

**From:** [Rogers, Brad](#)  
**To:** [Gwyn McKee](#)  
**Cc:** [Clark McCreedy](#)  
**Subject:** Re: partial EA for agency review  
**Date:** Friday, February 27, 2015 11:32:24 AM  
**Attachments:** [Cumulative\\_Effects\\_Feb\\_27\\_CDM.docx](#)

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Gwyn,

Clark asked me to email the cumulative effects chapter we worked on this morning. to you. Here tis.

Bradley Rogers  
Fish & Wildlife Biologist  
U.S. Fish and Wildlife Service  
Wyoming Ecological Services Field Office  
c/o 1425 Fort Street  
Buffalo, Wyoming 82834

Phone: 307 684-1046  
Cell Phone: 307 631-2484  
Fax: 307 684-1122  
[brad\\_rogers@fws.gov](mailto:brad_rogers@fws.gov)

*"Our duty to the whole, including the unborn generations, bids us to restrain an unprincipled present-day minority from wasting the heritage of these unborn generations."* Theodore Roosevelt

On Fri, Feb 27, 2015 at 11:03 AM, Gwyn McKee <[gwyn@vcn.com](mailto:gwyn@vcn.com)> wrote:

Brad/Clark,

I am NOT going to make it today. I am so sorry but things have exploded on a couple of fronts and I need to dam the flows today if possible.

However, I have attached the most current version of C1, C2, and much of C3 for another round of review. This version includes Angela's edits and comments from the RO, and has a few other edits/comments for your review. I will get the rest of C3 to you guys early next week so we can send that out for another review and should have C4 ready for our meeting next week.

I'll be sitting right here if you want to call and talk through some of these minor changes.

Again, my apologies for the change in plans!!!

Gwyn McKee

President/Principal Biologist

Thunderbird Wildlife Consulting, Inc.

32 Leach Rd

Sheridan, WY 82801

307-674-1742 (Office/Home)

307-689-5571 (cell-please do not use for regular calls)

[gwyn@vcn.com](mailto:gwyn@vcn.com)

## 5.0 CUMULATIVE IMPACT

For the purposes of analyses conducted pursuant to the National Environmental Policy Act of 1969 (NEPA), cumulative impacts are defined as the incremental, additional effects to the human environment that result from implementing any of the alternatives under consideration. The cumulative impact analysis must consider this incremental impact of the proposed action, and any alternative actions, in addition to the impact of past, present, and reasonably foreseeable actions regardless of the jurisdiction of their origin (CEQ 1997). The CEQ regulations for implementing NEPA define cumulative impacts as:

*The impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or nonfederal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. (40 CFR §1508.7).*

Within the State of Wyoming, at least within sagebrush steppe habitats of importance to the greater sage-grouse, there has been a comprehensive effort to establish cumulative impact thresholds. As defined within a Governor's Executive Order, disturbance thresholds "will be limited to 5% of suitable sage-grouse habitat per an average of 640 acres" (Wyoming EO 2011-5). The analysis of disturbance has been standardized and adopted by the Federal land management agencies (e.g., BLM IM-2013-035) as well as incorporated as an element of the preferred alternative in pending amendments to Land and Resource Management Plans across the State of Wyoming (LRMPs; BLM 2013). These disturbance thresholds should be considered as applicable to all alternatives.

All the alternatives considered herein are intended to achieve *net conservation benefit* consistent with the Service's policy for the evaluation of conservation efforts (PECE; 68 FR 15100). That is, each of the alternatives is primarily intended to ameliorate threats (i.e., cumulative impacts) to sensitive species without contributing additional, incremental impact. That is, in achieving net conservation benefit, and particularly in the context of voluntary participation in conservation agreements by willing landowners, there are no additional deleterious impacts to be considered. For the purposes of these analyses, the alternatives are assessed in terms of their relative contribution to the amelioration of threats to representative species and ecosystems within the action area.

In this case, the proposed action under consideration is the issuance of a Section 10(a)(1)(A) enhancement of survival permit to the Association related to the implementation of a landscape-level Conservation Strategy encompassing three conservation agreements. The purpose of the

Conservation Strategy, and the related issuance of the permit, is to further the conservation of two primary ecotypes and eight associated at-risk species within the action area.

The ‘no action’ alternative relies on existing conservation mechanisms already in place. This would include prescriptive conservation measures conveyed within Federal Land and Resource Management Plans, agency initiatives, and existing conservation instruments such as the *Greater Sage-Grouse Umbrella CCAA for Wyoming Ranch Management* (i.e., Statewide CCAA) (Service 2013b) and companion agreements for Federal lands (BLM 2014, USFS 2014) .

The third alternative to be considered envisions that the Service would develop site-specific conservation agreements with individual landowners for species occurring on their respective properties. That is, the Service would develop individual site-specific agreements as opposed to participating in the implementation of a landscape-level strategy that encompasses multiple landowners.

## **5.1 PAST, PRESENT, AND FORESEEABLE ACTIONS**

The action area includes five counties (Campbell, Converse, Crook, Niobrara, Weston) in northeast Wyoming and two peripheral properties within three counties in southeast Montana. The five-county area is enlarged to the west and south to include peripheral lands within 10 miles of that area, spanning portions of six additional Wyoming counties. The action area encompasses two primary ecotypes: sagebrush steppe and shortgrass prairie. Approximately 85 percent of the surface within the action area is held in private (77%) or state (8%) ownership. Federal lands comprise a minority (15%) of the surface within the action area, though sub-surface mineral rights throughout that area are dominated by Federal ownership. Approximately 90 percent of the area is used for agriculture; 87 percent for rangeland ranching and 3 percent for crop production.

By far, threats to sensitive species within the action area are predominated by fragmentation of habitats. The development of energy resources within the action area has comprised, and will likely continue to represent, the primary source of habitat fragmentation affecting sensitive species within the action area. The past, present, and foreseeable development of energy resources within the action area has received substantial prior consideration and documentation. The following resources may be consulted for an overview of energy-related development within the action area:

AECOM Environment. 2011. Task 2 Report for the Powder River Basin Coal Review. Past and Present and Reasonably Foreseeable Development Activities. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 188 pp.

AECOM Environment. 2012. Task 1C Report for the Powder River Basin Coal Review. Current Social and Economic Conditions. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 124 pp.

AECOM Environment. 2013. Task 3D Report for the Powder River Basin Coal Review. Cumulative Environmental Effects. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 65 pp.

ENSR International. 2005. Task 2 Report for the Powder River Basin Coal Review. Past and Present and Reasonably Foreseeable Development Activities. Prepared for Bureau of Land Management Casper Field Office and Wyoming State Office. ENSR Corporation, Fort Collins, CO. 135 pp.

## 5.2 THE NO ACTION ALTERNATIVE

The no action alternative represents those existing conservation mechanisms that may provide conservation benefit to sensitive species in the absence of other conservation instruments. Consequently, these may also be considered as applicable to all alternatives. These include:

- Standards conveyed within pending land and resource management plans for Bureau of Land Management and Forest Service units in northeast Wyoming and southeastern Montana,
- Natural Resource Conservation Service (NRCS) Sage Grouse Initiative (SGI) programs that fund conservation effort, and
- The Service's *Greater Sage-Grouse Umbrella CCAA / CCA for Wyoming Ranch Management*. At present, approximately 40,000 acres are enrolled in these agreements within the action area.

Standards, prescriptive measures that must be incorporated into proposed actions by the Federal land management agencies, are limited in scope to avoiding or minimizing additional impact to considered species, in this case, the greater sage-grouse. That is, these measures are limited to Federal surface acres, applicable to the greater sage-grouse, and intended only to avoid or minimize impact as opposed to achieving conservation benefit. These standards are intended primarily to ensure that cumulative disturbance thresholds, as conveyed by a Governor's Executive Order (EO-2011-5) and adopted within Land and Resource Management Plans, are not exceeded. The NRCS SGI program measures and the *Greater Sage-Grouse Umbrella CCAA* are intended to achieve conservation benefit for the greater sage-grouse and are applicable to private surface acres. The NRCS SGI program provides supplemental funding to implement conservation measures, however, these programs are limited in scope to the greater sage-grouse and provide no mechanisms to achieve the strategic placement of conservation within broader landscapes; that is, conservation effort is placed solely within the enrolled acreages which may

be disjunctly distributed. Supplemental funding to implement conservation is not a provision of the *Greater Sage-Grouse Umbrella CCAA*. In both these cases, conservation effort is limited to measures applicable to sagebrush steppe habitats.

### **5.3 THE PROPOSED ACTION – IMPLEMENTATION OF THE ASSOCIATION’S CONSERVATION STRATEGY**

The Association proposes to address landscape conservation in the context of two primary ecotypes and their associated at-risk species. Within the sagebrush steppe ecotype, this includes the greater sage-grouse, sage sparrow, Brewer’s sparrow, and the sage thrasher. Within the shortgrass prairie ecotype this includes the black-tailed prairie dog, mountain plover, burrowing owl, and ferruginous hawk.

Implementation of the Strategy is directed by three integrated conservation agreements consisting of a Candidate Conservation Agreement with Assurances (CCAA) applicable to private property; a Candidate Conservation Agreement (CCA) for property with a federal nexus; and, a Conservation Agreement (CA) which addresses conservation effort associated with foreseeable energy development within the coverage area. The proposed action may be distinguished from alternatives considered here in that,

- Conservation effort is intended to be strategically placed within the action area where it most likely to achieve durable conservation benefit. That is, conservation effort associated with an enrolled property may be placed on the enrolled property or alternatively in an area other than the enrolled property, across jurisdictions or ownerships, so as to maximize the likelihood of conservation benefit,
- In addition to funding mechanisms such as the NRCS SGI program, the financial strength of the Association provides greater certainty of implementation of certain conservation measures that might not otherwise be implemented by any one individual landowner (e.g., replacement of windmills by solar pumps to eliminate vertical structure within sagebrush steppe habitats). Similarly, the financial strength of the Association provides greater certainty as to the consistency of monitoring of implementation and efficacy of conservation measures,
- The Conservation Strategy is intended to achieve conservation benefit for two distinct ecotypes, in contrast to those programs or alternatives intended to benefit primarily just the greater sage-grouse, and
- At present, prospective enrollment by Association members includes approximately 1.2 million acres within the action area.

## **5.4 ALTERNATIVE ACTION – DEVELOPMENT OF SITE-SPECIFIC CONSERVATION AGREEMENTS**

Under this alternative, the Service would consider working with interested parties to develop site-specific conservation agreements with individual landowners. In other words, each willing party would develop and implement a CCAA or combined CCAA/CCA, depending on the presence/absence of interests in Federal property. Conservation measures to be implemented would be determined by the Service and the participant, and would apply only to the species and ecotype(s) on their enrolled property. This approach may be limited by the following considerations:

- Implementation of conservation measures would be limited to the enrolled species and necessarily placed within the enrolled property as opposed to strategic implementation of conservation measures within the broader landscape,
- Funding for implementation of conservation measures would be limited to resources of the landowner and assistance provided by participation in existing programs,
- the Service's ability to implement site-specific agreements may be limited by staff and funding, and
- At present, the Service has not yet been approached by any landowner or agency requesting the development of a site-specific conservation agreement for at-risk species within the action area.

## **5.5 CONCLUSION**

The vast majority of surface acreage in the action area is dominated by rangeland management wherein conservation effort for the greater sage-grouse has been directed. Both the State of Wyoming and the Service have produced policy statements regarding the role of rangeland management and the conservation of the greater sage-grouse. The Wyoming Governor's Executive Order (EO-2011-5) characterizes appropriate range management as a "de minimus" activity with respect to sage-grouse. These activities are considered as exempt from review for consistency with the Governor's Executive Order:

Existing grazing operations that utilize recognized rangeland management practices (allotment management plans, NRCS grazing plans, prescribed grazing plans, etc.).

More recently (February 2015), the Service has provided guidance regarding assessment of the role of grazing and sage-grouse conservation:

The Service recognizes that well-managed grazing practices can be compatible with long-term sage-grouse conservation. The following list summarizes the Service's perspective on livestock grazing and how the Service will proceed on working with private rangeland owners to conserve sage-grouse.

1. Historically, grazing has altered the sagebrush-steppe ecosystem in parts of sage-grouse range.
2. In more recent times, poorly managed grazing continues to degrade sagebrush-steppe ecosystems and exacerbate existing negative conditions for sagebrush and sage-grouse in some areas.
3. In many areas across the range of sage-grouse, well-managed grazing practices can improve habitat conditions or minimize future negative declines.
4. Grazing practices need to be better defined, scientifically evaluated, and strategically applied as CCAs/CCAAs and BLM RMPs are implemented.
5. Working with agency staff and local range scientists, private range managers and landowners can provide important information, expertise, and the capacity to help monitor and improve local range conditions on both private and public lands.
6. Private rangelands provide important open space, habitat, and ecological processes for conserving sagebrush ecosystems. They are critically important components of sage-grouse habitats, especially wet meadows.
7. The Service will work with landowners to improve habitat conditions wherever possible. Even if well-managed grazing practices result in some local adverse impacts to sage-grouse, the Service will weigh these impacts in the context of achieving broader sagebrush conservation goals on private lands and a landscape scale.
8. The Service will actively add to the knowledge base on appropriate sage-grouse management.
9. Maintaining healthy, viable, locally managed private rangelands and ranching operations is integral to achieving sage-grouse conservation for the reasons described above.
10. The Service will work with BLM and FS on ensuring areas of high priority to sage-grouse are not experiencing poorly managed grazing practices, but instead use well-managed grazing practices to improve existing conditions.

Consequently, with respect to the already implemented *Greater Sage-Grouse Umbrella CCAA / CCA for Wyoming Ranch Management*, the Service has determined that implementation of the conservation measures associated with this programmatic agreement have met the appropriate standard of conservation benefit. That is, that this agreement meets the standard that if the conservation measures were also implemented on other similar properties across the range of the species, this would be sufficient to preclude the need to list the species under the ESA.

In the case of the proposed action, which includes conservation measures similar to those of the *Umbrella CCAA/CCA*, in addition to conservation measures for shortgrass prairie species, the



financial strength of the Association and the ability to strategically place conservation effort within the action area, provides greater certainty of implementation of measures already regarded as effective in achieving conservation benefit. That is, among the alternatives considered herein, the proposed action provides the greatest certainty of achieving durable conservation benefit, ameliorating threats, for these at-risk species.

#### Citations:

AECOM Environment. 2011. Task 2 Report for the Powder River Basin Coal Review. Past and Present and Reasonably Foreseeable Development Activities. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 188 pp.

AECOM Environment. 2012. Task 1C Report for the Powder River Basin Coal Review. Current Social and Economic Conditions. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 124 pp.

AECOM Environment. 2013. Task 3D Report for the Powder River Basin Coal Review. Cumulative Environmental Effects. Submitted to: Bureau of Land Management High Plains District Office and Wyoming State Office. AECOM, Fort Collins, Colorado. 65 pp.

Bureau of Land Management. 2013. The Wyoming Greater Sage-Grouse Draft Land Use Plan amendment and Draft Environmental Impact Statement. Executive Summary. Bureau of Land Management, Wyoming State Office. 14 pp.

Council on Environment Quality. 1997. Considering Cumulative Effects Under the National Environmental Policy Act. Council on Environmental Quality. Executive Office of the President. Washington, D.C. 122 pp.

ENSR International. 2005. Task 2 Report for the Powder River Basin Coal Review. Past and Present and Reasonably Foreseeable Development Activities. Prepared for Bureau of Land Management Casper Field Office and Wyoming State Office. ENSR Corporation, Fort Collins, CO. 135 pp.