

MINUTES
MONTANA SAGE GROUSE OVERSIGHT TEAM

Tuesday, April 19, 2016 Meeting Summary
Montana Wild, 2668 Broadwater Avenue, Helena, MT 59602

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 <http://dnrc.mt.gov/divisions/cardd/sage-grouse>. 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
Mike Tooley, Montana Department of Transportation Director
Jeff Hagener, Montana Fish, Wildlife & Parks Director
John Tubbs, Department of Natural Resources & Conservation Director
Tom Livers, Montana Department of Environmental Quality
John Tubbs on behalf of Jim Halvorson, Montana Board of Oil and Gas Administrator
Diane Ahlgren, Rangelands Resources Executive Committee
Senator Matt Rosendale, Glendive Montana
Representative Mike Lang, Malta Montana

Staff Present

Mark Bostrom, DNRC Administrator
Carolyn Sime, DNRC, Sage Grouse Habitat Conservation Program, Program Manager

Call to Order

00:00:20 Tim Baker called the meeting to order.
00:01:23 Montana Sage Grouse Oversight Team Introductions

Administrative Matters

00:04:37 Motion to approve the February 19, 2016 draft summary meeting minutes was moved and seconded. The motion carried unanimously. Future meeting date scheduled for May 24, 2016, 9:00 am. – 5:00 p.m. Montana State Capitol, Rm 172. Mrs. Sime suggested future meetings be held in August, and December 2016, or January 2017.

Update on Implementation of Executive Order No. 12-2015

00:06:05 Sage Grouse Habitat Conservation Program. Mrs. Sime focused on the implementation of Executive Order No. 12-2015, program work, and updates. Mrs. Sime introduced Therese Hartman, a recent recruitment to the Sage Grouse

team, and also Kristy Fortman (GIS Coordinator). As of April 19th, 2016 the Executive Order has been fully operational for about 4 1/2 months. About 350 projects have been submitted. Out of the 350, 27 were cancelled, 47 unable to move forward due to missing information from the project proponents. Were able to review 323 of the projects, reviews completed on 281 projects which is roughly 87%. Moving projects forward as quickly as possible, but recognize they are working with other agencies and potential permitting processes are involved. Key messages to alleviate confusion, is asking applicants if the proposed activity would occur in one of the designated areas. If not, the Executive Order does not apply, if yes the Executive Order would apply and will need to be followed. Continuing outreach, and working directly with State Agencies, the public, and consultants, to help them understand how the process works, and if their plan of activities would be subject to the Executive Order. The request for proposals for Information Technology (IT) related work, (1) developing existing disturbance layer (has been released); and the (2) web online tool, are nearing completion. Continuing to collaborate work with Federal Agency partners and had an interagency meeting on February 18th, 2016 to understand more on how the Land Management Agency plans to interface with the Executive Order. Mitigation which is the third major topic of the Executive Order, and the Stewardship Act, both require implementation of the mitigation hierarchy. Mrs. Sime is continuing in participation with the Western Governors Association Mitigations subcommittee. The purpose is to assist in development related BLM mitigation strategies and potentially Forest Service mitigations strategies. Part of the Stewardship fund process was to make a filing with the Secretary of State for an effective Administrative rule which is complete. February 19, 2016, MSGOT passed a motion to initiate the first grant cycle with the deadline of April 8, 2016, 5:00 p.m., no funding amount was agreed upon. Nine (9) applications were received, eight (8) for conservation easements and one (1) for fence marking effort. On April 17th, 2016 a media release was issued and the applications were downloaded onto the program's website. Public comment deadline on the applications will be April 29th, 2016, at 5:00 p.m. Applications will be reviewed at the May 24th, 2016 meeting by MSGOT. If MSGOT decides to fund, the next step will be to discuss grant agreements, grant agreement language, and funding amount(s).

00:22:36 Project Review Demonstration: Carolyn Sime and Kristy Fortman
Refer to PowerPoint – [Handout 1]

00:45:50 Director Livers reported efforts since last meeting of focusing on identifying, developing potential exceptions for considerations by MSGOT. Working on identifying places where there is no disturbance as a result of the State Action, which is imperative and important in helping with workload, and saving time for the Sage Grouse Program. Last calendar year there was approximately 17,000 permits/licenses. That's pushing 5,700 actions that could happen within habitat. Getting close to having air quality exceptions ready. Future flagged policy questions on open-cut program/gravel pit program on revegetation and recreation of gravel pits and the associating language in the Executive Order. Have found landowners have concern and don't want to go back to sage brush. This may end up in mitigation framework. Introduced Kristi Ponzoso, Public Policy Director for DEQ.

- 00:53:43 Director Tooley introduced MDT staff members Tom Martin and Bill Semmens who have been working the program staff.
- 00:54:55 Director Tubbs reported projects are going well. Touched upon what is maintenance vs. what is beyond maintenance work in progress. Staffing wise, running a lean effective program to date, and now heading into mitigation, Appropriation doesn't reflect full costs.
- 00:57:02 Senator Rosendale reported he is interested new information. Is eager to participate and hear about the approval of the Habitat Quantification Tool (HQT). Also eager to see more precision in mapping created, and happy to see, and participate in discussion of exemptions.
- 00:59:32 Representative Lang reported his fears are slowly turning into knowledge. Working through the exemptions will be a big accomplishment.
- 01:00:03 Ms. Ahlgren reported she is relieved the projects are moving forward in a timely manner and that things are going well. Getting through the grant process and mitigation will be the next big hurdle. Will attend the BLM meeting in Billings April 21st, 2016 where they will be discussing implementation of the Sage Grouse plan.
- 01:01:16 Director Hagener reported working on prescreening tool for leks. Currently in the middle of lek counts which are up considerably from 2015, which could be the result of closing areas during hunting season due to the long-term numbers being down. If the numbers get back above the long-term average, the season would be vile again for Regions 5 and 7, and this will be discussed in the future with the Fish & Wildlife Commission. Sage Grouse numbers continue to rise in Regions 4 and 6. All numbers are looking very positive. Also finding new leks and seeing activity in leks that haven't had activity in years, 200% above what they were from 2014. Peak activity is earlier this year due to photoperiod and seasonal impact. The Roundup research project continues, watching 101 hens using radio transmitters. In the process of accepting applications for conservation easements from landowners. Mailed out announcement which targeted in core areas/grasslands on the highline. A large sponsor, Western Association Fish and Wildlife Association Sage Grouse will have a conference June 13th – 17th. There are several lawsuits regarding Sage Grouse. Montana is not involved, but are watching.
- 01:08:53 Mr. Baker - no report.

Update, Federal Agency Partners

- 01:09:08 BLM – Jeff Carlson – BLM working on implementation of decisions/plans. Working on national level instructional memorandums to help refine how they will be implemented. Had a Federal agency internal BLM staff training in Billings, and walked through the drafts of the instruction memorandum, getting input from the field. The information was provided to the Washington office for revision. Continuing to work on getting the program up and running, drafting an agreement, and getting money moving.

- 01:12:07 USFS – Mary Manning – Regional Office, Missoula. They have amended their plans with the BLM. The Beaverhead-Deerlodge National Forest is the only amending unit in Montana. While they amended with SW Idaho, implementation is with the State of Montana, meaning, in terms of adaptive management mitigation monitoring, use of the DDCT is with Montana. The Custer-Gallatin National Forest, one of the Ranger districts includes part of South Dakota. There is mapped habitat on the Ashland, the Sioux Ranger Districts, and part of the Hebgen Lake District. A GIS exercise was done years ago when considering that unit, and trying to understand why it wasn't amended with the BLM. Custer is now working to ensure they are aware of the Executive Order. Nationally working on implementation, led out of Ogden, Utah. Put on a monitoring training using the habitat assessment framework online tool, and training on grazing, vegetation/habitat, lands, minerals, energy, and recreation. No new direction from the Washington office or out of Ogden, with regards on implementation of records of decision, and are using web-based guides for staff.
- 01:19:30 NRCS – Kyle Tacket, NRCS GIS Coordinator. Currently in contracting period for SGI contracts and looking at about 40 applications with private landowners. \$5.5 million this FY and this does not count the 27,000 acres of applications for permanent easements for Montana. Additional funds will be requested from headquarters. Outreach continues on easements by reaching out to the Montana Association of Land Trust, FWP, and other Land Trusts by hosting events. In early May events are set for Roundup, Joliet, and Lewistown. Will host an event in Lewistown at the end of June 2016, and the main topics will be grazing and cultivation risk.
- 01:22:48 USFWS – Jeff Berglund. Been attending BLM meetings, and working on development of statewide programmatic candidate conservation agreement with assurances for Sage Grouse and other declining grassland birds for Ag and ranchlands. Anticipating the public draft to be ready this summer and the final in late fall. On April 4, 2016 the service published a “not warranted” for the Spragues Pipit. May 9, 2016 is the deadline for public comment on Draft Mitigation Policy that was published in April 2016. This policy is intended to be a single umbrella for all authorities. Example: Endangered Species Act Mitigation Policy. Have an internal draft Service Policy regarding voluntary prelisting conservation actions, the final is being written and should be published May 2016.

Programmatic Exceptions from Executive Order 12-2015 Consultation Requirements

- 01:48:00 Mrs. Sime introduced the programmatic exceptions from Executive Order 12 -2015 Consultation Requirements for all activities within existing incorporated boundaries of cities and towns. There are three (3) important documents that help in understanding the threats to Sage Grouse. USFWS Document; COT Report, and Policy for Evaluation of Conservation Efforts (PEACE). These documents give a roadmap for what Montana needs to focus on for implementation strategy. Two essential questions to address: What happened to the lands of the designated habitats?; and how are the birds doing? Strategy and fine tuning implementation is essential. One of the goals is to eliminate additional steps. First proposed recommendation. Activities within boundaries of

incorporated cities and towns. Sage Grouse habitat has been designated for conservation within the Executive Order 12-2015 initially with correction for the map associated with Executive Order 21-2015. We do have the most refined map. Recommended MSGOT's consideration to approve a programmatic exemption for all activities that would occur within the boundaries of incorporated city limits and towns for no consultation, which means the stipulations of the Executive Order would not apply. If MSGOT approves this recommendation, as of March 28, 2016, any activity within incorporated city limits would be exempt from consultation and stipulation in the Executive Order.

02:04:16 Action was taken. Director Livers moved a motion to approve the exemption to activities within cities and towns Director Tubbs seconded the motion and approved for Jim Halverson by proxy. Motion passed unanimously. [Handout 2]

02:13:04 Montana DEQ: licenses and permit renewals regarding Waste and Underground tank Management Bureau. Mrs. Sime focused on the waste and underground tank Management implementation. The Executive Order allows MSGOT to fine tune implementation on the renewal of licenses dealing with waste management and waste management facilities, including landfills, recycling and compost facilities, and areas where treated sewages apply to the ground. Under this exemption the renewal of existing licenses would be exempt from the consultation requirement as long as the licenses are renewed under the same terms and conditions originally issued.

02:30:00 Action was taken. Senator Rosendale moved the committee to grant programmatic exemption to consultation requirement for renewal of licenses for the solid waste management system license, cesspool septic tank and privy licenses, and the motor vehicle recycling and disposal license with additional language that includes programmatic exemption for the transfer or name change of each of the licenses as long as the balance of the terms remain unchanged. Director Tooley seconded the motion. Director Tubbs approved for Mr. Halvorson by proxy. Motion passed unanimously. [Handout 3]

02:31:43 Building Codes Bureau, Business Standards Division. The Bureau authorizes many activities related to buildings (ex: cranes, blasting operations) through either a licensing or permitting process. Applicants must obtain authorization prior to conducting activity and must renew licenses/permits annually. There are a variety of licenses and permits that would occur in association with infrastructure activities that can be a threat to Sage Grouse.

02:48:28 Action was taken. Representative Lang moved the committee to grant the Montana Department of Labor and Industry; Building Codes licenses and permits. Motion seconded and passed unanimously. Director Tubbs approved for Mr. Halvorson by proxy. [Handout 4]

Authorization to Deviate from Executive Order 12-2015 'No Surface Occupancy' Stipulation for Montana Department of Transportation, Highway 12, Rosebud County Line East Update

02:48:28 In coordination with MDT initially introduced this project. (Reference [Handout 1]) Any proposed deviations to be reviewed by MSGOT and this project is one example. Recommended by Mrs. Sime that MSGOT authorize a deviation from Executive Order 12-2015 "no surface occupancy" stipulation for MDT for the Highway 12 Rosebud County Line East Project, segment between mile markers 216 and 217 so long as MDT implements the planned within-project mitigation

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.

measures, restores vegetation cover, and observes seasonal stipulations.

[Handout 4]

03:01:04 Action was taken. Representative Lang moved the committee to authorize the Authorization to Deviate from Executive Order 12-2015 No Surface Occupancy Stipulation for Montana Department of Transportation, Highway 12, Rosebud County Line East. Motion seconded and passed unanimously. Director Tubbs approved for Mr. Halvorson by proxy. [Handout 5]

General Public Comment

02:02:10 Bob Jeffrey, Big Sky Upland Bird Association

02:44:27 Gary Forrester, Billings, MT – Governor Affairs, MDU Resources, Inc.

03:08:08 Gary Forrester, Billings, MT – Governor Affairs, MDU Resources, Inc.

Adjournment

03:03:59 Adjournment

CHAIRMAN

ATTEST

/s/ Tim Baker
Tim Baker, Chairman

/s/ Mark Bostrom
Mark Bostrom, CARDD Administrator