

JOINT DATA SHARING AGREEMENT

between

Nevada Department of Wildlife

and

Nevada Division of Natural Heritage

This Data Sharing Agreement (Agreement) is entered into October 30, 2023 by and between the Nevada Department of Wildlife (NDOW) and Nevada Division of Natural Heritage (NDNH) to broadly support each other in fulfilling their respective missions, ensuring that both parties have access to the best available information regarding species of conservation concern to inform land-use planning and conservation planning decisions. The Agreement also establishes the content, use, and protection of shared data.

This Agreement shall be in effect for a period of five years beginning on the latest date in Section 10, Signatures. Data exchanges within that period shall occur at least annually but may occur more often as needed.

1.0 Rationale for Protection of Sensitive Information

Informed land-use decisions sometimes require information about specific fish, wildlife, and habitat locations. In working to protect wildlife resources for the people of Nevada, it is recognized that some data may require appropriate safeguards due to the risk and magnitude of loss or harm which would result from inadvertent or deliberate disclosure. This agreement outlines required use and distribution of information to reduce the possibility of such loss or harm.

NDOW and NDNH consider the following criteria when determining data sensitivity:

- Would harm, theft, or destruction occur to a taxon (e.g., species, subspecies, isolated population) if specific knowledge of its location(s) were known?
- Are the data proprietary (e.g., restrictions from the data owner/source such as a university or other agency)?
- Did the landowner provide restrictions on the use of the data?
- Do the data contain a fragile taxon or habitat (e.g., federally- or state-listed species, sage-grouse leks, bat hibernacula and maternity roosts, raptor nest sites and aeries, isolated desert springs, etc.)?

Data deemed to be sensitive may be delivered in a manner that masks or obscures the original spatial precision of the data to reduce the possibility of loss or harm to sensitive species.

2.0 Data Use

Sensitive data shall be utilized in accordance with the terms and conditions contained in this Agreement and appropriate measures should be taken to ensure that the use of spatial data is strictly limited to serve the intentions stated in this Agreement. The anticipated use of these data may include, but not be limited to:

- Management of the environment, biological resources, and land; need for continued conservation actions to maintain species and population health; and environmental assessment and impact studies;
- Inquiries from government agencies and professional organizations for policy decisions and resource management;
- Species conservation planning and management and conservation assessment;
- Species distribution studies, species modeling, vegetation survey and mapping, landscape scale analysis, and/or monitoring and resurvey activities;

NDOW/NDNH Joint Data Sharing Agreement

- Scientific research and analysis, the advancement of scientific understanding, and/or collaborative projects; and
- Protection of species where lack of disclosure could endanger species environmental sustainability.

3.0 Constraints on Use of Data and Recipient Data Use Responsibilities

3.1 Data Use Constraints and Confidentiality

Data shall be used in accordance with section 2.0, above, and subject to data confidentiality per NRS 232.1369.2 and other Nevada statutes and recognized exceptions to public records laws and regulations including, but not limited to, Nevada Revised Statute (NRS) Title 45 – Wildlife, specifically NRS 501.100 Legislative declaration regarding wildlife; NRS 501.110 Classification of wildlife; NRS 503.610 Protection of bald eagle and golden eagle; NRS 503.620 Protection of birds included in Migratory Bird Treaty Act; and federal regulations pertaining to threatened and endangered species. Data shall not be used in any manner that would facilitate or knowingly result in the commission of a crime. Data shall not be used in a manner that knowingly misrepresents the information contained therein. The data shall be treated as proprietary in all respects, and NDOW and NDNH shall implement all procedures reasonably necessary to protect owners' proprietary rights.

The Parties recognize that confidentiality provisions may protect Data. The Parties maintain their individual rights to respond to public records requests in compliance with Nevada law but will utilize best efforts to communicate and consult with the other agency whenever a public records request relates to the Data covered by this agreement.

3.2 Data Ownership

Ownership of the data remains exclusively with NDOW, NDNH, and/or those who provided the data to NDOW or NDNH (“owners”)

3.3 Data Access

Data shared between NDOW and NDNH shall be used responsibly through the regular course of state business. Recipients of NDOW and NDNH data shall be subject to the respective agency's Data License Agreement, which includes a clause restricting data access only to those individuals directly associated with the Recipient organization.

3.4 Derived Data Products

Maps and other products derived or produced using shared data must clearly and accurately represent the information contained therein; must clearly list the data source; and must ensure that sensitive data are represented at a scale that protects the data from malicious use. For example, a 10-kilometer hexagon (or coarser scale) should be used for data deemed “data sensitive”; however, a one-mile hexagon can be used if the resulting product is species blind and the parties agree on the resolution. Under no circumstances do NDOW and NDNH have the right or permission to publicly publish, display, or represent specific location information (e.g., geographic coordinates, written descriptions, or addresses) for data deemed “data sensitive.” All derived data products not meeting the requirements for external or public use must be conspicuously marked “Confidential and Proprietary – For Internal Use Only” and may only be shared with agency employees and authorized contractors who have reviewed this agreement.

3.5 Recipient Responsibilities

Upon receipt of data, it is the responsibility of the Recipient to recognize that data can rapidly become obsolete and/or out-of-date relative to the environmental conditions on the ground. Recipient is responsible for determining if data previously received from the partner agency is still temporally and spatially appropriate for its intended use. Recipient is responsible for contacting the partner agency to

NDOW/NDNH Joint Data Sharing Agreement

validate previously received data's currency and/or request updated or new data for future use. Recipient is responsible for destroying any and all data deemed obsolete or expired.

Recipient is responsible for fully reviewing the geographic extents of the data received from the partner agency and determining if the spatial scope of the data is appropriate for its intended use. Recipient is responsible for fully reviewing the attribute data associated with spatial data formats and understanding the scope, intent, and limitations of the information contained therein. Recipient is responsible for fully reviewing any and all metadata and understanding the definitions, explanations, limitations, and restrictions contained therein.

Recipient is responsible for understanding the scope and potential limitations of the data provided by the partner agency and shall not use the data in a manner that misconstrues or misrepresents the information contained therein. Recipient is responsible for understanding that the absence of data does not necessarily represent the absence of wildlife resources on the ground. Recipient is responsible for contacting the partner agency should any aspect of the scope, use, limitations, or information contained in the data or metadata is unclear or absent prior to use.

The absence of clear or complete information regarding the description or limitation of the data does not excuse Recipient of any of the responsibilities stated herein.

4.0 Data Format

Data will be provided in ArcGIS geodatabase format with appropriate attributes and metadata to provide the most comprehensive and useful data set possible. All spatial data will be provided in Universal Transverse Mercator, Zone 11 North projection, North American Datum 1983 (NAD83).

5.0 Data Security

5.1 Best Practices

Recipient shall employ industry best practices, both technically and procedurally, to protect data classified as sensitive from unauthorized physical and electronic access.

5.2 Compulsory Disclosure

If one party becomes legally compelled to disclose any sensitive information, that party shall provide the other with prompt written notice so that appropriate action may be taken.

6.0 Compliance with Applicable Laws and Regulations

Both parties shall comply with all applicable federal, state, and local laws and regulations affording protection to wildlife species and their habitat. Such laws and regulations include, but are not limited to, Nevada Revised Statute (NRS) 232.1369.2 regarding data confidentiality; Title 45 – Wildlife, specifically NRS 501.100 Legislative declaration regarding wildlife; NRS 501.110 Classification of wildlife; NRS 503.610 Protection of bald eagle and golden eagle; NRS 503.620 Protection of birds included in Migratory Bird Treaty Act; and federal regulations pertaining to threatened and endangered species.

7.0 Amendments and Alterations to this Agreement

This Agreement may not be superseded, amended, or modified except by written agreement between NDOW and NDNH.

NDOW/NDNH Joint Data Sharing Agreement

8.0 Signatures

By the signatures of their duly authorized representative below, NDOW and NDNH, intending to be legally bound, agree to all of the provisions of this Data Sharing Agreement.

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Signature: *Kimberly Munoz*

Date: 31 October 2023

Date: November 2, 2023