

Montana Wildlife & Wind Energy Virtual Workshop

Questions & Answers from the Group Chat

This document includes only questions and answers from the chat that were NOT addressed out loud by speakers. For all other questions and answers, please view the workshop recordings.

April 27 & 29, May 4 & 6, 2021

Day 2 (April 29): Wind Permitting in Montana to Site and Operate

- Q. When you reference a one-stop shop, does that go beyond sage grouse to other wildlife?
- A. From Carolyn Sime, MT DNRC: The MT Sage Grouse Habitat Conservation is strictly focused on sage grouse conservation in the identified habitat areas. We do not extend our work to other wildlife species - mule deer winter range or golden eagles. To the extent that other wildlife may benefit from our work, so much the better. However, there have been instances where what's good for SG may not be for golden eagles. In those instances, we work with proponents and agencies to find the best balancing of resource impacts.
- Q. Is there a map of wind and solar resources in Montana overlaid with the sage grouse habitat Carolyn showed?
- A. Carolyn Sime, MT DNRC: The sage grouse habitat boundary GIS layer is available from FWP here: https://gis-mtfdwp.opendata.arcgis.com/datasets/555fd21a0f7e43059ab7991d618b4897_0?geometry=-130.802%2C44.068%2C-88.988%2C49.336
- Q. When and how does the loss of “multiple use and other public recreational opportunities” on state and federal lands get considered?
- A. Cory LeeAnn Shaw - MT DNRC Real Estate: Our considerations are based solely on what benefits the trust with a focus on Highest and Best use and also are bound by statute. SB 63 serves to mitigate the loss of multiple uses and recreational opportunities which was identified as a need as we see an uptick in development interest, recreation interest and also seek to retain our agricultural operations.

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We have recently expanded our recreational use program with a full time staff and are looking at ways to improve this area of land management. The bill seeks to retain recreational access to the lands in addition to these developments.

Q. Windfarms cannot use eminent domain. Therefore, must always get easement and thus never subject to MFSA. True?

A. Allison Begley, MT Fish, Wildlife & Parks: Re: Eminent domain. A quick google search would suggest that Montana law/case law has "connected" MFSA certification with the ability to use eminent domain. If no MFSA, then no eminent domain can be used.

Q. Carolyn, on the website, what is a sage grouse "Preservation credit"? Does it represent the habitat value of one acre of general habitat, core habitat, or something else? Can you give us an idea for what a credit costs & what the availability for credits is if a developer hopes to acquire credits through the MT SG Habitat Conservation Program?

A. Carolyn Sime, MT DNRC: MT law defines credit / debit as a unit of trade representing the accrual / loss of resource function. The translation is that mitigation obligations are expressed as debits and developers should provide an equal number of credits to offset impacts. The same calculator (Habitat Quantification Tool) is used to determine the number of debits or credits, respectively. "Preservation credits" just refers to credits that are created through conservation easements or term leases -- preserving the existing habitat vs. restoration / enhancement activities.

If a developer selects the Stewardship Account / in lieu fee option, the obligation is transferred to the state upon payment and the developer is free to move to implement immediately. The state initiates a grant opportunity to fund projects once there are sufficient funds to make for a meaningful process. The statutory language is a bit clumsy. Strictly speaking, projects can move forward even before the granting process is completed and mitigation / grant projects are implemented. The first grant process in 2016 created a pool of credits prior to mitigation requirements took effect.

Q. What exactly is a "longitudinal encroachment?" Does the statement, "MDT does not allow" these encroachments mean that a transmission line could not be constructed within a highway or railroad right-of-way? How wide, typically, is a highway or railroad right-of-way?

A. Jean Riley, MT DOT: Longitudinal Encroachments would parallel the roadway within the MDT right-of-way. The transmission lines may cross the highways, but transmission line poles are not allowed within the right-of-way due to safety. The highway and railroad right-of-way varies

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depending on the type of facility and location. The only way to determine the right-of-way width is to contact MDT or the specific railroad.

Q. Can you generalize as to the width of a ROW for an interstate highway?

A. Jean Riley, MT DOT: Interstate ROW varies. You could look at Montana Cadastral which will give you a rough estimate you can verify this with the District staff.

Q. Can you comment on the current availability of credits through the MT SG Habitat Conservation Program? & what kind of cost a developer could expect in acquiring those credits?

A. Carolyn Sime, MT DNRC: As to cost of credits - we used the 2016 grant projects [all easements], to establish \$13 for each debit created by a project for the project's full duration discounted at 3% per year. See Appendix 7.4 of the Montana Mitigation System Policy Guidance Document for Sage Grouse v. 1.0 Oct. 2018 here: <https://sagegrouse.mt.gov/Team>. There is an example of how the calculation is made.

Q. Are these decommissioning plans and bonds for the wind features on both public and private lands, or just for those sited on public lands?

A. Forrest Mandeville, Forrest Mandeville Consulting: Regarding bonding, if the County has zoning there may be a bonding/decommissioning requirement on the local level. Typically the DEQ required process is fine with the County, but the local requirement can serve as an additional check to make sure it gets done.

Q. Who is the enforcement authority for this decommissioning if it isn't followed? What are the penalties for non-compliance? How are the citizens of MT protected so that the cost of decommissioning doesn't fall back on them.

A. Kyla Maki, MT DEQ: Enforcement authority is DEQ and the penalties for non-compliance with submitting a bond is \$1,500/day that bond is late. DEQ's Enforcement Division would enforce and ensure that decommissioning of the facility is done according to the decommissioning plan and requirements. DEQ will not release the bond until the facility is properly decommissioned.

Q. How do you effect change, or at a minimum maintain the status quo? with regards to public lands.

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- A. Allison Begley, MT FWP: Up to this point, we have not had many experiences where a "well-used" or "frequently accessed" public land has become unavailable as a result of a developed wind project. There are genuine safety concerns under turbines, but there are a few examples where access has been achieved safely. If or when access becomes implicated, we will work with industry to the extent possible to maintain access. I don't envision WMAs or NWRs being identified for energy development.
- Q. I am more worried about state lands and lands in block management no matter whether they are "well used" or "frequently accessed". And how would you accurately measure this usage? When recreationists are displaced from using public lands they are crowded on to the fewer public lands that remain, lands that may or may not have the same resource qualities as the former, leading to crowding and reduced levels of enjoyment.
- A. Allison Begley, MT FWP: I don't know of any scenarios yet about Block Management enrolled lands "leaving" to lease their land to a developer. However, that is information that I could inquire about.

Links shared:

- <http://dnrc.mt.gov/divisions/trust/docs/recreational-use/montana-access-guide-to-federal-and-state-lands-2018.pdf>
- <http://dnrc.mt.gov/divisions/trust/recreational-use-of-state-land>
- <http://dnrc.mt.gov/divisions/trust/docs/recreational-use/montana-access-guide-to-federal-and-state-lands-2018.pdf>
- <http://dnrc.mt.gov/divisions/trust/recreational-use-of-state-land>
- https://www.mdt.mt.gov/other/webdata/external/planning/SIAP-DEVELOPERS-GUIDE/siap_guide.pdf
- <https://mdt.mt.gov/>
- <http://mtnhp.org/SpeciesOfConcern/?AorP=a>

Day 3 (May 4): VII. Key Species/Taxa: Impacts, Minimization, Compensation

- Q. Are the gaps in knowledge about bats population, migration, etc. due to their elusiveness, lack of funding for research, something else?
- A. Dan Bachen, MT Natural Heritage Program: Pretty much everything except funding. Many species are too small for robust transmitters and all are too small to take a GPS tag. Often tagged bats disappear or are difficult to relocate as the tags are small, signals are weak, and

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animals are tucked in crevices that can interfere with signals. Roost surveys for cave bats are difficult but doable, tree roosting surveys are next to impossible. For example we have 2 known Hoary Bat roosts in our databases. I'm excited about the potential for the MODUS network to help identify migratory movements for Hoary and Silver-haired Bats, but the network will need to increase in coverage across the mountain west before this tech is possible.

Q. What is the latest about barotrauma?

A. John Lloyd, AWWI: Recent research in PLOS ONE suggests impact trauma is probably causing most fatalities.

<https://journals.plos.org/plosone/article/authors?id=10.1371/journal.pone.0242485>

Q. We heard this morning about the expense and effort associated with PCM. We've also heard, repeatedly, now, that PCM studies occur or should occur for 2 years. But, we also heard that the presence of birds and bats is not necessarily static year after year. So, my question is why does 2 years seem to be the standard for the number of years that such studies are done.

A. Dan Bachen, MT Natural Heritage Program: Activity and timing is variable, but bats are highly philopatric and presence should be similar across years. Acoustic detection can be difficult if the animals are present but do not approach the detector site. From a methods perspective multi-year surveys increase the probability of detection if the species is present.

Q. Does the panel have any estimates of Eagle mortality from existing wind generation sites in MT? It seems we need to know what is happening now to project impacts into the future. Appreciated the bat numbers provided by MTFWP

A. Jeff Berglund, USFWS: Some in-process NEPA documents regarding wind energy project eagle take permit applications in USFWS R6 can be found here: <https://www.fws.gov/mountain-prairie/wind/index.php>

Q. Where can one find examples of wind energy NEPA documents?

A. Jeff Berglund, USFWS: Some in-process NEPA documents regarding wind energy project eagle take permit applications in USFWS R6 can be found here: <https://www.fws.gov/mountain-prairie/wind/index.php>. An example of a programmatic NEPA wind power analysis (prepared by WAPA and USFWS) can be found here: <https://www.wapa.gov/regions/UGP/Environment/Pages/ProgrammaticWindEIS.aspx>.

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Q. How is the waterfowl production trending in North Dakota since the onset of wind farm development?

A. Jill Shaffer, USGS: The waterfowl trend in ND is good, based on a number of years of high precipitation. We may be heading into a drought cycle, so future trends could reflect this cycle. To my knowledge, no one is examining waterfowl trends specifically tied to wind or other types of energy development. That would require teasing out anthropogenic developments from other factors, including the wet/dry cycle, ongoing wetland drainage efforts (e.g., tile drainage), and harvest levels. USFWS annually conducts surveys to monitor waterfowl populations. Obviously, harvest quotas must be set for these game populations.

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