SUMMARY of PROCEEDINGS

SELECT FEDERAL NATURAL RESOURCE MANAGEMENT COMMITTEE

COMMITTEE MEETING INFORMATION
August 30, 2017
Wyoming Contractors Association Regional Training Center
Casper, Wyoming

COMMITTEE MEMBERS PRESENT
Representative Tyler Lindholm, Co-Chairman
Senator Michael Von Flatern, Co-Chairman
Senator Larry Hicks
Senator R. Ray Peterson
Representative Stan Blake
Representative Lloyd Larsen

OTHER LEGISLATORS PRESENT
Senator Jim Anderson
Senator Brian Boner
Representative Bill Henderson

LEGISLATIVE SERVICE OFFICE STAFF
Shaun McCullough, 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 LSO, public officials, lobbyist, and the public are on file at the LSO 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 LSO. For more information or to review meeting materials, please contact the LSO at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The meeting minutes for each legislative committee meeting can be found on the Wyoming Legislature’s website at www.wyoleg.gov.
EXECUTIVE SUMMARY
The Committee met for one day in Casper. The Committee received information and discussed issues regarding the Section 106 consultation process under the National Historic Preservation Act in relation to natural resource development, the Western Governors Association's Endangered Species Act Initiative, Bureau of Reclamation-approved expenditures for projects in Wyoming, the activities of the Wyoming Landscape Conservation Initiative’s Executive Committee, bighorn-domestic sheep management actions, and regional haze compliance and pollution control requirements for Rocky Mountain Power facilities in Wyoming.

CALL TO ORDER
Co-Chairman Von Flater called the meeting to order at 8:30 a.m. The following sections summarize the Committee proceedings by topic. Please refer to Appendix 2 to review the Committee Meeting Agenda.

APPROVAL OF JUNE 28 MINUTES
The Committee approved the June 28, 2017, meeting minutes without change.

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT AND NATURAL RESOURCE DEVELOPMENT
Senator Brian Boner spoke about issues regarding the Section 106 consultation process under the National Historic Preservation Act (NHPA) in relation to private property and natural resource development. Under Section 106, consultation with Native American tribes is required when undertakings having a federal nexus, such as activities occurring on federal land or requiring a federal permit, might impact resources with cultural significance. Senator Boner said the Bureau of Land Management (BLM)’s Casper Office has changed its interpretation of “viewshed” requirements, which has greatly expanded federal regulatory authority and hindered the permitting process. He indicated viewshed analysis on private property should stop occurring. He believes doing so would reduce the regulatory burden and BLM’s workload. Senator Boner said his ultimate concern is the application of indirect "areas of potential effects" (APEs) on private property. He said there may be a lack of understanding of the Section 106 process among his constituents, and the BLM should better communicate what the Section 106 process entails.

Esther Wagner, Vice President-Public Lands, Petroleum Association of Wyoming (PAW), said the BLM Casper Office’s interpretation of Section 106 consultation requirements has had an adverse effect on oil and gas development in Converse County and elsewhere. She described what constitutes an APE under Section 106. She said an indirect APE includes the viewshed as well as auditory and atmospheric effects. She said PAW sent a letter to the BLM requesting clarification on indirect APEs and tribal consultations. She explained reasons why the BLM’s response letter did not adequately address PAW’s concerns. She also described potential options to resolve these issues at the federal level.

Sarah Needles, Administrator of the Cultural Resources Division, State Historic Preservation Office (SHPO), described SHPO’s role in the Section 106 consultation process and timeframes for reviewing projects. Ms. Needles clarified that under federal regulations, as long as an activity has a federal nexus (e.g., requires a federal permit even if occurring on private land), Section 106 consultation requirements are triggered. Upon inquiry, Richard Currit, Senior Archaeologist for SHPO, said the BLM is responsible for identifying resources with potential cultural significance. He also described how SHPO assists the BLM in evaluating and reviewing resources the BLM has identified as having potential cultural significance.
Public Comment
The Committee received comments from the following individuals describing issues and problems with the BLM's Section 106 consultation requirements: Senator Boner and his constituents, Rob Boner, Tim Tillard and Russ Manning; Shawnna Punteny and George Punteny, citizens; Micky Shober, Campbell County Commissioner, and Dru Bower, Natural Resource Consultant for Campbell County; Jim Willox, Converse County Commissioner; Jim Magagna, Executive Vice President of the Wyoming Stockgrowers Association; and Bonita Carlson, Cindy Perrson and Ben Perrson, citizens. In addition, Mr. Manning discussed photographs, attached as Appendix 3, he said were of known sheepherders monuments near, and the viewshed from, an alleged historic rock cairn on his family's ranch, which the BLM has indicated requires viewshed protection. Bonita Carlson provided a correspondence from the BLM, see Appendix 4, along with a copy of a proposed Programmatic Agreement between the BLM’s Buffalo Office and several tribes regarding federal undertakings in the Pumpkin Buttes area, see Appendix 5. Marcia Peterson, Wyoming Association of Professional Archeologists Executive Board member, said her organization understands the frustration and confusion of landowners and is committed to protecting the state’s archeological resources and improving the process. Joe Sylvester from the Wyoming Mining Association provided a handout, attached as Appendix 6, describing the WMA’s objectives for the Section 106 consultation process, the process’ impact on industry and potential options to resolve Section 106 consultation issues.

Committee Action
The Committee asked LSO to gather from interested parties recommendations to address issues with the Section 106 consultation process.

The Committee voted to draft a letter to the Secretary of the Interior explaining current problems with the Section 106 consultation process, specific examples of difficulties constituents and natural resource developers have encountered as a result, and means to address those problems.

Update on Activities of the Wyoming Landscape Conservation Initiative
Tyler Abbott, Field Supervisor for the U.S. Fish and Wildlife Service (FWS), spoke about the activities of the Wyoming Landscape Conservation Initiative’s (WLCI) Executive Committee, of which he is the chairman. He provided the Committee a handout describing the WLCI’s mission and goals, partnerships and accomplishments. See Appendix 7. He also discussed funding issues facing the WLCI.

Western Governors Association Endangered Species Act Initiative Update
David Willms, Policy Advisor to the Governor, provided an update on the Western Governors Association’s Endangered Species Act (ESA) Initiative. He said the Governor’s Office is attempting to educate people on the desired outcomes of the Initiative’s recommendations to improve the ESA and its regulations. He also discussed planned workshops and webinars on funding issues and incentives under the ESA to improve the efficacy of the act.
BUREAU OF RECLAMATION-APPROVED EXPENDITURES FOR PROJECTS IN
WYOMING

Wayne Pullan, Area Manager for the Bureau of Reclamation's (BOR) Provo Area Office, gave
background information on project funding under the Colorado River Project Storage Act. He discussed
the Colorado River Storage Project Memorandum of Agreement (MOA), to which Wyoming is a party.
The MOA provides $11.5 million in funding per year over fifteen years for Colorado River storage
facilities. He described how party states may access MOA funds and explained limitations on uses of
funds, namely that they may be used only for extraordinary maintenance of storage facilities. Upon
inquiry, Mr. Pullan clarified how the BOR determines what qualifies as extraordinary maintenance and
explained why the BOR could not approve funding to riprap the Fontenelle Reservoir dam, stating it
constituted new construction.

Harry LaBonde, Director of the Wyoming Water Development Office (WWDO), said Wyoming collects
about $1.8 million per year under the MOA for federal storage projects. He said the WWDO accepts
applications and prioritizes projects, while the BOR approves funding for projects. He described projects
in Wyoming that have received funding under the MOA and said $19 million of Wyoming’s $25 million
in MOA funds are currently obligated. He also discussed projects for which the BOR denied funding.

BIGHORN-DOMESTIC SHEEP MANAGEMENT ACTION UPDATE

Jessica Crowder, Policy Advisor to the Governor, spoke about a memorandum of understanding (MOU)
between the Governor’s Office, the Wyoming Game and Fish Department (WGFD) and the U.S. Forest
Service (USFS) regarding bighorn-domestic sheep management on national forest lands in Wyoming. See
Appendix 8. Ms. Crowder noted that in 2018 the USFS will revise the Bridger-Teton National Forest
Plan. Doug Miyamoto, Director of the Wyoming Department of Agriculture (WDA), discussed W.S. 11-
19-604, which codified into law the Wyoming bighorn-domestic sheep plan. See Appendix 9. He
described joint rules that the Board of Agriculture, the Wyoming Game and Fish Commission and the
Wyoming Livestock Board promulgated about a year ago to implement the plan. See Appendix 10.
Director Miyamoto also explained the process for any amendments to the plan. Dr. Jim Logan, State
Veterinarian, said any changes to the joint rules must be based on very sound science and consensus,
which is currently difficult to find because there is a lot that is unknown about disease transmission. He
said bighorn-domestic sheep management in Wyoming is nevertheless ahead of where other states are in
managing these animals. Doug McWhirter, Wildlife Biologist for the WGFD, discussed the USFS’
domestic-bighorn sheep risk-of-contact assessment conducted in the Intermountain Region and the
WGFD’s participation in that assessment.

Amy Hendrickson, Executive Director of the Wyoming Woolgrowers Association, expressed support for
Wyoming’s bighorn-domestic sheep plan. She said the State’s MOU with the USFS holds great promise
so long as it is followed and hopes the State will enter into a similar MOU with the BLM. She also said
that while she has been encouraged by discussions with the USFS, there is still uncertainty in regard to
domestic sheep allotments, which has compelled some woolgrowers to accept allotment buyouts.

Jim Magagna, Wyoming Stock Growers Association, discussed permit waivers, whereby a permittee
waives his permit back to the USFS. He said allotments that permittees have waived and the USFS has
closed have never been reopened. He described problems permittees are experiencing in relation to NEPA
requirements for allotments. He also spoke about a lawsuit filed five years ago to remove domestic sheep
in the Medicine Bow National Forest.
USFS Updates on Prairie Dog Shooting Restrictions and the Mountain Pine Beetle Epidemic

Jason Kuiken, Acting Forest Supervisor of the Medicine Bow-Routt National Forests and the Thunder Basin National Grassland, USFS, provided written remarks, attached as Appendix 11, regarding prairie dog shooting restrictions on the Thunder Basin National Grassland and the mountain pine beetle epidemic in the Medicine Bow-Routt National Forests. Upon inquiry, he spoke about state and federal collaboration in managing national forests and grasslands and the USFS’ plans to poison Thunder Basin prairie dogs that have contracted the plague. He also answered questions about timber harvests and management.

Public Comment

Chamois Andersen, Defenders of Wildlife, provided comments regarding Thunder Basin prairie dog management and habitat and spoke about her organization’s opposition to the USFS’ decision to lift the prairie dog shooting ban on the Thunder Basin National Grassland.

Regional Haze Compliance and Pollution Control Requirements—Rocky Mountain Power

Chad Teply, Vice President of Resource Development and Environmental Services, Rocky Mountain Power (RMP), gave a presentation on RMP’s environmental compliance planning, the Regional Haze Rule, the status of regional haze compliance in Wyoming and RMP’s emissions reductions. See Appendix 12. He also gave an overview of the Jim Bridger Plant and discussed its regional haze compliance obligations.

Meeting Adjournment

There being no further business, Co-Chairman Von Flatern adjourned the meeting at 5:00 p.m.

Respectfully submitted,

Senator Michael Von Flatern, Co-Chairman
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