

# SUMMARY *of* PROCEEDINGS



## SELECT FEDERAL NATURAL RESOURCE MANAGEMENT COMMITTEE

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### COMMITTEE MEETING INFORMATION

October 13, 2014  
University of Wyoming at Casper  
Union/University Building, UU322  
125 College Drive  
Casper, Wyoming 82601

### COMMITTEE MEMBERS PRESENT

Senator Eli Bebout, Cochairman  
Representative Tim Stubson, Cochairman  
Senator Jim D. Anderson (SD 02)  
Senator Gerald Geis  
Representative Stan Blake  
Representative Norine Kasperik

### LEGISLATIVE SERVICE OFFICE STAFF

Matt Obrecht, Staff Attorney  
Anna Mumford, Staff Attorney

### OTHERS PRESENT AT MEETING

Please refer to Appendix 1 to review the Committee Sign-in Sheet for a list of other individuals who attended the meeting.

*The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at [lso@wyoleg.gov](mailto:lso@wyoleg.gov). The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at [www.wyoleg.gov](http://www.wyoleg.gov).*

## **EXECUTIVE SUMMARY**

The Select Committee on Federal Natural Resource Management met for a day in Casper. Topics before the Select Committee included sage grouse; BLM oil and gas leasing in the Powder River Basin; feral horses; wolves; the U.S. Nuclear Regulatory Commission Agreement State Program; EPA's regional haze plan; EPA's proposed rule on Waters of the United States; and EPA's proposed rule under section 111(d) of the Clean Air Act. The Select Committee moved to draft a joint resolution addressing the environmental impact of wild horses on the state's rangelands. The Select Committee also moved to draft a letter to the Congressional Delegation to the same effect.

## **CALL TO ORDER**

Cochairman Stubson called the meeting to order at 9:00 a.m. The following sections summarize the Select Committee proceedings by topic. Please refer to Appendix 2 to review the Select Committee Meeting Agenda.

## **SAGE GROUSE**

Bob Budd, Chairman of Wyoming's Sage Grouse Implementation Team, addressed the Select Committee on the state's sage grouse conservation strategy. (Appendix 3). Mr. Budd noted that Wyoming's sage grouse conservation plan was the only state plan to be endorsed by the U.S. Fish and Wildlife Service (USFWS) to date. Mr. Budd explained how the state would need to address threats identified in the USFWS Greater Sage Grouse Conservation Objectives Team Report in order to prevent a listing of sage grouse under the Endangered Species Act (ESA). Mr. Budd also suggested the state adequately fund research and conservation efforts for sage grouse, continue to reach out to other states on efforts to conserve sage grouse and be prepared to give up responsibility for the species. The final decision by the USFWS on whether to list sage grouse as an endangered species is expected March 2017.

Jerimiah Rieman, Natural Resource Policy Director, Governor's Office, informed the Select Committee that Governor Mead and U.S. Department of Interior Secretary Sally Jewell were scheduled to tour ranchlands near Pinedale, Wyoming, on October 14, 2014. Mr. Rieman noted the events included a ceremonial signing of nine long-term, sage grouse protection plans. Mr. Rieman said the Governor's Sage Grouse Implementation Team was scheduled to meet next month to reevaluate the Governor's Executive Order concerning the protection of sage grouse core areas. The Governor's Executive Order terminates August 18, 2015.

Steve Degenfelder, Casper, Wyoming, discussed the potential listing of sage grouse under the ESA and how it would have a great negative impact on the state's economy, especially as it relates to oil and gas taxes and royalties. (Appendix 4). Mr. Degenfelder suggested the state direct existing staff and budget of several state agencies to develop a plan to breed sage grouse in captivity and reintroduce the bird to areas with declining populations.

## **BLM OIL & GAS LEASING IN THE POWDER RIVER BASIN**

Mr. Degenfelder discussed the decision by the Bureau of Land Management (BLM) to suspend oil and gas leasing in coal bearing areas in the Powder River Basin pending revision of the BLM Buffalo Resource Management Plan (RMP). (Appendix 5). Mr. Degenfelder explained that BLM intends to send out letters to interested parties in oil and gas leases in the area after the Buffalo RMP is signed. The letter, Mr. Degenfelder stated, would inquire as to whether the parties remained interested in specified oil and gas leases. Committee members expressed concern that BLM's plan would unduly delay operators the opportunity to develop resources in the area.

## **FERAL HORSES**

June Wendlandt, Wyoming Wild Horse and Burro Program Lead, BLM, discussed the October 2014, wild horse round up from the Great Divide Basin, Adobe Town and Salt Wells Creek Herd Management Areas. (Appendix 6 & 7). Ms. Wendlandt explained that the wild horses were removed in compliance with Section 4 of the Wild Horse and Burro Act. (Appendix 8). Ms. Wendlandt stated that the wild horses removed would be offered for adoption through the BLM's Wild Horse and Burro Adoption Program or placed in long-term holding pastures. In response to questions by the Select Committee, Ms. Wendlandt said there remained a viable population of wild horses in the areas of the state involved in the round up this month by the BLM. Ms. Wendlandt discussed how the federal agency was monitoring and attempting to manage the increasing populations of wild horses. Ms. Wendlandt also explained the costs to the BLM to keep and feed the wild horses removed.

Jerimiah Rieman, Natural Resource Policy Director, Governor's Office, said Governor Mead was working to educate the public on the impact wild horses have on lands in Wyoming. Greg Cowan, Natural Resource Staff Attorney, Wyoming County Commissioners Association (WCCA), described how the WCCA was working with the Governor's Office, industry and other state county commissioners to develop wild horse management strategies. Jim Magagna, Executive Vice President, Wyoming Stock Growers Association, expressed concern that BLM will keep repeating wild horse round ups in the state unless the problem is solved.

Cochairman Bebout moved, seconded by Senator Anderson, that the Select Committee draft a letter to the Congressional Delegation addressing the costs of holding wild horses and the problems with wild horse populations. The motion passed unanimously. Senator Anderson moved, seconded by Cochairman Bebout, that LSO draft a resolution calling attention to the environmental impact of wild horses on the state's rangelands. The motion passed unanimously.

## **WOLVES**

Jay Jerde, Special Assistant Attorney General, discussed the recent U.S. District Court for the District of Columbia decision striking down Wyoming's wolf management plan. Mr. Jerde explained how the District Court judge found it arbitrary and capricious for the USFWS to rely on the state's nonbinding promise to maintain a number of wolves above the minimum to ensure population sustainability. Mr. Jerde noted that in response to this ruling, Governor Mead signed and filed an emergency rule establishing that the state's commitment under its wolf management plan is legally enforceable. Mr. Jerde explained, nonetheless, that the District Court judge remanded gray wolf management in Wyoming to the USFWS.

Jerimiah Rieman, Natural Resource Policy Director, Governor's Office, discussed the state's options for dealing with the District Court judge's ruling. Mr. Rieman explained that the state could appeal to the United States Circuit Court for the District of Columbia, develop revised rules or seek federal Congressional protection. Mr. Rieman said the Governor supports Congressional protection.

## **UPDATE ON U.S. NUCLEAR REGULATORY COMMISSION, AGREEMENT STATE PROGRAM**

Bob Tarantola, Tarantola Consulting, updated the Select Committee on the U.S. Nuclear Regulatory Commission (NRC) Agreement State Program. (Appendix 9 & 10). Ralph Knode, Chief Executive Officer, Strata Energy, noted how Wyoming had the largest uranium resource of any state in the country and that this could result in \$708 million in potential severance and ad valorem tax revenues. Donna

Wichers, senior Vice President, Uranium One, discussed the benefits to the state for becoming a NRC Agreement State, such as maximized return on industry, expedient permitting, faster response to market conditions and more direct control of economic drivers.

Todd Parfitt, Director, Wyoming Department of Environmental Quality (DEQ), discussed possible staffing and fee structure options for implementing the NRC Agreement State Program. Nancy Nuttbrock, Deputy Director, DEQ, estimated the NRC Agreement State Program would cost approximately \$1.6 million annually. Ms. Nuttbrock discussed draft legislation currently before the Joint Minerals, Business and Economic Development Interim Committee that grants the Governor the authority to negotiate and sign an agreement with the NRC. The draft legislation also grants DEQ rule-making authority and authorizes the department to include additional staff and funding in its next biennial budget.

### **EPA'S REGIONAL HAZE**

Director Parfitt, DEQ, updated the Select Committee on Wyoming's plan for visibility in national parks and wilderness areas. Mr. Parfitt explained how earlier this year, the state challenged the Environmental Protection Agency's (EPA) decision rejecting part of the state's plan in the U.S. Tenth Circuit Court of Appeals. Mr. Parfitt noted that in September 2014, the Tenth Circuit stayed EPA's rejection based on the state's likelihood of success on appeal and on the irreparable harm to the state and utilities without a stay.

### **WATERS OF THE UNITED STATES**

Nephi Cole, Policy Advisor, Governor's Office, discussed the EPA's proposed "Waters of the United States" rule. (Appendix 11). Mr. Cole said the Governor's Office was concerned with the proposed rule for several reasons. Specifically, the proposed rule was published for notice and comment while the underlying scientific study was in draft form, the proposed rule unlawfully expands the Clean Water Act's jurisdiction, the proposed rule extends the federal government's jurisdiction to remote and insubstantial waters in opposition of the plurality opinion in *Rapanos v. United States*, 547 U.S. 715 (2006), the proposed rule exceeds the outer limits of Congress's power under the commerce clause. Mr. Cole provided the Select Committee with two comment letters from the Governor's Office. (Appendix 12 & 13).

### **SECTION 111(D) – EPA EMISSIONS CONTROL**

Director Parfitt, DEQ, updated the Select Committee on the status of the EPA's proposed rule under section 111(d) of the Clean Air Act to address greenhouse gas emissions from existing power plants. Director Parfitt informed the Select Committee that the comment period for this proposed rule was extended to December 1, 2014. Director Parfitt also discussed section 111(b) of the Clean Air Act which is the federal program that establishes standards to address new, modified and reconstructed sources.

### **MEETING ADJOURNMENT**

There being no further business, Cochairman Stubson adjourned the meeting at 5:00 p.m.

Respectfully submitted,

Representative Tim Stubson, Cochairman

# Committee Meeting Materials Index

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Appendix	Agenda Item	Appendix Description	Appendix Provider
1	Committee Sign-In Sheet	Lists meeting attendees	Legislative Service Office
2	Committee Meeting Agenda	Provides an outline of the topics the Committee planned to address at meeting	Legislative Service Office
3	Sage grouse	PowerPoint	Bob Budd
4	Sage grouse	Memorandum	Steve Degenfelder
5	Coal bearing areas	Map	Steve Degenfelder
6	Feral horses	Fact Sheet	June Wendlandt
7	Feral horses	Map	June Wendlandt
8	Feral horses	Public Law 92-195	June Wendlandt
9	NRC Agreement State	PowerPoint	Bob Tarantola
10	NRC Agreement State	Fact Sheet	Bob Tarantola
11	Waters of the US	Talking Points	Nephi Cole
12	Waters of the US	Comment letter	Nephi Cole
13	Waters of the US	Comment letter	Nephi Cole