

August 31, 2011

A special meeting of the Weston County Commissioners convened at 9:00 a.m. with Chairman Tom W. Bruce presiding. The purpose of this special meeting was for Coordination purposes between Weston County, the United States Forest Service (USFS), the United States Fish & Wildlife Service (USFWS), and Wyoming Game & Fish Department (WGFD). Present for the meeting were Commissioners: Tom W. Bruce, Marty Ertman, Lenard D. Seeley, Jerry Shepperson, County Clerk, Mamie C. Krank, and Margaret Byfield, American Stewards of Liberty (ASL). Ray Pacheco, Growth & Development Coordinator, was present to audio record the session. In attendance were **Resident Experts:** Bryan Stroh, Gary and Cheryl Jacobson, and Bob Harshbarger. **Ranchers:** Dean Kanode, Denise Langley, and Joan Neumiller. **Landowners:** Jim Darlington, Nicky Groenewold, Lona Nachtman, and Allen Slagle. Also in attendance: Glenn Gordon, Rancher/Thunder Basin National Grassland Assoc. Board Member, Hale Redding and Terry Groenewold, Weston County Weed & Pest, Chris Wichmann, Wyoming Department of Ag-Policy Division Manager, Slade Franklin, WY Weed & Pest Coordinator, and Ben Bump, State Land Office Matt Jones, Field Representative to Congressman Lummis, Jackie King, Congressman Lummis' Office, DeAnna Kay and Sandy Tinsley, Senator Mike Enzi's Office. **Present to represent the United States Forest Service (USFS):** Phil Cruz, Forest Supervisor, Rick Cooksey, Deputy Forest Supervisor, Misty Hays, Deputy District Ranger, and Bob Sprantall, District Ranger. **Present to represent the United States Fish & Wildlife Service (USFWS):** Mark Sattelberg, Field Supervisor. **Present to represent the Wyoming Game & Fish Department (WGFD):** John Emmerich, Deputy Director, Scott Talbot, Director, Ed Mignery, WY Game & Fish Commissioner. Not in attendance: Commissioner Rossman.

Commissioner Ertman addressed the three agencies to ask why they had not attended the last scheduled Coordination Meeting held August 9, 2011. Phil Cruz, USFS, stated that he had a scheduling error and could not attend. Mark Sattelberg, USFWS, stated that he did not attend because the other agencies were not attending. Scott Talbot, WGFD, was not invited to the August 9th, 2011 meeting.

#### **Wyoming Game & Fish Department Discussion**

Scott Talbot, WGFD, began by stating that prairie dogs are classified by Wyoming Statutes as wildlife and pests. Permits are required to be obtained through Game & Fish for transportation of Wyoming wildlife. Mr. Talbot went on to say that the WY Game & Fish was approached by the US Forest Service in 2003 requesting translocation permits for prairie dogs in Goshen County, WY. At that time there were 12 criteria in effect for translocations, based on input from the Game & Fish Commission and permittees, the biological criteria were relaxed after 2010. Chairman Bruce raised concerns that Weston County was not considered in the coordination process. Mr. Talbot, WGFD, stated that permits gained from the Wyoming Game & Fish Department require coordination processes be followed by permittees before translocation can take place.

#### *Provide Documents to Weston County*

Commissioner Ertman requested minutes of WGFD meeting to be forwarded to the Weston County Commissioners. Commissioner Shepperson requested copies of the WGFD changes to the criteria of prairie dog translocation be forwarded to the Weston County Commissioners. Mr. Talbot, WGFD, answered that those changes to criteria became WGFD "policy" but permits require more strict regulations.

#### *Translocation Process*

Commissioner Seeley questioned the 4.35 mile rule for translocation of prairie dogs in relation to private land, asking if this was "policy" or regulation. Commissioner Ertman requested definitions of "policy" vs. "guidelines". Mr. Talbot, WGFD, responded stating WY Game & Fish must abide by policy, however; guidelines have less restraint and do not apply to outside entities. Commissioner Seeley asked if it was a condition of the WGFD permit to keep prairie dog translocations at least 4.35 miles from private land. Mr. Talbot, WGFD, stated yes, that was in the US Forest Service's plan. Commissioner Ertman asked what remedies are available to private land owners who want to remove prairie dogs from their land. Mr. Talbot, WGFD, stated that to his knowledge, under the "pest" statutes in Wyoming law, citizens have the right to rid prairie dogs from private land using any legal means.

#### **United States Forest Service (USFS) Discussion**

##### *Prairie Dog Translocation across county borders*

Chairman Bruce asked if there had been translocation of prairie dogs from Converse County to Weston County this year. Phil Cruz, USFS, stated that he was not aware of any translocations

from Converse County to Weston County this year, and was not aware that the 4.35 mile radius was a part of the US Forest Service's current guidelines. Hale Redding, Weston County Weed & Pest, stated it was the policy of the USFS to mow the area where prairie dog translocation takes place. Mr. Redding also stated that within the mowed translocation areas approximately 90% of the mowed areas are within Weston County, not Converse County and he has knowledge that translocations have occurred. Misty Hays, USFS, stated that the translocation areas straddle the county line between Converse and Weston Counties, and prairie dogs were kept within the same county as best as they could. Gary Jacobson, a private landowner stated that he has had prairie dogs trans-located closer than 4.35 miles to his private land and has never been contacted or coordinated with by the US Forest Service.

#### *Provide Documents to Weston County*

Commissioner Shepperson requested the US Forest Service provide a copy of the written plan for translocation of prairie dogs, as well as copies of permits issued by WGFD to the USFS. Mr. Cruz, USFS, replied that those copies would be forwarded to the county.

#### *Quarantine Requirements*

A discussion ensued on quarantine requirements for the translocation of prairie dogs. Mr. Talbot, WGFD, confirmed that quarantine requirements for translocations were part of the permitting process. Mr. Cruz, USFS, stated he was not aware of a distance violation or quarantine violation by the USFS for the translocation of prairie dogs. Chairman Bruce stated that the USFS has disrespected the coordination process with Weston County and reiterated that the questions asked need to be answered by the USFS. Chairman Bruce addressed Mr. Talbot, WGFD, with a concern that Weston County believes the permits issued to the USFS by the WGFD were violated and asked if the permits could be revoked. Mr. Talbot, WGFD, stated that any future permits would be carefully scrutinized. Chairman Bruce asked what the landowners could do who may have been affected if the permits were violated. Mr. Cruz, USFS, responded stating he would like to compare numbers and confer with his colleagues. Commissioner Ertman asked Mr. Cruz what action would be taken if they found violations had occurred, and whether the USFS would come in and remove the prairie dogs. Mr. Cruz, USFS, responded by stating that he did not know the answer to that question, and if his department was responsible they would need to look into what action would need to be taken. Gary Jacobson, resident expert/landowner, stated that prairie dogs are currently within the 4.35 mile radius of his private land and questioned if they would be removed. Mr. Cruz, USFS, stated he would need to speak with the landowner. Commissioner Seeley asked if the USFS was willing to work with landowners to remove prairie dogs encroaching on private land within the 4.35 mile radius. Mr. Cruz, USFS, asked to consult with Misty Hays, USFS Deputy District Ranger. Ms. Hays explained that the 4.35 mile radius applies to the translocation of prairie dogs only, any encroachment of prairie dogs to private land which occurs within ½ mile could warrant mitigation or removal if the landowner files a complaint with the USFS.

#### *Thunder Basin National Grassland No Shoot Zone*

Questions were raised regarding the area encompassed in the "No Shoot Zone" on the Thunder Basin National Grasslands. The Commissioners asked why no coordination efforts were made by the USFS for this process. Concerns regarding the economic impact to Weston County and its residents were voiced. Mr. Cruz, USFS, stated that the shoot closure was only for the Federal Lands within the area and not for any private lands therein, also stating that the closure was part of the prairie dog management plan, adding it has been the USFS intent to coordinate with any affected counties. Mr. Cruz, USFS, would like to revisit the answer regarding economic impact on the county after consulting with his colleagues. Commissioner Ertman stated that five landowners have filed complaints with the USFS with no action taken to correct the problems. Mr. Cruz, USFS, responded stating that he recalls three complaints. Misty Hays, USFS, recalled four complaints from private landowners requesting action or poisoning for prairie dogs encroaching within a ½ mile of private land. Written complaints were received from: Joan Neumiller, Denise Langley (requesting poisoning), Dean Kanode, Gary Jacobson, and Bob Harshbarger. Chairman Bruce asked why the burden was put on the private landowner to provide their land's legal description to the USFS and request removal from the "No Shoot Zone" map developed by the USFS. Mr. Cruz, USFS, assured the panel that the No Shoot Zone had no jurisdiction over private lands within the area that may be included in error on the USFS map. Terry Groenewold, Weston County Weed & Pest/Landowner, had a lengthy discussion with Mr. Cruz, USFS, regarding his own private property encompassed in the "No Shoot Zone" even after complying with the USFS request for legal descriptions for removal from the zone. Chairman Bruce requested a timeline for corrections to the map from the USFS. Mr. Cruz, USFS, stated that the map could be reviewed and may need to be revised.

The meeting recessed at 10:25 a.m. and reconvened at 10:50 a.m. with all present, it was announced that a representative from the News Letter Journal (Nicky Groenewold) was present for the remainder of the meeting.

#### *Encroachment of prairie dogs within 4.35 miles to private lands*

Mr. Cruz, USFS, stated that the criteria regarding the 4.35 mile radius to private lands in the strategy referenced by Commissioner Ertman, is overridden by the permit issued by (WGFD) which references a ½ mile radius to private land. Chairman Bruce interjects that the Weston County Board of Commissioners passed a Resolution numbered 11-13 which clearly states that the receiving colony for translocation of prairie dogs be no closer than 4.35 miles to private land. Mr. Cruz, USFS, reiterated that the permit gained for translocations allowed up to ½ mile of private land, and requested a conference with Misty Hays, USFS Deputy District Ranger, regarding what coordination took place. Commissioner Seeley asked if it was true that the landowners must agree to the USFS policy before implementation. Mr. Cruz, USFS, stated that the landowner permission was in the previous policy not the current policy. Commissioner Seeley suggested that Mr. Cruz read his department's current policy. Commissioner Seeley then addressed the same question pertaining to landowner permissions to Mr. Talbot, WGFD. Mr. Talbot, WGFD, responded that the permit states that the agency will coordinate with private landowners, Weed & Pest, and others.

#### *Notification Procedures*

Misty Hays, USFS, stated that landowners and permittees were sent letters in 2010, the agency met with the Commissioners on March 16<sup>th</sup>, 2010, and notification letters were sent to landowners, permittees, and Commissioners in 2011, as well as a revised proposal sent in July 2011 to the Commissioners and Weed & Pest. Hale Redding, Weston County Weed & Pest, stated that he had received a letter late in the season this year, in July, 2011; however, had not received notification in 2010.

#### *Provide Documents to Weston County*

Commissioner Ertman requested copies of landowner notifications which were requested by the Converse County Commissioners on July 6<sup>th</sup>, 2011, also be sent to Weston County from the USFS.

#### *Coordination Efforts*

Discussion ensued regarding the obligation of the USFS to follow state plans and consider Weston County's interests in the Coordination Process. Margaret Byfield, American Stewards of Liberty (ASL), asked Mr. Cruz, USFS, if he felt a letter to Weston County allowing ten days to respond to the first scheduled Coordination Meeting was sufficient. Mr. Cruz, USFS, stated that he failed to see a connection between the first coordination meeting and no response to the letter. Ms. Byfield, ASL, asked Mr. Cruz, USFS, what his interpretation of Weston County's stance on prairie dog translocation is. Mr. Cruz, USFS, recalled a resolution being passed by the Board of County Commissioners and noted that Weston County had issues and concerns regarding prairie dog translocation. Ms. Byfield, ASL, stated that the letter sent to the USFS by Weston County made it clear that Weston County wanted to meet with that agency prior to any translocations taking place, and put the USFS on notice. Ms. Byfield, ASL, reminded Mr. Cruz of the timeline and letters sent, to which Mr. Cruz, USFS, responded that the prairie dog translocations were already in process at the time of the first coordination meeting (August 9, 2011).

#### *Private Landowner Resolution*

Chairman Bruce reiterated that landowner control questions had not been addressed by the USFS after multiple requests by the Weston County Commissioners. Bob Sprantall, USFS District Ranger, explained the process for landowners to resolve issues with prairie dog encroachment: first; are prairie dogs expanding on private land? If yes, is this causing a problem? If yes, first try methods of non-lethal control. Was non-lethal control effective? If no, the use of lethal control methods may be applied. Chairman Bruce asked if encroachment within 4.35 miles of private land would qualify as a problem which needed to be mitigated. Mr. Sprantall, USFS, stated this alone is not considered an issue to the USFS. Chairman Bruce stated that immediate action is needed once prairie dogs encroach on private lands and asks the USFS to consider revising policy to include immediate action to rid the private lands upon first notification. Ms. Byfield, ASL, stated if the USFS policy was changed from 4.35 miles to .5 miles, did the USFS go through the NEPA process? If not, Weston County is requesting the USFS change that policy back to 4.35 miles. Ms. Byfield suggested that the USFS stance on the matter should be that the agency does not want to impact Weston County residents to their detriment. Slade Franklin, Wyoming Weed & Pest Coordinator, asked if the USFS was willing

to go outside their policy to implement a Wyoming Game & Fish Permit, would they also be willing to extend the same courtesy to the Weed & Pest for remedial actions. Mr. Cruz, USFS, asked Mr. Franklin, WY Weed & Pest, if he would be willing to meet with the USFS to discuss this option further. Mr. Franklin readily agreed to a meeting with the USFS.

#### *Coordination Process*

Discussion ensued regarding the definition of the “coordination process” as it applies to the agencies and county government. Mr. Cruz, USFS, is disputing the formal coordination process and stated it is something he cannot go along with at this time. Ms. Byfield, ASL, asked if the Regional Forester of the USFS had asked Mr. Cruz to review court decisions Ms. Byfield sighted the “California Resource Case” and others, and questioned if this research had been completed by Mr. Cruz. Mr. Cruz, USFS, replied that the USFS Regional Forester asked him to specifically respond to Ms. Byfield’s concerns. Mr. Cruz also stated that this research had not been compiled yet. Ms. Byfield explained Weston County’s perspective of “coordination” as defined and upheld by the United States Congress, also noting that true cooperation is designed to resolve any issues before they become problems. Chairman Bruce stated that the Weston County Board of Commissioners believes in, and expects other government agencies to respect and abide by, the coordination process as defined by Congress.

The meeting recessed at 12:00 p.m. and reconvened at 12:15 p.m. with all present.

#### **United States Fish & Wildlife Service (USFWS) Discussion**

Chairman Bruce addressed Mark Sattelberg, USFWS, questioning the economic impact on landowners because of prairie dogs and the ability of a Black Footed Ferret population to generate the same revenues. Mr. Sattelberg, USFWS, cited tourism promotion of Black Footed Ferrets as well as other species including the Mountain Plover, and burrowing owls to generate revenue. Discussion ensued regarding multiple use on Federal Lands and if that would still be available if an endangered species was introduced to the area. Mr. Talbott, WGFD, stated that there are very specific precautions in place for the re-introduction of an endangered species which protect landowners. John Emmerich, Deputy Director WGFD, explained only 2000-5000 acres are needed to form a habitat for re-introduction of the Black Footed Ferret. Mr. Emmerich, WGFD, went on to say that re-introduction of the Black Footed Ferret in the Shirley Basin area have not affected other multiple uses on those lands. Chairman Bruce asked why 27,000 acres are set aside in the Thunder Basin National Grassland area when a colony could be supported by as little as 2000 acres. Mr. Emmerich, WGFD, replied that assurances to reduce the risk of losing a ferret population make a larger area a better resource for re-introduction. When asked if WY Game & Fish was the lead agency in the ferret re-introduction, the answer was no, WY Game & Fish are the people on the ground who report back to the US Fish & Wildlife Service.

The Commissioners thanked all in attendance for their participation.

There being no further business to come before the Commission, the meeting adjourned at 1:05 p.m.

Attest: Mamie C. Krank  
County Clerk

Tom W. Bruce  
Chairman