UPDATED BUSINESS PLAN FOR WAFWA's LPC CCAA

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1 What is the goal of this business plan?

The goal of the business plan is to detail the strategies, systems and processes that support the implementation of the Range-wide Oil and Gas Candidate Conservation Agreement with Assurances for the Lesser Prairie Chicken in Colorado, Kansas, New Mexico, Oklahoma, and Texas (“CCAA”). In particular, this business plan focuses on the roles and responsibilities of the different parties involved in the CCAA to ensure transparency and accountability.

This business plan ("Updated Business Plan") amends and replaces the "Lesser Prairie Chicken Conservation Delivery Business Plan" ("Initial Business Plan") as Appendix L of the Western Association of Fish and Wildlife Agencies Lesser Prairie-Chicken Range-wide Conservation Plan ("Range-wide Plan" or "RWP"). This Updated Business Plan is incorporated by reference into the CCAA.

For ease of review, quotes from the CCAA are identified in italics. The Updated Business Plan is not intended to amend or modify the CCAA. In some limited cases, the recommendations contained in the Updated Business Plan may differ from the CCAA. These instances are clearly identified and are driven by a need to streamline and increase the transparency of the processes detailed in the CCAA.

2 What are the goals of the CCAA?

The primary goal of the CCAA is to guarantee that participants receive a 10(a)(1)(A) Enhancement of Survival Permit ("Permit") if the Lesser Prairie Chicken ("LPC" or "LEPC") is ever listed. The goal of the permit is described in the CCAA as follows:

> *If the species is ultimately listed, this CCAA and the associated Permit will authorize incidental take of the LEPC and provide Participants regulatory assurances that so long as they comply with the terms of this CCAA and their CI additional conservation measures above and beyond those contained in the CIs will not be required on the Enrolled Property and that additional land, water, or resource use limitations will not be imposed upon them should the LEPC become listed in the future.*

In addition, the Western Association of Fish and Wildlife Agencies ("WAFWA"), the industry Participants and U.S. Fish and Wildlife Service ("FWS") are pursuing the secondary goal of avoiding the need for a listing of the LPC by providing conservation benefits.

The CCAA also defines the following purposes:

- *Develop, coordinate, and implement Conservation Measures provided in the RWP that relate to oil and gas activities to reduce and/or eliminate known threats to the LEPC within its range;*
- *Support ongoing efforts to maintain viable populations of LEPC in occupied and suitable habitat;*
- *Serve as a range-wide document for oil and gas Conservation Measures implemented by WAFWA and Participants;*
- *Encourage creation, enhancement, and protection of suitable LEPC habitat by requiring Participants to implement certain Conservation Measures and by creating incentives for Participants to avoid and minimize impacts to unfragmented and higher quality LEPC habitat and, where avoidance and minimization are not possible, to mitigate for impacts to LEPC habitat (as described in their CI);*

• Provide Participants assurances that during the duration of this CCAA, additional conservation measures above and beyond those contained in the agreement will not be required and that additional land, water, or resource use limitations will not be imposed upon them should the LEPC become listed in the future, so long as Participants properly implement the Conservation Measures agreed to in the CIs and the other terms of CIs; and

• Allow Participants to continue operations while providing conservation for the LEPC.

3 What is the relationship between the CCAA and other initiatives?

3.1 Relation with the RWP and the WCA

The CCAA is one of the tools used to implement the conservation strategy in the RWP. For that reason, the CCAA makes numerous references to the RWP, especially to its business plan located in Appendix L. However, intertwining the RWP and the CCAA creates unnecessary complexity. As a general rule, WAFWA will separate as many elements of the RWP and of the CCAA as possible. For example, the CCAA will have its own advisory committee, distinct from the advisory committee to the RWP (see below).

The Wildlife Conservation Agreement ("WCA") is an agreement, separate from the CCAA, between WAFWA and developers whose projects have an impact on LPC habitat. Whereas the CCAA is limited to oil and gas operators, members of any industries, including oil and gas, can enroll into the WCA. The WCA is not a pre-listing tool and does not carry assurances from the FWS. Instead, it is an implementation tool for the RWP conservation strategy. If the LPC is listed and the FWS recognizes the value of the RWP, it may then issue a 4(d) rule that allows any permittees to participate in the WCA to manage their obligations under the Endangered Species Act related to the LPC. Although the CCAA and the WCA are separate agreements, they share the same conservation strategy spelled out in the RWP. Mitigation properties managed by WAFWA are used to offset impacts from both the CCAA and the WCA. In a similar fashion there is no separation between administrative funds received from the WCA and those received from the CCAA.

3.2 Relations with other initiatives

The CCAA draws heavily from the Natural Resources Conservation Service ("NRCS")'s LPC program including the use of the Habitat Evaluation Guide ("HEG") and the proposed conservation activities. This ensures that the CCAA is compatible with other conservation programs, as required by the FWS. However, there is no formal relationship between the CCAA and other LPC conservation programs.

4 How does WAFWA make decisions?

4.1 What is the relationship between WAFWA and SRF?

According to the CCAA, WAFWA is the administrator of the CCAA in charge of operations and distributing funds that are managed by the Foundation for Western Fish and Wildlife ("FWFW) as the fiscal agent in charge of managing the endowment for the benefit of the LPC.

> *WAFWA will serve as the administrator of this CCAA and will hold the Enhancement of Survival Permit issued in association with this CCAA, subject to FWS oversight consistent with 50 C.F.R. § 13.21(e)(2). WAFWA will also maintain positions for biologists to facilitate enrollment of property in the CCAA and distribute funds for conservation efforts through coordination with other state and Federal agency staff and outreach to property owners. FWFW will serve as the fiscal agent for this agreement, managing a non-wasting endowment to fund conservation activities that will benefit the LEPC through habitat restoration, enhancements, and the removal of threats. These conservation activities will offset industry impacts and will also provide a conservation benefit to the LEPC. FWFW will maintain positions for accounting and administrative staff, as well as GIS support for this agreement.*

However, the organizational structure currently in place is different than that described in the CCAA. Specifically, WAFWA serves as the administrator of the CCAA but the Species Restoration Foundation ("SRF") is the fiscal sponsor. Although separate entities, the WAFWA and SRF Boards are identical and include representatives from all of WAFWA's 24 member States and Provinces.

4.2 What is the FWS' role?

The FWS is a signatory to the CCAA and […] *is responsible for overseeing WAFWA's administration of this CCAA and for monitoring and enforcing the terms of this CCAA and Permit as necessary* […] However, FWS does not have the right to unilaterally decide on changes to the CCAA. Both WAFWA's and FWS' approvals are required to update the CCAA. If WAFWA continues to maintain compliance with the CCAA, FWS will issue the Permit if the LPC is listed.

4.3 What is the Participants role?

The Participants […] *are non-Federal property owners who choose to enroll property in this CCAA by completing and executing the CI.* […]. Participants are only the oil and gas companies that have executed a Certificate of Inclusion ("CI") associated with the CCAA. They do not include landowners who have enrolled land for mitigation purposes nor the participants in the WCA.

The Participants have played a critical role in supporting the creation of the CCAA by contributing expertise, staff time, and millions of dollars. They continue this support on an on-going basis. WAFWA will form a new advisory committee (see below) to ensure that the Participants continue to be actively involved in the CCAA..

4.4 What are the different committees and what responsibilities do they have?

- SRF's Board

SRF's board ("Board") is the ultimate decision maker for the CCAA. It is identical to the WAFWA board and is composed of the directors of each state and province. The Board makes decisions at regularly scheduled meetings based on recommendations of the Council. The Board has delegated most of the day-to-day decisions to the Council and to WAFWA's Executive Director. The respective roles and responsibilities will be detailed in a Council charter. Decisions within the Board's purview, include, but are not limited to:

  - Termination of the CCAA

- Termination of a specific CIs and/or initiation of a lawsuit for noncompliance by a participant
- Suspension and reopening of new enrollment
- Expansion of the CCAA to other industry
- Amendment of the CCAA
- Approval of the annual audit and annual report before they are released to the public

The process for considering and reaching decisions may, in several cases, be subject to certain provisions in the CCAA, e.g., termination of a specific CI.

- LPC Initiative Council

According to the Initial Business Plan: "The LPC Initiative Council ("Council") will be comprised of the directors, or their designees, of the five state fish and wildlife agencies within the LPC range and one member of the WAFWA executive committee, appointed by the [WAFWA's] president […]"

In order to better incorporate the advice and concerns from the Participants, the Council will invite the LPC Advisory Committee co-chair to specific Council meetings or portions of Council meetings that are not confidential in nature (i.e., not involving information on specific participants). The LPC Advisory Committee Participant co-chair will serve as ex-officio – and as a voting member, on case-by-case basis as mutually deemed appropriate – member of the Council.

The Council will develop a charter that outlines the process for meetings, decisions, and recommendations to the Board. At a minimum, the charter shall include that the Council will have oversight of the CCAA's administration including review of the annual audit and of management decisions surrounding expenditures.

The Council charter will be approved by the Board for implementation.

- LPC Investment Advisory Committee

The Investment Advisory Committee will advise WAFWA's Executive Director and the Council on all investment related matters related to the conservation endowments including investment policies, strategies, and performance. The Committee's charter describes an objective to ensure that investments in the LPC CCAA conservation and administrative endowments have the appropriate mixture of return and risk mitigation to fully fund the necessary conservation projects in perpetuity.

The responsibilities of the Investment Advisory Committee are to:

- Develop an investment policy to recommend to WAFWA's Executive Director and the Council.
- Develop long-term asset allocation targets.
- Review investment policies, objectives, and strategies at least once a year and recommend any modifications to the Executive Director and the LPCIC.
- Review investment performance twice a year.
- Review the performance of SRF's investment manager.

- Review, at least annually, the Committee's Charter and recommend any changes to the investment policy.

The committee will be composed of two members representing Participants and two members from state fish and wildlife agencies. Committee members shall serve three-year terms and meet at least twice a year or as circumstances require to fulfill their duties and responsibilities. The LPC Advisory Committee Participant co-chair shall be consulted on the major investment decisions, as determined by the Chair, with circumstances of consultation outlined in the charter.

- LPC Technical Working Group

This group was initially merged with the Interstate Working Group ("IWG"). The IWG is tasked specifically with the scientific oversight of the RWP (such as updating the RWP conservation strategy, the CHAT and other scientific basis for the RWP). However, as a separate entity, the LPC Technical Working Group will advise WAFWA's Executive Director and the Council on the scientific integrity of the CCAA. It will:

  - Review the annual report before it is released to the public
  - Advise on the conservation strategy such as which mitigation properties to select and where to conduct restoration efforts
  - Advise on long term planning for impact
  - Advise on Net Conservation Benefit

The LPC Technical Working Group's members will have a mix of expertise and experience necessary to properly advise WAFWA, such as in LPC biology, range ecology, private land management, and/or impacts of oil and gas activities. Membership on the Technical Committee will be approved by the Council and members shall serve until replacement is advised by the WAFWA's Executive Director and the Council. The LPC Technical Working Group will meet at least annually and on an ad-hoc basis to respond to specific requests and inquiries of the Executive Director and of the Council.

- LPC Advisory Committee

The Advisory Committee will serve to provide recommendations on any aspect of the CCAA and the LPC program to the Executive Director and the Council. For example, the Executive Director may request the Advisory Committee's review and provide its opinion of proposed changes to the CCAA or to its strategy. The Advisory Committee's opinions are consultative only and do not bind WAFWA, SRF, the Council or the Board.

Until now, this Advisory Committee was merged with the RWP Advisory Committee. They are now two separate committees to ensure proper representation. The Advisory Committee will be formed as follows:

  - WAFWA's Executive Director, or his/her designee, will be the co-chair of the Advisory Committee
  - Two representatives from the Participants – One of the Participants' representatives will also serve as co-chair and represent the Advisory Committee at Council meetings

- Two directors, or their designee, from the five state fish and wildlife agencies in the LPC range, to serve on a rotating schedule
- Two representatives from the landowners who have enrolled mitigation land
- Two representatives from agricultural and landowner organizations (e.g. Cattlemen's Association, Corn Growers Association, Farm Bureau)
- Two representatives from conservation organizations (e.g., The Nature Conservancy ("TNC"), Audubon, North American Grouse Partnership)

In addition, the Advisory Committee may decide to invite representatives of federal or state agencies and representatives of local governments to specific meetings. Any invitations to individuals outside of the 11 committee members need to be approved by the Council. Either co-chair can call a meeting of the Advisory Committee.

The goal of the Advisory Committee is to provide the Executive Director and the Council with a diversity of points of view. Therefore, it is not expected that the Advisory Committee will always reach a consensus when providing recommendations.

4.5 How are decisions made?

The WAFWA/SRF Board has the primary responsibility for the CCAA. However, since the Board generally only meets twice a year, most of its decision-making authority has been delegated to the Council and to WAFWA's Executive Director, though consistent with the requirements described in Section 4.4 under operations of the Council.

The Council provides the oversight and general direction for the program. It reviews and approves any changes proposed by the Executive Director to the CCAA strategy, the CCAA budget or to staffing plans, the annual financial audit, and the annual operation report. If it determines it is appropriate, it can refer the matter to the Board for further discussions and approval. The Council will consult with Participants, via the Advisory Council, on a regular basis and will consider the participants' proposals when making decisions, consistent with Section 4.4. The Council is also responsible for assessing the performance of the Executive Director, relative to the CCAA and SRF, at least annually.

WAFWA's Executive Director is responsible for day-to-day decisions related to the CCAA while the LPC manager is in charge of the day-to-day operations. The Executive Director operates within the strategy and annual budget approved by the Council. If he/she determines that a change in strategy or budget is warranted, the Executive Director will present a proposal for review by the Council. In addition, the Executive Director is also responsible for CCAA compliance and shall report to the Council on the subject at least once a year.

4.6 How do we document processes to ensure consistency and reliability?

Key processes (such as enrollment, assessment of offset units and payment) will be properly documented in Standard Operating Procedures ("SOP"). An example of a SOP is presented in Appendix A. Such SOPs will ensure that the data in the Western Conservation Toolkit ("WCT") is accurate and facilitate task transitions between staff as necessary.

5 How do we deliver conservation?

5.1 What are the goals of the conservation provided by CCAA?

The main conservation goal of the CCAA is to *support the conservation strategy set forth in the RWP by implementing this range-wide framework for avoidance, minimization, and mitigation of impacts to LEPC from oil and gas activities. A key component of the RWP conservation strategy is it focus on habitat enhancement, maintenance, conservation, and protection in areas of greatest importance to the LEPC.* The RWP and CCAA conservation strategy is based in habitat quality. This is to say that the number of offset units generated on a specific acre of property is related to the quality of the LPC habitat[1]. As habitat quality increases, the property generates more offset units. The focus of this strategy is therefore on securing existing lower quality LPC habitat and increase its habitat quality through range management. In this context, a net conservation benefit means that the CCAA provides more offset units than the number of impact units. The CCAA ensures this net conservation benefit by requiring 2 offset units to be used to offset 1 impact unit.

5.2 How do we determine when additional Offset Units are needed?

WAFWA needs, at the absolute minimum, to carry enough offset units to maintain CCAA compliance. The balance of offset units and impact units is tracked in the WCT.

WAFWA also needs to have a buffer of additional offset units to allow Participants to purchase offset units when needed without waiting for additional properties. By October 1 of each year, Participants are required to provide WAFWA with an estimate of their anticipated development for the following year. Because it takes on average 12 to 36 months for WAFWA to procure new properties for mitigation, WAFWA will maintain for each ecoregion a surplus of offset units equal to the maximum of either the aggregate amount predicted by the Participants, or two years of the average offset unit demand for that ecoregion. The average offset unit demand for an ecoregion is the average of annual demand for offset units since the inception of the CCAA.

5.3 How do we attract and enroll landowners?

WAFWA conducted an initial landowner outreach when the CCAA was launched. Since more landowners applied than needed, WAFWA decided not to conduct any additional landowner outreach. If the CCAA needs additional offset units, WAFWA's Executive Director will reach out to WAFWA's network of partners to find willing landowners and help select the properties that have the highest potential. The partners include private landowners, state wildlife agencies, cattlemen state organizations and conservation organizations such as land trusts. This approach will not only limit WAFWA's staffing needs and costs but also increase buy-in and trust with our partners.

[1] The final number of offset units generated by an acre is also a function of the CHAT category of the property.

When a landowner is interested in joining the CCAA, they will submit an application that includes specific information on location and including a GIS shape file of the property. The application will then be reviewed and ranked by the LPC Technical Working Group.

Once a property is approved for the program, the landowner enters into a Certificate of Participation ("CP"). WAFWA staff or an associated contractor will prepare a management plan for the property and predict the future habitat improvement, which will establish the number of offset units that will be generated over time. At the time of enrollment, the landowner receives either a payment for the easement (permanent mitigation) or an incentive payment (temporary mitigation). They also receive one half of the mitigation payments for the first year. The second half of the mitigation payment will be sent after the first range assessment is conducted.

5.4 How do we prioritize properties to enroll into the program?

The LPC Technical Working Group will prepare a set of criteria that will allow them to rank and select properties for the program. The criteria will include:

- Number of offset units needed in a specific ecoregion
- Cost per offset unit generated
- Ecological value of the property (e.g. presence of LPC, CHAT category, presence of leks, adjacent to other protected lands, etc.)

Properties may also be ranked higher if they meet other criteria such as having landowners belonging to underrepresented minorities or by conservation advocates.

5.5 How do we pay landowners?

Landowners receive three types of payments:

- At enrollment, the landowner will receive either a one-time incentive payment (temporary mitigation) or a one-time payment for the easement.
- Each year, the landowner will receive a mitigation payment, based on the number of offset units that have been generated that year on their property
- Landowners will also receive a restoration payment after they complete specific restoration activities. This payment is based on NRCS costs.

5.6 How are offset units generated on the mitigation properties?

Each year, a range assessment of each property is conducted by WAFWA staff and consultants between April and July to assess the habitat improvement and the number of offset units generated. The offset units are then issued in August and payment is sent to landowners in November.

5.7 How do we conduct conservation actions on the properties?

All mitigation properties are subject to a vegetation/grazing management plan with the goal of improving LPC habitat over time. The management plan prepared by WAFWA will identify specific restoration opportunities and contain a timeline for the restoration activities, which can be dependent upon landowners' interest and availability.

Moving forward, the CCAA program will seek to improve the quality of existing habitat as well as restoring and creating new habitat by selecting properties with a high potential for restoration when possible using the criteria identified in 5.4 above. This restoration of habitat combined with a management plan for the balance of the property should allow WAFWA to meet the 2:1 offset unit to impact unit ratio mandated by the CCAA.

5.8 How do we ensure the permanence of conservation actions?

Owners of properties that provide temporary mitigation are required to enter into either a 5-year or a 10-year contract with WAFWA. After the contract term, the landowner is free to request a renewal or to leave the program. WAFWA can terminate any temporary contract with 30-day notice to the landowner. Once a contract is terminated or expires, all mitigation values on the property are also terminated, including any restored acres. For that reason, WAFWA will avoid funding expensive restoration activities on temporary properties and instead focus its restoration funding on properties that are under permanent easement.

Properties that provide permanent mitigation are subject to a permanent conservation easement and, as such, any restoration activities would yield permanent benefits to the CCAA. The CCAA requires a minimum of 25% of the mitigation to be provided through permanent conservation easement. WAFWA may decide to increase this ratio if funding is available.

5.9 How do we monitor and track the results of our conservation actions?

The habitat quality on each property is assessed on an annual basis either by a WAFWA staff or by a third party consultant. The result of the annual assessment is used to determine the number of offset units generated by each property and annual payments to landowners.

5.10 How do we ensure that the provided mitigation is cost effective?

The CCAA offers flexibility for the provision of mitigation and WAFWA could take advantage of this flexibility to reduce costs. Below are some examples:

- Payment levels to landowners are not prescribed by the CCAA and should be negotiated. Currently, the costs of NRCS practices are being used to assess the price of an impact unit for the Participants. WAFWA should negotiate with landowners to ensure it is getting the best price per offset unit. Some landowners may accept lower prices than NRCS practices because WAFWA offers more flexibility or because WAFWA could restore portions of their properties.
- Different habitat restoration approaches may be more cost effective than WAFWA's approach to-date. LPC are affected by tall structures, such as trees and shrubs, but also man-made structures such as telephone and electric poles, wind mills for water tanks, barns, and hay stacks. Removing these man-made structures, when possible, can be an effective way to reduce costs and increase habitat.
- Restoration can be conducted on properties under an easement held by a third-party. Most land trusts, including TNC, accept easements donated for tax purposes. However, these easements rarely come with funding for restoration. This may open an opportunity for WAFWA to secure permanent restoration without having to be responsible for the full cost of an easement.

By proactively engaging with its partners, WAFWA will be able to identify opportunities that lower its cost per offset unit and increase it restoration effort.

5.11 How are corrective actions decided and implemented?

If a landowner with a temporary mitigation agreement is found in breach of its agreement with WAFWA, WAFWA can terminate the agreement and request a refund of any annual and incentive payments.

If a landowner with a permanent mitigation easement is in breach of the conservation easement, the conservation easement holder is responsible for enforcing the terms of the easement, including taking the landowner to court.

6 How do we manage impacts?

6.1 How do we enroll new participants?

The CCAA is not currently open to new Participants and no decision has been made on a potential reopening. If enrollment to the CCAA becomes open again, prospective participants would enroll by signing a Certificate of Inclusion that specifies the total acreage and the property description for enrolled property under the CI. Following the signature of the CI, the new participant would be responsible for paying an administrative support fee and an enrollment fee per acre enrolled and per year during the first three years of the contract.

6.2 How do we monitor and track participants' impacts?

Every September, WAFWA will reach out to all Participants to provide them with the current balance in their Habitat Conservation Fund and request the following information:

- Development that occurred in the past year
- Development expected for the coming year, associated impact, and Mitigation Fees
- Any land transfers of enrolled property

WAFWA will maintain up-to-date information for Participants' points of contacts in the WCT so that all Participants can participate in the survey each year.

Participants' actual impacts are monitored by WAFWA staff and/or consultants. Once a participant has decided to implement an activity (such as drilling) on an enrolled property, they notify WAFWA through the WCT. WAFWA then conducts a desktop analysis using the HEG Model, determines the amount of impact units, and calculates the associated mitigation needed. Instead of using a desktop analysis, Participants can also decide to conduct a field survey to gather the data needed for the calculation and provide the information to WAFWA. Using the Western Conservation Toolkit, WAFWA determines the amount of impact units, calculates the amount of Mitigation Fees due based on the eco-region where the impact is located, the CHAT category and the quality of the habitat impacted, and issues an invoice to the participant or deducts the amount from the Participant's Habitat Conservation Fund. Upon payment of the invoice or deduction from the Participant's account, the participant is authorized to proceed with their project.

The impact units and associated mitigation are maintained and tracked in the WCT.

WAFWA conducts an annual audit using GIS data to ensure that all new wells by Participants on enrolled property have been reported in the WCT and have been mitigated for impacts.

6.3 How are corrective actions decided and implemented?

If a Participant is not in compliance with their CI and with the CCAA, WAFWA follow the process outlined in Section XXX: Termination of a CI of the CCAA.

6.4 How can we reduce costs and increase revenues related to Participant activity?

Although the CCAA is providing a framework that is quite rigid when it comes to WAFWA's relationship with Participants, there are still many avenues available to improve the CCAA's finances:

- If the Board decides to reopen enrollment in the CCAA, new Participants will be assessed an additional administrative support fee per acre newly enrolled. The amount of the administrative support fee will be determined by the Council annually. This fee will be outlined in an agreement separate from and in addition to the CCAA and CI. It will be paid at execution of the CI and will not count toward the companies' Habitat Conservation Fund balance. Instead, the fee will be deposited into the CCAA's administrative endowment to allow WAFWA to increase administrative support. Current Participants will not be assessed this fee either retroactively or in order to enroll additional land.
- WAFWA has given Participants the option to ground truth their impacts instead of using the results from the WCT. Until now, the ground truthing was conducted by WAFWA staff and contractors and paid for by WAFWA. Beginning in 2022, WAFWA will not prepare the impact applications for Participants. Instead, Participants will be required to hire certified third-party consultants to prepare the application. WAFWA staff will then review the application for accuracy before it is entered into the WCT. It should be noted that this ground truthing option has not been used by Participants since 2019.
- WAFWA needs to maintain a balance between the cost of obtaining new mitigation units and the price charged to Participant for each impact unit.
    - WAFWA will increase the Mitigation Fee for 2022 by 7% compared to 2021. The same increase in Mitigation Fees is expected to occur for several years.
    - In addition, WAFWA will immediately catch-up the impact unit price to the current mitigation unit cost within the limit allowed by the CCAA.
    - WAFWA will ensure that the increase in mitigation fee is not used to increase payments to already-enrolled landowners, but are used to acquire additional mitigation.
- WAFWA will correct any errors in the formula used to calculate the unit cost and will incorporate the real cost of acquiring conservation easements into the calculation. To ensure full transparency, these corrections will be shared with the co-chair of the LPCAC.

6.5 How do we incentivize remediation?

Once an impact is fully reclaimed, WAFWA, or its contractor, will confirm the remediation. After confirmation, the Participant will receive remediation units that will be credited to the Participant's Habitat Conservation Fund and can be used for future mitigation. The CCAA contains the methodology detailed in Appendix B of the CCAA to assess the number of remediation units generated for remediated impacts.

7 How do we report on our progress?

7.1 How do we report internally?

The Council meets regularly to review progress and determine if any changes are needed to the program. The meetings are chaired by the Council chair and supported by the Executive Director and other staff as required.

7.2 How do we report to FWS?

An annual report is required for compliance and produced each year for submission to the FWS by March 31. Until 2020, the annual report covered not only the CCAA but also the WCA, as well as other LPC conservation initiatives not managed by WAFWA. For this reason, it was difficult to track the progress of the CCAA. The annual report will now focus solely on the CCAA. In addition, FWS has access to an anonymized version of the WCT for their review.

7.3 How do we report to the general public?

WAFWA produces an annual report that is posted on its website and available to the general public. The CCAA annual report will continue to be posted to the website for the public.

In addition, WAFWA will use the stakeholder representatives on the LPC Advisory Committee to disseminate information to various constituencies.

8 How do we remain in compliance with the CCAA?

The Executive Director or his or her designee will oversee compliance monitoring and the implementation of any corrective measures. The LPC Program Manager will be in charge of the compliance monitoring and of the implementation of any corrective measures. Compliance will be based on the compliance points listed in the CCAA.

The Executive Director remains responsible for the CCAA compliance and will report to the Council annually on compliance.

9 What is the organizational structure for delivering the CCAA?

9.1 Who are the partners we are currently working with?

WAFWA has been working with:

- Industry participants who have volunteered their time and resources to serve on various committees and participate in workshops to help guide WAFWA's CCAA strategy.
- State partners who have been providing funding through grants (for the aerial surveys for example) and state time and expertise.
- NGO partners have supported the delivery of conservation benefits. For example, TNC has been holding an easement on the Sunview Ranch.

- Private consultants have been trained by WAFWA to assess the habitat quality and HEG scores.

9.2 What is the right balance at SRF between internal resources and partners resources?

To address oil and gas development fluctuations, WAFWA needs to maintain a flexible structure that allows it to scale up quickly during growth and keep lower costs when demand for mitigation is low. In addition, WAFWA needs to maintain its internal expertise, as well as the relationship with Participants and landowners.

WAFWA will implement a staffing structure (described in more details below) where it will rely on its partners to manage the aspect of the CCAA that require local presence. For example, state agencies, conservation groups and cattlemen associations can be leveraged to reach out to landowners potentially interested in joining the program, and conservation groups and private consultants can be tasked with assessing habitat improvement on mitigation property. WAFWA will actively explore these expanded relationships with partners to improve the cost effectiveness of its conservation delivery and to manage fluctuations in the demand for mitigation.

10 What are CCAA staffing plans?

The Council approved an organizational structure that is currently being used to run the program:

- Executive Director (LPC Coordinator)– overall program coordination and facilitation
- LPC manager – responsible for day to day operations of the program including support of stakeholders, program compliance, reports, supervision of field staff
- GIS/Data Coordinator – responsible for data maintenance and technical support to the WCT and SGP CHAT, and to provide data management and analysis of the RWP. This function can be combined with the LPC manager position
- Administrative support – WAFWA admin staff in Boise
    - Responsible for grants and contract administration for aerial survey and vegetation monitoring activities
    - assist with planning Council, LPC Investment Advisory Council, LPC Implementation Team, and CCAA Strategy meetings,
    - assist with occasional communications
    - Manages the accounting activity for billing, collections, expenses, and land management payments
    - Monitors cash flow for operating and conservation needs
    - Prepares financial statements and coordinates the annual audit with the outside Audit firm.
- Other
    - Timmons Group Provide maintenance and support to the WAFWA server, the WCT and the two associated WCT mobile apps.
    - Royal Bank of Canada investment advisors
    - Contractors
    - Range-wide plan coordinator
    - Range conservationist to support the development of grazing and conservation plans

In addition, decentralized functions needed in each ecoregion, such as landowner outreach, audit of reported impacts and property assessments will be conducted by partners: state wildlife agencies, conservation groups, cattlemen associations and consultants.

11 Finance and Accounting

11.1 Does SRF have the resources now and in the future to administer the CCAA?

As of 2021, SRF has an annual administrative budget of $500,000 that is sufficient to cover the management of the CCAA for the next several years. Each year, WAFWA's Executive Director can propose an updated annual budget for approval by the Council.

11.2 How can we design an accounting system that gives management an accurate picture of the status of the CCAA?

The Executive Director will work with the LPC program manager, WAFWA staff, and contractors to implement an accounting system that is more fully linked to the WCT and provides a greater degree of accountability and transparency.

In addition, to ensure adequate financial oversight is maintained to manage the CCAA in perpetuity, SRF will contract with an independent, regionally recognized financial audit organization annually to review the financials of the program and of its endowments.

11.3 How can the Sunview Ranch be sold to a third-party?

SRF will sell the Sunview Ranch as soon as possible to recoup a significant portion of its investment in the Sunview Ranch and reinvest this amount into the CCAA conservation endowment for future LPC mitigation needs.

- WAFWA has started an appraisal of the Sunview Ranch that is expected to be completed by May 30, 2021;
- The encumbered land will be marketed to conservation-minded buyers. Once sold, all of the proceeds from this sale will be returned to the CCAA conservation endowment for LPC conservation;
- SRF currently does not need the mitigation units from the Sunview Ranch for the CCAA, either currently or in the foreseeable future. Therefore, SRF will stop making management payments to WAFWA in 2021 and to any future landowner through modification of the CP. The remaining endowment associated with the ranch will then be transferred to the conservation endowment;
- SRF will seek to retain the conservation benefits generated by the protection of the Sunview Ranch in perpetuity through the conservation easement and modification of the CP. Before sale, all of the WCA offset units will be transferred to the ranch easement through the WCT.

11.4 How can the WAFWA building be sold?

The WAFWA office building has been for sale since May of 2019. Although several offers have been made, none have been completed. Recently, the Acting Executive Director hired a new real estate firm to market and sell the property. It is expected that the building will sell in 2021 and all proceeds from the sale will be returned to the conservation endowment for LPC conservation.

12 What are the main risks faced by the CCAA and how do we mitigate these?

12.1 SRF may run out of administrative funds and be unable to continue to administer the program

After earmarking $10 million for the administrative endowment, SRF now has a $500,000 annual budget to cover administrative expenses based on an annual return of 5%. Based on current assumptions, this should be more than sufficient to manage the CCAA in perpetuity. However, SRF could still run out of administrative budget in the following situations:

- SRF's administrative budget increases beyond the capacity of the administrative endowment due to increased administrative costs
- The return on the endowment is consistently below 5%. In this situation, SRF may either make changes to the investment portfolio to reach the long-term target or reduce SRF's administrative budget. Missing the long-term target could stem from several situations:
  - Short-term market downturns. Over the course of the CCAA, it is likely that SRF will experience downturns in the market. SRF should maintain a reserve that would allow it to withstand periods of low or negative returns without altering its investment strategy or its budget.
  - Changes in long term market expectations. Long term market expectations may change and SRF may determine that the current investment strategy is unlikely to generate the expected returns. If this is the case, the LPC Investment Advisory Committee may propose to either increase the risk in SRF's investment portfolio or to revise down the long term target for its endowment. In the second case, the revenue from the endowments, including the administrative budget, will be impacted
  - Under-performance of SRF's investment manager. If the lack of financial performance is due to an under-performance of SRF's investment manager, the LPC Investment Advisory Committee may propose to implement corrective actions, up-to replacing its investment advisor. The LPC Investment Advisory Committee should conduct regular reviews of the performance of its advisor, in addition to the performance of its endowments.

Should challenges regarding the administrative budget described above occur, a meeting of the Council shall be held as soon as possible to discuss options on how to proceed.

13 What does the future look like for the CCAA?

13.1 How can mitigation be rightsized to needs?

An analysis shows that there are excess offset units available than what is required under the CCAA, which also results in more iterative mitigation payments in excess of SRF's conservation endowment investment returns. Therefore, it is necessary that SRF reduce the cost of its iterative mitigation and it can do so while maintaining the CCAA's net conservation benefit.

WAFWA will do the following:

- Assess the current mitigation needs for each eco-region based on existing CCAA impacts and the expected CCAA impacts for the coming 2 years. WAFWA will include the effect of transferring WCA impacts to the Sunview Ranch.

- Assess the importance of each iterative mitigation property to the CCAA using criteria such as: amount of offset unit(s) generated, amount that has already been invested by SRF to restore LPC habitat on the property, number of leks on or near the property, cost per offset unit, and proximity to other lands managed for LPC benefit.
- Based on the two previous assessments, WAFWA will prepare and implement a plan to terminate specific properties located in eco-regions where mitigation is in excess. SRF may also renegotiate its agreements with remaining landowners to reduce the size of certain enrolled properties. WAFWA will consider the impact of the timing of this decision on landowners' options to enroll in a different conservation program, as well as the reputational risk of terminating specific landowners. In some eco-regions, it is possible that the existing permanent mitigation will be sufficient to meet current and foreseeable needs. In these cases, WAFWA will consider terminating all iterative mitigation in these eco-regions.
- WAFWA will modify the CP to memorialize Texas Parks and Wildlife commitment to forego annual management payments for the Tommy Lewis tract in Texas. The associated endowment will then be returned to the conservation endowment.

This strategy is expected to result in a reduction in mitigation costs linked to iterative mitigation from $1.65 million annually to between $400,000 and $600,000.

13.2 How can the CCAA and the WCA be separated?

WAFWA does not differentiate between the mitigation for the CCAA and the WCA. The result is that the mitigation for both programs coexist on the different LPC properties and it is not possible to clearly pinpoint those that are related to the CCAA and to the WCA. This has two negative effects: it makes it difficult for WAFWA to demonstrate the net conservation benefits of the CCAA itself and WCA participants cannot easily understand (and demonstrate to their users and shareholders) how their funds were used.

WAFWA will separate the mitigation arising from the CCAA and the WCA. It will transfer all the mitigation for impacts associated with the WCA to the Sunview Ranch. A review of the WCAs shows that WAFWA is not obligated to provide the mitigation in a specific eco-region or in a specific form (iterative or permanent). Therefore, WAFWA will be able to use the 22,212 permanent offset units generated by the Sunview Ranch to mitigate the WCA impacts, regardless of their location. The Sunview Ranch is located in an eco-region where few CCAA impacts are expected. However, transferring the WCA impacts to the Sunview Ranch would not limit WAFWA ability to deliver mitigation in this eco region and would reduce the mitigation needs in other eco-regions with higher demand for mitigation.

The transfer of the WCA offset units will be implemented in 2021 and detailed through the WCT.

13.3 What happens if impacts from the oil and gas industry do increase?

If impacts by the oil and gas industry increase, WAFWA will be required to find additional properties to conserve in order to provide mitigation before impact activities can occur.

In order to avoid a lack of offset units due to a quick change in oil and gas development, WAFWA will maintain an excess balance of offset units that can be used by the participants. The appropriate level of excess balance by ecoregion would be based on an excess balance greater than two years[2] of the average level of impact recorded since the beginning of the CCAA.

Most Participants have low Habitat Conservation Fund balances remaining. Additional impacts from these companies would result in additional Mitigation Fees, which would then be used to secure additional mitigation properties and increase the administrative endowment. The increase in the administrative endowment would in return increase the annual administrative budget and allow WAFWA to increase administration to service Participants' needs.

13.4 What happens if impacts from the Oil and Gas Industry do not increase?

If impacts do not increase, WAFWA will maintain the current level of mitigation for the foreseeable future. Actions regarding changes in the level of mitigation shall be reviewed and approved by the Council prior to WAFWA Board review.

13.5 What happens if the LPC is listed?

The listing decision will be made in two steps, a proposed listing decision first and a final listing decision approximately 12 months later. The FWS is expected to publish its listing proposal on May 26, 2021. If the proposal is to list the LPC, WAFWA will have to make two separate decisions:

- Opening enrollment to new Participants – The CCAA is not currently open to new Participants and no decision has been made on a potential reopening. If enrollment to the CCAA becomes open again, prospective participants would enroll by signing a Certificate of Inclusion that specifies the total acreage and the property description for enrolled property under the CI.
- Allowing current Participants to enroll additional land – This may become an option if WAFWA is confident that sufficient funds and mitigation are available. Current Participants would be assessed the enrollment fee contemplated in the CCAA for any additional acre of land that they enroll.

If the LPC is ultimately listed and the CCAA remains in compliance, the enhancement of survival permit is activated. After the listing, no new Participants can be admitted and no new land can be enrolled under the CCAA. If the FWS in the future develops a policy allowing enrollment of properties in a CCAA after listing, WAFWA will propose an amendment to this CCAA that would allow a CI to be amended to enroll new property after listing, consistent with any potential criteria that may be developed if the FWS allows post-listing enrollments in the future.

13.6 What happens if the LPC is not listed?

If the FWS does not propose a listing in May 2021, the CCAA will continue to operate and provide conservation for the LPC. Additional participants and additional acreage could be enrolled under the CCAA if WAFWA decides to open the CCAA to these additions.

Even if FWS decides not to list the LPC, the status of LPC population could result in a reassessment by FWS within 5 to 10 years.

[2] The two-year period is based on the time that it takes for WAFWA to identify, contract and enroll into the program new properties.