

MINUTES
JOINT MEETING

**HOUSE RESOURCES & CONSERVATION COMMITTEE
SENATE RESOURCES & ENVIRONMENT COMMITTEE**

DATE: Monday, February 13, 2012

TIME: 1:30 P.M.

PLACE: WW02 Auditorium

MEMBERS: Chairman Stevenson, Vice Chairman Shepherd, Representative(s) Wood(35), Barrett, Moyle, Eskridge, Raybould, Bedke, Andrus, Wood(27), Boyle, Hagedorn, Harwood, Vander Woude, Gibbs, Pence, Higgins, Lacey

MEMBERS: Chairman Pearce, Vice Chairman Bair, Senator(s) Cameron, Siddoway, Brackett, Heider, Tippetts, Werk, Stennett

**ABSENT/
EXCUSED:** None

GUESTS: The sign-in sheet will be retained in the committee secretary's office until the end of the session. Following the end of the session, the sign-in sheet will be filed with the minutes in the Legislative Services Library.

Chairman Stevenson called the meeting to order at 1:31 p.m.

Chairman Stevenson introduced the presenters. **Rep. Bedke** introduced **Jeff Foss**, Deputy State Director for BLM, **Brian Kelly**, US Fish and Wildlife Office, and **Steve Dorrety**, Office of the Secretary to the Interior. **Sen. Brackett** introduced **John Carpenter**, **Pete Oakachia**, and **Grant Gerber**, from Nevada and **Smoky the Bear**.

Virgil Moore, Director, Dept. of Fish and Game, said he will be speaking about sage grouse biology and said sage grouse are unique in Idaho. He said they are a low productive rate animal, but live a long time and have high survival rates. He said they can survive harsh winters and our harsh Idaho environments. He said many populations are migratory and there is large movement between seasonal ranges and huge home ranges. Director Moore said sage grouse have 15 million acres of habitat, of which 10 million acres is priority habitat. He reviewed the percentage of habitat that is federal, state, tribal and private land.

Director Moore said they don't know the total number of sage grouse in Idaho. He said hens camouflage very well. He said the primary way they try to determine the number is from the male lek counts. This count gives an average number of male sage grouse per lek and they use this as an indicator to count females and chicks.

Director Moore said the Department of Fish and Game manage hunting seasons for sage grouse. He said the seasons are highly restricted, but they have been able to maintain hunting seasons in the state. He said they adjust the seasons within 14 zones and limited hunting is sustainable. He said they only have hunts in areas which can withstand harvest.

Chairman Stevenson introduced **Bill Myers** and gave a brief bio.

Bill Myers, Partner, Holland & Hart, said he will be reviewing the issues dealing with the legal framework of the sage grouse issue. He gave a brief history of the legal issues. He said a decision was made by Judge Winmill and challenged by Western Watershed Project. He said it was determined sage grouse are warranted for listing but are precluded from listing. He said they have a moderate danger of extinction and each year there is a review of the bird's status. He said this was challenged again by environmental groups. Mr. Myers gave a brief overview of the legal issue saying there are two very large cases regarding sage grouse and Western Watershed Project.

Mr. Myers said the US Forest Service and BLM's response to the cases is to not approve a project until they see a state management plan for sage grouse from Idaho. He said the state is very involved in this process. Mr. Myers reviewed the map for priority and general habitat for sage grouse. He reviewed the short and long term management and listed the areas effected. He explained the comment period for this proposal ends on March 23 of this year. He said the state of Idaho needs to submit their opinion to Judge Winmill and talk to the Idaho delegation about this issue. He said the state needs to expedite the plan process and decide their roll in management of land and wildlife. He said the state also needs to coordinate with their western sister states who are also dealing with this issue.

Nate Fisher, Administrator, Office of Species Conservation(OSC), said this is an important issue with three major components, biological, legal, and policy. He said he will review the policy perspective of the issue. He said the sage grouse population issue goes back to the 1960's. Mr. Fisher said there has been a great deal of litigation on the issue over the last several years. He said through collaborative efforts they have helped to keep sage grouse off the Endangered Species List for many years. He said key component to this collaborative effort have been local working groups which cover most of the key habitat in the state.

Mr. Fisher said unfortunately the reality is that all efforts have been voluntary and don't meet the adequate regulatory mechanism standard under the Endangered Species Act(ESA). He listed the five factors for analysis under the ESA for the listing of a species. He said there are primary and secondary inadequacies of regulatory mechanisms in place across the sage grouse range. He said they have been addressing the inadequacies of the regulatory mechanisms on federal land. He said the BLM and Forest Service recently incorporated more stringent sage grouse conservation measures into the management plans. He reviewed the Resource Management Plan revisions. He said with these new measures there is great concern on how the plan will be accomplished and it is a staggering project. He said there are many areas where the bird is, but many areas where the bird isn't and they believe the restrictions will be on all the areas listed. There is concern they will not meet the birds needs if restrictions are broadly swept across the range.

Mr. Fisher explained Wyoming's core area approach, which was given the full force and effect of the law by the Governor's executive order. This approach has been supported by US Fish and Wildlife Services and meets the standard of an adequate regulatory mechanism. He said Idaho's Governor wants to accomplish several regulatory goals. He listed the goals and explained how they plan to accomplish them. He said to accomplish these goals a Task Force was created. He reviewed the objectives for the Task Force, saying the main objective is to develop a conservation plan.

In answers to Committee questions, **Director Moore** said there are places where the habitat and productivity of the bird are enough for a hunting season but there is not a sufficient number of birds over the entire range. He said the sufficient number is determined by a technical team over the range and the Fish and Game decide over the areas for hunting if there is a sufficient number to hunt.

In answers to Committee questions, **Mr. Fisher** gave examples of what has been done with money that was earmarked for this issue. He said that money has been removed and they are working with the Congressional Delegation to have that language reinserted. He said local people are the best source of information on sage grouse and we need to utilize them in portions of the sage grouse plan. He also said a main concern is the protection of private property rights in Idaho, as well as doing good for sage grouse on state, federal and private land. Mr. Fisher explained the Legislatures role in the issue saying the Legislature has a very valid role to play in what may be needed as we proceed ahead. He said one role is to provide legislative oversight in the process and give ideas on where they may be going wrong and give suggestions.

Mr. Myers answered questions from the Committee regarding the 3% man made disturbance impacts saying the 3% limit does include current disturbances. He said BLM and the Forest Service have no impact on private land, but if there is federal land in the middle of private land, the 3% disturbance restriction will impact that land.

Steve Dorrety, Department of Interior, said during this period of time the federal and state governments, private land and tribal land owners have an interest in this issue. He said now is the window of opportunity and it is in everyone's best interest to accomplish the things we need to accomplish now.

ADJOURN: There being no further business to come before the Joint Committee, the meeting adjourned at 2:56 p.m.

Representative Stevenson
Chair

Susan Werlinger
Secretary