

From: [Shauna Ginger](#)
To: [Lee Corum](#)
Subject: RE: logistics; comments
Date: Tuesday, December 02, 2014 11:32:49 AM
Attachments: [NV CCS Manual v.98_FWS-SGcomments_2Dec2014.docx](#)

Comments thus far (Manual) attached. I need to dive into the details of the HQT today as well.

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Shauna Ginger
Ecosystem Services Biologist
USFWS Oregon Field Office
Portland, OR | 503-231-6949
Learn more about USFWS & Ecosystem Services [here](#)

From: Shauna Ginger [mailto:shauna_ginger@fws.gov]
Sent: Tuesday, December 02, 2014 9:29 AM
To: Lee Corum
Subject: logistics; comments

Hi Lee,
I think I will be landing in Seattle about 2:30 today, and have a 2 hour layover, so will try and jump on the call. I'm working on typing up notes from a close review of the Manual to send you before I take off.

See ya soon,
Shauna
503-894-3761 work cell

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Shauna Ginger
Ecosystem Services Biologist
USFWS Oregon Field Office
Portland, OR | 503-231-6949
Learn more about USFWS & Ecosystem Services [here](#)

Comments & Questions

1. In the Manual preface (p.iv), the term “federal regulatory assurances” is used. The rest of the manual uses regulatory predictability or certainty. Recommend changing assurances to one of these other terms as the Service cannot provide this form of assurances to federal agencies.
2. Recommend that the term “unavoidable impacts” be used up front in the manual (p.2) as it is in other parts of the document.
3. How or is avoidance measured or assured through the CCS? In other words, how are impacts first deemed unavoidable and is this a process outside the CCS? Given the CCS is primarily for BLM, will the burden of meeting the full mitigation hierarchy fall within the BLM requirements? (*relates to State Plan*)
4. What minimization measures are required, if any? (*relates to State Plan*)
5. Recommend that the relationship of the broader SEP and SEC (on p.17) be put up front in the document for readers unfamiliar with the state of Nevada’s sage-grouse conservation plans.
6. In the Manual (p.3) it states that disturbance to local government lands require consultation with the SETT, however the rest of the document is silent on this land ownership type. Will the use of the CCS be required for impacts to local government lands?
7. The BLM DEIS Nevada Alternative is the connector to “require” BLM to consult with the SETT and thus use the CCS for compensatory mitigation. What if this alternative is not chosen? Related, at what stage is the MOU with BLM/FS. Given the CCS will primarily be for impacts to federal lands, these two pieces are vital for the success of the program.
8. Is there room for a project proponent to propose permittee responsible mitigation (i.e. can someone refuse to use the CCS for their compensatory mitigation needs)?
9. Is the CCS administration currently funded and for how long?
10. What role does the administrator play in credit pricing? (p.7)
11. How will the CCS handle situations where credits are not available for an impact project? Is there a provision for the CCS to take fees in lieu? Or, will the impact project be put on hold until credits are available? Or, will advanced credits (credits sites that are under contract but the credits are not mature or released) be used, and if so, what would qualify for advanced credits).
12. Will the CCS on-line system have publicly available information on credit sites, number of available credits per site, etc. (like RIBITS)? (p.19)
13. The tracking of debits is not specifically mentioned. Will the CCS be tracking this?
14. If administrative fees are coming from transactions with buyers, how will the CCS be funded in the short term in order to provide a stock of credits before impacts? (p.18)
15. Specify that pre-listing agreement would cover “unused” credits in the CCS as mitigation post-listing. If credits were already sold to offset debits, these credits cannot be used again later.
16. In several places (e.g. Manual p.25), it is mentioned that the HQT will be used to determine post-project functional acres after the impacts occur. This implies the full debit will not be known until

after impacts occur, which may be over a time period. While more accurate, this may serve to discourage early purchase of credits and thus potentially erode at the net benefit standard. In addition, this format may not be suitable for NEPA or future Section 7 consultations where take and mitigation is assessed a priori and included in the biological opinion. Many project developers prefer to get their “permit”, pay for the mitigation, and then be done with the agencies. One solution - consider if project proponents can choose between a set (conservative) amount determined prior to impacts, a conservation amount paid for in advance but given refund for the final amount post-project, or the proposed method of debiting as the project is implemented.

17. The concept of a proximity factor to keep offsets from being too far from the population it affects is a good one, however, what checks are in place to ensure the offsets are not placed too close to the impacts? (p. 29)
18. The Manual (p. 34) states that proper grazing practices are not anticipated to pose imminent disturbance threat and thus a site could qualify for credits. Who determines if grazing is properly managed? How is this measured - do the local- and site-scale post function minimums cover improper grazing? Would grazing plans deemed improper have to be modified to rise up to the minimum credit site eligibility standards?
19. The minimum site protection is a commitment (contract?) to maintain functions above the minimum (p. 34). At what length contract are more robust site protection instruments required?
20. The baseline for a credit site (p. 34) is calculated different from a debit site (p. 50) = local scale f-acres x site scale regional standard vs. local sale f-acres x site scale f-acres. What is the reasoning for this difference? It would be most accurate to use site scale function for both measures. It would be less accurate, but better, to use a site scale regional standard for both measures.
21. The reserve is funded by the buyer (p. 38) at a cost of 4-14% of the credits transferred, correct? Will this cost be significant enough to drive buyers to demand to do their own mitigation, if that is an option?
22. It appears all credit releases are tied to ecological performance and that site and financial protections must be in place before a site is approved and credits can be released (p.42). How will this work for longer term or permanent sites where an endowment is required? Most credit providers will be unable to provide that amount of capital up front and will need credit sales or time to fund these large financial assurances. Is there any thought to having some administrative performance standards tied to long term stewardship?
23. Will the Administrator become 3rd party to financial assurances (p. 46)?
24. In matching duration of credits and debits (p. 49), a series of limited term credits can be used to offset long term debits. It is possible to use a bulk number of term credits (purchased at one time) to offset longer term debits?
25. Unsure why the inset for biological monitoring is in this section (p. 51).
26. Refer to the final Range-wide Mitigation Framework in the glossary (p. 80).

Strengths:

- Credit system is open before the debit system to allow for accrual
- Application fees are waived in 2014 to encourage participation
- Robust program adaptive management strategy
- Aims for net benefits
- Credit release based on performance
- Uses ratios, proximity factors to calculate debits and credits
- Calls for additionality of land use and public funding for credit sites
- By including as an alternative in the BLM DEIS, if chosen will be a strong regulatory driver
- Transparent and published fee structure
- Includes a reserve account based on fire risk and competing land uses on and off site
- Room for future CCA/A overlap
- Multiple credit investment strategies possible
- Provides for a credit variability tolerance

Challenges:

- No regulatory driver for impacts on private land to be avoided, minimized, or mitigated
- Unclear what qualifies as unavoidable impacts; need clearer connection with State Plan on avoidance and minimization requirements
- No room for cross-state mitigation
- Credits projects can be a minimum of 10 years
- No MOU between BLM/FS yet
- The exact calculus for ensuring net benefit is unclear, especially as debits don't appear to be tracked and reported
- Appears to rely on reserve account to ensure durability, as minimum site protection is a simple commitment
- If credits are not backed by the reserve until they are transferred (sold), then durability of pre-listing credits are in question. In a post-listing scenario, would the Service take on the reserve fee structure?