

MEMORANDUM

TO: Mitigation State Work Group Participants
FROM: INR Staff
SUBJECT: July Mitigation State Working Group
DATE: July 26, 2013

This memo follows up on the July 26th meeting of the Mitigation Working Group. The memo is meant to be a working draft document and includes the following: (1) identified action items and (2) brief meeting summary.

UPCOMING MEETINGS

Meeting	Date	Location	Potential Agenda Items
Mitigation Working Group	September 20, 2013	Prineville, OR	Work plan updates Richard initial decisions outline Technical team update on habitat types and data layers

ACTION ITEMS

Action Item	Who	Date
Provide feedback on work plan (e.g. scope, key early decision, governance and resources covered).	All Work Group Participants	Mid-August
Review Shauna Ginger's white paper and continue to develop pro's and con's list for mitigation program comparison table	All Work Group Participants	September Meeting

Portland Interim Meeting check-in with energy participants	All interested participants	August 19
Outreach to counties for participation and early mitigation decisions	Jamie and Richard	Ongoing
Develop draft outline for mitigation hierarchy decisions at planning and project level to set initial sideboards around avoid, minimize and offset.	Richard	September Meeting
Define landscape scale plan to prioritize conservation and mitigation resources; different types of habitat to inform mitigation priorities for minimization and offsets.	Technical Team	September Meeting

BRIEF MEETING SUMMARY

- Update on HB3086 sponsored by Representative Bentz; setup framework for evaluating projects in SE OR and authorized ODFW to set up mitigation framework more broadly in OR with a relatively small amount of funding appropriated for the work. It is anticipated that these efforts will be concurrent and complementary to the sage grouse work groups.

Presentation and Discussion: Disturbance Threshold Framework as it relates to Mitigation

Robust discussion in Habitat Fragmentation Work Group about the disturbance threshold at a high level with three primary anticipated outcomes;

- To provide adequate protection for sage grouse populations
- To allow economic activities that support economically stable communities
- To improve habitat and ecological conditions for sage grouse

The threshold will guide mitigation targets with this group developing metrics to quantify the benefits of different mitigation actions to minimize and offset land use development and management activities.

It would also be desirable to develop a system for adaptive management to track and monitor impacts for disturbance threshold calculations and mitigation.

Please see Theresa Burcsu's presentation for information about the state of the science influencing the disturbance threshold.

Discussion: Draft Work Plan – Cathy and Richard

Cathy MacDonald and Richard Whitman developed an initial work plan for this group as a starting point for discussion. Started with primary work products to focus on and technical science information to design the mitigation program around. See presentation outline for more information and to provide feedback before the September meeting.

Initial Discussion

- Questions about who designs vs. who administers programs are crucial. WAFWA example for prairie chicken worth reviewing further. Also, conceivable BLM and state could enter into mitigation program agreement.
- Not just license dollars in the state of Nevada, discussion on state coordination regionally.
- FWS led by Paul Henson working to create mitigation sideboards over the next few months. OR leadership is involved in assisting FWS to plan regionally.
- Decision point around focusing on sage grouse habitat holistically or primarily on sage grouse populations to set mitigation targets.
- Working on template to manage project decisions at county vs. state level to provide some opportunity in defined space with as much local decisionmaking as possible. If not, state will have to step in on large impact decisions.
- CCA or CCAA setting stage for how to drive incentives and pursue opportunities to build agreements with USFWS upfront. State discussed potential CCAA, looking at potential new obligations and benefits to go with assurances.

Discussion on Key Early Decisions

Geographic Scope

- Levels of coordination are needed between BLM as well as potentially across other states for mitigation. Should efforts be based on management zones or rangewide (as in Nevada example)? Interest in exploring system compatibility with Nevada because of shared interests for conservation resources. Want to find balance between local and regional flexibility to leave door open to work with other states when the timing is right.
- FWS and BLM will provide guidance on timing and regional coordination options. Minimum have clear understanding of NV and other state's policies.

Regulated Resources Covered

- If bring in other species; regional advanced mitigation program could be the model but need to understand implications

- There are several hundred special data species; opportunity to coordinate with other species needs, some sage grouse impacts can't be separated
- BLM RMP revisions specific to sage grouse
- Continue to review lessons learned, landscape scale approaches to gain efficiency
- Start with sagebrush steppe habitat and strive towards ways to integrate other species programs

Covered Activities

- Identifying activities that have not traditionally been regulated; OHV use irrigation vs dry crop fields and other land uses to review county and state development trends.
- What are we monitoring? FWS is looking at population impacts.

Governance

- Governance of broader decisions; high level MOU between state and federal actors? What needs to occur at the administrative and implementor level?
- Bonneville's mitigation program largest scale/model to review in region also WAFWA resource for prairie chickens across 5 states; WAFWA is the administrators by committee.
- Also review examples of ngo's, cattleman in california model, coordinating councils, nccp and desert plan consortium, intergovernmental, etc.

Presentation and Discussion: Pros and Cons of the range of Mitigation approaches – Shauna Ginger, USFWS

- OR, CO and NV all have permittee responsible program currently for mitigation.
- OR County experience has been with wetland banking which is difficult to achieve at large scale. Also, lag time, issues with how much funding goes to on the ground work vs. program administration.
- Many industries want to write a check, need to ensure the amount of money is enough to make program successful and that permittee is responsible. One BLM survey shows many wetland not being built with 31% of mitigation actions never implemented or not enough to protect resources.
- Need to tie to performance standards and accountability
- Agency implementor can be most strategic if goals tied to organization's mission
- Blended conservation and mitigation base of staff and capacity.
- Texas model worth reviewing with dune sagebrush lizard credit exchange program.

- Sending and receiving areas. Oregon land use laws are restrictive on opportunities for transfer development rights program but not off the table for avoidance.
- Study on traditional mitigation banking showed lengthy review process between 7 months to 7 years with multiple entities weighing in on review.

Sources of Supply for Compensatory Mitigation

- Public state/local, split estate or lease?
- FWS not many examples of successful landscape mitigation programs. Desert tortoise one, made sense biologically to permanently retired grazing through an act of congress. Sage grouse is bringing up questions about higher level policy support needs.
- Some discussions took place as part of Cascade Crossing and B2H projects; not full credit some conservation already in place.
- Policy level discussion; how to convert CCAA into banks.
- FWS New Iteration Mitigation Policy, federal register out September 2014. Also updating non-listed species policies from 1981 in parallel. Oregon is represented in those discussions.
- Agreement CCAA should not be tied to funding but may be opportunity for in lieu fees to implement restoration.
- Discussed public vs. private land for West Butte discussions and there is still a high level of disagreement on what is appropriate for federal management and how to set consistent policy across land ownership for best outcomes for species. It seems if NEPA is done and land ready, investing in public lands could be cost effective. But how much do we want public lands to be competing with private land mitigation?
- Opportunity on post fire sites to build credit.
- Bottom line; mitigation obligations must be biologically sound if impact is immediate and permanent, compensatory mitigation must also be immediate and permanent.

See also notes from Mitigation Program Comparison Table Pros and Cons.

Attendance:

Andrew Shields, Roaring Springs Ranch

Bob Hooton, ODFW

Bruce Taylor, Defenders of Wildlife

Cathy MacDonald, TNC

Dawn Davis, ODFW

Garth Fuller, TNC
George Houston, Foundation for North American Wild Sheep
Glenn Frederick, BLM
Isaac Sanders, DOGAMI
Jamie Damon, Governor's Office
Jeff Everett, USFWS
Jon Jinings, DLCD
Lanny Quackenbush, DSL
Lynn Sharp, Renewable Northwest Project
Meta Looftsgaarden, OWEB
Mike Freese, Oregon Farm Bureau
Phil Steinbeck, Crook County
Richard Whitman, Governor's Office
Shauna Ginger, USFWS
Stacy Davis, OCA
Theresa Burcsu, INR
Turner Odell, OC

By Phone:

Bill White, NRCS
Brian Fritz, Pacificorp
Carolyn Sharp, BPA
Evyann Jarvis, Idaho Power
Jimmy Kagan, INR
Sandra Ackley, BPA
Todd Cornett, ODOE