

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.

MINUTES

MONTANA SAGE GROUSE OVERSIGHT TEAM

Thursday November 3, 2017, 2017 Meeting Summary
DNRC Headquarters, Helena, Montana Room

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. The electronic recording is the official record. 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

John Tubbs, Montana Department of Natural Resources & Conservation, Director
Jim Halvorson, Montana Board of Oil and Gas, Administrator, by Phone
Diane Ahlgren, Rangelands Resources Executive Committee, by Phone
Senator Mike Lang, SD 17, Malta, Montana, by Phone
Patrick Holmes, Montana Governor's Office, by Phone
Mike Tooley, Montana Department of Transportation, Director, by Phone
Representative Casey Knudsen, HD 33, Malta, Montana, by Phone
Tom Livers, Montana Department of Environmental Quality, Director, Not Present
Martha Williams, Montana Department of Fish, Wildlife & Parks, Not Present

Staff Present

Ms. Carolyn Sime, Sage Grouse Habitat Conservation Program, Manager

Call to Order

00:00:04 Director Tubbs called the meeting to order.
00:00:13 Montana Sage Grouse Oversight Team Roll Call.
00:02:00 Senator Lang moved to approve the minutes. Administrator Halvorson seconded. Motion passed unanimously.

Update on Implementation of Executive Order No. 12-2015

00:04:39 Administrator Halvorson: No news to report.

00:04:46 Director Tooley: Montana Department of Transportation (MDT) environmental staff are working with the Program to identify potential impacts from maintenance activities and identify when those activities could be exempt from consultation. MDT just completed their 5 year tentative construction plan and will be looking at the plan for potential sage grouse issues or mitigation and believes discussion and resolution earlier is better than later.

00:06:30 Ms. Algren: Fall moisture is resulting in green up and no erosion issue in the fire areas. Announced the Rangeland Resources Executive Committee, 2018 Winter Grazing Seminar, February 6th and 7th at the Radisson Hotel in Helena.

00:07:30 Senator Lang: Nothing to report.

00:07:37 Representative Knudsen: Nothing to report.

00:07:44 Mr. Holmes: Nothing to report.

- 00:07:47 Director Tubbs: Provided overview of testimony he gave to the U.S. House Committee on Natural Resources, Congressman Bishop's Committee. [See page 21, Meeting notes]. There was very little distance between states and the issues seemed to be focused on grazing management plans and fire. Idaho has a very different wildfire fire response process than Montana. In Montana the training occurs upfront in the springtime and training includes where not to put fire camps, such as on top of leks. Fire personnel safety is priority number one, structures are number two and protection of natural resources is third. Montana has a goal to put out fires when less than 10 acres in size.
- 00:11:58 Ms. Sime: Indebted to DNRC and OIT who continue to provide tremendous support. The Program's Report included handouts in the MSGOT packet with additional background information to address Senator Lang's concern about cancelled projects that had been submitted for consistency review. The Executive Order 12-2015 Consistency Review Summary Report indicates that completion rate for reviewing projects from January 1 to October 26, 2017, is still high at 97.4%. [See Handout 1]. The turn-around time still generally ranges from 1-7 days. Projects that take more time tend to be large, complicated projects, projects proposed in core areas, or projects for which an environmental review pursuant to NEPA (federal agency) or MEPA (state agency) is being undertaken by the permitting agency and our work is timed with theirs and provides technical support for the analysis document. Provided clarification that authorization to approve a project rests entirely with the permitting agency, so the Program is not denying permits when it "cancels" projects. [See Handouts 1 and 2].
- 00:17:29 Director Tubbs: Asked Senator Lang if this clarification addressed his concerns.
- 00:07:46 Senator Lang: Stated it did but may need additional clarification about projects that take more time because of NEPA.
- 00:18:32 Director Tubbs: The program provides a review for sage grouse requirements but doesn't track other concerns a permitting agency might have or the permitting agency time frame. The NEPA process may include the Program's recommendations in one of the alternatives.
- 00:19:49 Ms. Sime: The Program works closely with proponents and the agencies when projects involve NEPA to identify opportunities for avoidance and minimization for the project that could be incorporated and analyzed in the Environmental Assessment or Environmental Impact Statement.
- 00:20:27 Director Tubbs: Agencies have a NEPA checklist and the Program works with them to develop alternatives.
- 00:21:18 Ms. Sime: A second handout explains how projects are classified for database management and reporting purposes. It explains terms, including "cancelled projects." [Handout 2]. The term "cancelled" is how the Program categorizes a project and doesn't mean the proponent was denied a permit due to sage grouse concerns. "Cancelled" is a term from the old web and data system for a project that did not require review. This may have been a project that was entirely outside of sage grouse habitat where Program review was not necessary. Alternatively, a Proponent may change their mind and cancel the project on their own or a proponent may fail to respond to repeated attempts by the Program to get more information about the project so that the Program could complete the review. Projects are stored in the new system as "archived" and a proponent can renew the project at any time in the future.
- Ms. Sime asked Senator Lang if this resolves his concerns about the "cancelled" term.
- 00:24:16 Senator Lang: Stated it did.

00:24:21 Ms. Sime: Stewardship Funds Grants: Jim Berkey, with The Nature Conservancy, notified the Program they have successfully secured matching funds to complete the Hansen Livestock Company Conservation Easement. The next step is to complete the Grant Agreement.

Summary of MSGOT's financial obligations to address Senator Lang's information request from the August 31, 2017 meeting. [Handout 3]. MSGOT committed funding to the following six projects:

1. the 44 Ranch Conservation Easement project, which closed in November, 2016;
2. the Raths Livestock conservation easement has an executed grant agreement and easement terms negotiations will begin in the near future;
3. the Watson Cattle Company conservation easement has an executed grant agreement and we await word from the Montana Land Reliance and the Watson family as to whether they wish to proceed with the easement after the passing of Tom Watson;
4. the Hansen Livestock Company conservation easement and conifer reduction project was awarded funding; the conifer reduction work was accomplished earlier in 2017 using other funds and MSGOT redirected the conifer funds to the conservation easement; next step is execute a grant agreement;
5. the Weaver Cattle Company conservation easement was selected for funding with the contingency that the habitat restoration portion of the application be implemented and that the Montana Land Reliance secure adequate matching funds for the easement and the restoration; MSGOT award amount was decreased to a total of \$300,000 because Montana Land Reliance secured additional matching funds from NRCS; and
6. the Troy Smith conservation easement was selected for funding, but the Montana Land Reliance notified the Program and MSGOT that alternative funding was secured so the application was withdrawn.

Of the original \$10 million Stewardship Grant Fund, \$1.5 million was spent to close the 44 Ranch Conservation Easement.

The 2017 Montana legislature passed and the Governor signed HB 228 redirecting \$1.6 million of the Stewardship Account to be used to award grants and, up to \$400,000 could be used for Program administration. The actual expenditures can't and won't exceed the appropriations in each state fiscal year. These projects take one to three years to complete, so the closings on all of these projects will be timed so as to not exceed the appropriation and authority in any given state fiscal year.

00:28:16 Ms. Algren: Asked when funds would be available for projects and what the timeframe is.

00:28:30 Ms. Sime: Funds will be available depending on the timing of when the projects close but should be late Fiscal Year 2018 or early calendar 2019 if projects are timed so we don't exceed \$1.6 million in any single fiscal year.

00:29:00 Director Tubbs: Table 2 shows a \$500,000 balance with current year authority of \$1.6 million, leaving an available balance in the current fiscal year of \$2.1 million. [Handout 3]. The Watson and Raths conservation easements combined total is \$975,000. MSGOT has more than enough funds available to close the obligated grants. While there aren't enough funds remaining to immediately fund everything right now, the funds are provided for through the appropriation. The Program is fully obligated for the remainder of this year and will have another \$1.6 million available at the start of the next fiscal year.

There is a balance of \$1,252,500.00 unobligated but prior approved funds remaining.

00:31:34 Senator Lang: Asks how the Stewardship Funds could play into the current budget cuts.

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.

- 00:31:40 Director Tubbs: Doesn't believe they are looking to this fund as a source at this time.
- 00:32:55 Ms. Sime: Mitigation: Drafts for both the Guidance and HQT documents were provided to MSGOT at the last meeting. The Program is initially focusing on the HQT. The Program has been working directly with SWCA Environmental Consultants transferring the computer GIS model from SWCA computers to a state computer. The process is complicated with 12 equations and the Program and DNRC OIT staff are still learning about how it is put together and how it works. We have participated in conference calls and understand SWCA is a couple of weeks out from getting us the next phase of the work product for the HQT. Pilot projects will need to be undertaken by the state OIT team. Other states have strongly encouraged us to work through hypotheticals and pilot projects to make sure the HQT is appropriate for a variety of project types and produces reasonable results.
- The Program is simultaneously looking into outstanding areas where stakeholders could not agree related to policy approaches described in the Guidance document. The Program has been exploring various policy outcomes using the few pilot project scenarios presently available. Part of this process has been exploring the connections between the HQT and Guidance document. The Program won't be able to see how various scenarios work until the model is fully transferred to state computers and the state is able to perform pilot or hypothetical HQT calculations on state computers. Until that time the Program won't be in a position to make recommendations to MSGOT on either the HQT or the Guidance documents and administrative rules for review until it can be seen how the two parts work together. Individual projects are moving forward on a case by case basis, despite the fact that these two documents are not finalized.
- 00:40:17 Director Tubbs: The Program has made a lot of gain with the SWCA's work recently and while it seems complex, once we get a view of the model we should be able to set policy.
- 00:41:04 Senator Lang: Asks when the HQT recommendations might be brought before MSGOT.
- 00:41:22 Ms. Sime: The Program expects the December meeting will be substantive and there will likely be ongoing discussion in January.
- 00:41:49 Danna Jackson, Chief Legal Counsel DNRC: Powerpoint presentation on administrative rulemaking. [Handout 4]. [Program Note: the meeting materials archive pdf file available on the MSGOT Meeting Archive webpage reflects the correction pointed out by Administrator Halvorson below].
- 00:44:00 Administrator Halvorson: Pointed out that the requirement for U.S. Fish and Wildlife Service (USFWS) "approval" was amended in the 2017 Legislative session.
- 00:45:05 Mr. Carlson, BLM Management Zone 1 Greater Sage-Grouse Lead: The BLM is in process of scoping for potential Plan changes. Two back-to-back open houses will be held in Billings on November 8th at the BLM State Office. The BLM will take input on multi-state plan decisions. The comment period will run 45 days with a closing date of November 30th. From these meetings and other public comment, the BLM will make a decision regarding potential changes to the current land use plans. The BLM state director is not interested in amending the plans and updating them using other mechanisms, if at all possible, but that will depend on the scope of the comments the BLM receives.
- 00:47:59 Director Tubbs: Asked if MSGOT members had any questions.
- 00:48:23 Senator Lang: Asked if focal areas would be discussed during these reviews.

