



**MEETING SUMMARY
TECHNICAL REVIEW TEAM/Wildlife Subcommittee
GRASSY MOUNTAIN GOLD MINE PROJECT**

**July 9, 2018
9:00 am (Pacific) Time
Teleconference**

Public Access at Oregon Department of Fish and Wildlife, Salem Office

Attendance:

Committee Members

- Randy Jones, Oregon Department of Geology and Mineral Industries (DOGAMI)
- Nigel Seidel, Oregon Department of Fish and Wildlife (ODFW)
- Joy Vaughan, ODFW
- Jon Jinings, Department of Land Conservation and Development (DLCD)
- Larry Knudsen, Oregon Department of Environmental Quality (DEQ)
- Megan McGuire, US Bureau of Land Management (BLM)
- Andrea Bowen, BLM
- Pat Ryan, BLM
- Jon Westfall, BLM

Others in Attendance

- Judge Dan Joyce, Malheur County Court
- Larry Meyer, Argus Observer
- Nancy Wolverson, Calico Resources
- Rich DeLong, EM Strategies
- Kris Kyper, EM Strategies
- Sue Fox, EM Strategies
- Shona Voelckers, Yakama Tribal Nation
- Dan Morse, Oregon Natural Desert Association (ONDA)
- Alison Uno, Carndo
- Peggy Lynch, Oregon League of Women Voters
- Janet Gillaspie, Environmental Strategies

Randy Jones, DOGAMI, chaired the meeting. He stated that the meeting was being tape recorded to maintain a record under the Oregon Public Meetings Law.

He asked if there were additional items to add to the agenda; there were none.

The group introduced themselves.

PURPOSE OF THE TRT WILDLIFE SUBCOMMITTEE

Jones reviewed that DOGAMI had concluded that a Wildlife Subcommittee would be a good addition to the permitting Technical Review Team. This is the fourth subcommittee to be formed; the other subcommittees are Water Resources, Geochemistry, and Tailings Facility.

The state agencies participating in the Wildlife Subcommittee include ODFW, DEQ, DLCD, and DOGAMI. They are joined by the federal BLM and Malheur County.

Jones reviewed the purpose statement for the Subcommittee, developed with the input of ODFW and DLCD. The statement reads as follows:

The purpose of the Calico Grassy Mountain Wildlife Subcommittee is to be a foundation for clear communication and scientifically-based action for wildlife assessment and mitigation planning at the local, state, and federal level. The focus of the Wildlife Subcommittee will include reviewing wildlife baseline data for completeness and accuracy. On behalf of the Technical Review Team, the Wildlife Subcommittee will also provide expertise and coordinated technical assistance between wildlife planning and required mitigation, permitting, and land use decisions affecting wildlife and their habitats, with an emphasis on Greater Sage-Grouse protection.

Jones asked for questions and concerns regarding the purpose of the Wildlife Subcommittee.

Megan McGuire, BLM, added that US Fish & Wildlife Service (USFWS) should be included as a member, also. Jones indicated that he was working on a representative from USFWS.

Jones asked for unanimous consent to adopt the purpose statement for the Wildlife Subcommittee. He asked for objections; hearing none, the statement was adopted.

WILDLIFE PROTECTION REGULATORY FRAMEWORK

Jones said there are local, state, and federal regulations related to wildlife protection, both Greater Sage-Grouse and other species.

Jones said that the local, state, and federal agencies had been asked to brief the group on their regulations.

Local Government

Jones said that the Consolidated Permit application must include a Land Use Compatibility Statement from the County. County planning issues could include power (line or on-site), noise, lighting, traffic, road access, and others.

Judge Joyce, Malheur County, indicated he was just listening to the presentations; he might be in a position to rule on specific related issues in the future.

State Government

Two state agencies are involved – ODFW and DLCD. The DLCD rules are under Goal 5, which includes the Greater Sage-Grouse planning and mitigation requirements.

Joy Vaughan and Nigel Seidel with ODFW made a presentation. A copy of the presentation is available from the DOGAMI Albany office.

ODFW is a 'cooperating agency' under Oregon's chemical process mining law. Vaughan referenced ORS 517.956, which is related to ODFW policies to protect fish and wildlife, including:

- Wildlife Protection Plan
- On-site and off-site compensatory mitigation to ensure no net loss of habitat

- No loss of existing critical habitat of any state or federal Threatened or Endangered (T&E) species
- Wildlife monitoring and mortality reporting
- Additional standards are included in ODFW regulations at Division 420

Vaughan said that the fish and wildlife protection standards are to be included in the DOGAMI operating permit. The ODFW chemical processing rules are included in Division 420, a companion document to DOGAMI Division 37 regulations, she said.

The Division 420 rules outline the requirements for a Wildlife Protection Plan focused on meeting the goal of zero wildlife mortality and includes other requirements for protection and standards for fencing, covers, and other protection measures. Vaughan mentioned that the wildlife protection plans would need to address times when the operations were temporarily closed.

There are also specific standards for wildlife injury and mortality monitoring, both during active operations and during seasonal or other closures.

ODFW will require the mine to have a *Scientific Taking Permit*, said Vaughan.

The Division 420 rules detail the requirements of the Wildlife Mitigation plan, which must include self-sustaining ecosystem certification, and protection measures to meet the overall fish and wildlife protection policies of ODFW, including compliance with the ODFW Fish and Wildlife Habitat Mitigation Policy (Division 415). In addition, Greater Sage-Grouse mitigation per Division 140, is required.

Rich DeLong, EM Strategies, asked about the time frame for ‘no net loss’. Vaughan responded that the mitigation rules direct no net loss of habitat, and the mitigation measures to be implemented or completed either prior or concurrent to the impacts to reduce temporal loss of habitat function/value.

Nigel Seidel, ODFW Sage-Grouse Mitigation Coordinator, continued to discuss the Greater Sage-Grouse Mitigation Strategy for Oregon. The goal is a population of 30,000 birds, reflecting the population in 2003. The focus is on habitat function and mitigation.

There is a mitigation hierarchy:

1. **Avoidance** – difficult, since the Calico operation is site-specific to the mineral resource.
2. **Minimization** – site locations, seasonal timing, burying utilities, noise damping technologies, traffic restrictions, perch deterrents or lighting considerations might all be minimization measures.
3. **Mitigation** – net habitat improvement, determined by the ODFW Habitat Quantification Tool (HQT). The mitigation could be permittee-responsible or an in-lieu fee – the applicant’s choice. Seidel indicated that the in-lieu fee choice for sage-grouse should be available to Calico, should they choose that permitting route.

Federal Government

Jones highlighted that consistent information from the application for local, state, and federal permitting requirements on wildlife issues will be important.

McGuire presented the federal programs for wildlife habitat protections. A copy of the presentation is available from the DOGAMI Albany Office.

The important federal regulations are in 43 CFR 3809.420.

The wildlife requirements, including consistency with mining law and the applicable BLM land use plans, include:

- Oregon Greater Sage-Grouse Approved Resource Management Plan (RMP) Amendment (2015)
- Southeastern Oregon RMP (2002)

The closest Greater sage-grouse lek is about 4.8 miles away, said McGuire. Much of the project boundary is over 4 miles from a known lek.

For general habitat protection, some protections could include:

- Seasonal avoidance permits
- Measures to:
 - Reduce surface disturbance
 - Reduce effects of predation on sage grouse
 - Reduce effects of West Nile Virus
 - Reduce deaths on water-filled impoundments
 - Reduce effects of fences and tall structures
 - Meet sage grouse habitat objectives during reclamation
- Mitigation including avoiding, minimizing, and/or compensating for impacts

McGuire continued that additional requirements are to meet all pertinent federal and state laws, including:

- Bald and Golden Eagle Protection Act
- Migratory Bird Treaty Act
- Endangered Species Act

McGuire highlighted that BLM will work closely with ODFW and USFWS in meeting these standards.

She said that no Threatened and Endangered (T&E) Species have been identified – to date – in the project area.

McGuire stressed that BLM will avoid ‘*unnecessary and undue degradation*’ while addressing the rights of the mineral owners.

DeLong asked if the federal Sage-Grouse Plan was being evaluated for possible amendment. It is being evaluated for amendment, said McGuire, but the amendment will not likely impact the proposed Calico Grassy Mountain project.

Larry Knudsen, DEQ, highlighted the applicable DEQ rules in Division 43, OAR 340. Those rules have a general wildlife protection requirement, but it is likely that DEQ will want to ‘piggyback’ on the more specific requirements from the ODFW conditions in the DOGAMI operating permit, and the land use protection requirements. Those plans will be evaluated by DEQ to determine if the plans meet the DEQ requirements.

Jon Jinings, DLCD, reflected on the good conversation. He reinforced that the DLCD rules apply directly at the County level; the County decides whether there is compliance with the sage grouse protections. DLCD agrees that a mine is an example of a land use that cannot be avoided. The County will decide on the avoidance and minimization standards; mitigation is driven by the ODFW scientists.

Jones asked Vaughan and Seidel about the mapping distinctions between ‘core’ and ‘low density’ habitats; both are significant per Goal 5, they responded. And all ‘significant’ habitat for sage-grouse is protected under DLCD rules (Division 23) that implement Statewide Planning Goal 5, added Vaughan. (*Note from Vaughan: “Just want to clarify that not all fish and wildlife habitat is mapped by the county Goal 5 process; but this does not mean it isn’t ‘significant’ per the mitigation policy.”)

Jones asked BLM if there is an ‘in lieu’ process for wildlife mitigation. McGuire responded that mitigation is relatively new for sage grouse, and she hopes to coordinate with the BLM State office. Vaughan added that there will be an ‘in-lieu’ process for sage grouse; there is not an ‘in lieu’ fee for other affected wildlife. ODFW prefers the exploration of a suitable ‘in-proximity’ mitigation site within the vicinity of the project area, but not necessarily ‘on-site’ to reduce temporal loss and achieve the mitigation standards in rule.

COORDINATION OPPORTUNITIES AND AVOIDING DUPLICATION

Jones highlighted that the federal, state, and local wildlife requirements could lead to confusion and duplication and asked for brainstorming ideas on how to streamline the process.

Brainstorming ideas from the group included:

- *Finalize State review of the pending wildlife baseline reports.*
- *Bring US Fish & Wildlife Service into the Subcommittee discussions.*
- *Finalize the County/State/BLM Memorandum of Understanding (MOU) that will detail how the ODFW Habitat Quantification Tool (HQT) will be used for mitigation requirements across all three levels of government (anticipated in September 2018).*
- *Provide information to the full TRT on the necessary Land Use Compatibility Statement (LUCS) for the project, including both the approach and the timing.*
- *Provide additional information to the Wildlife Subcommittee on the ‘minimization’ standard included in the Oregon wildlife protection program. There can be mixed impacts to different species for ‘minimization’. Power supply is an example; more emissions if power is supplied on site, but no transmission line with additional perches. The Energy Facilities Siting Council examples might be useful. How will this relate to the ‘Alternatives Analysis’ asked one Subcommittee member.*
- *The land use application to the County will have to address Greater Sage-Grouse protection. Circulating drafts of that application to State and federal counterparts and receiving comments could be very useful in keeping actions coordinated.*
- *Focus on effective mitigation using local knowledge. The State and Federal land managers in the area have excellent information and insight to share in developing effective mitigation strategies.*
- *Set clear baseline and standards by wildlife categories and cross-species opportunities. The mitigation for some species is ‘in proximity’ and ‘in-kind’ and net benefit for functionality.*
- *Coordination of land use findings across all lands - County, State, and Federal. Identify the criteria. The applicant will generate the findings. Identify the criteria and the decision maker. It is critically important that the multiple findings across County, State, and Federal agencies are consistent. There are likely four sets of necessary, related findings:*
 - *County – local land use planning*
 - *State Land Use Coordination requirements under ORS 197.180*
 - *DOGAMI findings for the consolidated permits under Division 37*
 - *Federal permits*

- *Develop a single wildlife monitoring plan that covers both State and Federal requirements. Develop an inventory of the necessary criteria.*
- *Develop a protocol for joint State/Federal inspections. BLM inspections must be at least 4 times per year.*
- *Coordinate financial security requirements between Federal and State requirements. A joint bonding MOU between DOGAMI and BLM is underway.*
- *Develop a single local/state/federal wildlife mitigation plan; use this as a template for future large-scale developments.*
- *Map and identify any differences in mitigation requirements between local/state/federal requirements; use the Wildlife Subcommittee to resolve differences.*
- *Evaluate the ODOT noise mitigation model for aggregate mining and determine if it would be a useful tool (should be available about September 1, 2018).*

Jones added that the Calico Pre-Feasibility Study would likely be released today. That will provide the TRT with substantially more information on the planned operation.

He said that the Pre-Feasibility study is also connected to the land use process. The State does not know what land use permitting process is preferred by Calico. Jones said a land use application may be submitted to the County in a month or two. A consistent site plan and operation plan is important.

Jones stated that the County would likely develop land use findings for the patented land. He said that land use findings on the federal land might be required, also. It is best to coordinate ‘findings’ between the County, the State, and federal agencies, he said.

Westfall agreed that the ‘findings’ should be consistent across the local, state, and federal agencies.

Jinings asked about the timing for these items. Knudsen said that there are three parallel tracks:

1. Local land use planning
2. State coordinated permitting
3. Federal permitting

The challenge is keeping these processes coordinated and that takes a specific effort by the Company (Calico), and communication efforts by the local, state, and federal agencies involved, said Knudsen. Additional information will also continue to emerge with the Pre-Feasibility Study and a ‘waterfall’ of information.

The next steps will be dependent on the actions of the applicant, said Knudsen.

Jones informed the group that DOGAMI is developing an overall communications strategy for the overall permitting process, including development of an ‘info’ graphic.

Jones said that Calico has indicated its intent is to file the Consolidated Application in the 4th quarter of 2018.

Vaughan suggested a visual representation of the overall process. Knudsen added that the federal Environmental Impact Statement (EIS) and State Environmental Evaluation (E/E) track have been diagrammed but adding the land use situation would be useful information.

Jinings told the group that Phil Stenbeck will be the Eastern Region representative for DLCD; he and Stenbeck will both be working on the project for now, he said.

The group agreed that a single wildlife mitigation plan across all species and across county, state, and federal agencies is the goal.

Jones added that DOGAMI and BLM are developing a spreadsheet that compares and contrasts the required EIS and E/E.

Jones called on others participating in the call if they had additional suggestions or thoughts.

Dan Morse, ONDA, added that he is confused by how the TRT engages the public; the agenda says that public comments are not accepted. It would be much easier for the public if they knew where and how the public can be involved, he said. Morse continued that since there was no indication that public comments were accepted, listening to a meeting is not effective public engagement. Knudsen suggested adding this topic to the next TRT meeting agenda (set for 7/25/18) as a broader issue.

Nancy Wolverson, Calico, said the formation of the Wildlife Subcommittee is timely, and Calico is interested in coordination. She continued to discuss *'avoidance, minimization, and mitigation'* and that is based on a completed baseline report that needs the State's review and acceptance. She thanked the group for its discussion.

Wolverson asked why the groundwater baseline report was necessary for approval of the baseline aquatic resources baseline report. Jones explained that the existing wildlife habitat conditions are, in part, water dependent.

The Wildlife Subcommittee will be reviewing the wildlife baseline report, including the aquatic resources baseline review.

DeLong highlighted that the baseline data methodologies are set and were approved by the TRT – the September 2017 version.

WILDLIFE – SPECIFIC SCHEDULE OVERVIEW

Jones asked Calico about its wildlife-planning-strategy-specific schedule moving forward. Wolverson said there was nothing the Company could do until the wildlife baseline data reports are reviewed and accepted.

When the Pre-Feasibility Study is released, Calico will be pursuing its permitting strategies.

NECESSARY FOLLOW UP AND NEXT STEPS

Jones said there is TRT meeting on July 25, 2018 that will include a review of the Pre-Feasibility Study by Calico. This will be an in-person meeting at the Portland DOGAMI offices, along with phone access.

The following TRT meeting is set for August 22, 2018; location to be determined.

Gillaspie reviewed the 'to do' list, including:

- Finalize the 'purpose' statement for the Wildlife Subcommittee and distribute
- Forward the ODFW and BLM PowerPoint presentations to the Subcommittee for future reference
- Identify a USFWS representative to join the Wildlife Subcommittee
- Consider development of a TRT public engagement strategy
- Finalize baseline wildlife reviews

The meeting was adjourned at 11:58am.