SWEETWATER RIVER CONSERVANCY

GREATER SAGE-GROUSE HABITAT CONSERVATION BANK

CONCEPTUAL PROPOSAL

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Sweetwater River Conservancy

Greater Sage-Grouse Habitat Conservation Bank

Conceptual Proposal

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Executive Summary

The greater sage-grouse is a ground dwelling bird utilizing large areas of western North America's sagebrush ecosystem. Sage-grouse reside in their range year round where they use distinct seasonal habitat types. Males are known for their distinctive courtship displays when gathering at leks in early spring to compete for females. These habitat and ecological requirements increase sage-grouse vulnerability to urbanization and other land use impacts. The species currently occupies 56 percent of its historic range. Development in the western United States creates additional conflicts with the species.

Recent attempts to reverse the sage-grouse decline include regulatory changes and conservation programs. This includes Endangered Species Act candidate listing, state regulations, and coordinated conservation planning. State and industry stakeholders expressed concern over the potential economic impacts of a federal threatened or endangered listing. On the state level, the Wyoming Governor's Executive Order established regulated habitat areas in the state. These regulatory and conservation efforts deferred federal listing and created market demand for conservation banking. Habitat conservation banking provides mitigation credits available to off-set impacts to sage-grouse habitat in the surrounding region. Conservation banking is a critical action for the species recovery.

A habitat conservation bank protects an area under an easement for use as mitigation credit. The credit is then available for purchase as mitigation for project impacts in the surrounding bank service area. Bank establishment follows the procedures in 2003 U.S. Fish and Wildlife Service conservation banking guidance. This guidance includes establishment of a Service led multi-stakeholder Conservation Bank Review Team overseeing development of a conservation bank conceptual proposal, proposal, and agreement. The agreement is an operational plan with mitigation crediting procedures, bank service area, regulatory approvals, management, and other detailed mechanics. The U.S. Fish and Wildlife Service is responsible for review and approval of the agreement.

This conceptual proposal is for the Sweetwater River Conservancy Greater Sage-grouse Habitat Conservation Bank. The conceptual proposal introduces the project, sponsor and ownership, proposed functional habitat assessment method, and agreement process. The proposed habitat conservation bank site will be based on the outcome of the functional habitat assessment. The bank sponsor and owner will be the Sweetwater River Conservancy, LLC. The functional habitat assessment is a habitat measurement tool that will allow quantification of habitat credits at both the bank area and potential impact sites. A preliminary functional habitat assessment is complete, and a final version will be developed with review team involvement. The sage-grouse habitat conservation bank agreement will include mitigation credit procedures, the service area description, land and conservation terms, and an operational and management plan. This conceptual proposal initiates the sage-grouse habitat conservation bank review team process. It will be followed with completion of a habitat conservation bank proposal and agreement.

This habitat conservation bank is an opportunity to halt the decline of greater sage-grouse. It is a collaborative conservation approach for private landowners, sage-grouse stakeholders, and Wyoming's economic development.

1.0 Introduction

This document is a conceptual proposal for a greater sage-grouse habitat conservation bank on Sweetwater River Conservancy (SRC) private lands. The SRC lands include approximately 76,000 acres of deeded private ownership in Carbon and Natrona counties, Wyoming (Figure 1). The Greater Sage-grouse Habitat Conservation Bank (HCB) will include the high quality sage-grouse habitat within the 76,000 acres of deeded private lands. The HCB will provide saleable habitat credits as mitigation for proposed impacts to sage-grouse habitat elsewhere.

A conservation bank is an area with valuable natural resources protected and managed. In a habitat conservation bank, species habitat is dedicated as mitigation credit. Mitigation credit will be created by protecting and managing the existing bank habitat using conservation easements. These credits will then be deposited in the bank and available for purchase as mitigation for project impacts in the surrounding region. Conservation banking pro-actively provides assured resource protection in-advance of the impact. It also reduces conflicts between conservation and development.

The establishment of conservation banks follows the process in the U.S. Fish and Wildlife Service (USFWS) 2003 conservation banking guidance. The process includes interagency oversight of a conservation bank conceptual proposal, proposal, and agreement. This conceptual proposal includes sections describing the following topics:

- The need for greater sage-grouse habitat conservation
- A habitat conservation banking overview
- A description of the proposed SRC sage-grouse Habitat Conservation Bank

The conceptual proposal initiates the USFWS review process. Section 2.0 describes the specific need for sage-grouse conservation. Section 3.0 provides an overview of conservation banking. Section 4.0 describes the components of the forthcoming sage-grouse habitat conservation banking agreement. The conceptual proposal will be expanded into the HCB proposal and followed with completion of the agreement during the USFWS process.

2.0 Sage-Grouse Conservation Need

The greater sage-grouse is an herbivorous chicken-sized bird found in the sagebrush ecosystem of western North America. The greater sage-grouse utilizes large contiguous habitat with sagebrush as the dominant vegetation type. Stiver et al. (2010) recognizes three seasonal sage-grouse habitats: breeding, summer late brood-rearing, and fall-winter. In early spring, adult sage-grouse gather in breeding leks where males use behavioral displays to court females.

The species currently occupies 56 percent of its historical range (Figure 2) with the highest densities in Idaho, Montana, Nevada, Wyoming, and Oregon (USFWS, 2012). Studies show the species decline is a result of urbanization and other land uses. Continued growth poses additional conflicts to the sage-grouse.

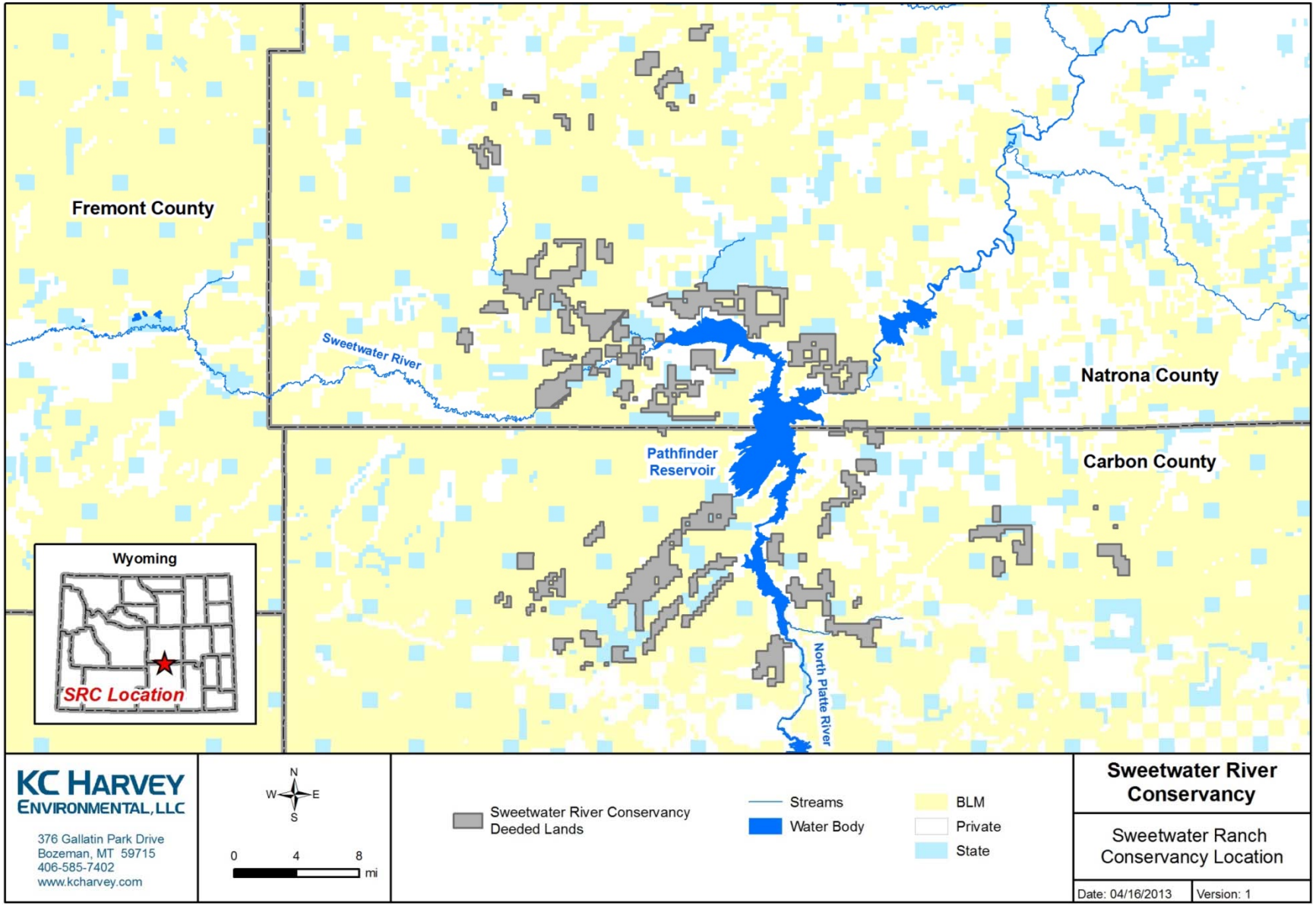

Figure 1. Location of the Sweetwater River Conservancy.

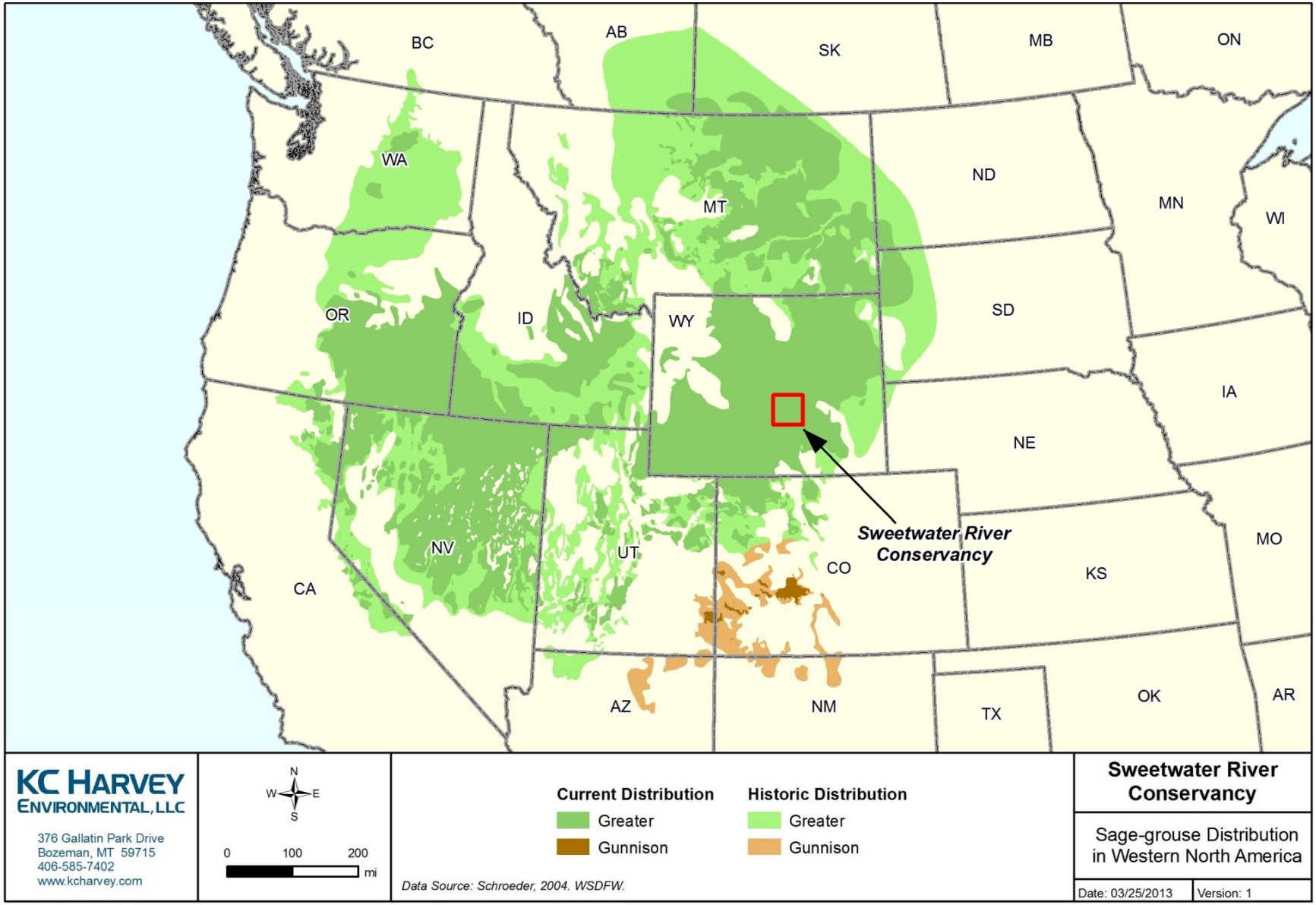

Figure 2. Current and historic sage-grouse range in North America.

The greater sage-grouse is currently listed as a candidate species under the federal Endangered Species Act. In 2004, conservation proponents filed the first of several petitions to list the species as federally threatened or endangered. Industries and states expressed concerns with the potential for negative economic consequences posed by threatened or endangered listing. Stakeholder working groups instigated subsequent state and federal regulatory and policy changes, and this led to voluntary private sector conservation actions. In a recent finding, the USFWS determined that listing is warranted, but precluded by higher priorities. The finding deferred listing to the future due in large part to the conservation efforts of working groups.

In 2011, the Wyoming Governor's Executive Order established state guidelines for activities in sage-grouse habitat. The Wyoming Game and Fish Department (WGFD) mapped sage-grouse habitats and defined Core Area habitats that require special protection. The Executive Order includes development stipulations, permitting procedures, and habitat assessment and monitoring guidelines for Core Area. This includes habitat impact minimization and avoidance requirements for electric transmission, mineral, and wind development.

Nationwide, there is precedent for habitat conservation banking. The first conservation banks were established in the early1990s in Florida and California. Subsequently, interest expanded for conservation banking in other states and at the federal level. In 2003, the USFWS issued Guidance for the Establishment, Use, and Operation of Conservation Banks (USFWS, 2003). Establishment of this HCB will follow the procedures in the 2003 guidance.

In 2012 the USFWS proposed Endangered Species Act regulatory changes supporting conservation banking (USFWS, 2012a). The USFWS acknowledged that existing mitigation is not achieving species recovery plan goals. As an alternative, the Service announced that regulatory changes being evaluated include the use of conservation banking for listed species mitigation. The Service is also evaluating regulatory changes promoting conservation banking by private landowners and entrepreneurs as incentives for conservation. This represents a change from using project specific practices in favor of conservation banking as Endangered Species Act mitigation.

The sage-grouse needs a comprehensive recovery strategy that includes pro-active stakeholders, cooperative approaches, and mitigation using habitat conservation banking. As well, domestic energy independence is reliant on development in the sagebrush ecosystem. Conservation and development do not need to conflict. Both species recovery and sensible development can be achieved with a comprehensive partnership that includes habitat conservation banking.

3.0 Habitat Conservation Banking Overview

In areas where proposed energy development and sage-grouse habitat overlap, habitat conservation banking is a potential solution for reducing sage-grouse habitat loss and population declines. The conservation bank will protect important sage-grouse habitat through easements. This will establish the habitat credits. Proposed energy projects can then purchase these habitat credits to mitigate potential impacts to sage-grouse habitat resulting from development.

In addition to satisfying project mitigation requirements, habitat conservation banks provide other benefits. The HCB will provide regulatory compliance in-advance of the impact, a

characteristic of mitigation banking. This assures the protection of the habitat. Banking also provides preservation of large habitat blocks, a conservation biology principle increasingly difficult to achieve in a growing human population.

Mitigation banking has a long history in the U.S., originating in the early 1970s with U.S. Army Corps of Engineers wetland banking. Mitigation banks established and protected wetland systems to sell as credits. The credits could then be purchased as mitigation for permitted wetland impacts occurring elsewhere. This banking approach has since been extended to address other types of resource mitigation.

In 2003, the USFWS published a document titled Guidance for The Establishment, Use, and Operation of Conservation Banks (USFWS, 2003). This document provides a process and framework for USFWS evaluation of conservation bank proposals. The guidance defines conservation banking and differentiates it from wetland banking. The regulatory need is identified along with economic and entrepreneurial incentives. The guidance provides a conservation banking planning and approval process, and operational and long term management frameworks.

A conservation bank is a unit of land with natural resource values conserved and maintained. The use of easements with land protections and long term management guarantee the protections. Conservation banks provide credits for purchase to off-set resource impacts occurring elsewhere. These credits are quantified into resource units and “deposited” in the bank for future purchase. A conservation bank is a market based system providing a supply of credits for a demanding market. This is a win-win marketplace for private enterprise, development, and most importantly, resource conservation.

In the past, other mitigation practices have fallen short of goals and objectives. Traditionally, mitigation has been project and site specific. It was done concurrently with construction using little to no assurance mechanisms. Follow-up monitoring, maintenance, and regulatory compliance were often lacking. This piecemeal approach also failed to mitigate cumulative effects. A wide range of factors too numerous to list defines failed mitigation.

Conservation banking avoids failed mitigation by establishing the resource credits in-advance of the impact. The credits are developed and maintained with long term monitoring and management. Just like any bank or asset, the values are established prior to the sale or market. Therefore, credit purchasers and permitting agencies have assured mitigation off-sets available for future use.

A functional assessment method developed for this process quantifies the habitat credit in the bank, and the mitigation required at the impact site. The assessment tool is science based and robust to support consistent credit area to impact area comparisons.

4.0 Proposed Habitat Conservation Bank

The sage-grouse habitat conservation bank will establish mitigation credits in-advance of anticipated sage-grouse impacts within a geographic service area. The credit and impact metrics will be assessed using a functional habitat assessment method developed during the interagency

review process. Eligibility and the amounts of credits to be purchased will be determined through a permitting or approval process completed in advance of the purchaser's project or action. The approval agency could potentially be the USFWS, WGFD, BLM, or others.

Sweetwater River Conservancy sage-grouse HCB establishment will involve an agency stakeholder oversight process. Under the USFWS 2003 guidance, the process will begin with submittal of an HCB conceptual proposal, followed with a proposal, and conclude with approval of an agreement. Oversight and approval will occur through the Conservation Bank Review Team (CBRT) comprised of state and federal agencies, the HCB proponent, and possibly other stakeholders.

The following items will be developed with the CBRT:

- The Conceptual Proposal (this document)
- The HCB Proposal (includes these sections)
    - Project Description
    - HCB Sponsor and Ownership
    - Functional habitat assessment
    - Habitat Suitability
    - Proposed service area
- The HCB Agreement with the following
    - HCB debit and credit procedures
    - Land and conservation terms
    - Management plan
    - Monitoring plan
    - Operations plan

This conceptual proposal will be expanded to the HCB proposal through CBRT oversight. The proposal will be the preliminary plan for the HCB.

The HCB agreement will be the detailed implementation and operational plan. A lead agency CBRT member with sage-grouse regulatory authority will approve the HCB agreement and maintain administrative record.

Upon completion of the process and approvals, the HCB will be eligible to sell mitigation credits. Developers within a designated HCB service area can purchase credits from the mitigation bank to off-set sage-grouse habitat impacts resulting from their projects or actions. Developers outside the service area may also request use the bank for out of service area off-sets.

The HCB will establish credits by using habitat protection, preservation, and management. Management and maintenance of the credits will be accomplished through monitoring and management. This includes using adaptive management strategies identified in the Agreement. These will continue after the credit unit is sold. Upon the sale of a credit unit, that particular HCB credit is withdrawn from the HCB bank credit balance.

Developers will be subject to various regulatory reviews and permitting requirements to determine the suitability of HCB credits as impact compensation. The lead agency and other regulatory authorities will establish these approval or permitting processes for sage-grouse.

4.1 Sponsor and Ownership

The Sweetwater Conservancy, LLC is the sponsor and owner of the HCB. In the Conservation Bank Agreement, the sponsor will provide the LLC operating agreement as it relates to mitigation banking and relevant bylaws. These will identify entity ownership principals, management structure, and transferability of ownership/responsibilities (if any). The HCB will provide a disclosure of any legal liability.

Sweetwater River Conservancy, LLC is organized to own and operate the Sweetwater River Conservancy properties including the sage-grouse habitat conservation bank. An organizational chart is in Exhibit A. The Sweetwater River Conservancy, LLC organizational structure includes leadership partners, a board of directors, and investors. The organization's mission for the properties is conservation and mitigation banking and sustainable land use practices.

The Sweetwater River Conservancy, LLC is experienced in ecological capital markets, real estate, land management, renewable energy, and financial management. The team includes professional service providers for conservancy natural resource, regulatory, and economic operational support. The Sweetwater River Conservancy, LLC team core values include:

- Landscape scale conservation, preservation, and stewardship
- Ecosystem and habitat integrity restoration, enhancement, and management
- Local quality of life improvement and economic development
- Commitment to long term stakeholder partnerships

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4.2 Project Area Description

The Sweetwater River Conservancy (SRC) landscape is mostly sagebrush valleys surrounded by mountain ranges. Most the conservancy drains to the North Platte River and the centrally located Pathfinder Reservoir (Figure 1). Sagebrush is the most dominant regional land cover with lesser amounts riparian vegetation in drainages, and forested mountains. The barren, rocky San Pedro Mountains bisect the southern portion of the conservancy. Average annual precipitation is 12 inches and the majority of the conservancy is 6,000 feet in elevation or higher. The dominant vegetation in the Sweetwater River Conservancy is sagebrush (Figure 3 and Figure 4). The project area includes 76,000 acres of deeded private lands. SRC also owns grazing leases on federal and state lands surrounding a majority of the private parcels.

Sage-grouse core habitat area delineated by WGFD overlaps a large portion of the SRC. Pathfinder Renewable Wind Energy, LLC initiated wildlife surveys on SRC deeded lands and surrounding areas in 2009 and these surveys continue through the present. These surveys include sage-grouse radio telemetry, sage-grouse GPS telemetry, habitat surveys at use points, winter surveys, and opportunistic observations concurrent with other ecological studies. Results indicate that sage-grouse use the SRC habitat extensively throughout their life history.

Vegetation mapping associated with the ecological studies initiated in 2009 and the functional habitat assessment for this project (Section 4.4 below) indicate that there is approximately 47,000 acres of sage-grouse habitat within Sweetwater River Conservancy deeded ranches. The acreage included in the HCB will ultimately depend on the results of the functional habitat assessment.

Figure 3. Representative sage-grouse habitat on the Sweetwater River Conservancy.

Figure 4. Sage-grouse habitat is a mosaic of sagebrush, grasses and forbs.

4.3 Conservation Bank Review Team

The next step in development of the proposed sage-grouse habitat conservation bank is to establish the Conservation Bank Review Team (CBRT). The review team should include representatives from the following agencies.

- U.S. Fish and Wildlife Service (USFWS)
- Wyoming Game and Fish Department (WGFD)
- Wyoming Department of Environmental Quality (WYDEQ)
- Bureau of Land Management (BLM)
- Natural Resource Conservation Service (NRCS)

The USFWS will be the lead agency as part of their oversight of the Endangered Species Act. The WGFD manages Wyoming's wildlife resources and is responsible for implementing the Wyoming Governor's Executive Order on sage-grouse. Wyoming DEQ is responsible for protecting, conserving, and enhancing the environment and supporting responsible stewardship of Wyoming's natural resources. The BLM also has sage-grouse oversight and controls development leasing on federal lands. The NRCS policies and programs affect private landowners and sage-grouse. Additional stakeholders may be included on the CBRT. These could include sage-grouse stakeholder non-governmental organizations identified by the USFWS and WGFD.

4.4 Functional Habitat Assessment

Habitat Conservation Bank credit development is similar to that for wetland mitigation banking. Both require a functional assessment that inventories habitat and quantifies its ecological function. The habitat inventory is a field assessment of vegetation communities, shrub cover, distance to water, and other parameters that provide sage-grouse habitat. These data are all compiled using GIS for analysis and quantification. Function refers to habitat performance and service for a particular species or community. It measures how a given area provides habitat. The habitat inventory and ecological function then forms the basis of the credit/debit methodology through comparison of proposed project disturbances with the HCB area.

The functional habitat assessment follows accepted habitat characterization principles outlined in the BLM's Habitat Assessment Framework document (Stiver, et al, 2010) and The Wyoming Governor's Executive Order for Greater Sage-Grouse Core Are Protection (State of Wyoming, 2011)..

The first part of the functional habitat assessment for the Sweetwater River Conservancy is to develop a current habitat inventory. This was completed in early 2012. It includes a detailed vegetation inventory developed using a combination of field mapping augmented by computer aided image interpretation. The result is preliminary GIS data layers describing vegetation density, vegetation community, and shrub height. The components of sage-grouse habitat that will be included into the final functional habitat assessment include:

- Current sage-grouse use
- Sagebrush canopy cover
- Sagebrush height
- Vegetation community
- Sagebrush patch size
- Grass and forb diversity
- Slope
- Proximity to water
- Proximity to roads/ infrastructure
- Others as identified by the CBRT

The Wyoming Governor's Executive Order for Greater Sage-Grouse Core Area Protection (State of Wyoming, 2011) includes a process for determining an allowable amount of sage-grouse habitat disturbance using a Density Disturbance Calculation Tool (DDCT). The DDCT is a GIS based tool that requires a habitat data layer as input. The habitat data developed for this project can also serve as the input for the DDCT tool.

An example of how the functional habitat assessment will work is as follows. A portion of the Sweetwater River Conservancy HCB is shown in Figure 5. This example assessment was conducted at a 10 meter grid cell resolution. This is more detailed than readily available spatial datasets and is necessary to provide an accurate inventory of the habitat conditions. Both the HCB and the proposed project disturbance areas will receive the same type and resolution assessment. This will ensure an accurate comparison.

In the example below, preliminary habitat quality ratings based on the parameters listed are assigned a functional value using data collected in the field. These values are preliminary, and will be revised through collaboration with the CBRT. Both the example HCB area and proposed project areas are mostly very high quality sage-grouse habitat. These areas are assigned a 100

percent functional value. Both areas also have some high quality and moderate quality sage-grouse habitat. These areas are assigned 75 and 50 percent functional values, respectively.

Table 1 below tabulates the area in each habitat quality category and the corresponding functional acreage equivalent. This simplified analysis shows that the proposed linear project would disturb 20 acres and requires 17.6 acres of fully functional habitat for mitigation (disturbed acres multiplied by their functional habitat value). The project owner could purchase the equivalent of 17.6 fully functional acres of sage-grouse habitat from the HCB as off-site mitigation.

Table 1. Example worksheet table comparing HCB and proposed project habitat.

Habitat Quality Rating	Functional Habitat Value	HCB (acres)	HCB Functional Habitat (acres)	Proposed Disturbance (acres)	Proposed Disturbance Fully Functional Habitat (acres)
Low	25%	0.5	0.1	0.0	0.0
Moderate	50%	1.5	0.8	1.2	0.6
High	75%	21.5	16.1	7.2	5.4
Very High	100%	96.5	96.5	11.6	11.6
	Totals	120.0	113.5	20.0	17.6

The functional habitat assessment is currently in a preliminary phase. The CBRT will provide oversight on development of the final version of the functional habitat assessment.

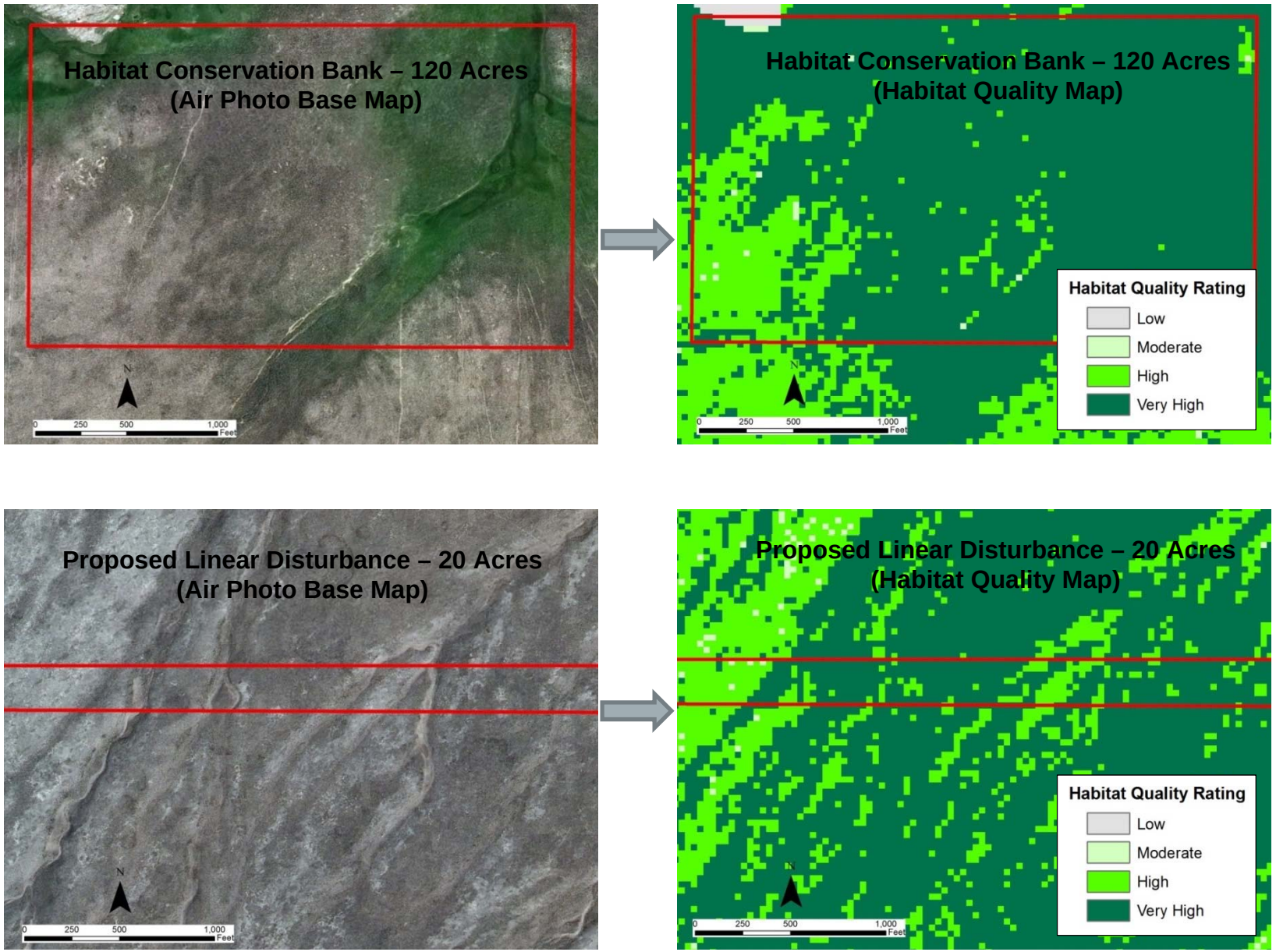

Figure 5. Example of the Sweetwater River Conservancy functional habitat assessment.

4.5 Service Area

The service area is a defined geographic region surrounding the habitat conservation bank. The SRC sage-grouse Habitat Conservation Bank will sell banked sage-grouse habitat credits as off-site mitigation to developers of eligible projects. The CBRT will convene and determine the extent of the service area.

The USFWS 2003 guidance provides a framework for defining service areas. Typically, the conservation bank and service area should share any or all of the following:

- Similar physical or ecological attributes
- The same species phylogenetic characteristics
- A shared geopolitical or regulatory boundary
- A USFWS Recovery Plan boundary (for federally listed species)

The proposed HCB service area will be based on concepts in the USFWS Sage-grouse Comprehensive Conservation Strategy (Stiver et. al, 2006, Figure 6) and the WGFD defined sage-grouse habitat core area (Figure 7). The proposed service area will encompass Management Zone (MZ) I and MZ II. Each management zone is defined by discrete differences in ecosystem and species biology. While these management zones are not defined by subspecies or ecotypes, they do represent range-wide variation for the species. The HCB is located in a geographic area with attributes of both MZ I and MZ II. This area also is a sagebrush biogeographical corridor connecting MZ I and MZ II. The corridor is bounded by the Laramie Mountains to the south and the Bighorn Mountains to the north.

The WGFD sage-grouse habitat core area concept is unique to Wyoming. Core Area is high quality habitat regulated under the Wyoming Governor's Executive Order using a density dependent set of development restrictions. Core Area mitigation will also be considered for establishing the service area.

The service area will be determined with the CBRT during HCB proposal development. Service area establishment will follow the USFWS Sage-grouse Comprehensive Conservation Strategy, the Wyoming Governor's Executive Order for Greater Sage-Grouse Core Area Protection, and other science and market based principles.

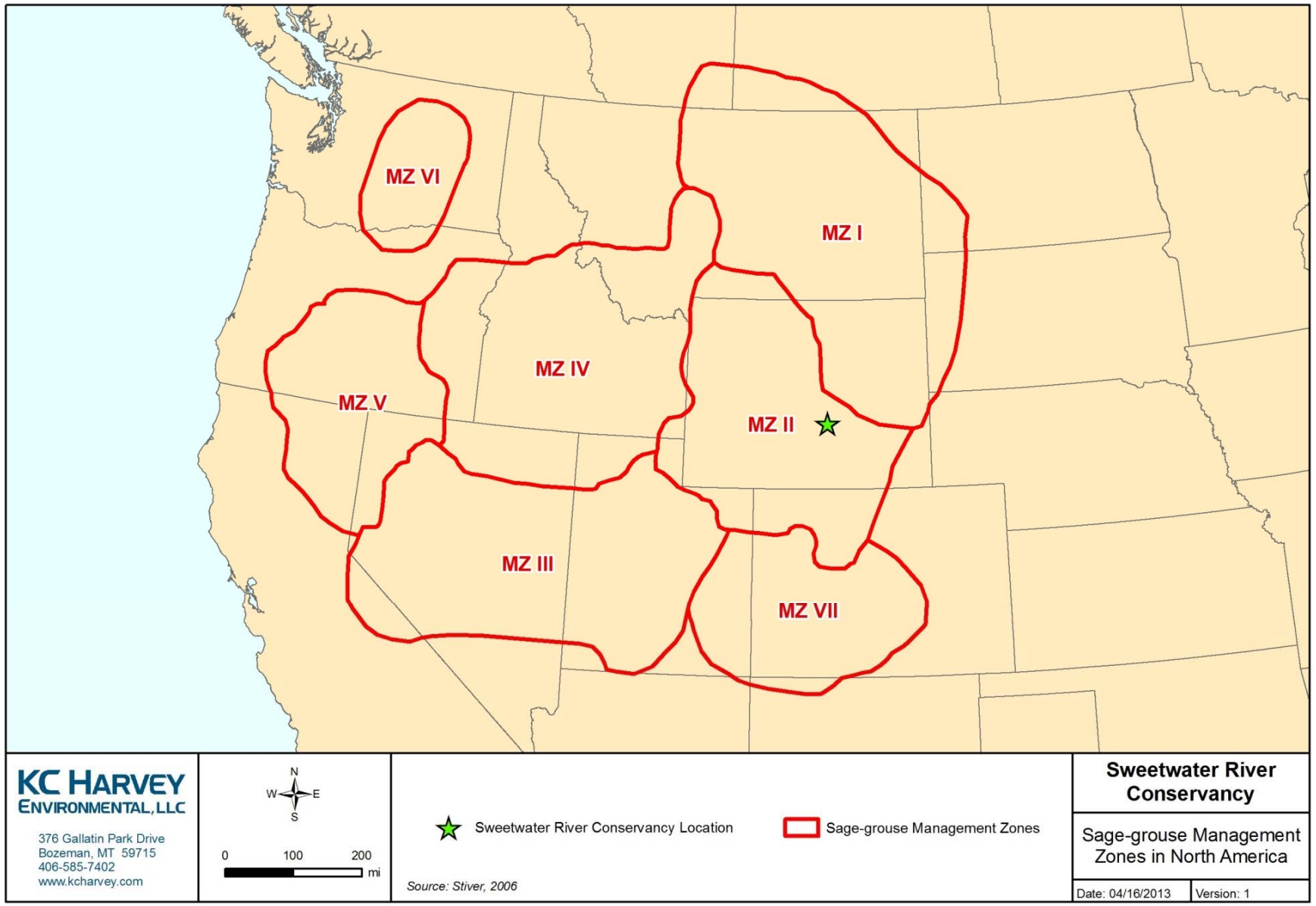

Figure 6. Sage-grouse Management Zones (MZ) in the western United States.

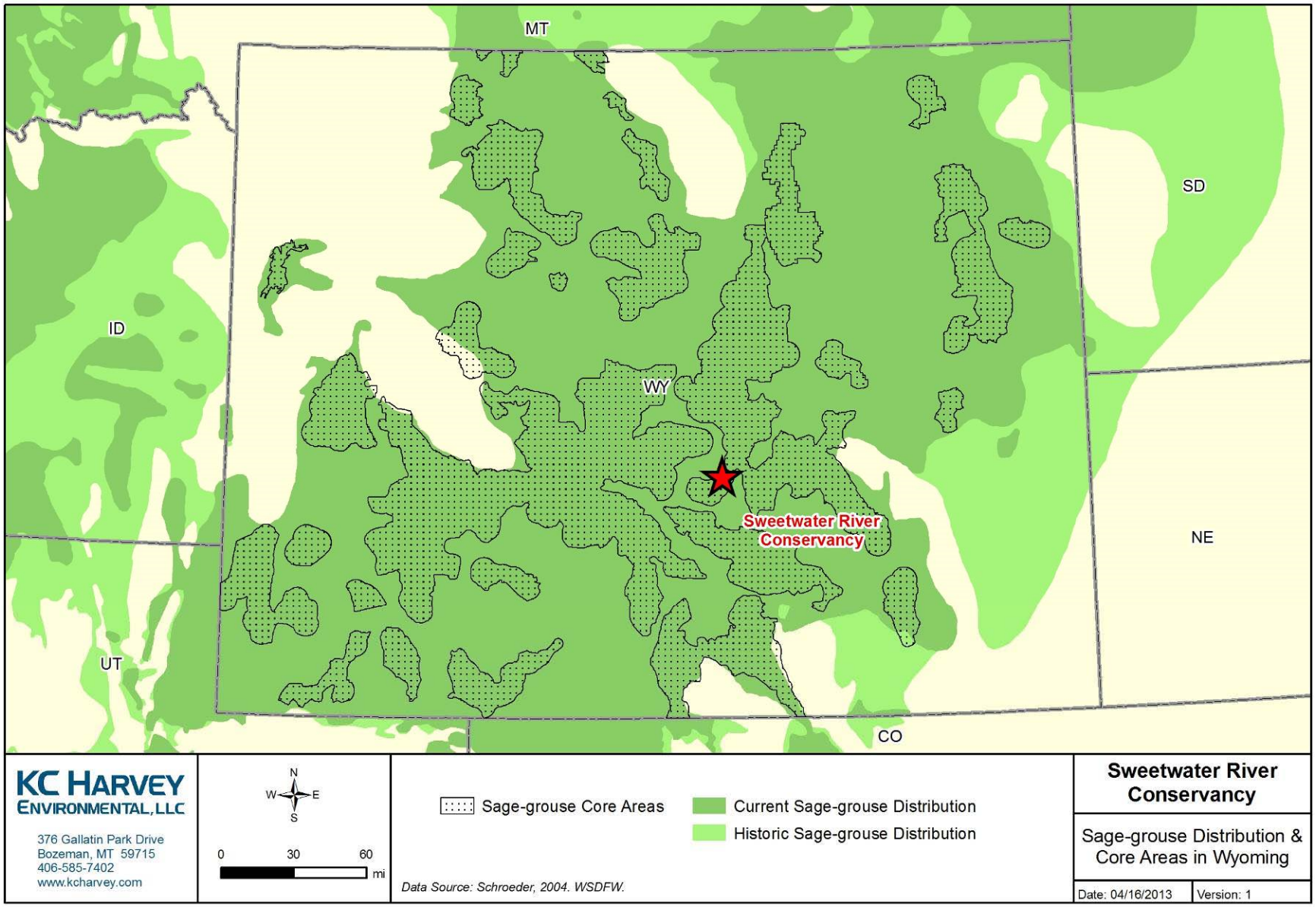

Figure 7. Sage-grouse distribution and Core Area in Wyoming.

4.6 HCB Banking Agreement

The HCB agreement will be prepared when the CBRT reaches consensus on the HCB proposal. The agreement includes details related to development, operations, and implementation of the HCB. The HCB agreement contents described below will be subject to modifications during CBRT engagement.

4.6.1 Proposed Debit and Credit

An HCB credits will be the amount of habitat enrolled or credited in the mitigation bank account. An eligible purchaser can then buy the credits from the HCB to mitigate impacts occurring elsewhere in the service area.

Credits will be determined using functional habitat assessment results. These qualitative habitat data measurements will establish credit and mitigation currencies. Mitigation credit values will be determined on the HCB. The functional assessment will be used at the project site to measure the mitigation credit needed from the HCB as impact off-sets.

Credits will likely incorporate acreage and habitat quality. This could include establishing habitat mitigation replacement ratios. These and other credit-mitigation mechanics will be developed with the CBRT during the bank agreement process.

HCB debits and credits will be tabulated in a mitigation bank account. Credit and debit transactions will be approved through permits or approvals by regulating agencies, presumably the USFWS, WGFD, and BLM. Habitat dedicated as available credit will be subject to the land restrictions, monitoring, and management and operation plans also established during the bank agreement process. The HCB sponsor will be responsible for implementation, management, accounting, promotions, and other business operations.

The HCB credits will be managed and maintained after a credit unit is sold. Habitat quality and function will be maintained into the future. The details and credit assurances will be defined in the following land and conservation terms.

4.6.2 Land and Conservation Terms

Land use and conservation terms developed in the HCB agreement will include a conservation easement, deed restrictions and covenants, and other real estate instruments and documents. The conservation easement guarantees certification of credits and assures the HCB under restrictive covenants.

Prior to the initial debiting of credits, the covenants and deed restrictions will be recorded on the lands associated with this credit release. These govern the deeded property using specific provisions. The provisions include land use restrictions, prohibitions, and owner retained rights. Land management related provisions include improvements and best management practices. Land control provisions address access and egress, title terms, restrictions, and covenants

These terms will also provide the basis for developing the management and monitoring plans, and conservation and habitat management objectives. The terms will provide an important framework for HCB development and operations.

4.6.3 Management Plan

An HCB management plan will be prepared detailing habitat and land use management including the following:

- Monitoring requirements
- Maintenance and best management practices
- Adaptive management contingencies
- Compliance with land use restrictions and covenants.

4.6.4 Monitoring

A monitoring plan will also be assembled. It will include monitoring methods, schedules, and reporting details. The existing habitat conditions will serve as the baseline. The functional habitat assessment will be used as a monitoring method.

4.6.5 Operations

The HCB will be operated and administered in accordance with the terms set forth in the bank agreement, CBRT process, and management plan. The SRC will establish an administrative practice for business management, oversight, public relations, intergovernmental coordination, and marketing of the HCB. Additional details and plans will be developed during the bank agreement with the CBRT.

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Exhibit A – Sweetwater River Conservancy Organization

Organizational Structure
Sweetwater River Conservancy, LLC