

**Energy and wildlife policy Committee**

**Chair: Paul Johansen (WV)**

**Vice-Chair: Keith Sexson (KS)**

**Thursday, March 29, 2018**

**1:00-5:00pm**

**North American Wildlife and Natural Resources Conference**

**Norfolk, VA**

**Committee Charge**: The Energy and Wildlife Policy Committee is focused on energy development and generation in North America and its impacts on fish and wildlife resources and their landscape habitats at the state, province, territory, region and international levels.

**Participants:** Paul Johansen (WVDNR), Gary Frazer (FWS), Sean Saville (AFWA), Laura Zebehazy (TPWD), Chris Berens (KDWPT), Scott Smith (WGFD), Mark Alessi (ILDNR), Cliff Brown (WVDNR), Tim Brass (BH&A), Amanda Wuestefeld (INDFW), Ed Arnett (TRCP), Abby Arnold (AWWI), Amy Tegeler (SCDNR), Jennifer Goffe (FFWC), Patt Dorsey (CPW), Kurt Dyroff (NWTF), Brent Keith (TNC), Steve Hanser (USGS), Davia Palmeri (ODFW), Keith Sexson (KWPT), Grant Sizemore (ABC), Richard Heilbrun (TPWD), Suzanne Hall (San Diego Zoo), Tom Kirschenmann (SDGFP), Frank Quamen (BLM), William Austin (NPS)

**Scheduled Discussion Items**

The meeting convened at 1:06PM.

Paul Johansen-Are there any objections to adopting the minutes from the last meeting. No one was opposed. A National Conservation Need was submitted to the Grants Committee on behalf of this committee. We circulated it for review by the committee and made some slight modifications. Are there any changes to the agenda? Let’s start by having Sean Saville give an update on the Recovering America’s Wildlife Act. This is one of the most exciting legislative efforts. I’m proud to be part of the effort.

Sean Saville-Thank you Paul for participating in the Fly-in. The Alliance for America's Fish and Wildlife is the campaign that is supporting the Recovering America's Wildlife Act. Currently there are 40 co-sponsors on the House bill. We had a successful subcommittee hearing. Bob Ziehmer of BassPro Shops testified. We had our first Fly-in. The source of funds is royalties from energy and mineral development on federal lands. LWCF addresses the land concerns and the Recovering America’s Wildlife Act directly supports fish and wildlife. Parks maintenance is also important. There was a USA Today article about the bill and other positive media coverage. The Nebraska Game and Parks Commission secured Congressman Fortenberry on the bill. He is an enthusiastic champion. Twenty-six states have passed commission resolutions. Species of Greatest Conservation Need were highlighted in the USA Today article.

Paul Johansen-Thank you Sean for herding the cats. This is very exciting and would be a game changer. If you have questions or want to know how to engage, just ask Sean. He is very responsive.

Laurie Zebehazy-What is the end goal for legislation.

Sean Saville-We want the House and Senate to pass the bill and be signed. We will be hit hard with the election year in the next couple of months.

Davia Palmeri-In Oregon, lots of organizations are anti-fossil fuels so I focus on the message on the revenues that are already coming in and how we should invest them.

Abby Arnold-The wind and oil and gas industries were at the table as part of the Blue Ribbon Panel.

Laurie Zebehazy-Are there concern about Secretary Zinke's effort to reduce royalties?

Sean Saville-I’m not worried about this. There are some adjustments that could be made. We are staying out of that issue.

**State Roundtable**

Paul Johansen-I would like to hear about energy and wildlife issues in your states.

Laurie Zebehazy (Texas)-More citizens are organizing against wind power. Lights on turbines is an issue. There is interest in using aircraft protection lighting.

Chris Berens (Kansas)-Fourteen developments are moving to construction phase. This is a substantial amount of area. As developments increase, impacts to state listed species, public lands and migration corridors increase. We are updating the Kansas wind policy.

Scott Smith (Wyoming)-We are concerned about how to avoid energy impacts to sage grouse habitat and mule deer.

Mark Alessi (Illinois)-There has been a strong resurgence of wind energy. We are working to reduce impacts to bats in the fall. We are starting to see some solar. There is interest in using right of ways for burning. There are concerns about how power lines and vegetation could be impacted.

Amy Tegeler (South Carolina)-Voluntary designation for solar farms that are wildlife friendly. We are creating BPs for these areas.

Jennifer Goff? (Florida)-We are working with utilities on wind and wildlife issues and on an oil and gas leasing plan on the coast. We sent a letter and maps opposing the plan. We hope to avoid impacts to sensitive species.

Pat Dorsey (Colorado)-Wind and solar are increasing. New guidance on migratory bird treaty act.

Davia Palmeri (Oregon)-A mitigation program would help to reduce impacts to fish and wildlife. It’s not clear how payments would be accepted. We have a mitigation policy but no authority. We might be accepting risk by taking a payment.

Ed Arnett-We served on a federal advisory council to develop voluntary wind guidelines. Is industry using them?

Abby Arnold-I facilitated the discussion on wind guidelines. We are doing an analysis to find out what has been learned from voluntary guidelines. The data will show how the guidelines are being used. We will know more when the analysis comes out.

Laurie Zebehazy-I have gotten some requests from states. We should work with the FWS on a document to show what we need.

Abby Arnold-There was a call to review the guidelines after 5 years but this has not happened.

**Update on Changes to Incidental Take (Migratory Bird Treaty Act)**

Gary Frazer-I am the Assistant Director of Ecological Services. Jerome Ford was not able to attend so I am filling in. The Department of Interior solicitor issued an opinion on incidental take. It was concluded that the Migratory Bird Treaty Act is limited to take. The FWS had been working on a mitigation policy for incidental take. There are lots of questions related to this. The Director will be issuing a memo on the interpretation of the solicitor’s opinion and we will be learning how the MBTA applies. There will be a change. Expect the memo in the next couple of weeks. -Executive Order 13783 revoked prior orders including Secretarial Order 3349. This requires the Department of Interior to reexamine mitigation policies and includes section 7 consultation. It lays out general principles on authorities and establishes a level playing field. It was put out for comment. It revised policies on ESA compensatory policy. Net conservation benefit is out on the street. The comment period has closed. We will get final direction in a few weeks. Everything from the previous administration be rescinded. This summer new mitigation policies should be out. These are for internal FWS use, designed to be clear and predictable.

Whit Fosburg-How do you interpret conflicting energy mitigation and wildlife corridors?

Gary Frazer-There are sometimes unanticipated consequences. We will continue to do the job of implementing the law to protect plants and wildlife. Domestic energy production in a high priority.

Ed Arnett-How will this play out with sage grouse?

Gary Frazer-It depends on the type of mitigation plans used by the states. This is yet to play itself out.

**Update on Mitigation**

Ed Arnett-Mitigation is important. To be effective it must be done upfront. It needs to provide predictability and is a two way street. Landscape planning that avoids irreplaceable habitats is important. When not possible then use mitigation. Avoidance is the best practice. We moved from project to project to landscape scale. We held workshops and this resulted in SO3033. The Executive Order was put out by the Obama Administration. No timeline was set forth. There is concern about what the authority is for compensatory mitigation and what the ratio is. The Department of Interior has had discussions with the sage grouse task force. I want to give deference to state plans. My primary concern is the voluntary nature of the plans. There is also a concern that the BLM may not use their full authority. If the state does not take up, then no mitigation. Deference to state plans could work out. Let’s talk about the migration order. Wyoming has updated their policy. This becomes voluntary very quickly.

Brent Keith-Twenty years ago TNC developed maps for their conservation by design. Wind resources can be placed on these maps to overlay important ecological resources and wind energy potential. This is being expanded to 18 states. TNC believes that wind development is important. It’s projected that 35% of energy will come from wind by 2050. The market shapers are developers, power purchasers and financiers. The Site Wind Right Tool takes into account key ecological data and potential barriers. The tool can be found on TNC’s website and is regularly being improved.

Lauri Zebehazy-Is the tool being used? What is your goal for use?

Brent Keith-I don't know what the goal is for use.

Laurie Zebehazy-Is there a way to generalize the audience.

Brent Keith-It is adaptable to other audiences.

Abby Arnold-The feedback from the wind Industry is that the data is helpful. How can this tool be used for site specific development for wind and other uses like transmission or oil and gas.

Ed Arnett-Pipelines and transmission lines are difficult to navigate.

**Update on Research, Strategies, and Solutions for Wind-Wildlife Challenges**

Abby Arnold-The American Wind Wildlife Institute was established 10 years ago. Twenty-five wind energy companies and nine national conservation organizations are involved. We have informal relationships with the FWS and USGS and work with the states, AFWA and Bat Conservation International to coordinate efforts. Statisticians differ on how to estimate bat mortality. A new estimator is being develop and training will be provided. We are raising funds to determine sage grouse mortality. The twelfth wind wildlife research meeting will be held this year in Minneapolis. AWWI will also be celebrating its 10th anniversary. AWWI has a wind wildlife research plan. Our priorities are eagles, bats, migratory birds and prairie grouse. We have a library based on confidential and public post construction monitoring. We are working on technology to detect, deter and/or curtail wind to avoid bat mortality. We have a full-fledged technology program and a catalog of available technologies. The Department of Energy is supporting technology on eagles. We are working on compensatory mitigation such as retrofitting power polls. We have considered other types of mitigation such as lead poisoning reduction, eagle collision reduction and habitat enhancement. Vehicle collision reduction is the only one using permits. We are working on a hoary bat species distribution model and are developing a multi-species, multi-facility multi-tech evaluation of deterrence. AWWI will be doing a video, dinner and awards presentation as part of its 10 year anniversary celebration.

Paul Johansen-You’ve accomplished some amazing work over the last 10 years. I would like us to celebrate that work this year. On behalf of AFWA, I offer our thanks and gratitude.

Ed Arnett-Mitigation was an option for cave dwelling bats until white-nose syndrome came along. I will never get behind compensatory mitigation for tree dwelling bats.

Abby-I respect bat experts but there is urgency in finding solutions.

**Development of Conservation Measures for Impacts to Interior Forest Wildlife Associated with Natural Gas Pipelines in West Virginia**

Cliff Brown-Pipelines to deliver shale gas have potential impacts of at-risk forest species. Forty-percent of cerulean warblers breed in WV. The agency has no regulatory authority over impacts to forests. An MOU was developed with a pipeline company using land values from USDA. The Conservation Fund was used as the fiduciary. State Wildlife Action Plan focus areas, landscape integrity, biological diversity ranks and core forest were sources of data. The approach was similar to the Natural Resources Damage Assessment used by the federal government. Criteria were developed with benefits to Species of Greatest Conservation Need. A model is being built. This same approach was applied to Wildlife Management Areas. Thus far three agreements have been executed with three companies for $30M in habitat restoration.

Paul Johansen-There are benefits to early successional species and others like turkeys who need brood cover.

Davia Palmeri-Were you involved in siting too?

Cliff Brown-No, we were not involved much in the citing of the pipeline. There is no regulatory authority by the agency. The agency could have said no based on eminent domain law but this would have forced the project on to private land. We treated all companies the same and knew the expectations.

Kurt Dyroff-Will this model be applied to other impacts?

Cliff Brown-We lack the authority but would like to see this expanded. I’m not sure how to get there unless FERC required mitigation.

**Update on Hydropower Legislation & Other Legislative Issues**

Devin DeMario-Senator Murkowski plans to make a hard push on an Energy Bill. I reviewed only the hydropower legislation. I worked with Senator Murkowski staff to make it friendlier to fisheries. I used site specific data. The House version was more problematic. It circumvented a water quality review. Disputes would be handled by DEQ, a primary concern. There is an Executive Order by the Administration on energy development. The omnibus includes lots on energy. The FY19 budget cuts programs for energy. All topics are connected and complex.

Davia Palmeri-Has the hydropower working group met recently?

Devin-No, not recently.

Steve Houser-I have two handouts on research projects. UV light deterrent for bats, Lidar radar to detect bats. We are trying to curtail potential impacts. There is an interaction with birds and solar panels. In WY we are looking at golden eagle and energy projects. There are new tools like a database on turbine locations and we are developing tools on biodiversity mapping. In WV we completed a project on the Louisiana waterthrush and energy development. We have a report on energy projects.

Paul Johansen-Thanks for the update.

Lauri Zebehazy-Is there a map of the whooping crane migration corridor?

USGS-Yes, there is a paper.

Paul Johansen-If you have any questions or needs please contact myself, Mark or Keith.

Meeting was adjourned at 3:50pm

**Action Items**

There were no action items.

**Progress and Opportunities**

Progress was made toward achievement of Goals 1, 2, 3 in the Association's Strategic Plan. This was accomplished by hearing updates from state and federal partners and briefings on the Recovering America’s Wildlife Act, migratory bird incidental take and other topics.

**Threats and Emerging Issues Identified**

None identified.

**New Opportunities Identified**

None

**Submitted by**: Paul Johansen