

# **Collaborative Planning on State Trust Lands:**

## **A University of Michigan Study**

*for the State Trust Lands Partnership Project  
of the Sonoran Institute and the Lincoln Institute of Land Policy*





## About the Study:

Collaborative planning on state trust lands was identified for further research at the 2004 State Trust Lands Research and Policy Analysis Roundtable convened by the State Trust Lands partnership project of the Sonoran Institute and the Lincoln Institute of Land Policy. In March 2005, under the guidance of Dr. Steven L. Yaffee, a team of eight graduate students from the University of Michigan School of Natural Resources and Environment began conducting a region-wide survey and analysis of eight case studies in which state trust land agencies collaborated with stakeholders in trust land planning and management. The research team conducted 117 on-site and telephone interviews, each lasting roughly one to three hours. Through these interviews, the team answered a set of research questions concerning the benefits, challenges, costs and outcomes of collaborative planning on state trust lands. The goals of this research were to:

- Capture on-the-ground experiences of collaborative planning on state trust lands
- Analyze the advantages and disadvantages of this trust land management approach
- Distill a set of best management practices
- Provide broader recommendations for overcoming barriers to collaborative planning on state trust lands

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**SOUTHEAST NEW MEXICO WORKING GROUP:  
Precluding Endangered Species Listing  
by Integrating Conservation and Livelihoods**



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**Case Study by Emily Kelly  
Researched and Edited by Stephanie Bertaina and Emily Kelly**

## INTRODUCTION

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The turn of the century brought growing concern regarding the decreasing populations of the lesser prairie chicken, gaining publicity in the 1980s with significant population declines following a severe drought in the southwestern United States. In response, several agencies based in the Southwest attempted interstate conservation initiatives with little ultimate success. Eventually, the prairie chicken, as well as the sand dune lizard, another southwestern species experiencing population declines, became candidate species for listing under the Endangered Species Act (ESA). In an attempt to mitigate harm to prairie chickens and sand dune lizards in the state of New Mexico and prevent the need for federally-imposed restrictions on oil and gas and ranching land by ESA regulations, the Bureau of Land Management (BLM) initiated a Resource Management Plan (RMP) Amendment process that would update the land use and oil and gas leasing in prairie chicken and sand dune lizard habitat. It was within this context that the BLM, in cooperation with the New Mexico Department of Game and Fish (NMDGF), convened a stakeholder Working Group to inform the RMP Amendment Process and address prairie chicken and sand dune lizard conservation issues in the heart of New Mexico oil and gas country to create an overall conservation plan.

The Southeast New Mexico Working Group was formed in early 2003 to design a conservation plan for the lesser prairie chicken and sand dune lizard that would preclude the need for listing of the species under ESA while maintaining local livelihoods. Along with two outside facilitators, the group consisted of representatives from the BLM, the NMDGF, the State Land Office (SLO), USFWS, the ranching industry, the oil and gas industry and conservation organizations. The ultimate conservation plan, the “Conservation Strategy,” would address ranching and oil and gas practices in prairie chicken habitat while informing the BLM’s RMP Amendment.

Unlike the other agencies at the table, the RMP Amendment and the ESA would not have directly impacted the SLO. Yet, the SLO was a consistent and active participant in the Working Group. The SLO joined the Working Group in order to participate in the construction of the broader plan, understanding that changes to BLM land management would impact adjacent state trust lands due to their checkerboard pattern. Ultimately, the SLO felt that a conservation plan with consistent standards across all lands would lead to more effective leasing and fewer conflicts in the future.

From an initial meeting of approximately 80 individuals anticipating six to nine months of discussion emerged a two and a half year process involving 30 to 40 representatives of interested groups throughout the state. During this period of time, the group encountered a number of stumbling blocks to progress including delays due to a lack of data and mapping information, mistrust between group members and the overall length of the process. Ultimately in March 2005, the group faced a BLM deadline for consideration in the RMP Amendment Process. On the last day possible, the Working Group finalized the Conservation Strategy.

The collaborative process of the Southeast New Mexico Working Group draws attention to the need for adequate pre-process planning, including the collection of sound technical information and adequate maps to be available early in the process to inform timely decision making. It also highlights the importance of outside deadlines to catalyze decision making and compromise in

the process. The Working Group also highlights how distrust and stereotypes between participants can be a major obstacle to progress but also can be overcome during the process. For the SLO, the Working Group provides an example of the leadership role the agency can assume given their expansive lands and expertise. More broadly, this case presents an alternative method for land management planning under the threat of ESA.

## **CONTEXT FOR COLLABORATION**

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The unique nature of New Mexico state trust land management as well as the political history of state trust lands provide necessary background to understanding the constraints as well as the capabilities and opportunities of the SLO and other agencies, groups and individuals to be involved in a collaborative process. This history is outlined in brief below.

### **FORMATION OF NEW MEXICO AND THE STATE LAND OFFICE (SLO)**

New Mexico became a U.S. territory in 1848<sup>1</sup> and in 1898<sup>2</sup> sections 16 and 36 in each township were set aside as state trust lands to be managed for maximum and perpetual revenue largely for the state's public school system.<sup>3</sup> In 1899 the State Legislature created the SLO and appointed the first Commissioner of Public Lands to administer state trust lands.<sup>4</sup> New Mexico's Enabling Act, passed in 1909, set aside township sections 2 and 32 as additional lands for state trust lands, making state trust lands a significant portion of the total land area of the state.<sup>5</sup> The Enabling Act also confirmed the Land Grant Permanent Fund that holds all allocated lands in trust to the public school system and other state institutions. Thus, state trust lands have a long history in New Mexico, being established well before New Mexico became a state in 1912.

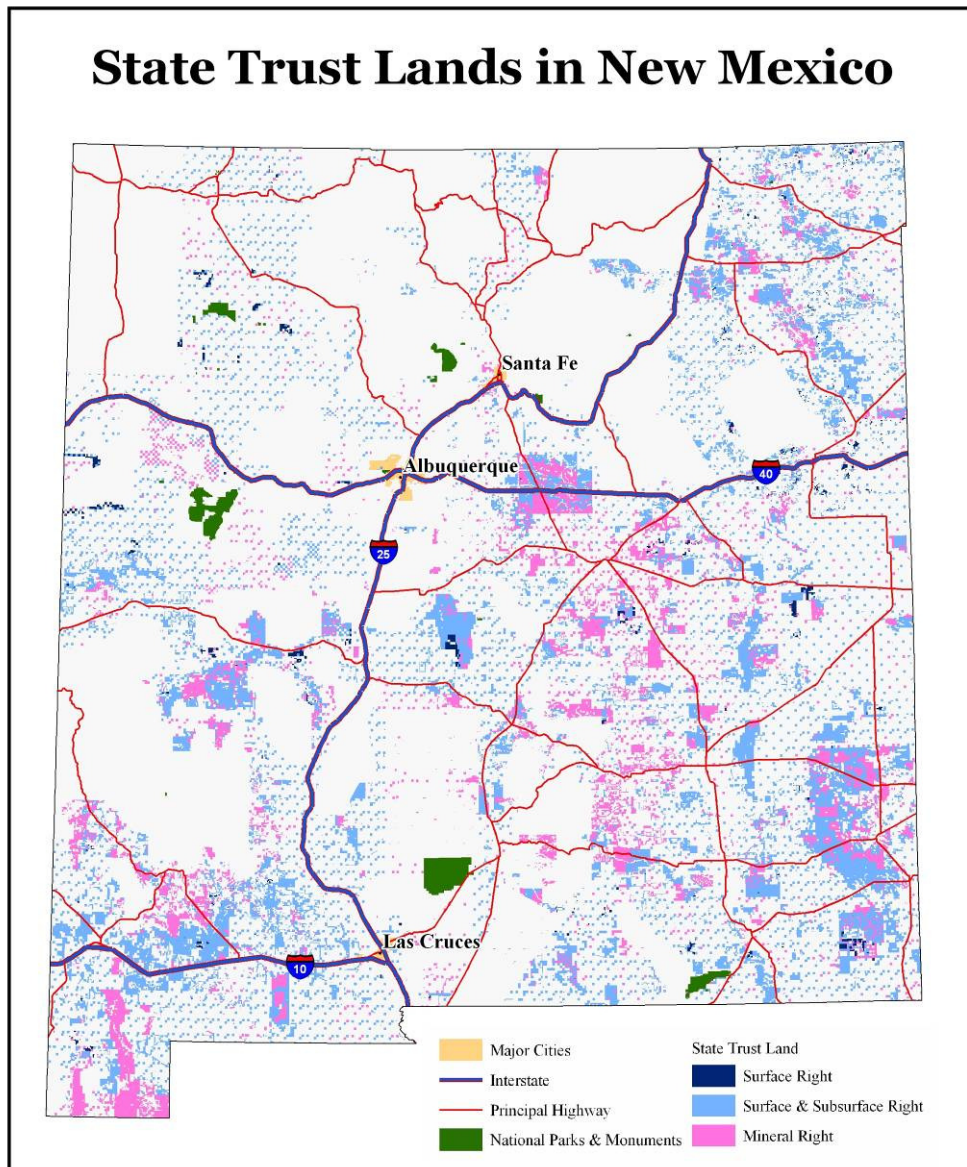
### **ORGANIZATION AND CULTURE OF THE SLO**

The Commissioner of Public Lands is the head of the SLO and is a state-elected official. The commissioner serves a maximum of two consecutive four-year terms. The major departments of the SLO include Commercial Resources, Surface Resources and Mineral Resources. The commissioner is advised by the Office of General Council and the State Land Trusts Advisory Board. Ultimately, however, the New Mexico State Constitution entrusts the Commissioner of Public Lands with the "control, jurisdiction, care and custody of all trust lands" and this provides him with final decision-making authority.<sup>6</sup>

The SLO manages 13 million subsurface acres and nine million surface acres of land.<sup>7</sup> Originally distributed in a checkerboard pattern across the state, New Mexico's trust lands have been somewhat consolidated in some areas as a result of land exchanges with public and private institutions, particularly in the southeastern portion of the state and outside of Albuquerque (Figure 10-1). Throughout New Mexico, federal and private land holdings abut state trust lands, making cohesive management more challenging. This is particularly true in the checkerboard pattern regions.



Figure 10-1: Map of New Mexico State Trust Lands



Source: "New Mexico Trust Lands," Trust Land: A Land Legacy for the American West, The Sonoran Institute & Lincoln Institute of Land Policy, available at <http://www.trustland.org>.

## PAST MANAGEMENT

According to former Commissioner Jim Baca, the SLO historically allowed the interests of the mining and oil and gas industries to dictate SLO business, a practice typical of the management of many western states' trust lands. These industries were often the only parties willing to bid on isolated New Mexico trust land parcels.<sup>8</sup> As a result, the SLO accepted bids from the extractive industry at the exclusion of others to satisfy constitutional revenue requirements. Baca mentioned that it has only been within the past several decades that the SLO has taken a more aggressive step toward active state trust land management. With recent increased pressures for

urban development as well as open space, former Commissioner Baca believes it is beneficial for the SLO to include conservation interests in land management. He noted, “There are places that should be saved and should not be exploited.”<sup>9</sup>

## **CHARACTERISTICS AND CONTRIBUTIONS OF STATE TRUST LANDS**

In 2004, SLO revenues provided approximately 15 percent of the state’s \$2.2 billion pre K through 12 education budget.<sup>10</sup> New Mexico has significant oil and natural gas reserves and today those two resources account for 95 percent of the SLO’s annual revenue, which is deposited into the Land Grant Permanent Fund.<sup>11</sup> Grazing leases also are common and are a significant part of the SLO’s leasing constituency and culture but provide much smaller receipts. Reflecting this disparity, the SLO staff distribution is heavily tilted towards subsurface resource management.

Increased demand and high oil and natural gas prices have led the current commissioner, Patrick Lyons, to expand lucrative resource extraction leases. Royalties from oil, gas and minerals in fiscal year 2005 increased more than 25 percent over those in 2004. The most productive oil and gas trust lands lie in the southeastern portion of the state. In August 2005, the SLO joined the BLM to fight a lawsuit that hoped to restrict drilling in this area. New Mexico Governor Bill Richardson and Attorney General Patricia Madrid had filed a lawsuit against the BLM to challenge the agency’s plan to allow drilling in part of Otero Mesa.

Different political philosophies and market conditions during past commissioners’ terms have greatly influenced the direction of the SLO. Former Commissioner Ray Powell, a Democrat, was heavily involved in conservation and open space issues on state trust lands and had particularly good ties to the environmental community, though he did continue oil and gas exploration in the state. Currently, Republican Commissioner Lyons focuses on the present profitability of resource extraction and has good rapport with his oil and gas, minerals and grazing constituencies. His political affiliation and relationships with these industries added credibility to SLO involvement and his own actions regarding the Southeast New Mexico Working Group. The SLO may have played a very different role in the Working Group under a different commissioner.

## **SLO RELATIONSHIPS WITH OTHER ORGANIZATIONS**

Given the large expanse of state trust lands in New Mexico and limited SLO staff, historically the SLO has worked with other state and federal agencies including the NMDGF and the BLM on field research and land management.<sup>12</sup> Commissioner Lyons noted that he tries to work with other agencies consistently because he feels it makes land management easier.<sup>13</sup> This is particularly true in areas with checkerboard sections of state trust land. Relationships with other agencies and organizations have been ongoing and while the nature of the Commissioner of Public Lands as an autonomous decision maker allows the commissioner to be independent of the decisions and policies of past commissioners, Commissioner Lyons continues to invest in their viability through continuing several of his predecessors’ projects. The Southeast New Mexico Working Group, initiated during the Powell administration, is one of these projects.

## **CURRENT NEW MEXICO DEMOGRAPHICS AND POLITICS**

Currently, New Mexico is home to more than 1,800,000 residents, one quarter of whom live in the city of Albuquerque.<sup>14</sup> As a result, the state has a fairly low population density. New Mexico has a racially diverse demographic exemplified by large Native American and Hispanic populations. New Mexico is also one of the poorest states in the U.S., with an average per capita income of \$21,931.<sup>15</sup>

In contrast to some of its western neighbors, New Mexico currently has a strong Democratic Governor and Legislature. Commissioner Lyons is the highest-ranking Republican in the state's executive branch and is the first Republican to be elected to that position since Bill Humphries in 1987. From 1931 until Humphries' administration, all land commissioners were Democrats.<sup>16</sup>

## **THE STORY: THE SOUTHEAST NEW MEXICO WORKING GROUP**

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Prior to the late 19th century, lesser prairie chicken populations were estimated in the hundreds of thousands and birds were found in Texas, Kansas, Oklahoma, Colorado and New Mexico on state, federal and private land. Bob Findling of The Nature Conservancy (TNC) noted, "Prairie chickens were sufficiently plentiful that many homesteaders relied upon them as a food source."<sup>17</sup> Since that time, however, prairie chicken populations have plummeted to three percent of their historical numbers in the state of New Mexico, and similar trends have occurred in the four other states comprising their range.<sup>18</sup>

Field research on prairie chicken ecology has indicated that there may be several causes of prairie chicken population decline. First, increased human development, encroachment and conversion of prairie to agriculture are cited by some as the most influential factors in population decline.<sup>19</sup> Such changes have a major effect on shinnery oak and sand sage-grassland communities in southeastern and east-central New Mexico, the prairie chicken's habitat. Further, associated infrastructure such as roads and power lines divide habitat and provide raptors with perches in open prairie previously inaccessible to them. Another contributing factor to prairie chicken population declines and fluctuations is drought. Many ranching families that have lived for generations on the land attest to the powerful influence of rain on prairie chicken populations, as increased rain provides more nest cover from predators.<sup>20</sup> There is a discrepancy between how conservationists and industry view these factors and their relative impact on prairie chicken populations.<sup>21</sup> This discrepancy became a point of contention in the Working Group process.

Declining prairie chicken populations meant the risk of state or federal "threatened" listing. For the BLM, listing could result in more restricted land management, fewer land leases, decreased lease revenues and many hours of paperwork. In the 1970s, in hopes of avoiding such consequences of further prairie chicken decline, the BLM worked in partnership with its ranching lessees to implement best management practices for protection of prairie chickens. Workshops to this effect largely involved ranchers and BLM staff in coordination with outside prairie chicken biologists.<sup>22</sup>



To form greater partnerships with other landowners and lessees, the BLM formed a multi-stakeholder group to address prairie chicken conservation in 1981. Persisting through the late 1990s, the so-called “Little Chicken Group” included members of the BLM, NMDGF, the SLO, ranchers and members of the oil and gas industry.<sup>23</sup> Despite its longevity, the Little Chicken Group made little progress in identifying and implementing conservation measures.<sup>24</sup>

Until 1996, the BLM continued to lease all its land with prairie chicken habitat. However, in 1996 the BLM made the decision to remove some land in prairie chicken habitat east of Roswell in southeastern New Mexico from oil and gas leasing in accordance with its mandate to prevent “irreversible commitment of resources” that would negatively impact the prairie chicken.<sup>25</sup> Biologist Roger Peterson noted that while most of the BLM’s birds were in that area, most of the birds’ habitat area was on other BLM land.<sup>26</sup> While the BLM made no additional removals, the 1996 removals marked the first major economic impact on the oil and gas and ranching industries on behalf of prairie chickens and represented a taste of what further species protection might cause.

Historically, the NMDGF has monitored and regulated prairie chicken populations as a game bird for hunting. According to the NMDGF’s mandate to protect and regulate game species, NMDGF Endangered Species Biologist Jim Bailey conducted a detailed study of prairie chicken populations after which the agency recommended the prairie chicken be listed as a “Species of Concern” in 1997 in response to falling populations.<sup>27</sup> Ultimately, however, the State Game Commission required the NMDGF to withdraw this recommendation.<sup>28</sup> While the NMDGF has continued to monitor prairie chicken numbers as well as the number of lek, or breeding, sites throughout the state, the agency has not listed the prairie chicken as threatened in New Mexico in its biennial review of state species under the New Mexico Wildlife Conservation Act. This inaction is despite the efforts by numerous conservation groups in New Mexico, including Forest Guardians who reenter the limelight in another five years at the start of the Southeast New Mexico Working Group.<sup>29</sup>

In 2000, a Five-State Working Group was convened to address prairie chicken populations across the full extent of the bird’s range. Both statewide and interstate working groups addressed prairie chicken conservation, yet bird populations persisted at low levels and none of the groups produced a conservation plan. While the NMDGF adopted its own agency-generated plan, this did not include input from the oil and gas industry, a point of contention when the plan conflicted with oil and gas leasing.

Amidst these diverse and troubled planning processes, the U.S. Fish and Wildlife Service (USFWS) named the prairie chicken a candidate for listing under the federal Endangered Species Act (ESA). Another species with a similar geographic range in New Mexico, the sand dune lizard, also was declared a candidate at a higher priority than the prairie chicken. Should either species be listed as endangered under ESA, the BLM and private landowners who leased federal land containing either species would face significant restrictions in land management. Listing would directly impact 1.2 million acres of BLM land and could indirectly affect 680,000 acres of state trust land.<sup>30</sup> The threat of listing provided increased urgency for conservation action. At this time, the BLM initiated a Resource Management Plan (RMP) Amendment process to address prairie chicken and sand dune lizard habitat management on BLM land. Under the 1976 Federal

Lands Policy and Management Act (FLPMA), an RMP Amendment Process directs a periodic revision for BLM land management and incorporates public comment. In early 2002, the BLM decided to receive public comment through a multi-stakeholder working group, a decision that the Washington, D.C.-based Wildlife Management Institute (WMI) had encouraged as a means to use collaborative processes in more western land issues.<sup>31</sup>

## **THE WORKING GROUP IS CONVENED**

With the RMP Amendment Process getting underway, the Southeast New Mexico Working Group was soon to be a reality. The NMDGF and WMI officially convened the Working Group, as the BLM could not take the lead in what would serve as the RMP Amendment public comment period. Bill Dunn, at the time a predator and gamebird biologist at the NMDGF, recalled WMI's key role: "They saw the train wreck coming and they said, 'Here's an opportunity for us to avert this.'"<sup>32</sup>

Before the Working Group had its first official meeting with all parties, the NMDGF and WMI invited state agencies to meet in Santa Fe to gauge interest in participation. Jennifer Parody, a wildlife biologist at the SLO, attended the meeting and agreed to the SLO's participation in the formal group. While Parody had an interest in the group as a result of her background in wildlife ecology, the SLO also felt that participating in the group was an opportunity for the agency to provide input in the management of neighboring lands that would affect their own interests.

On December 9, 2002, the day after invitations for participation in this new group were mailed, a number of conservation organizations joined forces and submitted a 60-day notice-with-intention-to-file petition to address and adopt a lesser prairie chicken Area of Critical Environmental Concern (ACEC) with the BLM.<sup>33</sup> The signatories of the petition included, among others, Forest Guardians, the Center for Biological Conservation and Jim Bailey, a future member of the Working Group. The ACEC program, also outlined in the FLPMA legislation, allows the BLM to protect habitat of endangered or threatened species on BLM land. In this case, the petition requested that the BLM set aside significant portions of oil and gas and ranching lands as an ACEC for prairie chicken habitat. Once an ACEC petition is filed, the BLM must respond within sixty days, a process that would result in significant delays for the budding Working Group. Given the nature of the petition, its timing in alignment with the formation of the Working Group and the signatures on the petition, the ACEC petition became one of the early controversies the Working Group dealt with at its inception.<sup>34</sup>

The first official meeting of the Working Group was held in Roswell in southern New Mexico. This meeting, open to any interested party or individual, had 80 people in attendance. Given such an unwieldy size, the group narrowed participation to several core representatives from each interest group. This core group was determined through election of representatives by each of the relevant agencies, the oil and gas industry, ranching interests, conservationists and hunters and sportsmen. Technical advisors also joined the group, though not necessarily at the outset. The final Working Group consisted of between 30 to 40 participants and two facilitators (Table 10-1). Hired by the BLM, professional facilitators Toby Herzlich, of the private company Toby Herzlich & Company, and Ric Richardson, Professor of Community and Regional Planning at the University of New Mexico, would guide the Working Group.

**Table 10-1: Key Working Group Participants**

<b>Participant</b>	<b>Agency/Company/Organization</b>	<b>Title</b>
<b>Agencies</b>		
Paul Sawyer	BLM Santa Fe Office	Director of Threatened and Endangered Species
Rand French	BLM Roswell Field Office	Wildlife Biologist
David Coss	SLO	Director of Field Operations
Jennifer Parody	SLO / USFWS*	Conservation Biologist
Shawn Knox	SLO+	Wildlife Biologist
Bill Dunn	NMDGF	Predator and Gamebird Biologist
Doug Lynn	Department of Energy WIPP site	
<b>Oil and Gas</b>		
Dan Girand	Mack Energy Corporation	Regulatory and Environmental Affairs
Jeff Harvard	Harvard Petroleum Company LLC	President
Chuck Moran	Yates Petroleum	Senior Landman
Raye Miller	Marbob Energy Corporation	Secretary and Treasurer
<b>Ranching</b>		
John Clemmons		Rancher
Lewis Derrick	New Mexico Cattle Growers and Eddy County	Rancher and Eddy County Commissioner, District 2
Bill Marley		Rancher
Mark Marley		Rancher
<b>Conservation</b>		
Jim Bailey		Biologist
Roger Peterson	New Mexico Natural History Institute / Sierra Club <sup>++</sup>	Ecologist
Tom Jervis	Audubon Council	Ecologist
Terry Riley	Wildlife Management Institute (WMI) / Theodore Roosevelt Conservation Partnership	Director of Conservation / Vice President of Policy
Bob Findling	The Nature Conservancy (TNC)	Director of Conservation Projects
<b>Scientific and Technical</b>		
Kristine Johnson	University of New Mexico Natural Heritage Program	Director
Dawn Davis	NMDGF	Lesser Prairie-Chicken Biologist
<b>Hunters and Sportsmen</b>		
<i>All representatives dropped out early on in the process.</i>		
<b>Facilitators</b>		
Toby Herzlich	Toby Herzlich & Company	Principal
Ric Richardson	University of New Mexico	Professor of Community and Regional Planning



Participants had a variety of motivations for joining the Working Group. For the oil and gas and ranching industry, ESA's potential affect on the economic bottom line provided a major incentive to try to prevent listing.<sup>35</sup> Similarly, the SLO was concerned about the economic impact of listing a species. Commissioner Lyons noted, "If the prairie chicken was listed as endangered, there would be an economic fallout in New Mexico, a tremendous economic fallout. If you couldn't produce oil and gas down there, then you could lose millions and millions of dollars. Probably a couple hundred million dollars."<sup>36</sup>

For some, the Working Group provided the best means for creating a conservation plan that would be legitimate and effective in lieu of listing either of the species. Roger Peterson, originally a consulting scientist to the group with the New Mexico Natural History Institute and later a conservationist representing the Sierra Club, noted that he was motivated to participate in the Working Group in order to produce the best conservation plan possible for the bird. This motivation was not coupled with the goal of preventing listing under ESA, however. Peterson added, "I did not want to prevent their listing. I think they should be listed."<sup>37</sup> Peterson saw, however, that a process was being created to produce a conservation plan that would likely be implemented for the conservation of the species, listed or not, and felt compelled to make it as strong as possible.<sup>38</sup>

For other participants, incentives to participate were multifaceted. The desire to help the species often was coupled with the fear of federal regulation that would result should the prairie chicken or sand dune lizard be listed. Thus, there were both carrot and stick issues that contributed to individuals' participation. John Clemmons, a rancher located 60 miles northeast of Roswell, New Mexico, stated his reasons for joining the group as two-fold: "One is positive – the animals I like. One is negative – fear of disrupting our business."<sup>39</sup> For Bill Dunn of the NMDGF, preventing listing of the species was part of the agency's duty. He stated simply, "Listing under ESA – basically, it's a tacit admission that we didn't do our job."<sup>40</sup>

In addition, facilitators Herzlich and Richardson also were eager to work with the group. Herzlich noted her enthusiasm for joining the process, citing her past positive professional interactions with Richardson and her desire to help find new and innovative ways to advance solutions to western land conflicts.<sup>41</sup> She commented:

I have seen the conflict and the controversies and the "stuckness" around western land issues very frequently. So it felt to me that if there was an opportunity to "unstick" some of those [western land] issues and give some of the people who are different forms of stakeholders an opportunity to be in relationships, work together, forms some kind of new ways of understanding together and maybe even solve this problem, then that would be an overall contribution and benefit to all the work that's going on in the west around natural resource management.<sup>42</sup>

Despite participants' high expectations for the process, parties recognized the process would be difficult. Herzlich and Richardson conducted one-on-one interviews with participants at the beginning of the process to build relationships with participants and to gauge their concerns, interests and fears regarding the Working Group.<sup>43</sup> From these interviews the facilitators gleaned several potential process obstacles. First, the positions of different parties were very far apart

from one another. Second, while the oil and gas industry, ranchers and agencies had longstanding working relationships, they did not have extensive experience working with conservationists on management issues. According to facilitator Toby Herzlich, the greatest lack of familiarity existed between the conservationists and the other parties at the table.<sup>44</sup>

## **THE GROUP GETS ROLLING**

The group met predominantly in Roswell, New Mexico, within an hour's drive of some ranchers like John Clemmons and Lewis Derrick and close to the headquarters of oil and gas companies like Mack Energy. For agency and conservation representatives, however, meeting in Roswell meant long traveling distances to meetings, an issue cited as a major challenge to participation for many conservationists as well as some less interested agency representatives. The group met approximately once a month, usually for two days at a time during the workweek. The timing of the meetings was therefore appropriate for those participants representing their employer such as agency and oil and gas members. However, for groups like hunters and sportsmen who were not participating as part of their jobs, attending meetings became an impossibility and they dropped out.<sup>45</sup>

While there was no explicit timeline for the group, most participants anticipated that six to nine months of two-day monthly meetings would be sufficient to complete the conservation plan and agreed to participate with this understanding. Both Herzlich and Richardson were wary of such a short timeline, being especially concerned that this would limit the ability to build relationships and trust in the group. However, they were hired to carry out meetings according to this timeframe.<sup>46</sup> As such, Herzlich and Richardson led the group in several "get to know you" meetings at the beginning of the process<sup>47</sup> before moving the group into "an accelerated process of education and issue identification" regarding prairie chicken and sand dune lizard conservation.<sup>48</sup>

During one of these first meetings, the Working Group developed a guiding statement for the group that would encompass the common goal of all present. This goal, solidified in a formal statement, was:

To create a conservation strategy for the management of shinnery oak and sand sage-grassland communities in southeastern and east-central New Mexico, recommending a range of specific actions to enhance and secure populations of Lesser Prairie-Chickens and Sand Dune Lizards, so that federal or state listing of these species is not needed, while protecting other uses of the land.<sup>49</sup>

The Working Group would address major conservation issues affecting prairie chickens and sand dune lizards, particularly the impact of oil and gas development and ranching on species populations. The final products for the group were two-fold. The group would produce a stand-alone conservation plan, the "Conservation Strategy," for implementation by the participants. In addition, certain chapters pertaining to oil and gas regulations also would be submitted to the BLM for possible inclusion in an RMP Amendment alternative.

The Working Group also developed a set of ground rules with help from the facilitators. Richardson recalled that such ground rules included the requirement that if a participant could not agree to an item up for discussion, he or she needed to propose an alternative that would represent the interests of the group.<sup>50</sup> Other rules, such as “respect one another” and “listen to each other” were also established.<sup>51</sup> Often, the ground rules were posted during meetings and Herzlich and Richardson always emphasized that the rules were a “working document” that could be revisited if the group desired.<sup>52</sup>

In addition, the group created a definition of consensus. Richardson noted that consensus does not equal overwhelming unanimity. Rather, the group agreed consensus had been achieved when the participants had offered alternatives that satisfied internal stakeholder interests as well as the interests of the other participants. Consensus also meant that the participants agreed that they collectively supported a decision because it was arrived at openly and fairly, and was the best solution for the group at the time. Richardson also noted that the group acknowledged that if there was no consensus on an issue or proposal, the pros and cons of the approach would be noted and the process would move forward. During the final days of approving the text of the Conservation Strategy, the group instituted a “thumbs-up, thumbs-down” policy in which only a thumbs-down would prevent agreement.<sup>53</sup>

In between meetings, the Coordinating Committee worked to develop future meeting agendas. The Coordinating Committee was comprised of a few members of the Working Group, including representatives from each of the key agencies involved, the oil and gas industry and ranching. A member of conservation was not on the Coordinating Committee because none of the representatives were available for these extra planning meetings. Both Herzlich and Richardson and the scientific writer, Scott Norris, were also members of the Coordinating Committee. Norris, a professional writer, was brought on to be a neutral recorder of meeting proceedings and agreements. He compiled meeting notes and provided the group with a written version of agreements. This allowed the group to respond to a common document and avoided misinterpretations of agreements made in meetings.<sup>54</sup>

## **TACKLING ISSUES**

As the group began to delve into substantive issues regarding prairie chicken habitat, location of lek sites, where current populations existed and other such issues, major tensions between parties persisted. Part of this tension may have been due to the different reasons parties came to the table. While the group had a common vision statement, the oil and gas industry wanted to “prevent listing” while conservation wanted to “preclude the need for listing.” This was a subtle but important difference pointed out by several participants.<sup>55</sup>

In addition, many participants at the table did not trust each other and did not trust the motivations of others at the table. Bill Dunn of the NMDGF commented further on this point. He stated:

I can't tell you the number of times where they [oil and gas representatives] would say, “We're just trying to make a living out here.” I'd shoot back and say, “Look. This isn't a volunteer thing for us. We have a legislative mandate by



law. We're not saving the chicken just because we want it. We're saving the chicken, we have to conserve the chicken, because the people of New Mexico said you will." And that's a key thing.<sup>56</sup>

Understanding and trusting other participants' motivations and concerns was difficult for the Working Group as they moved ahead in discussing possible management strategies.

While the Working Group continued to have formal meetings, over the first six months the group hosted several "town hall" meetings at various locations in southeastern New Mexico in order to inform and involve as many ranchers and other individuals as possible.<sup>57</sup> During such events, Working Group participants sat as a panel at the front of the room facing the community and fielded questions, comments and concerns. In the dominantly ranching communities in southeastern New Mexico there was considerable skepticism with regards to the Working Group, particularly its conservation representatives. At one of these meetings in Portales, New Mexico approximately six months into the process, one individual in the community became irate and began to accuse Jim Bailey of trying to sabotage southeastern New Mexico through the ACEC. Jennifer Parody recalls:

[The community member] had the ACEC petition in his hand and somehow in his mind, [the Working Group was] the same as this ACEC. He got up and said, "Dr. Bailey, did you say that prairie chickens like water?" Every five seconds he's yelling, "Dr. Bailey! Where'd you get your degree?" He was so angry and so mean and we were all floored. This was the kind of thing that should be in a movie. And he was just ripping Jim apart for the ACEC and we kept trying to say this isn't part of us. But there was nothing [we could say that calmed him down]. So then Bill Marley stands up and he says, "I just wanna say that I've worked with this man and I trust him and you need to show him some respect." He basically put this guy in his place and defended the conservationist. I just thought, "Oh my God! That was so great!" It was so awesome. "Look what we've accomplished!"<sup>58</sup>

This town-hall instance was one of the first illustrations of a long process in which participants began to build trust and respect for one another. Further relationships between participants in the Working Group developed through informal means. Bill Dunn of the NMDGF noted:

On some field trips, I've brought my bird dogs along, and they're a great way to kind of break the ice. And you can't help but talk your personal life when you're out to lunch standing in line. You say, "Hey, you got any kids?" The next time, maybe "How are your kids doing?" The more you get to know these people, the more time you spend with them, the more you get on a personal basis and so it breaks down from just "Dan Girand, oil and gas representative," to "Dan Girand the person, another fellow citizen in America, trying to make a living."<sup>59</sup>

Back in the formal meetings, the Working Group proceeded by addressing the two major industries in southeastern New Mexico: ranching and oil and gas. The group tackled issues related to ranching first.

The major threat of ranching to prairie chicken populations was loss of dried grasses (Figure 10-2). Roger Peterson noted, “Without livestock, dried grasses remain for years, serving to hide [prairie chicken] nests. With livestock, they do not.”<sup>60</sup> To mitigate this harm, potential solutions suggested by agency and conservationists included seasonal removals of cattle from land with active leks or complete closings of some land to grazing. Ranchers were not completely opposed to such possibilities but stated simply that if they were asked to change their operations, they must receive financial compensation for any lost revenue.<sup>61</sup> Rancher and Eddy County Commissioner Lewis Derrick commented, “We’ll go along with pilot projects [for conservation] as long as we can still pay the banker.”<sup>62</sup> He added, “Wildlife doesn’t keep jobs.”<sup>63</sup> While there was some negotiation on this point, the Working Group agreed nine months into the process to establish some kind of compensation process if the implementation of the Conservation Strategy placed restrictions on ranching land that decreased revenue.

### PROGRESS STALLS WITH OIL AND GAS

After success with ranching measures, the group moved on to issues surrounding oil and gas development, which would dominate the rest of the meetings. Jennifer Parody, at the time with the SLO, recalled, “We started in February [2004] and by September of that year we had come to an agreement on what to do about ranching. So the next year and a half was oil and gas. That’s all we did. Not surprisingly, that was the big nut to crack.”<sup>64</sup> Parody also highlighted differences in the perception of how to tackle the problem as an initial and on-going stumbling block to creating a plan for oil and gas. She commented:

We came up with a series of ways that could allow oil and gas to continue out on the land but protect prairie chickens. One way is take the actual lek sites off the table and just say for a mile and half around the lek, you can’t drill, period. You can’t lease. You can’t drill. Oil and gas had this other way, which was “Let us lease it all, but just won’t develop it.”<sup>65</sup>

Figure 10-2: Ranch in Southeastern New Mexico



Source: Photograph by Emily Kelly

In addition to a different perspective on appropriate management strategies to be incorporated in the Conservation Strategy, the Working Group also struggled with establishing criteria for what outside scientific information would be legitimate at the table. Such research would inform the strategies of the final Conservation Strategy. Tom Jervis of the New Mexico Audubon Council noted, “After substantial discussion, it was agreed that only published data could be used to

justify positions in the [Working Group].”<sup>66</sup> Jervis continued that while the conservation representatives honored this decision fairly well, the oil and gas community did not.<sup>67</sup> Jeff Harvard of Harvard Petroleum commented that there was “a lot of frustration about anecdotal evidence on both sides.”<sup>68</sup> Harvard felt that agencies and conservationists, however, did not stick to the agreed-upon criterion of published studies.<sup>69</sup>

In addition, most participants attributed major delays at this point in the process to the lack of agreement on data regarding the impacts of oil and gas development on prairie chicken populations as well as a dearth of maps that identified prairie chicken lek sites. Oil and gas representatives maintained they were unconvinced of the negative affects of oil and gas development on prairie chickens.<sup>70</sup> In addition, considerable debate surrounded the size of a protective buffer for lek sites that would be off-limits to drilling. Bill Dunn noted, “More than 90 percent of lesser prairie chicken nests are within two miles of the lek on which the females were bred.”<sup>71</sup> While conservationists and many agency representatives favored a two-mile radius around all leks to protect these nests, the group lacked maps of lek locations and areas of oil and gas leases in order to understand the impact of such distances on leasing. Thus, oil and gas reps resisted agreement on a buffer size. Ecologist and later conservation representative Roger Peterson noted, “There were meetings where we had scheduled ourselves to come to a decision and we failed to do so because of disagreements.” Facilitator Toby Herzlich cited additional frustration over interest groups backtracking on past agreements between meetings. She noted that discussion would start “looking like we were coming to an agreement, and then at the next meeting people from one stakeholder group or another would say, ‘No, start over.’”<sup>72</sup>

As time wore on and the group continued to miss agreement deadlines, the Working Group became increasingly frustrated over the amount of time the process was taking, now far exceeding its original six- to nine-month timeframe. In addition to the overall length of the process, each Working Group meeting was also a two-day all-day marathon that wearied group members. John Clemmons noted that what small progress was made during this period of time was a result of these long days. “Sometimes when it’s 4:30 in the afternoon or 5:00 or 5:30 and you’ve been there all day, you’re more likely to agree to something than you wouldn’t have in the morning because you’re tired. That’s just the mechanics of a group meeting.”<sup>73</sup> He added, “We wore each other down and we talked and rehashed and went over minute details over and over.”<sup>74</sup>

After considerable frustration attempting to formulate proposals on oil and gas regulations, the Working Group actively pursued mapping information. However, there were several large impediments to getting the necessary information to help move negotiations along. The primary problem was that many of the maps of leases in prairie chicken habitat were proprietary information and therefore could not be distributed to the Working Group. Yet without this information, the group could not move forward.

#### **ONGOING ACTIVITY OUTSIDE THE WORKING GROUP**

In late 2003 during the lull in Working Group activity, Jennifer Parody and David Coss of the SLO were in constant dialogue with the Oil, Gas and Minerals Division (OGMD) of Mineral Resources at the SLO to confer on the Working Group’s on-going discussion regarding which



lands could be leased and which could not. Finally, that division suggested it would be simpler to make a formal rule and remove an entire section of potential prairie chicken habitat from future leasing. Thus, in early 2004 Commissioner Lyons took the initiative to limit oil and gas drilling in some key areas of prairie chicken habitat by placing a moratorium on all new oil and gas leasing in a 119,000-acre area. This resulted in 54,000 acres of unleased protected land. The moratorium sent a strong signal to all participants of the Working Group that the SLO was willing to cooperate to make strides toward prairie chicken conservation. The moratorium will be up for renewal in 2006 at which time Lyons expects to confer with the oil and gas industry and reconsider which lands will remain undeveloped.

Also in early 2004, a ranch in southern Roosevelt County in eastern New Mexico came up for sale. The Nature Conservancy (TNC) had studied this area extensively and viewed it as essential to lesser prairie chicken recovery. In an effort to protect prairie chicken habitat before the Working Group could produce, much less implement, any conservation measures, TNC purchased the Creamer Ranch in September 2004. Bob Findling, Director of Conservation Projects at TNC in New Mexico and a member of the Working Group, handled the transaction. The ranch continues to be managed as a working cattle ranch with some changes in the grazing program in order to provide improved prairie chicken nesting cover. TNC feels the purchase of the ranch was an important step in prairie chicken conservation irrespective of the Working Group's success.<sup>75</sup>

#### **MAPS BECOME AVAILABLE**

Recognizing that progress was stalled until the group could see maps of prairie chicken habitat and leks and leaseings, the SLO and NMDGF began to work on accumulating this information. The SLO set staff member Natalie Runyan, now Natalie Guilmet, to work on this information. Guilmet later came to meetings with maps that could be projected in front of the group during discussion. Using Geographic Information Systems (GIS), Guilmet could further show the group different scenarios of lek buffers and the impact on oil and gas leaseings. Such capabilities helped facilitate productive discussion on oil and gas issues. In the fall of 2004 the Director of the University of New Mexico Natural Heritage Program, Kristine Johnson, joined the group to continue working on creating technical maps. These maps involved the aggregation of data across the SLO, BLM and NMDGF for data on leases, prairie chicken populations and priority habitat.

Despite these added resources, however, the group continued to struggle with compromises for oil and gas measures as to the size of buffers surrounding leks that would be removed from leasing as well as the construction of roads and power lines that fragment chicken habitat and provide perches for raptors.<sup>76</sup> As such, the facilitators asked each major stakeholder group (oil and gas industry, conservationists and agencies) to come up with their own draft of a management plan. From these small stakeholder subgroups came three very different documents representing the ideal scenarios for the conservation plan for each of the groups. For instance, the oil and gas plan had lek radii off limits of one and a half miles while the conservationists had three-mile radii around leks.<sup>77</sup> To compare the differences in key points between plans, the group's writer Scott Norris created a matrix of the conservation plans. Major headings of the

matrix included (1) modifications on leasing, (2) acceptable impact development, (3) size of lek buffer, (4) definition of active leks and (5) type of ongoing monitoring.<sup>78</sup>

Many members of the Working Group saw the matrix as a showcase of the differences in alternatives. Richardson noted that he was concerned that highlighting differences rather than similarities or overlap in approaches would have a polarizing effect on the negotiations.<sup>79</sup> According to one participant, Toby Herzlich attempted to use the matrix as an example of common themes, perhaps in an attempt to salvage a feeling of shared goals within the group.<sup>80</sup> However, many in the group felt the conservation plans that came out of the stakeholder subgroups had not illuminated a common path towards a completed Conservation Strategy.

### **OIL AND GAS TECHNICAL SUBCOMMITTEE HAMMERS OUT DETAILS**

In late fall 2004, out of frustration for the lack of progress that resulted from the individual conservation plans, several members of the Working Group including Jennifer Parody, Dan Girand and Jim Bailey, decided to convene a small subcommittee to address issues surrounding

**Figure 10-3: Pumpjack in Southeastern New Mexico**



Source: Photograph by Emily Kelly

oil and gas provisions (Figure 10-3). Made up of one representative from five key stakeholder groups, the USFWS, BLM, SLO, oil and gas and conservation, the Oil and Gas Technical Subcommittee would attempt to hammer out the key elements of the oil and gas components of a conservation plan that were identified through the stakeholder-specific plans and the resulting matrix. The group would operate without either facilitator.

In order for the small technical subcommittee to work effectively and for its recommendations to carry weight when brought in front of

the entire Working Group, each member of the subcommittee was responsible for reporting the proceedings of the group to their constituencies and receiving feedback and support on these proceedings. Thus, in the subcommittee it was much easier for individuals to speak for the other members of their group. Jennifer Parody also noted that in the more intimate setting of the subcommittee, individuals were more frank with each other about what they thought could work for other participants of the larger Working Group.<sup>81</sup> By the end of the year, the subcommittee came up with compromised provisions that would be brought back to the larger Working Group for continued scrutiny and approval. According to Rand French, at the time a wildlife biologist at

the BLM, “The subcommittees were a must.”<sup>82</sup> The subcommittees were a huge step forward in progress for the Working Group.

### **BLM RMP AMENDMENT DEADLINE CATALYZES PROGRESS**

Even with progress in the Oil and Gas Technical Subcommittee, the Working Group continued to struggle over details of oil and gas provisions. Soon after the Subcommittee returned to the group in the fall of 2004, however, the Working Group faced a new challenge: New Mexico BLM Director Linda Rundell sent a message to the Working Group alerting them of the March 1st deadline for all RMP Amendment alternatives. This deadline was the BLM’s financial and administrative deadline it had submitted to Washington, D.C. headquarters at the beginning of the process. On March 1st, all RMP Amendment alternatives would be submitted to the D.C. BLM office, and the funding for the facilitators of the Working Group would end. If the group were to provide input into the RMP Amendment Process, it would have to produce a document by March 1, 2005.

With additional details from the Oil and Gas Technical Subcommittee worked out and the increased pressure from the deadline now only six months away, progress in achieving agreements in the Working Group began to accelerate. Yet some members of the group commented that while there were more agreements made under this pressure, the substance of these agreements was too general and will prove ineffective in implementation. Given the time constraint, the group glossed over certain details regarding particularly contentious lands for oil and gas leasing to avoid lengthy and historically fruitless debates.<sup>83</sup> Rand French noted that one major point that remains ambiguous in the document is how to determine success in an area such that leasing is reopened. He commented, “We never came to final agreement. We did in terms of the document, but I’m not sure how it’ll be implemented on the ground.”<sup>84</sup>

For oil and gas participants, a major frustration during these final meetings was difference between the type of management strategies agencies and conservationists envisioned versus those preferred by industry. Dan Girand noted that other parties wanted to impose additional regulations on oil and gas companies while he and other industry representatives were interested in “doing something positive.” He recalled telling the group, “You tell us what will work and we’ll spend money on it. Tell us what to do. We’ll raise chickens. What else can we do?”<sup>85</sup> Indeed, in the final Conservation Strategy did include a captive breeding site for prairie chickens on the Department of Energy’s Waste Implementation Project Plant (WIPP) site near the New Mexico-Texas border. The purpose of the captive breeding facility would be to raise and reintroduce prairie chickens into areas where prairie chicken populations have been declining or eliminated. While many conservationists were opposed to the idea because similar efforts had failed in other areas, other saw it as a positive effort in by the oil and gas industry and it was ultimately incorporated in the final Conservation Strategy.<sup>86</sup>

The sand dune lizard, largely lost in debate throughout much of the Working Group’s discussion, finally received the group’s attention in the final push for the Conservation Strategy. While there was not considerable research available on sand dune lizard ecology, the science was much less controversial in the group. Thus, agreements for setting aside lizard habitat came fairly easily.

As a result of these hurried efforts, the Working Group produced its final document on March 1st. The Conservation Strategy was a mixture of extremely detailed concessions and generalized statements relating to general prairie chicken conservation, some of which were ironed out on March 1st itself. Jeff Harvard commented that the group “stumbled into” the document but indicated that it was representative of the Working Group as a whole. He added that the Conservation Strategy was a manifestation of “where we were at the time and what we had. It’s better than lots of us thought it would be. It is not nor should it be final.”<sup>87</sup> Despite its nature as an evolving document for the stand-alone Conservation Strategy, however, the recommendations for the RMP Amendment were turned into the BLM as they existed.

## **FINAL CONSERVATION STRATEGY AND IMPLEMENTATION**

The Conservation Strategy is a stand-alone document for future implementation by the agencies, industries and organizations involved in the plan. Certain chapters of the Conservation Strategy were submitted to the BLM for possible inclusion in an RMP Amendment alternative. The document as a whole, however, is a roadmap for future conservation of the prairie chicken and sand dune lizard in southeastern New Mexico. For agencies, the Conservation Strategy includes further stipulations for leaving designated areas surrounding lek sites undeveloped and includes restrictions on power lines and roads in prairie chicken habitat. Under the Conservation Strategy, oil and gas companies will pursue oil pad reclamation as well as work with the DOE WIPP site on prairie chicken captive breeding. There are also provisions for best management practices for ranchers as well as an agreement for compensation for lost revenue for ranchers.

The Conservation Strategy has not yet been named the “preferred alternative” for the RMP Amendment Process, though it is considered likely.<sup>88</sup> Implementation of the Conservation Strategy outside of the RMP Amendment is still in the early stages. An Implementation Team, composed of members of the original Working Group, is still being formed and has yet to set its first meeting.

## **THE ANALYSIS: THE SOUTHEAST NEW MEXICO WORKING GROUP**

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The following analysis of the Southeast New Mexico Working Group provides insight into the benefits, costs, challenges, facilitating factors and lessons learned from the process. This analysis is based on issues identified by Working Group participants, as well as those gleaned by the researchers.

Of the many benefits of the process, some include the creation of the Conservation Strategy, increased agency coordination and new and improved relationships. Parties also incurred significant costs through participation in the Working Group such as time and opportunity costs as well as risks to reputation. Major challenges throughout the process existed in the lack of available habitat and lease maps, obstructionists to progress and distrust and stereotyping of other participants, among other things.

There were a number of facilitating factors that helped the group overcome challenges. One of the most prominent of these factors was the clear RMP Amendment deadline. Other facilitating

factors included the threat of regulatory action, small subcommittee work, institutional support, the involvement of the SLO and commissioner and facilitation.

Participants of the process had many words of wisdom for future collaborative endeavors. Such “lessons learned” include increase pre-planning prior to a process, establish a realistic timeframe, keep an open mind, keep management involved and updated and work in small groups to overcome impasses.

### **WAS THE SOUTHEAST NEW MEXICO WORKING GROUP COLLABORATIVE?**

Of the participants we interviewed, all parties felt the process was collaborative. Rancher John Clemmons noted that “it had to be [collaborative] or we wouldn’t have gone forward at all.”<sup>89</sup> Bill Dunn of NMDGF commented, “I think everybody gave a little and everybody got a little out of it. Overall, it’s a big positive. You can’t go into this asking them to give up everything without getting something in return. Collaborative is co-laboring. I think we were all there giving it our best.”<sup>90</sup> Conservationist Roger Peterson provided yet another take on collaboration, saying, “Collaboration involves a few fists in the ribs, too, but yes, [the process] was very collaborative.”<sup>91</sup> In defining collaboration, Bob Findling of TNC pointed to the structure of the final Conservation Strategy. He described the plan as being “a document that provided a list of management options which had been hammered out by a group of diverse stakeholders.”<sup>92</sup>

Participants of the Working Group highlighted issues surrounding the processes that touched on three major themes central to collaboration: (1) breadth of stakeholders, (2) degree of transparency and (3) degree of influence on decision making.

**Breadth of Stakeholders:** Overall, participants felt that the appropriate parties were at the table. While some members of the Working Group noted that they would have liked additional participation from the USFWS, DOE and NRCS, others felt that participation should have been more limited. Some of the representatives of the oil and gas industry, for instance, felt that some parties to the process should have been prevented from participating in the Working Group. Jeff Harvard explained, “You have your affected party and your affectee party which is essentially regulatory agencies ... You have your primary parties as your affected parties which is ranching and in this case oil and gas.”<sup>93</sup> While he noted that the environmental community was trying to give a voice to the species, the process was not threatening conservationists’ livelihoods. Thus, Harvard as well as Dan Girand of Mack Energy felt the conservationists should either not be given equal weight in the process or should not be invited to the table at all.<sup>94</sup> Girand commented, “And so as far as being involved in this process, I just don’t think [the conservationists] oughta be. And let ’em sue us because they’re gonna do it anyway.”<sup>95</sup>

While the representatives of the oil and gas industry and some ranchers emphasized this viewpoint, it was not widely shared among other participants. For instance, Rand French noted that had conservationists not been involved, they would have more aggressively pursued litigation and the Conservation Strategy would have been open to future challenges as to its legitimacy.<sup>96</sup> Therefore, all parties were necessary in the Working Group in order to achieve greater buy-in from all those who could later influence the ultimate conservation policies for the species in ways like litigation.



While the Working Group had good breadth of representation of different interests, there was not consistent magnitude of participation by all groups. Jim Bailey, for instance, was sometimes the sole representative of conservation interests as other conservationists had difficulty attending meetings several hours away.<sup>97</sup> While members of the group were pleased with Bailey's contributions and leadership, the success of this arrangement was largely due to Bailey's experience and personality. As such, in other collaborative processes a single representative may not have been as successful.

**Degree of Transparency:** The group had a fairly transparent process, making meeting notes and current drafts of conservation plans available via email after meetings. Communication within interest groups typically was high. Jim Bailey spent considerable time reporting to various conservation groups throughout the state and reporting their feedback to the Working Group.<sup>98</sup> Similarly, the ranchers were also very engaged in communication with their neighbors.<sup>99</sup> Despite this effort, however, there was still considerable backtracking on commitments and claims of ignorance as to new concessions.

The Oil and Gas Technical Committee, while only involving a handful of representatives, worked tirelessly to communicate with those representatives of the larger Working Group as well as outside constituencies to ensure they were able to negotiate fully and legitimately within the Subcommittee. Such a high level of transparency was rewarded when the Subcommittee came back to the larger Working Group with several acceptable options for the final Conservation Strategy.

**Degree of Influence on Decision Making:** The final Conservation Strategy may impact decision making and land management policy through two avenues. First, participants are hopeful that the Conservation Strategy will become the "preferred alternative" in the BLM RMP Amendment Process. While this is not guaranteed, BLM staff provided encouragement that the BLM would be particularly interested in what the group decided as through addressing the needs and concerns of all parties, the Working Group's conservation plan may be the most durable.

The Conservation Strategy is also a roadmap for land management and conservation for parties involved in the Working Group. In this sense, the Working Group created a document that could presumably shape land management practices of all involved in the process. While there was no official or binding signature process for the final Conservation Strategy, none of the members of the Working Group felt this would hinder the implementation of the plan. However, participants were skeptical others following through on the obligations outlined in the plan. Implementation has yet to begin.

**What Would Have Happened Without Collaboration?** While there is no way to know how the RMP Amendment Process and prairie chicken and sand dune lizard conservation would have proceeded without the Working Group, the BLM would likely have had a more traditional public input process involving letter-writing and public hearings. Meanwhile, the SLO would have likely had more of a reactive response to this problem than the proactive response exhibited by this case. A good example of this reactive response is the current lawsuit that the BLM and SLO are engaged in with the State of New Mexico regarding Otero Mesa. Located in south-central New Mexico, Otero Mesa is home to several sensitive plant and animal species as well as rich

natural gas reserves. The state sued the BLM to protect Otero Mesa, and the SLO has joined in support of the BLM.<sup>100</sup> Commissioner Lyons has declared that the Governor cannot prevent the SLO from leasing state trust land in Otero Mesa as it sees fit and that any attempt to do so puts the SLO in violation of its mandate. Had the prairie chicken or sand dune lizard been listed under the ESA and restrictions placed on BLM lands, similar lawsuits may have ensued.

## **BENEFITS OF THE PROCESS**

There were a number of benefits of participating in the Working Group, for individuals as well as for agencies and organizations. Some participants anticipated these benefits prior to becoming involved in the process, which influenced their decision to become involved. Other benefits were realized upon the completion of the process.

### **Ability to Provide Input**

Perhaps the most cited benefit of the Working Group was the chance to have input into the planning process and the final Conservation Strategy. Rancher John Clemmons articulated his “desire to represent my neighbors, my rancher friends, to make sure they had a voice in this process.”<sup>101</sup> Paul Sawyer of the BLM echoed this sentiment in the feedback the BLM received from its Washington, D.C. headquarters. He noted, “It was obvious that some of the [BLM] users weren’t happy and felt that perhaps they weren’t getting heard.”<sup>102</sup> Sawyer saw the Working Group as a forum through which these users could have a voice.

Equally significant to the benefit of being heard in the process was the cost of being excluded from the process or choosing not to participate. Lewis Derrick, a representative of ranching interests in the group, noted that if he not been involved in the collaborative process or if he had stopped attending meetings after discussion had moved on from ranching negotiations, he felt ranchers would have been “run over.”<sup>103</sup> Similarly, Bob Findling of TNC highlighted this when he suggested, “[The Working Group] was more a defensive response to a situation which, if you elected not to participate, you risked being shut out of the process. That was an additional motivation to play some role.”<sup>104</sup>

### **Gained Experience in Collaboration**

For many members of the Working Group the process also provided on-the-ground training in collaboration that they planned to apply in the future. This was particularly true for agency representatives. Jennifer Parody, who began working for the USFWS halfway through the Working Group process noted, “I learned a lot. It’s still what I do. My whole job is collaboration now.”<sup>105</sup> The USFWS, the BLM and the NMDGF indicated that collaborative planning was becoming more “business as usual” for state and federal decision making.<sup>106</sup> The Working Group experience therefore served as professional development in multi-stakeholder processes.

The Working Group also served as a case study for a broader national scale. Terry Riley, at the time with the national organization Wildlife Management Institute, saw the ability to learn from this process and extrapolate a “model” for collaboration that could be useful in other settings and other areas of the country.<sup>107</sup> When WMI encouraged the BLM to initiate a working group

process, the organization was enthusiastic about analyzing this New Mexico case study to understand how collaboration could be used in other western land issues. Facilitator Toby Herzlich similarly cited the desire to contribute to a greater understanding of methods to tackle western natural resource conflicts.<sup>108</sup>

### **Less Costly**

Participants felt a major benefit of the Working Group was its less costly approach to land planning as compared to more traditional methods. Paul Sawyer of the BLM saw the Working Group as an alternative to time-intensive and difficult BLM processes for creating additional leasing stipulations on BLM land. He noted, “Frankly, the implementation of the stipulations is a very time-consuming, challenging process but then when you add additional controversy on top of that, things get bogged down.”<sup>109</sup> Given the controversies inherent in the issues surrounding prairie chicken and sand dune lizard conservation, the Working Group provided the BLM with what Sawyer perceived to be a more favorable approach.

The Working Group also provided an alternative to lawsuits. David Coss at the SLO, noted:

I think the agency people and the oil and gas people and the ranching interests and more and more of the environmental groups are thinking, “There’s gotta be a different way than just lawsuits to manage wildlife and to manage land.” I think we’re all kind of mentally and emotionally ready to try something different.<sup>110</sup>

Collaboration became the alternative to litigation for all Working Group members, many of whom had been involved in lawsuits over matters of conservation in the past.

### **Positive Public Relations for the SLO**

Participation in the Working Group was also a source of positive public relations for the SLO. Shawn Knox, a biologist at the SLO, cited this public relations as a major benefit of the Working Group, noting that the SLO would be “seen in a light that [the SLO] can develop their resources, support public schools and do it in a sustainable way.”<sup>111</sup> Thus, the Working Group provided a way for the public to see the SLO successfully maintain the long-term viability of the trust while still meeting its responsibility to the beneficiary. The high visibility of the group has contributed to the additional positive press for the SLO and Commissioner Lyons.

### **Greater Understanding and Trust**

In addition to some of the more tangible benefits associated with the process, the Working Group also helped many participants gain trust and a greater understanding for one another. A major testament to increased trust and respect over the course of the two and a half year process was rancher Bill Marley’s defense of conservationist Jim Bailey at one of the town-hall meetings. As mentioned in the case story, Parody took that instance to be a landmark for the group’s accomplishment in coalescing.<sup>112</sup>

Many participants commented on the group education the process offered. Jim Bailey noted that the group helped people understand “where each of us were coming from and what issues were most important.”<sup>113</sup> Regarding this greater understanding for each other, Rand French added, “You can never stop building relationships and educating people.” He saw the Working Group as being a forum for this on-going education.

The process also increased individuals’ understanding of substantive issues as well as the management and technical constraints placed on other participants. Bill Dunn felt that this increased understanding helped participants come to the table with better options for new management strategies. He commented that before the process, “I didn’t realize how important of a component state lands were.” Dunn continued:

There’s a ton of stuff that I learned about the oil and gas industry that I didn’t know before. I can go into [a meeting] with more intelligent recommendation that I would before. We have a plan, we’re more knowledgeable about each other’s needs and desires, and I think that we’re going to break down the barriers of the “economy or ecology.” The old thing about well, if we save this species, it will just hurt the economy. We have the opportunity to show that one doesn’t have to preclude the other. We can have what I call a high quality of life.

Dunn further saw the increased understanding from the process transfer into larger issues that plagued the process, namely the perceived tension between economics and conservation. He felt the Working Group and the final Conservation Strategy were able to start to disprove this perception.

Jim Bailey also noted that the Working Group provided an education for the SLO and the commissioner. Whereas the prairie chicken previously had not been a high priority for the SLO, Bailey saw the Working Group raise the SLO’s awareness significantly. In fact, Bailey felt that without the Working Group, it was unlikely the commissioner would have issued the leasing moratorium on trust lands with prairie chicken leks.<sup>114</sup>

### **Long-Term Relationships**

Participants often cited new relationships and their implications for future cooperation as a major long-term benefit of the process. New Mexico TNC Director of Conservation Projects Bob Findling noted, “[the Working Group] offered a good opportunity to get to know agency and industry staff and develop new relationships.”<sup>115</sup> While Findling felt he had some previous familiarity with the other parties involved in the process, the Working Group allowed Findling and others to solidify these relationships and as well as get to know new individuals at the table. Some Working Group participants noted improved informal relationships with one another. Bill Dunn of the NMDGF noted, “I’ve stopped by Jeff [Harvard]’s office on a number of days, just to say ‘Hi.’”<sup>116</sup>

Many participants suggested the relationships resulting from the Working Group would be useful not only for future collaborative efforts but also for more informal professional use. Paul Sawyer

of the BLM noted that he felt the Working Group provided a “better vehicle to work collaboratively in the future.”<sup>117</sup>

For the SLO, the Working Group provided a group of individuals, agencies and companies that would now have a better understanding of the state trust land mandate and would therefore be easier for the SLO to work with in the future. Knox noted, “[The Working Group] created a better understanding of what [the SLO] can and cannot do. People are quick to point fingers but we’re not a multi-use agency. We’re not here for recreation. We’re here to make money.”<sup>118</sup> Knox continued that in his work now, after the Working Group, he is in constant contact with the BLM and NMDGF, relationships he felt were significantly developed as a result of the Working Group process.<sup>119</sup>

### **Structure for Coordination in the Future**

Many members of agencies in the Working Group noted that the Working Group was a response to a need for agencies to work across jurisdictional boundaries and to create more consistent land use plans across all types of land. Both the BLM and the SLO indicated that the process resulted in consistent policies that have ultimately helped facilitate management for all agencies involved.<sup>120</sup> Pat Lyons noted that coordinated management with other land users “makes land management so much easier.”<sup>121</sup>

For oil and gas companies, the Working Group and resulting Conservation Strategy helped outline future expectations for industry practice. Rand French was particularly interested in this aspect as he now works for Marbob Energy, having left the BLM after the completion of the Working Group. He considers the Conservation Strategy a success in that industry can foresee “where and how conservation actions are going to have most threat and how these can be minimized.”<sup>122</sup> The Conservation Strategy allows industry to better manage future conflicts with conservation action.

### **Conservation Strategy and Inclusion in the RMP Amendment Process**

Two of the major benefits of the process included completion of the final Conservation Strategy and the submission of the plan to the RMP Amendment Process. While the prairie chicken and sand dune lizard were not listed under ESA, participants placed less emphasis on this benefit compared to the conservation plan.

The perceived benefits of the Conservation Strategy were multifaceted. Several participants were particularly excited about the plan itself. Bill Dunn of the NMDGF commented, “Number one, we have a plan. Number two, what’s in the plan is an incredibly progressive.”<sup>123</sup> In addition, many participants noted that the Conservation Strategy would serve as an important tool should there be litigation to list either species. John Clemmons explained:

I know BLM will go to the judge and say, “Look, we got agreement from all different aspects that are involved down there and they worked together for a long period of time. You’re not going to come up with anything smarter than what they



came up with. So look and see what their conclusions are.” And I think they’ll buy that.<sup>124</sup>

The group also saw a major success in the Conservation Strategy being used as an alternative for the RMP Amendment. The BLM in particular considered the document a great success. The Working Group process reflected the BLM’s larger goal of increasing its use of collaborative planning on public lands and including public comment in the RMP Amendment Process.<sup>125</sup>

Despite many participants’ enthusiasm for the Conservation Strategy, some participants were only mildly pleased with the plan and nearly all participants reserved final judgment until the plan is implemented. John Clemmons noted, “I think, it’s just a sigh of relief more than an excitement that something is going to benefit you. Ok, you’re not going to harm us and we’ll all agree that you’re not going to harm us. And maybe the species will benefit anyway.”<sup>126</sup> Mack Energy representative Dan Girand echoed this sentiment. He stated, “We didn’t get the species listed, but I don’t think we helped it.”<sup>127</sup>

To Working Group participants, “success” was often accompanied by a caveat, often qualifying the meaning of success or commenting that the Conservation Strategy was only the first step in a long process towards conservation of the prairie chicken and sand dune lizard. Given the future implementation of the plan, TNC’s Bob Findling noted that beyond producing a document for the RMP Amendment, “I think it’s gonna take a while to determine if it was successful.”<sup>128</sup> Bill Dunn similarly commented:

What will be key is that we get this implemented and do it right and do it fairly. The proof in the pudding will be five years down the line, when people say, wait a minute, the chicken’s doing better, I made good profits this year, life is good. That’s going to be when we know this collaborative process worked. But, implementation is the absolute bottom line.<sup>129</sup>

## **COSTS OF THE PROCESS**

Each participant of the Working Group incurred costs over the two and a half year process. While some participants attempted to quantify some of these costs, it is difficult to know the true costs of the process and how those were balanced by the benefits of the process.

### **Financial and Opportunity Costs**

Members of the Working Group all highlighted similar costs to participating in the process. All participants cited the financial burden of the process being a major cost to participating in the Working Group either for themselves or for others. First, conservation and ranching representatives participated in the Working Group at their own personal expense. For agency and oil and gas representatives, participation was a significant business and operational cost to the organization. The BLM also paid for the group’s facilitators and meeting space.

Participants also commented that in addition to their explicit financial costs, engaging in the Working Group also took time away from other projects and was a strain on human resources. Shawn Knox of the SLO noted that by participating in the Working Group, “We were missing

out on other opportunities. And that's a downfall." He added that he was spending about 50 percent of his time at the SLO on prairie chicken issues.<sup>130</sup> Ultimately, potential representatives on the Working Group from understaffed agencies such as the New Mexico office of the Natural Resources Conservation Service (NRCS) did not sustain participation in the Working Group.<sup>131</sup>

For some interest groups, costs had a major affect on participation in the group. Agency representatives and conservationists cited the financial cost to conservation representatives as a prohibitive factor in their on-going participation in the Working Group.<sup>132</sup> Indeed, this was a major factor in many conservation representatives dropping out of the group as time passed. Oil and gas representatives noted the significant financial costs their companies incurred as a result of their participation in the group, though did not cite these as a major problem for continued participation.<sup>133</sup>

### **Risks to Participation**

Some participants perceived risks associated with joining the Working Group. Bob Findling of TNC noted, "Regardless of what comes out of [the Working Group], if you participated, you risk criticism [from outside parties]."<sup>134</sup> This was a significant risk for TNC, reflected in their organizational policy that surrogates may not speak for the organization.<sup>135</sup>

The SLO also considered risks associated with participating as related to public perception of the organization and its mission. David Coss, Director of Field Operations at the SLO, voiced a concern that the SLO would be misconstrued as a "mini BLM." He continued:

We don't want to be confused with the Bureau of Land Management. I think that was one of our biggest issues of keeping our separateness of a state trust with trust responsibilities that is not a federal land management agency. We're in a different category. And we didn't want that to get blurred. The oil people and the ranchers know that. But the general public doesn't know that.<sup>136</sup>

Despite these risks, however, most members of the Working Group continued to participate throughout the two and a half year process.

### **CHALLENGES AND RESPONSES**

The Working Group faced significant challenges throughout its two and a half year tenure. Challenges ranged from lack of scientific data and adequate mapping of prairie chicken habitat to ingrained distrust and obstructionist tactics within the group. Both of these challenges also contributed to the length of the process, which became a major stumbling block to participation and progress as the process continued. In addition, there were several key individuals or organizations that were not represented in the Working Group, a weakness in the process and in the final conservation document, as it does not reflect all available expertise. Finally, participants in the Working Group had mixed feelings on the effects of facilitation on the process.

## **Lack of Scientific Data and Mapping**

One of the challenges emphasized by all members of the Working Group was the lack of available maps and data on prairie chicken habitat, lek sites and associated restrictions that would be imposed by proposed conservation measures. Rand French, former biologist for the BLM and now at Marbob Energy, noted that the oil and gas industry representatives needed to see specific areas of possible restriction clearly delineated on a map in order to move forward with possible management options.<sup>137</sup> Without the appropriate mapping information, there was no way for the Working Group to see the impact of different buffer zones around lek sites or where “potential habitat” and “suitable habitat” were located.

Controversy over prairie chicken ecology also was a significant challenge for the Working Group. While the Group accepted the science regarding sand dune lizard habitat, prairie chicken ecology data provided intense debate. In addition, the group could not agree on the effects of development and other human activity on the birds. Dan Girand commented, “We [oil and gas representatives] are not convinced of our damage to prairie chickens.”<sup>138</sup> This became a major stumbling block for the group since members of the oil and gas industry resisted regulations and restrictions on their industries without clear evidence of the industry’s harm to prairie chickens.

The group attempted to overcome this challenge by obtaining maps for the areas in question as they pertained to oil and gas production, private leases, ranching and prairie chicken and lizard habitat. This process took longer than expected, however, due to the proprietary nature of much of the mapping data. In the end, the group produced maps that participants could view during meetings and could not be removed for individual use. Jeff Harvard of Harvard Petroleum commented that the maps “helped a lot of people to see and understand what we’re dealing with.”<sup>139</sup> Having the mapping information in front of the group created a shared understanding of the land in question for conservation and got the group rolling in negotiations for specific areas that had previously been impossible when done in more general terms.

## **Overcoming Controversies and Stereotyping**

The group also struggled with overcoming external controversies and their stereotypes of each other in order to work together more effectively. The greatest external controversy was the ACEC petition filed at the beginning of the process. Jim Bailey’s support of the ACEC petition was seen as an aggressive move to impose more restrictions on BLM land and thus impact both ranching and oil and gas industries. At the first meeting of the Working Group, several participants voiced their distrust of the environmental community at the table.<sup>140</sup> Though it was agreed that the ACEC would be put on hold so that the Working Group could move forward, distrust in the group seemed pervasive. In addition to the ACEC, rancher and Eddy County Commissioner Lewis Derrick voiced concerns about others in the group from his past experience. He commented that a “Cattle Free by ’93” sign in the NMDGF office put him off to working collaboratively with NMDGF staff.<sup>141</sup>

While many participants stated that trust increased among participants through the process, others felt that stereotypes and mistrust remained. Dan Girand of Mack Energy felt some members of the Working Group labeled him as radical and therefore not a productive participant

of the group. As a result, he felt certain members of the Working Group discounted his opinion. He commented, “Regulators and industry after a while tend to say, ‘Well that’s just old Dan. He’s a radical redneck.’”<sup>142</sup> Perceived alliances also fostered distrust in the group. John Clemmons commented that the general respect that developed between some members of the Working Group was misconstrued as coalition-building. He noted, “We [ranchers] were accused a little bit of the ranchers and the oil people siding against the various environmental groups which wasn’t necessarily true.”<sup>143</sup> While there was significant progress overcoming stereotypes and distrust for some, others felt these elements persisted, stalling progress.

In order to overcome the acute barriers of distrust and stereotyping present at the beginning of the process, facilitators Toby Herzlich and Ric Richardson involved the group in activities to increase shared understanding of issues and each other. Informal interactions on group field trips or at meals during meeting sessions also helped to increase trust among participants.<sup>144</sup> Bill Dunn recalled one particular instance that helped him get to know Mack Energy representative Dan Girand better:

The key thing there, talk about personal relationships, that day I had a flat tire on my bike so I had to bum a ride home, and Dan said, “I’ll take you home.” On the ride over to my house, number one he saw where I lived – middle class guy, you get to know a person. Secondly, on the way over, boy did we just have some good chit-chat, kind of a post-game analysis, it was really cool.<sup>145</sup>

In addition to informal means of getting to know other participants and forming positive relationships, the small group setting of the Oil and Gas Technical Subcommittee fostered trust for its members. This trust was largely a result of the candid nature of the meetings where participants conveyed their groups’ interests and stopped insisting on the positions they often defended in the larger group. Members of the Subcommittee appear to trust each other more than members of the larger Working Group.

By the end of the process, many in the Working Group felt they learned a lot from one another and had gained a greater understanding of each other’s interests. John Clemmons noted, “I think we all came away respecting each other’s point of view a lot more than we did going into it.”<sup>146</sup> However, other members of the Working Group retained strong distrust for others. Lewis Derrick was straightforward about his continued distrust of conservation interests. He stated, “As far as the environmental groups, I’ll make this statement: I will never trust ’em.”<sup>147</sup> Likewise, conservationist Tom Jervis of the Audubon Council stated, “I heard nothing from the oil and gas folks that would lead me to believe that they would follow through with anything they promised, which was not much.”<sup>148</sup> Just as this distrust hampered progress in the Working Group, many participants fear it may hinder implementation of the group’s Conservation Strategy.

### **Perceived Presence of “Obstructionists”**

Another significant challenge to the process was the perceived presence of “obstructionists” in the process. No single interest group was uniformly considered to be obstructionists by all; rather each interest group considered the opposing interests to be obstructionists. Thus, conservationists identified the oil and gas industry representatives as stalling or blocking the process while

members of the oil and gas industry considered the environmental community to be blocking the process.

From the conservationist perspective, Jim Bailey noted, “Some members of the oil and gas community seemed perhaps to be intentionally going around in circles.”<sup>149</sup> Oppositely, Jeff Harvard, President of Harvard Petroleum, noted, “The environmental community continually appears to pursue an obstructionist position rather than a solution-oriented [position], coming to the table to identify solutions.”<sup>150</sup> While Harvard did credit Jim Bailey for coming to meetings to “recognize, listen and come up with realistic solutions,” he felt that others of the environmental community did not respect this effort and allow the group to work.<sup>151</sup>

While both conservationists and oil and gas representatives placed the blame on one another, agency representatives understood both sides to take obstructionists positions at times. Bill Dunn of the NMDGF noted, “Oil and gas grandstanded some in the large group. Conservationists grandstanded some.”<sup>152</sup> Thus, both sides periodically employed techniques other than those Harvard referred to as “solution-oriented.”

The perception of obstructionists in the group may have resulted from the diametrically opposed viewpoints in the group from the start of the process. Participants were considered “so far apart” in their perspectives and interests at the outset of the Working Group.<sup>153</sup> Terry Riley of the Wildlife Management Institute felt that this resulted in parties being dissatisfied with the fact that they were forced to compromise too much.<sup>154</sup> Roger Peterson, initially representing the New Mexico Natural History Institute and the Sierra Club, noted that this resulted in “endless talk,” a contributing factor in the increased length of the process.<sup>155</sup>

During meetings, Herzlich and Richardson worked to prevent any one interest from dominating the discussion and attempted to block unfounded protests. However, some members of the group felt that this was largely ineffective.<sup>156</sup> Thus, obstructionist tactics persisted in the process until the pressure of the BLM deadline forced everyone in the group to move beyond such counterproductive strategies.

### **Length of the Process**

The initial short timeframe for the process and the ultimate extended length of the Working Group process presented several challenges to the group. First, while the facilitators recognized that the initial timeframe for the process seemed unrealistic, they were hired to direct the group according to this constraint. Facilitator Toby Herzlich commented, however, that if she and Ric Richardson had been able to alter the timeframe, they would have structured the group much differently.<sup>157</sup> The facilitators had some time for participant interviews prior to the start of the process and Herzlich stressed that she and Richardson sought “opportunities to strengthen relationships, establish a shared knowledge base and build mutual understanding among the group.”<sup>158</sup> However, due to the short timeframe of the process, this was limited more than both facilitators would have liked.<sup>159</sup> Similarly, Paul Sawyer felt that the initial conception of a short process “colored how we went into the process in terms of how we got representation and how we framed the process so to speak.”<sup>160</sup> He considered the set-up of the Working Group to be a challenge later in the process.<sup>161</sup>



As the process continued to its eventual conclusion two and a half years later, its extended length posed new problems. As a result of the long timeframe, many participants noted that keeping people motivated to stay at the table was a major challenge at times. A contributing factor to the lengthy process timeframe was that participants did not adhere to past compromises on which the group had agreed in previous meetings. Especially as the process continued to drag on, the group stumbled into a period of extremely low productivity. This was largely due to backtracking on past commitments. Rand French, at the time a field biologist at the BLM, noted, “A lot of times we would take two steps forward at the end of the meeting but by the time we got to the next meeting, we were three steps back.” Backtracking caused frustration with the process and cost the group significant time.

Ultimately, the group dealt with the challenge of a lengthy process by adhering to the RMP Amendment deadline imposed by the BLM. However, there was concern among several participants that this deadline forced compromise that does not result in a viable conservation plan for future implementation. Particularly, many feel that the Conservation Strategy is too general to be effective. Jeff Harvard noted, “I don’t know if [the RMP deadline] was beneficial, it just brought a close to the process.”<sup>162</sup>

### **Lack of Participation and Representation of Some Groups**

Time, human resources and money, all listed as major costs of the process, were also indirect challenges as they limited the participation of some interest groups. Several members of the Working Group, for instance, noted that it would have been useful to have Brian Hansen of the USFWS be a more active participant as he could better relay the interests of the agency that would impose regulation under the Endangered Species Act. However, they noted that time constraints prevented him from doing so. Similarly, once the original representative from the NRCS retired, his successor came to one Working Group meeting and then stopped attending.<sup>163</sup> No other employees from the short-staffed agency replaced him. Many participants felt this was a significant loss given the possible contributions of the NRCS regarding the Farm Bill funding and ranching conservation.<sup>164</sup> In addition, a sportsmen representative had tried to participate in the group early on but had to terminate his participation given the timing of the meetings—weekdays during business hours. Thus, the timing and location of meetings played a role in the final composition of the Working Group as both factors dictated the ability of different groups to participate. While the location of meetings in prairie chicken country was a conscious effort to ensure oil and gas and rancher participation, this resulted in greater exclusion of conservation and sportsmen interests based several hours north.<sup>165</sup>

Many Working Group participants felt that it was a weakness of the group to have Jim Bailey sometimes be the sole representative of conservation. Just as there were varied oil and gas interests within the larger community, Paul Sawyer noted that there were differing opinions within the environmental community as well. He noted that Bailey “was representing maybe six or seven groups which was difficult for him because they all have a little bit different perspective.”<sup>166</sup> Sawyer added, however, “[Bailey] did a good job trying to get back to his core group and get their feedback.”<sup>167</sup>

## Facilitation

The perception of the facilitators and their effectiveness in the Working Group was somewhat mixed. While some participants thought that the facilitators were effective in motivating the Working Group's progress (discussed in the "Facilitating Factors" section below), some perceived that the facilitators increased the length of the process unnecessarily and were "counterproductive."<sup>168</sup> Jeff Harvard commented to this effect. He noted:

I think that the facilitators extended this whole stakeholder process probably at least six months and probably a year longer than it should have been ... than it should have occurred if we would have been able to sit down and identify what we needed to accomplish, what we wanted.<sup>169</sup>

Harvard was further frustrated because he perceived that the facilitators treated members of the Working Group "like school kids."<sup>170</sup>

Some felt frustration for the facilitators' lack of enforcement of the Working Group's ground rules, including that debate would only be acceptable on legitimate arguments. Jennifer Parody, at this point with the USFWS, noted, "They couldn't sort through what was just rhetoric and what was actually legitimate debate so they treated everything like it was debate and debatable."<sup>171</sup> Parody noted that this contributed both to the length of the process and to frustration within meetings. Tom Jervis of the New Mexico Audubon Council was similarly frustrated with what he saw as unconstructive discussion and stated simply that for the facilitators, "Process took precedence over results."<sup>172</sup> Jervis felt that the final Conservation Strategy suffered as a result.

Paul Sawyer noted that the facilitators had limited knowledge about the biology and regulations that were at play in the process. He noted, however, that this was a flaw the organization team for the Working Group should have dealt with and did not fault of the facilitators.<sup>173</sup>

Some participants commented on perceived biases of either Herzlich or Richardson. While several oil and gas representatives insisted Herzlich was biased toward conservationists, other participants felt that Richardson had biases toward the oil and gas industry.<sup>174</sup> Herzlich commented on how she and Richardson could play off each other in meetings to help advance the process. She said:

We could also do a little bit of good cop/bad cop where depending on which group we had an issue with that needed to have some work with offline, which came up a few times, if it felt like they would respond more easily with Ric [Richardson], then [he] would make the call. If it felt like they would respond more easily with me and more directly, then I would make the call. And there were also times in the meeting when one of us might be a little bit more fluid and the other could step in and really draw some lines about how it was time to come to a decision and what were they going to do.<sup>175</sup>

While some members of the Working Group may have misconstrued these actions to indicate bias in the facilitators, regardless, some participants commented that this perception represented a challenge for the group.

## **FACILITATING FACTORS**

### **A Clear Deadline**

The greatest factor in overcoming the challenges of the group and creating a final conservation plan appears to have been the BLM's deadline for input to be included in the RMP Amendment. Ultimately, members of the group cited this as the only reason the group started making significant headway on compromises for the Conservation Strategy. Shawn Knox recalled a typical conversation in the group in which group members said, ““We have to make a decision. [The BLM is] going to publish this manual and there needs to be some recommendations from us. Do we want two years to go down the drain?’ I heard that said a dozen times.”<sup>176</sup> Thus, participants did not want to “lose” two years of meetings by not contributing to the RMP Amendment. The deadline added pressure to keep the Working Group moving along.

The RMP Amendment deadline also marked the end of BLM funding for the Working Group process. Knox continued, “The only thing that ultimately resulted in us finishing was a concrete deadline and the end of the money. I don't know that there is anything else that would push such disparate parties to agreement.”<sup>177</sup> Rand French was confident that meetings would still be underway had it not been for the BLM deadline.<sup>178</sup>

### **The Threat of Regulatory Action**

Despite the lulls in Working Group progress and many participants' desire to leave, the threat of listing either the prairie chicken or the sand dune lizard under the Endangered Species Act (ESA) was significant enough to keep many people at the table. While David Coss felt it difficult to speculate what would have happened to the group in the absence of ESA, he felt confident that weariness for other options such as litigation kept people working collaboratively.<sup>179</sup> Similarly, Jennifer Parody noted that while there was considerable uncertainty that either species would be listed given the small number of total species listed each year, the risk of ESA listing was too great to be ignored.<sup>180</sup>

Roger Peterson felt that the threat of ESA might similarly contribute to successful implementation of the Conservation Strategy. He noted, “If the document is not followed, Fish and Wildlife Service will say, ok, that's it, we list [the species] and we take over. So that's the stick behind it all.”<sup>181</sup> Several other Working Group participants agreed with this assertion.

### **Small Subcommittee Work**

Many participants credit the success in outlining oil and gas concessions to the Oil and Gas Technical Subcommittee. In this small group setting, individuals spoke candidly about their parties' interests and motivations and made suggestions for how to create acceptable options.<sup>182</sup>

Such candid discussion was in contrast to the “grandstanding” that occurred in the larger Working Group. Bill Dunn commented to this effect. He noted:

One of the problems of the large group is that people have a tendency to put up their defenses. Basically they can hide behind their group and they can get on the stage and spout the party line, whereas when you have it down to one person – and this subcommittee was just Dan Girard representing oil and gas, Jim Bailey representing conservation, and three of us from the agencies – there was more looking in the eye, less B.S. and more stating what's on your mind.<sup>183</sup>

The Subcommittee forced participants to deal with each other as individuals and less as members of opposing groups. Jennifer Parody was pleased with the Subcommittee's ability to come up with important decisions that could later be brought back to the whole group for approval. She commented that the agreements made in that group became the core of the final Conservation Strategy.<sup>184</sup>

### **Institutional Support**

Several participants cited the institutional support of agencies as a major facilitating factor, particularly in getting the group off the ground. From a BLM perspective, Sawyer indicated that the support of BLM management and BLM headquarters in Washington, D.C. was essential to BLM's successful participation in the Working Group. He added that both BLM and NMDGF management were behind the process. He commented on the essential role of management in all interest groups: “We recognized early on we needed that executive support, whether it's in the private interests, oil and gas company, presidents or regional directors or the agency types. So that was a big plus.” While this support may have existed during the process, some members of the Working Group were frustrated with the lack of follow-up to the collaborative process by the USFWS and BLM field offices.<sup>185</sup>

### **Role of the SLO and the Commissioner**

Finally, members of the Working Group felt the SLO's participation was a major facilitating factor in the process. First, Pat Lyons's removal of some trust lands from oil and gas leasing had a major positive impact on the Working Group. For Bob Findling, this increased his trust in the long-term commitment of participants in the Working Group. He noted, “[Commissioner Lyons] committed to placing a multiyear freeze on any new oil and gas leasing in this area and that provided us with sufficient additional assurance that our expenditure [on the Creamer Ranch] would not be in vain.”<sup>186</sup> He continued, “Pat Lyon's decision to commit to deferral or moratorium on new leasing in order to attempt to assist in recovery of the lesser prairie chicken was really a significant element of the whole process.”<sup>187</sup> Paul Sawyer similarly said that the moratorium on new leasing “... was a monumental step forward. Huge step forward. If the [USFWS] was to evaluate a conservation strategy, that was a giant thing to do.”<sup>188</sup> In addition to the sign of support that the moratorium offered the Working Group process, Commissioner Lyons's action must have also shaken the confidence of the oil and gas industry to some extent as they came to realize

that conservation measures and the alternatives to collaboration could go contrary to their interests despite historical alliances.

Some members of the Working Group attribute Commissioner Lyons' actions to his role as an elected official, thus increasing accountability and awareness of prairie chicken conservation. Jim Bailey commented that Lyons's constituency extended to rural communities in New Mexico and as such, he must recognize their concerns. Bailey noted, "[Lyons] would like to be reelected, so he had to change his tune. And he rightfully recognized that none of us would benefit if this bird was federally listed. More stringent rules would hinder development on state trust lands."<sup>189</sup>

Participants also perceived Commissioner Lyons's good relationship with other interests as beneficial to the process. Lyons noted, "I've got a good working relationship with everybody."<sup>190</sup> Shawn Knox and David Coss concur that this was helpful in getting buy-in for the process from other stakeholders. Knox commented, "Because the Commissioner is a Republican ... he was at a better place to catalyze support of some of the industry that typically is Republican in nature, both the agricultural and oil and gas industries."<sup>191</sup> Knox mentioned that former Commissioner Ray Powell, who was "more left" in his politics, may have been a polarizing force instead of a catalyzing force in this respect.<sup>192</sup>

In addition to Commissioner Lyons' role, SLO staff members were highly praised by all members of the Working Group. Natalie Guilmet was lauded for her contribution to creating the maps necessary to start making decisions.<sup>193</sup> David Coss was recognized by many as a strong leader in the group for pushing things forward towards progress. Paul Sawyer noted that the SLO "played a very pivotal role in the [Working Group] and I was quite pleased. They were way up there in the forefront amongst the lead. People always talk about the unofficial or non-designated leaders – they were in that group."<sup>194</sup>

## **Facilitation**

Many participants felt the facilitators were an integral part of the group's progress. In particular, participants noted that facilitators Toby Herzlich and Ric Richardson kept the group on track, pushed for compromise and helped the Working Group overcome process challenges. Shawn Knox stated simply that without the facilitators, the Working Group "would be a waste of my time."<sup>195</sup>

Participants also noted that the facilitators helped the group recognize progress. Bill Dunn recalled a situation in which progress reports were especially helpful:

Toby [Herzlich] and Ric [Richardson] did a pretty good job at saying "This is what we've accomplished." There was a time when we were at an impasse with oil and gas late in the game ... where [participants] said, "This had been a waste of time. We haven't accomplished anything." But we had a whole slew of recommendations that everybody was giving the thumbs up on, and we were down to probably ten out of 90 or 100 recommendations. We were like, wow, we're almost there.<sup>196</sup>

Dunn continued that in this situation, Herzlich highlighted the group's progress, which lifted spirits and increased group momentum.<sup>197</sup>

While some of the oil and gas representatives felt that an agency facilitator would have been more appropriate to facilitate the process, Bill Dunn of the NMDGF felt that having third party, neutral facilitators was essential. "If I'd gotten up there, then okay, there's a slant toward wildlife. If Jeff Harvard got up there, a slant toward oil and gas. If John Clemmons, a slant toward ranching. With Toby [Herzlich] and Ric [Richardson], there was no slant. That's what's key about having a neutral facilitator."<sup>198</sup>

## **LESSONS LEARNED**

There were several key "lessons learned" that emerged from this case as advice offered by participants as well as recommendations identified by the researchers. These "lessons learned" are based on participants' experience in the Working Group with what worked well and what could have been improved.

### **1. Preparation is essential and will pay off later in the process.**

This case highlights two main areas that would have benefited from greater preparation prior to the process. First, Working Group participants who helped structure the process stressed the importance of detailed preparation prior to the first meeting. Paul Sawyer of the BLM referred to this step as "pre-thinking."<sup>199</sup> He and facilitator Toby Herzlich addressed the need for greater pre-thinking regarding the direction of the process as well as the format for the final document.<sup>200</sup> Facilitators should also be briefed on the major issues the group will discuss as well as the past history of these issues. Insufficient pre-thinking led to some lost time in the Working Group. For instance, participants floundered in discussion when they were unsure of the vision for the final document. In addition, facilitators had to learn about the issues as they were brought up at the table.

In addition to process structure, the Working Group would have greatly benefited from having more available technical and scientific resources. As the group began to dig into actual land management policies, it was clear the participants needed to be able to visualize the impacts of these strategies. If the Working Group had science and technical information more readily available, the group could have moved onto management details more quickly.

### **2. Third party facilitators are helpful but must avoid the perception of bias.**

As several Working Group participants noted, the facilitators were major assets to the process as they helped direct discussion and kept track of successes and agreements. Toby Herzlich commented on the benefits of having two facilitators. She said:

[Dual facilitation] was very beneficial in a lot of ways. One, because it's a very complex project and Ric [Richardson] and I could think it through together and bring different perspectives to the understanding of what was going on, which is

really important. Also, when it came time to do subcommittee working, when those needed to be facilitated we could work concurrently in that way.<sup>201</sup>

However, facilitation conflicts arose when members of the Working Group felt the facilitators were partial to opposing interests. Thus, it is essential that facilitators recognize the challenge of preventing perceptions of bias.

### **3. Working in small groups can help break down positions and help the group move towards constructive discussion.**

Several participants advised that future collaborative processes use small subcommittees to help move the larger group through impasses. The Working Group highlighted the Oil and Gas Technical Subcommittee as a major facilitating factor. Bill Dunn noted that in these groups it was appropriate to not have a facilitator but rather to let the parties hash-out issues on their own.<sup>202</sup> Subcommittees provide a forum for representatives to candidly discuss their interests and the interests of their broader constituency as opposed to spouting the party-line as is typical in larger groups. Participants of subcommittees also work in closer contact than within the larger group and are often more compelled to create viable options instead of simply blocking proposals. Thus, Subcommittees may be better equipped to hammer out detailed options than the larger group. These options should then be brought back to the larger group for approval.

### **4. Know what you're getting into and keep an open mind for new ideas.**

A key point that many members of the Working Group highlighted as essential to a successful collaborative process was for process participants to understand the commitment and energy required in collaboration. Jennifer Parody added that participants need to be “really open-minded to new ways of solving the problem.”<sup>203</sup> She continued, highlighting the importance of “being really knowledgeable about where your bottom line is but being open about how to get there.”<sup>204</sup>

The Working Group spent significant time trying to create new options to meet the multiple interests at the table. For a long time this progress was hindered by the entrenched positions of some groups and the opposed approaches of interest groups to the problem. Had participants been “open-minded” as Parody suggests, the group would have been more efficient.

### **5. Agency and organizational management should be involved and informed about the process.**

One of the strongest suggestions from Jeff Harvard, Dan Girand and Rand French was that participants at the table need greater contact with managers. For the Working Group, Rand French commented that not having managers at the table was a “flaw in the system.”<sup>205</sup> He continued that in order for participants to know how to best represent their agency or organization, they need to “get a stance on the political agendas that are there [in the organization] that staff don't have.”<sup>206</sup>

To incorporate increased managerial involvement, French suggested that managers periodically sit-in on working group meetings to get a sense of what's happening in the process. In addition,



he noted that representatives at the table could have monthly leadership briefings to keep managers and other officials up-to-date.<sup>207</sup> In this way, Jeff Harvard noted, representatives at the table can make decisions with the approval of their organization. He stated, “It’s about having people [at the table] that understand what is needed and have the ability to accomplish the goals set out.”<sup>208</sup>

While some participants in the Working Group were pleased with the institutional support at the table, others were frustrated with the lack of managerial buy-in for the final Conservation Strategy. This lack of support for the final document may have been averted if managers had been more involved or better informed about the proceedings of the Working Group.

## **6. Set a realistic timeframe and have a concrete deadline.**

Many participants cited the unrealistic timeframe as a future challenge to the process. As mentioned earlier, establishing an appropriate timeframe for the process would have provided time for increased relationship building at the outset of the process that may have helped alleviate future tensions. In addition, Working Group participants became extremely frustrated when the process exceeded six to nine months. This frustration, coupled with the lack of progress, contributed to increased tensions at the table. Thus, collaborative processes should strive to outline a reasonable amount of time for a process, taking into account the need to build interpersonal relationships between participants as well as time to discuss substantive issues.

A concrete deadline for the Working Group ultimately was the factor that brought closure to the process. As Shawn Knox of the SLO noted, “The only thing that ultimately resulted in us finishing was a concrete deadline and the end of the money.”<sup>209</sup> Facilitator Ric Richardson agreed. His advice to future collaborative processes was to bind the group to a regulatory frame with a set deadline. Absent that, he suggested creating a timeframe with certainty. He noted that with an open-ended set of negotiations, people tend to burn out and the group loses momentum.<sup>210</sup>

While there are benefits to establishing a realistic timeframe, there is a risk that some interest groups will not want to get involved in such a long process due to constrained resources. A firm deadline may help parties to plan to overcome this challenge.

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Tom Jervis  
Shawn Knox

Patrick Lyons  
Jennifer Parody  
Roger Peterson  
Ric Richardson  
Terry Riley  
Paul Sawyer

## Endnotes

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<sup>1</sup> 1848 – Under the Treaty of Guadalupe Hidalgo

<sup>2</sup> 1898 – Under the Ferguson Act

<sup>3</sup> New Mexico State Land Office Pamphlet (on file with author).

<sup>4</sup> Through the approval of the Ferguson Act.

<sup>5</sup> The current nine million surface acres of state trust land equals 11.6 percent of total land in the state. Strategic land swaps have also resulted in state trust lands often being valuable land.

<sup>6</sup> New Mexico State Land Office Pamphlet (on file with author).

<sup>7</sup> This disparity is the result of surface acreage that was sold outright in the 1950s by a past commissioner, a practice considered in violation of the trust's long-term fiduciary viability and thus responsibility. Rather, state trust lands may be exchanged with other lands of equal or greater value.

<sup>8</sup> Jim Baca (Former Commissioner of Public Lands, New Mexico State Land Office), interview by Emily Kelly and Drew Vankat, August 16, 2005, Albuquerque, NM.

<sup>9</sup> Ibid.

<sup>10</sup> "Where States Rank," Education Week, Editorial Projects in Education Inc., available at <http://www.edweek.org/rc/index.html>.

<sup>11</sup> *New Mexico State Land Office 2004 Annual Report*, p. 12, available at <http://www.nmstatelands.org/>.

<sup>12</sup> Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO; Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>13</sup> Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO.

<sup>14</sup> "Census 2000 Data for the State of New Mexico," U.S. Census Bureau, <http://www.census.gov/census2000/states/nm.html>.

<sup>15</sup> "State and County QuickFacts," U.S. Census Bureau, <http://quickfacts.census.gov/qfd/states/35000.html>, <http://quickfacts.census.gov/qfd/states/35/3502000.html>.

<sup>16</sup> New Mexico State Land Office Pamphlet (on file with author).

<sup>17</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, TNC, Santa Fe, NM.

<sup>18</sup> "Milnesand Prairie Preserve," The Nature Conservancy, <http://nature.org/wherewework/northamerica/states/newmexico/preserves/art14597.html>; "Lesser Prairie-Chicken," Audubon <http://audubon2.org/webapp/watchlist/viewSpecies.jsp?id=122>; "Lesser Prairie-Chicken," Patuxent Wildlife Research Center- Migratory Bird Research, <http://www.mbr-pwrc.usgs.gov/bbs/grass/a3070.htm>.

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- <sup>19</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), personal correspondence with Emily Kelly, February 28, 2006; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>20</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>21</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) correspondence with Emily Kelly, February 27, 2006.
- <sup>22</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>23</sup> David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.
- <sup>24</sup> Ibid.
- <sup>25</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>26</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>27</sup> Ibid.
- <sup>28</sup> Ibid.
- <sup>29</sup> Staci Matlock, "State recommends no new species be placed on endangered list," *The New Mexican*, July 25, 2004.
- <sup>30</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>31</sup> Terry Riley (Vice President of Policy, Theodore Roosevelt Conservation Partnership), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005. Albuquerque, NM.
- <sup>32</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>33</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>34</sup> Ibid.; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>35</sup> Dan Girard (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM; Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>36</sup> Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO.

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- <sup>37</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, Santa Fe, NM.
- <sup>38</sup> Ibid.
- <sup>39</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>40</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>41</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>42</sup> Ibid.
- <sup>43</sup> Ibid.
- <sup>44</sup> Ibid.
- <sup>45</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) correspondence with Emily Kelly, February 27, 2006.
- <sup>46</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>47</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>48</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>49</sup> *Collaborative Conservation Strategies for the Lesser Prairie-Chicken and Sand Dune Lizard in New Mexico: Findings and Recommendations of the New Mexico LPC/SDL Working Group, Executive Summary*, August 2005.
- <sup>50</sup> Ric Richardson, (Professor, University of New Mexico), interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Flying Star Restaurant, Albuquerque, NM.
- <sup>51</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM; Ric Richardson, (Professor, University of New Mexico), interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Flying Star Restaurant, Albuquerque, NM.
- <sup>52</sup> Ric Richardson, (Professor, University of New Mexico), interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Flying Star Restaurant, Albuquerque, NM.
- <sup>53</sup> Ibid.
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- <sup>55</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, Santa Fe, NM.

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- <sup>56</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>57</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>58</sup> Ibid.
- <sup>59</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>60</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) correspondence with Emily Kelly, February 27, 2006.
- <sup>61</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM; Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>62</sup> Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>63</sup> Ibid.
- <sup>64</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>65</sup> Ibid.
- <sup>66</sup> Tom Jervis (President, New Mexico Audubon Council), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, New Mexico Audubon, Santa Fe, NM.
- <sup>67</sup> Ibid.
- <sup>68</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>69</sup> Ibid.
- <sup>70</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>71</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>72</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>73</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>74</sup> Ibid.
- <sup>75</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), personal correspondence with Emily Kelly, February 28, 2006.

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- <sup>76</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM; Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>77</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>78</sup> Ibid.
- <sup>79</sup> Ric Richardson, (Professor, University of New Mexico), interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Flying Star Restaurant, Albuquerque, NM.
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- <sup>81</sup> Ibid.
- <sup>82</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>83</sup> Ibid.; Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM; Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM;
- <sup>84</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>85</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>86</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) personal correspondence with Emily Kelly, February 27, 2006.
- <sup>87</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
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- <sup>93</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.



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- <sup>94</sup> Ibid.; Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>95</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>96</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>97</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), correspondence with Emily Kelly, February 28, 2006; Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) correspondence with Emily Kelly, February 27, 2006.
- <sup>98</sup> Jim Bailey (Biologist), telephone interview by Stephanie Bertaina and Emily Kelly, November 13, 2005.
- <sup>99</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>100</sup> “New Mexico fights plan to drill at Otera Mesa,” *Environmental Newslink*, June 9, 2005. <http://www.caprep.com/0605021.htm>.
- <sup>101</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>102</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.
- <sup>103</sup> Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>104</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, TNC, Santa Fe, NM.
- <sup>105</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>106</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM; Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM; Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.
- <sup>107</sup> Terry Riley (Vice President of Policy, Theodore Roosevelt Conservation Partnership), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005. Albuquerque, NM.
- <sup>108</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>109</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.
- <sup>110</sup> David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.
- <sup>111</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

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<sup>112</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>113</sup> Jim Bailey (Biologist), telephone interview by Stephanie Bertaina and Emily Kelly, November 13, 2005.

<sup>114</sup> Ibid.

<sup>115</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), correspondence with Emily Kelly, February 28, 2006.

<sup>116</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

<sup>117</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>118</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>119</sup> Ibid.

<sup>120</sup> David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM; Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005; Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO; Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>121</sup> Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO.

<sup>122</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>123</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

<sup>124</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.

<sup>125</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>126</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.

<sup>127</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>128</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, TNC, Santa Fe, NM.

<sup>129</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

- 
- <sup>130</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.
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- <sup>132</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
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- <sup>135</sup> Ibid.
- <sup>136</sup> David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.
- <sup>137</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
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- <sup>139</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>140</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.
- <sup>141</sup> Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>142</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>143</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>144</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
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- <sup>146</sup> John Clemmons (Rancher), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Kenna, NM.
- <sup>147</sup> Lewis Derrick (Rancher and County Commissioner, Eddy County), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>148</sup> Tom Jervis (President, New Mexico Audubon Council), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, New Mexico Audubon, Santa Fe, NM.

- 
- <sup>149</sup> Jim Bailey (Biologist), telephone interview by Stephanie Bertaina and Emily Kelly, November 13, 2005.
- <sup>150</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>151</sup> Ibid.
- <sup>152</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.
- <sup>153</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, Santa Fe, NM; Terry Riley (Vice President of Policy, Theodore Roosevelt Conservation Partnership), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005, Albuquerque, NM.
- <sup>154</sup> Terry Riley (Vice President of Policy, Theodore Roosevelt Conservation Partnership), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005. Albuquerque, NM.
- <sup>155</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, Santa Fe, NM.
- <sup>156</sup> Tom Jervis (President, New Mexico Audubon Council), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, New Mexico Audubon, Santa Fe, NM.
- <sup>157</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>158</sup> Ibid.
- <sup>159</sup> Ibid.
- <sup>160</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.
- <sup>161</sup> Ibid.
- <sup>162</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.
- <sup>163</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) correspondence with Emily Kelly, February 27, 2006.
- <sup>164</sup> Jim Bailey (Biologist), interview by Stephanie Bertaina and Emily Kelly, November 13, 2005, telephone interview; Terry Riley (Vice President of Policy, Theodore Roosevelt Conservation Partnership), interview by Stephanie Bertaina and Emily Kelly, August 25, 2005. Albuquerque, NM.
- <sup>165</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.
- <sup>166</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.
- <sup>167</sup> Ibid.

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<sup>168</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>169</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>170</sup> Ibid.

<sup>171</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>172</sup> Tom Jervis (President, New Mexico Audubon Council), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, New Mexico Audubon, Santa Fe, NM.

<sup>173</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>174</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM; Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>175</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.

<sup>176</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>177</sup> Ibid.

<sup>178</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>179</sup> David Coss (Director of Field Operations, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>180</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>181</sup> Roger Peterson (Ecologist, New Mexico Natural History Institute and Sierra Club) interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, Santa Fe, NM.

<sup>182</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM; Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>183</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

<sup>184</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>185</sup> Ibid; Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

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<sup>186</sup> Bob Findling (Director of Conservation Projects, The Nature Conservancy), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, TNC, Santa Fe, NM.

<sup>187</sup> Ibid.

<sup>188</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>189</sup> Jim Bailey (Biologist), telephone interview by Stephanie Bertaina and Emily Kelly, November 13, 2005.

<sup>190</sup> Patrick H. Lyons (Commissioner of Public Lands, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, July 25, 2005, Western States Land Commissioners Association Conference, Breckenridge, CO.

<sup>191</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>192</sup> Ibid.

<sup>193</sup> Dan Girand (Regulatory and Environmental Affairs, Mack Energy Corporation), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>194</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>195</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>196</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>200</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005; Paul Sawyer (Director of Threatened and Endangered Species, Bureau of Land Management), interview by Stephanie Bertaina and Emily Kelly, August 24, 2005, BLM, Santa Fe, NM.

<sup>201</sup> Toby Herzlich (Principal, Toby Herzlich & Company), telephone interview by Stephanie Bertaina and Emily Kelly, October 28, 2005.

<sup>202</sup> Bill Dunn (Predator and Gamebird Biologist, New Mexico Department of Game and Fish) interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Frontier Restaurant, Albuquerque, NM.

<sup>203</sup> Jennifer Parody, (Conservation Biologist, US Fish and Wildlife Service), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, RB Winnings, Albuquerque, NM.

<sup>204</sup> Ibid.

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<sup>205</sup> Rand French (Biologist, Marbob Energy), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>206</sup> Ibid.

<sup>207</sup> Ibid.

<sup>208</sup> Jeff Harvard (President, Harvard Petroleum), interview by Stephanie Bertaina and Emily Kelly, August 26, 2005, Mack Energy Corporation, Roswell, NM.

<sup>209</sup> Shawn Knox (Wildlife biologist, New Mexico State Land Office), interview by Stephanie Bertaina and Emily Kelly, August 22, 2005, SLO, Santa Fe, NM.

<sup>210</sup> Ric Richardson, (Professor, University of New Mexico), interview by Stephanie Bertaina and Emily Kelly, August 23, 2005, Flying Star Restaurant, Albuquerque, NM.