Program for about eight weeks. Both are wildlife biologists having direct experience with sage grouse. Ms. Sime's report focused on implementation of the Executive Order 12-2015. The Order was signed in September 2015. It constitutes Montana's regulatory mechanism for how it's going to conserve Sage Grouse and designated Sage Grouse habitats. The Order only applies in the designated habitats and

establishes a consultation process. It set a deadline for fully operational January 1, 2016, and was underway as of December 31, 2015.

For projects proposed in designated habitats, an online tool on the Program's website has been developed that allows project proponents to provide information about their project. If a project is outside designated habitats, proponents can determine that right away and move forward with their project. The online tool also provides an orderly way for folks to submit information. It allows the Program to retrieve the information, too. After review, a letter is mailed to the project proponent, who then can take that letter to any permitting agency, state or federal agencies they may be working with. This letter is all they will need to move ahead with their project and is applicable to any state permitting, grant, technical assistance, or authorization process. If a project would occur in core habitat, there is a 2<sup>nd</sup> phase to the analysis, referred to as the Density Disturbance Calculation Tool (DDCT). As of February 18, 2016 the Executive Order has been fully operational for about seven (7) weeks. The program has received 112 submitted projects. Of the 112 submitted projects, 82 have been reviewed and letters have been sent out to the project proponents.

Public outreach is a continued significant need and ongoing effort. Emphasizing the Executive Order does not apply outside of the designated habitats has alleviated a lot of concerns. Will be working directly with state agencies, the public, and MSGOT to further refine what kinds of things trigger review and consultation by the Program under the Executive Order. As an artifact of how the map was created, the lines on the map include very broad areas. It was created years ago for conservation purposes but not for the purposes of implementing the Executive Order at fine scales, so it has its limitations. It does provide important guidance for biological areas important for conservation and how development may affect sage grouse and sage grouse distribution. The Program and DNRC GIS Team continue to develop the DDCT for projects proposed in core habitat, which will likely involve contracting to develop the disturbance layer, and collaborating with Wyoming for DDCT Phase 2 and the entire user experience online. The Program and DNRC Office of Information Technology recruited and hired a GIS Coordinator, Christy Fortman, who will start on February 22, 2016; currently recruiting for an Environmental Scientist Specialist with biological / wildlife background.

Montana Sage Grouse has a new website: <https://sagegrouse.mt.gov>. The Oversight Team has its own designated page. The public can see the agendas, minutes, and recorded meetings. A list-serve is now available on the Sage Grouse website. The Program will continue to work with federal agency partners to align their work with the State's Executive Order. Western Governor's Association Sage Grouse Task Force and subcommittee will continue meeting in 2016. Focus will turn to mitigation and the Habitat Quantification Tool (HQT) for the remainder of 2016.

### **Reports from MSGOT Members**

00:27:55 Rep. Lang reported he is continuing to work with Carolyn. Wants his constituents to be equal to Sage Grouse, and predation issues to be analyzed at some point.

- 00:29:30 Sen. Rosendale thanked the committee and agreed that the maps are statewide and the detail needs to be more specific. Need to exempt municipalities from the process so can conduct basic infrastructure needs. Attended the public hearing in Roundup. Noneventful, but it was an opportunity to discuss other information unrelated to the rules and gave people a level of comfort that this is a transparent process and public's opinions will be considered. Believes it is absolutely critical that the HQT be up on the front burner as soon as possible. The statute directs use of the quantification tool in order to award or appropriate funds. Need to have the ability to identify the quality of the habitat that's being disturbed and the quality of the projects that are going to be mitigated by any appropriated funds so the number of credits generated by the grants awarded can be calculated.
- 00:32:26 Mr. Baker reported he thought the legislation process was good and resulted in a good product. The statute clearly contemplates that money can be spent from the stewardship fund before the HQT is established. It will impress the need to be very certain that the types of projects approved in advance of having the HQT are projects that will generate credits.
- 00:34:15 Ms. Ahlgren reported she talked with a Fergus Electric Coop engineer who wondered if lek locations can be made available to make it much easier when planning projects. Not sure landowners would like it if this information is accessible, or that this information should even be put on the website. Would like to reach out and talk to other landowners before making a statement on this topic. Elaborated on the Range Monitoring Project Partnership. Rachel Frost is doing interviews, new hires will be out on the ground soon helping landowners with ranch plans, etc. The Rangeland Executive Committee will be hosting a Range Forum May 4<sup>th</sup> – 5<sup>th</sup>, 2016 in Billings.
- 00:36:39 Mr. Halvorson reported they are starting to get applications for remedial sort of work and oil & gas operation and referred them to the Program. Dealing with the fear of the unknown and the application of the Executive Order, but doing a good job at getting industry educated as to what the process is.
- 00:37:29 Director Hagener reported FWP received a \$700,000 grant to offer conservation leases for grasslands and sagebrush habitat similar to opportunity offered nine (9) years ago. Landowner participation is entirely voluntary. FWP can make a one-time payment of \$15.00 per acre if the landowners agree to not plow, burn, spray, or otherwise remove native vegetation, or drain wetlands. Landowners will also agree to some public access for game bird hunting and recreational wildlife viewing. This is positive and will concentrate in the core areas. Continuing to provide technical expertise to the U.S. Fish & Wildlife Service and assisting with the development of a programmatic candidate conservation agreement with assurances that could be applied throughout the state. Regional staff is preparing for annual lek monitoring, which starts in March and goes into April. Research staff preparing for the 2016 field season with Sage Grouse Initiative grazing management and demographic studies. Also collaborating with Montana State University on studies on bugs that the birds eat and University of Montana on songbirds in the same area.
- 00:40:58 Director Tooley reported that not much has changed since the last meeting except for MDOT now has a long-term transportation bill so project work will increase. Will be paying attention to the Executive Order and its impacts. Spending a lot of time

with the Program staff to make sure MDOT stays in compliance with the Executive Order, and to educate construction staff.

00:42:11 Director Livers recognized and thanked the DNRC staff. Wrestling collectively with the agency's concern of volume of impacts to the Sage Grouse Program, given the number of activities. DEQ GIS tool being deployed to show sage grouse habitat areas to help applicants. There are specific challenges with projects that have multiple permits and looking into the grandfathering issues. Working through them.

00:45:56 Director Tubbs reported that DNRC, as the host agency, has weekly meetings with DNRC's Fiscal, Legal, Program staff, as well as other DNRC staff. Struggling with a lot of the same issues all the Directors have talked about. Keeping an eye on identifying priority areas and getting the permitting apparatus in place effectively and getting projects through the system as quickly as possible. Working on getting enough staff to help Carolyn with the Program.

### **Sage Grouse Habitat Stewardship Fund Grant Program Rulemaking**

00:49:10 Ms. Sime, referring to the Proposed Adoption Notice, the Program recommended no changes to the Proposed Rule and that it should be approved. The Proposed Rule was on the agenda in November 2015, approved for public comment and was published December 10, 2015 in the Montana Administration Register. The comment period went from December 10<sup>th</sup>, 2015 through January 22<sup>nd</sup>, 2016. Had three (3) public hearings: Malta, Roundup, and Dillon. Ms. Sime was the designated Hearings Officer. Rep. Lang, Sen. Rosendale, and Diane Ahlgren, staff attended the hearings. Acknowledged the significant help from DNRC staff, FWP, and NRCS. Comment was also accepted online, through postal mail, and e-mail. Several comments indicated they would like to see private citizens be eligible to receive grant funds from the Stewardship Account and other comments that the Grant Fund Administration expenses should also be available. The Stewardship Act itself does limit eligibility for grant funds to agencies and organizations with an interest in sage grouse conservation, which is defined as broadly as possible. The proposed rule also indicated preference for online submission of grant applications or by other means approved by MSGOT. The program recommends approval of receipt of grant applications in paper format for the first grant cycle. If the rule is adopted as final during this meeting, rule would be filed with the Secretary of State February 22<sup>nd</sup>, 2016, published March 4<sup>th</sup>, 2016, and effective March 5<sup>th</sup>, 2016. [Handout 1]

00:53:57 Mr. Baker entertained a motion to approve the Proposed Stewardship Fund Grant Rule with no changes. Director Hagener moved to approve and Director Tubbs seconded the motion. The motion carried unanimously. No Public comment.

00:55:35 Ms. Sime proposed the Grant Procedure 01-2016 document for consideration. It's intended to establish a consistent, transparent process, and procedure that MSGOT and the Program would follow. It incorporates aspects of the Stewardship Act and the administrative rule. By not putting these procedures in the administrative rule, MSGOT retains flexibility. Recommends MSGOT endorse Procedure 01-2016 as originally proposed. [Handout 2]

- 00:57:16 Mr. Baker entertained a motion to approve the Grant Procedure 01-2016 with no changes. Director Tooley moved to approve. Director Hagener seconded the motion. The motion carried unanimously. No public comment.
- 00:59:29 Ms. Sime introduced possible next steps in the grant cycle and MSGOT discussion followed. Over the last several months of rulemaking and in talking with stakeholders, have heard diverse view-points about when MSGOT should undertake the first grant cycle. The view-points range from immediately to get credits underway to waiting until the HQT is finalized, the mitigation strategy is in place and formalized in a new rule. There are advantages and disadvantages to either approach. Have been talking with the NRCS staff as some of their programs could be matched with the state program and vice versa. MSGOT has a meeting scheduled in April and again in May. MSGOT may consider moving forward cautiously. The soonest money could be granted is after March 5<sup>th</sup> when the administrative grant rule takes effect. April 19<sup>th</sup> meeting will be too soon. MSGOT discussed making decisions during the May 24<sup>th</sup> 2016 meeting to select grant recipients and determine specific amount of allocation relative to potential HQT development timeline. MSGOT first considered whether to move forward with the first application cycle and when; then discussed whether to pre-determine what level of funding would be approved.
- 01:39:38 Mr. Baker entertained a motion to approve MSGOT action on the 1<sup>st</sup> round of applications at the May 24<sup>th</sup>, 2016 meeting. Director Tubbs moved May 24<sup>th</sup> as the meeting when MSGOT considers the first round of grant applications and makes decisions, but reviewing applications does not require MSGOT to appropriate any funds. Director Hagener seconded. Opportunity for public comment (Glenn Marx). The motion carried unanimously.
- 01:48:40 Mr. Baker reiterated the statutory limitation for the maximum that could be funded prior to the HQT being developed and that MSGOT will set the bar very high for any awarded funds; possibly not award any funds. Suggested MSGOT proceed to May 24<sup>th</sup> meeting to consider the first round of applications without setting any allocation at this time. MSGOT members agreed without formal motion.

### **Public Comment**

- 01:39:23 Glenn Marx, Executive Director, Montana Association of Land Trusts  
01:53:52 Gary Wiens, Environmental Engineer, Department of Environmental Quality

### **Adjourn**

- 01:58:04 Adjourn

/s/ Tim Baker  
Tim Baker, Chairman MSGOT