Nevada

Sagebrush Ecosystem Program

Hearing on Intentional Reversal for Nevada Conservation Credit System Project: Cottonwood Ranch

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Presented by

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NEVADA SAGEBRUSH ECOSYSTEM PROGRAM

Nevada Department of CONSERVATION & NATURAL RESOURCES

NDA Nevada Department of Agriculture

NEVADA DEPARTMENT OF WILDLIFE

Management Plan

Section 3.1

- Purpose of the Project: “To **preserve and enhance habitat for greater sage-grouse**, which will indirectly benefit other wildlife species on the ranch and livestock.”
- Conservation Goals & Objectives: “Rangeland: Increase forb diversity cover and **sagebrush cover”**

Section 4.2

- Performance Standards may not be met if the existing habitat function falls below what is determined originally due to inadequate management. The project proponent is expected to maintain existing habitat function score as stated in the Management Plan table.

Section 5.1

- Credit Developer Responsibilities: Monitor all treatment areas and maintain habitat quality to avoid any intentional reversals. Any activities that decrease the HQT calculation defined in this management plan will be avoided. Failure to observe and/or report these activities, with no action taken, could lead to an intentional reversal and financial penalties associated to the loss of credit values.

Participant Contract - Obligations

Section 8. Participants Obligations. During the Contract period, Participants shall:

a) Manage the Project Area in accordance with the attached Management Plan
b) Fund an execute required Management Actions at the frequency and timing defined in the Management Plan.
c) Fund, conduct, and report Project Area annual qualitative monitoring as described in the Management Plan and according to the Annual Self-Monitoring Protocol.
d) Secure Financial assurances in accordance with the requirements outlined in Section 6.a of this Contract. Submit documentation regarding proof of these financial assurances to the Administrator within 45 calendar days of this Contract.
e) Comply with all Participant obligations under the Management Plan.

Participant Contract – Credit Project Failure

Section 11. Credit Project Failure. Participant must notify the Administrator as soon as possible and not later than 30 days following the occurrence of an event that may cause a finding of Credit Project failure. The Administrator may determine there has been a Credit Project failure if:

a) Participant fails to comply with any Participant obligations under this contract
b) Proceedings are commenced by or against Participant in any court under a bankruptcy act or for the appointment of a trustee or a receiver of any or all of the Project Area;
c) Participant makes a general assignment for the benefit of creditors;
d) Participant ownership of, or right to possess and use, any or all of the Project Area is acquired by any other person or entity without that other person or entity becoming bound by this Contract; or
e) The Administrator determines that site-specific performance measures for the pertinent Credit Release are not maintained based on an evaluation of the Management Plan, field data, and the Habitat Quantification Tool. When evaluating whether site-specific performance measures have been maintained and the potential for Credit Project failure, the Administrator will consider natural climate variability and will work with Participant to consider whether adaptive management measures can be implemented to salvage a Credit Project prior to concluding there has been a Credit Project failure.
f) The Administrator determines that Participant has failed to execute the required Management Actions according to the terms and conditions of execution as defined in the Management Plan.

Participant Contract – Credit Project Failure

Section 12.b

The Administrator must provide Participant with notice of a proposed finding of Intentional Reversal in accordance with Section 13 of this Contract.

1. Following a finding by the Administrator (or the Sagebrush Ecosystem Council, if the issue is elevated by Participant under Section 13.b.3 of this Contract) of a Credit Project failure as a result of Intentional Reversal, the provisions of Section 6.b of this contract apply.
2. If the Intentional Reversal causes all map units to be indirectly affected by the anthropogenic disturbance, or less than 100 Credits will remain associated with the Credit Project after the anthropogenic disturbance, then the Administrator may elect to terminate this Contract in accordance with Section 16 of this contract.

Participant Contract

Section 13. Administrators Responsibilities and Remedies in the Event of Credit Project Failure.

a) Notification of potential Credit Project failure. If, at any time for which a Project Area is enrolled in the Conservation Credit System, the Administrator identifies events or activities that may lead to a finding of Credit Project failure (whether due to Intentional Reversal or Unintentional Reversal), the Administrator will notify Participant, in writing by certified mail and electronic communications. The Administrator shall provide this notice to Participant within 30 days of becoming aware of the event or activity. The notice will identify whether the Administrator believes the potential Credit Project failure will constitute an Intentional Reversal or Unintentional Reversal.

1. Participant and Administrator work together to create Remedial actions to avoid Credit Project failure.

2. Any remedial actions agreed upon, in writing, by the Parties shall amend this Contract and attached Management Plan.

Participant Contract

Section 13. Administrators Responsibilities and Remedies in the Event of Credit Project Failure.

b) Notification of Credit Project Failure.

1. Administrator may make a finding of Credit Project Failure at any time after the 90-day period.
2. Administrator provides notice of failure to Participant within 30 days of making Credit Project failure finding.
3. The notice will identify whether the failure is an Intentional Reversal or Unintentional Reversal and provide reasonable opportunity for rebuttal.
4. If the Administrator concludes there was an Intentional Reversal, but Participant disagrees, then the Participant must prove that reasonable steps were taken to minimize delay or damages caused by foreseeable events, fulfilled all non-excused obligations, and that the Administrator was timely notified.
5. If Participant and Administrator continue to disagree as to whether there has been a Credit Project failure or the determination of whether it was an Intentional or Unintentional Reversal, Participant may elevate the dispute to the SEC for an opportunity to present information relevant to the issue and the SEC will issue a final determination.
6. If the Administrator (or Sagebrush Ecosystem Council) concludes there has been an Unintentional Reversal, the provisions of Section 12.a of this Contract apply.
7. If the Administrator (or SEC) concludes there has been an Intentional Reversal, the provisions of Section 12.b of this Contract apply.

Participant Contract – Intentional Reversal

Section 6.b:
Process and Financial Assurance for Intentional Reversal.

(1) In the event of an Intentional Reversal of Credits that have been sold or otherwise applied to offset Debits, Participant will have the following options:

a. Replace the Credits that were invalidated with other Credits owned by Participant that have not been sold or otherwise applied to offset Debits
b. Replace the Credits that were invalidated with other Credits obtained by Participant from other credit developers.
c. Contract with another landowner to develop Credits to replace the Credits that were invalidated.
d. Develop a Remedial Action Plan to Remediate the Credits, which must be approved by the Administrator and shall be an amendment to this Contract and the Management Plan. Participant will directly pay for the costs of implementing the Remedial Action Plan.
e. Pay a financial penalty to the Administrator equal to the amount required for the Administrator to obtain the least expensive Credits available to fully offset the remaining duration of the Debits that had been offset by the Credits that were subject to Intentional Reversal.

Thank You

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