

MINUTES
SENATE RESOURCES & ENVIRONMENT COMMITTEE

DATE: Wednesday, February 20, 2013

TIME: 1:30 P.M.

PLACE: Room WW55

MEMBERS PRESENT: Chairman Pearce, Vice Chairman Bair, Senators Cameron, Siddoway, Brackett, Heider, Tippetts, Stennett and Lacey

**ABSENT/
EXCUSED:**

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Pearce** called the meeting to order at 1:30 p.m. and said the first order of business is the consideration of the appointment of Dustin Miller as Administrator of the Office of Species Conservation.

MOTION: **Senator Heider** moved to send the gubernatorial appointment of Dustin Miller to the Office of Species Conservation to the floor with recommendation that he be confirmed by the Senate. **Senator Stennett** seconded the motion. The motion carried by **unanimous voice vote**. **Senator Brackett** will be the sponsor.

Chairman Pearce announced that the presentation today will consist of four speakers with regards to sage-grouse, predation, migratory birds, and predator control. First to speak will be Dustin Miller

SPEAKER: **Mr. Miller** said he appreciated the votes and now it is "back to work." He stated that he would address the "Governor's Sage-Grouse Alternative" and also give a review of the past year's planning efforts.

Mr. Miller stated that it was a long process to develop the Governor's Sage-Grouse Alternative. The Task Force that was appointed was a diverse group and the product they came up with was rolled into an Alternative for the Bureau of Land Management (BLM) and the U.S. Forest Service's (USFS) planning processes. It adequately provides for the needs of the birds, addresses the threats, while maintains predictable levels of land use activities.

Greater sage-grouse has a long history of petitions, federal actions, and litigation. In March 2010, U.S. Fish and Wildlife Service (USFWS) said the species was warranted, but precluded, for listing across 11 states in the west. Because there were higher priorities, that put the sage-grouse on the candidate species list (a waiting list). By law, USFWS has a year to address the threats to a candidate species and then make a decision whether to move forward or not with rulemaking to list the species as threatened or endangered, or down-list it and it would come off the candidate list.

Mr. Miller said that in the settlement agreement, USFWS was given until September 30, 2015 to make that final decision. According to USFWS 2010 findings, the primary threats were identified as habitat fragmentation due to wildfire; infrastructure; invasive species; energy development; and inadequate regulatory mechanisms. There were secondary threats of which most were localized in nature that includes improper grazing practices. It was also determined that multiple land use plans across BLM and USFS lands were inadequate - not enough enforceable actions in place to provide for the needs and to protect the species.

The BLM and USFS are currently going through a process to update these land use plans. There are 88 issues and they intend to have them updated by September 2014.

Mr. Miller said that Interior Secretary Ken Salazar, in 2011, invited states to develop plans for conservation of the species on federal lands. Governor Otter convened the Sage-grouse Task Force, of which Senator Brackett is a member, and they provided the governor with recommendations on policies and actions needed to preclude listing of the species. Those recommendations were rolled into an Idaho-specific Alternative and was incorporated into BLM and USFS land use planning process.

In talking about the process, **Mr. Miller** said it was based on the Idaho roadless rule. That rule has been upheld by the Federal District Court and affirmed by the Ninth Circuit Court of Appeals. The Governor's Sage-Grouse Alternative, which includes 15 million acres of habitat in Idaho, has been divided into three habitat zones and there is a population component as well. The primary threats addressed in the Alternative were wildfire, invasive species and infrastructure. In Idaho, lost habitat has largely been due to wildfire. The Task Force also discussed secondary threats. One in particular was improper livestock grazing. The Task Force was asked by the industry to address grazing to ensure that they protect that land use activity while addressing the needs of the birds. The BLM and USFS are addressing grazing through their land use planning process and various other alternatives.

Predation was also addressed by the Task Force and it can have a significant impact on sage-grouse in some areas. It has been determined as a secondary threat and is more localized in nature. Range-wide, predation has not risen to the level of being a primary threat. It has been addressed in Idaho, and looking across the 11 western states, it is not a primary threat and should not trigger a listing.

Mr. Miller said another important thing to know is that they incorporated in the Governor's Alternative, by reference, the 2006 Sage-grouse Management Plan. The 2006 Plan served as the foundation for the development of the Governor's Sage-grouse Alternative. He said the ultimate goal is to preclude the need to list and to keep the species under state management - where it belongs. Currently, they are working to get the approval of USFWS for the Governor's Sage-Grouse Alternative so that it may be implemented. OSC and IDFG are cooperators in BLM and USFS's land use planning process. The Governor's Alternative is one of six and **Mr. Miller** feels it is the best Alternative that adequately addresses the needs of the species while protecting land use activities in Idaho. (See Attachment 1).

SPEAKER:

Mr. Don Kemner, Natural Resource Program Coordinator, IDFG, provided a Power Point presentation on "Predation and Sage-grouse." Sage-grouse are a prey species, whether it is an egg, chick, or an adult bird. There are a variety of species that are predators. They include badgers, red foxes, coyotes, bobcats, ravens, black-billed magpies and golden eagles. However, these predators do not focus specifically on sage-grouse as their primary food source. **Mr. Kemner** said that when he refers to predator species, he is referring to them in the biological sense, not in the legal sense as to what the state of Idaho has regarding the legal list of predators. That is a different list.

Mr. Kemner stated that there have been recent studies in other states regarding predation which is considered reliable information. In Utah's research, a study was done on red fox control and it may increase the population of sage-grouse. Coyote control was conducted in Wyoming and their conclusion was that coyotes had no effect on nest success. There is an ongoing study, for the last three years, in Virginia Mountains, Nevada regarding sage-grouse population. Now, in 2013, they will conduct (for the next three years) raven control in that same area to see if any of the trends change.

There is also indirect information on sage-grouse, such as nest success. Across the 11 western states, nest success ranges from 15 to 86 percent. Young chicks, up to three weeks of age, ranges from 15 to 30 percent. The annual adult survival rate ranges from 40 to 80 percent. Habitat quality and the amount and condition of the landscape may also play an important part of sage-grouse success.

Ravens have increased 300 percent across the U.S. and up to 1500 percent in some of the western portions of the U.S. It is driven by human development in areas where ravens exist and the developments provide nesting and perching areas, such as power lines and other tall structures. Water sources which didn't exist previously, such as water tanks, troughs, and ponds are an attraction for the ravens. Food that can be found in landfills, dumps, road kills, and expansion of agriculture all add to the increase in the population of the ravens.

In Nevada, a study was conducted relating to the sage-grouse, and it was found that increased nest failure was associated with increased raven density. It was suggested that resources that inadvertently attract raven population be reduced. It was also recommended that land management look at protecting large robust sagebrush communities.

Mr. Kemner next addressed predation as a threat to sage-grouse. The Conservation Plan for Greater Sage-grouse in Idaho, which was developed in 2006, addressed and ranked 19 threats, with predation ranking 12th. Wildfire, infrastructure, and annual grasslands were identified as the top three threats to sage-grouse. The state plan wrote a chapter for each threat identifying conservation actions to take to address those threats. In the predation chapter, it provides a step-by-step method for assessing available sage-grouse population data and predation in a local area.

The USFWS, in a 2010 listing decision, five factors were identified, with two of those factors as being warrant for listing. It was the lack of regulatory mechanisms and the loss of sage-grouse habitat. In the western part of the range - Nevada, Oregon and Idaho - the primary drivers of that loss of habitat fragmentation were wildfires, invasive plant species, and large infrastructure. It is the same three threats that the Idaho experts had identified.

Mr. Kemner said they are working with OSC and are focusing their resources on addressing those primary threats. The Governor's Alternative does not address predation, but does refer to the state plan. The state plan does address predation and addresses it on a local scale, with the 2006 plan step-by-step process evaluation. Recent activity has been in the Curlew Sage-grouse Planning Area. In the last three years, a study has been done by Idaho State University (ISU) regarding ravens densities. In the Upper Snake Sage-grouse Planning area, the 2006 plan step-by-step process has been used to evaluate local data and the plan is to reduce resources supporting raven populations. It has been recommended killing ravens in the short-term to benefit sage-grouse until long-term benefits can be enacted. What needs to be done is to go through the step-by-step process of the 2006 plan to make sure the information available for that area justifies the recommendation. (See Attachments 2, 3 and 4).

SPEAKER:

Mr. Brian Kelly, State Supervisor for USFWS, reported on "Permits to Take Migratory Birds". Ravens are migratory birds under the Migratory Bird Treaty Act (MBTA). There is an interest in moving forward with raven control and the state would have to obtain a permit to do that. It would be under the auspice of a research program. **Mr. Kelly** said the permitting process goes through their Portland Office and he has additional information regarding that. He offered to help facilitate the process if anyone is interested. It takes up to 60 days to get a permit, along with a modest fee. (See Attachments 5 and 6).

Senator Siddoway inquired whether an agency, an individual or grazing association could receive a permit if they had a plan. **Mr. Kelly** replied that he was not sure, but applications have been made in different states in different ways, He offered to follow-up on the question. **Senator Siddoway** asked about a pilot project and the cost of it regarding pushing the population of a certain predator down in a certain unit or region. Instead of hiring professionals to do the job, he asked if IDFG could obtain licensing and have concerned citizens or sportsmen be involved. **Mr. Kelly** responded that he didn't want to mislead the Senator, but he thought their permit process allowed a sub-permittee. **Senator Siddoway** then asked if the Idaho plan was consistent with USFWS's objectives and does it meet the depredation issues? **Mr. Kelly** said it does and they realize there is a local concern.

Senator Brackett inquired if the same law was applicable to both the crow and the raven. The answer was that both birds are protected under the Migratory Bird Treaty Act, but they are managed differently. One of the differences is that there is a hunting season for crows, but not for ravens. The **Senator** said he understood there were two approaches to take - one being research and the other was depredation - and he requested an explanation. **Mr. Kelly** said research was better because of the uncertainty and the differences of the test.

SPEAKER:

Mr. Todd Grimm, was the next speaker. He is the State Director for the U.S. Department of Agriculture (USDA) Wildlife Services and will address the subject of predator control. **Mr. Grimm** said they have 22 full-time employees and they handle a variety of wildlife damage management problems. One of the things that they have to control starlings is BRC 1339 at feedlots and dairies. It is also used to control ravens and about 200 are killed each year in Idaho just for livestock protection. BRC 1339 is a safe poison as it is metabolized in the bird before they die and anything that eats on the carcasses of the dead birds is not exposed to any secondary toxicity. The way the poison works is that it shuts down the birds' kidneys and they die of uremic poisoning. The poison can be applied to bread, eggs, grain, dog food, meat and all kinds of things. Last week, approximately 24,000 starlings were killed in the state. When killing ravens, the poison is put on boiled eggs or meat balls.

Mr. Grimm said that when he was asked to speak here, he wanted to know what other states and areas were doing so he could report that. Montana is not doing anything and Wyoming is killing 1,400 ravens a year. Nevada kills about 2,000 ravens a year to specifically protect sage-grouse. About 10,000 hard boiled eggs are placed around sage-grouse nests and they figure about 2,000 birds are killed through this effort. Seventy five to one hundred badgers are also taken each year, just to protect sage-grouse. Badgers are not federally protected, so no special permit is needed. Utah kills 2,200 to 3,300 ravens a year just to protect sage-grouse and they have done this since about 2000. They treat from February through July and are funded by Utah Wildlife Resources and the Utah Agricultural Department. Their cost is approximately \$67,000 a year. One of the things they haven't been able to address is the depredation of golden eagles. Oregon is not doing anything for sage-grouse at this time.

Mr. Grimm said that Wildlife Services is not regulatory - they are a service organization and if someone needs help, they will help them and make sure it is legal.

Senator Stennett inquired as to how starlings and ravens impact livestock predation. **Mr. Grimm** said that starlings feed on livestock feed at the livestock facilities. Ravens will attack and kill newborn lambs and calves. **Senator Stennett** asked about the poison used to control the bird population and if it impacted other species. **Mr. Grimm** responded by saying that when they set out the meat base and egg base, they have to supervise them to make sure that non-target birds are not going in, so there has been no risk.

Senator Siddoway asked Mr. Grimm how he would perceive a test area for predator control, as well as the number of people involved, what type of program, time frame required and the approximate cost. **Mr. Grimm** said that before starting such a project, someone from their research branch should establish a base line for nest success and what they think predation numbers are. Once that has been established, predator control could be done, including ravens, badgers, foxes or whatever is in the area, for a prescribed time - most likely March through June. Then they would see if any nest success and the growth of small birds to large birds had taken place. As far as the number of people involved, it would depend on the size of the geographical area to be covered.

ADJOURNED: **Chairman Pearce** thanked the gentlemen that participated in the presentation, then adjourned the meeting at 2:40 p.m.

Senator Pearce
Chairman

Juanita Budell
Secretary