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**Cc:** Nirenberg, Darryl[dnirenberg@steptoe.com]  
**From:** Nyholm, Allison  
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[LPCC mapping slides.pptx](#)  
[Dec1Skipwith.docx](#)

Hi Aurelia,

Below and attached, please find our responses to items we discussed with you during our Dec. 1 meeting concerning the lesser prairie chicken and conservation banking. Additionally, you will find slides attached that discuss the goals of the range wide plan in relation to our client, Common Ground Capital, and their work to create Endangered Species Act private sector solutions. I know the data on lesser prairie chicken projects is not as transparent as it could be, so please let us know if you have follow up questions once you review the enclosed information.

Please know we will be responding to your request for comments on mitigation policies and CCAAs in the coming weeks.

Thank you for giving Darryl and me so much of your time last week.

Best,

Allison

**December 1, 2017**  
**Meeting with Deputy Assistant Secretary Aurelia Skipwith**  
**Responses to Questions on the Lesser Prairie Chicken Program**

**Western Association of Fish and Wildlife Agencies (WAFWA) and its Dual Role as Administrator and Credit Provider**

In 2012, USFWS designated WAFWA to administer a Range Wide Plan to protect and preserve the habitat for the LPC in New Mexico, Colorado, Kansas, Oklahoma and Texas. WAFWA established the Lesser Prairie Chicken Initiative to manage this administrative responsibility, to include recording and ensuring each enrollment is offset by conservation on the ground. WAFWA has also taken for itself the "provider" role going about using the enrollees' entry fees to acquire conservation offsets. In the WAFWA program, the amount spent on conservation offsets is limited by the fee already collected. (Note: in the LPC LLC business, the company negotiates and pays a price to the landowner up front and then seeks to make that money back by selling credits to enrollees.)

**How is WAFWA Held Accountable?**

Under the Obama program, the only accountability was an occasional exchange of letters describing needs for improvement in the program based what was revealed in WAFWA annual reports. The annual reports imply that WAFWA determines when their conservation work satisfies requirements of the FWS. By comparison, LPC LLC was required to submit field data and other due diligence on its contracts with landowners before offering conservation credits for sale.

### **WAFWA Collections and Use**

Since inception of the RWP, WAFWA has invoiced \$64.8 million in enrollment and impact fees and collected \$62.3million of which 87.5% or \$54.6 million is restricted for conservation efforts. WAFWA has spent \$23.4 million on conservation related expenses (landowner contracts, permanent easements, land purchase and associated costs, outstanding account receivables and investment gain/loss) and approximately \$7 million on its own administrative expenses.<sup>[1]</sup> A net position of approximately \$35 million is restricted for future conservation endeavors.

During 2016, WAFWA reports conservation income resulted in \$13 million of enrollment and impact fees, and a total of \$15.7 million on conservation related expenses. During this reporting period, WAFWA added three new 10-year landowner contracts, including purchase of one permanent easement in the Mixed Grass ecoregion consisting of approximately 1,781 acres and acquisition of a 29,718-acre ranch fee simple in the Sand Sagebrush ecoregion.

### **WAFWA Conservation Agreement (WCA) Industry Participation**

WCA enrollments represent oil and gas leases, wind developments, pipelines, gas plants electric lines and telecommunications towers. Oil and gas leases, wind developments and telecom sites are enrolled as parcels.

<b>Company Name</b>	<b>Agreement Status</b>
<b>American Electric Power Service Corporation</b>	<b>Active</b>
<b>Anadarko E&amp;P Onshore LLC</b>	<b>Active</b>
<b>Bailey County Electric Cooperative, Association</b>	<b>Active</b>
<b>Bloom Wind</b>	<b>Active</b>
<b>Bluestem Wind Energy, LLC</b>	<b>Active</b>
<b>BP America</b>	<b>Active</b>
<b>Central Valley Electric Cooperative, Inc.</b>	<b>Active</b>
<b>Cimarex Energy Co.</b>	<b>Active</b>

<b>Cimarron Electric Cooperative</b>	<b>Active</b>
<b>Coral Coast Petroleum, LC</b>	<b>Active</b>
<b>Deaf Smith Electric Cooperative Inc.</b>	<b>Active</b>
<b>E R Operating Company</b>	<b>Active</b>
<b>Eagle Exploration</b>	<b>Active</b>
<b>Edison Operating Company, LLC</b>	<b>Active</b>
<b>Enterprise Products Operating</b>	<b>Active</b>
<b>Gore Oil Company, Inc.</b>	<b>Active</b>
<b>Grand Mesa Pipeline, LLC</b>	<b>Active</b>
<b>Greenbelt Electric Cooperative, Inc.</b>	<b>Active</b>
<b>Hess Oil Company</b>	<b>Active</b>
<b>Indian Exploration Company, LLC</b>	<b>Active</b>
<b>ITC Great Plains LLC</b>	<b>Active</b>
<b>John O. Farmer, Inc.</b>	<b>Active</b>
<b>Kaiser-Francis Oil Company</b>	<b>Active</b>
<b>Kiwash Electric Cooperative, Inc.</b>	<b>Active</b>
<b>Lyntegar Electric Cooperative, Inc.</b>	<b>Active</b>
<b>Magellan Midstream Partners, LP</b>	<b>Active</b>
<b>MarkWest OK Gas Company, LLC</b>	<b>Active</b>
<b>North Plains Electric Cooperative</b>	<b>Active</b>
<b>Northfork Electric Cooperative</b>	<b>Active</b>
<b>Northwestern Electric Cooperative</b>	<b>Active</b>
<b>OGE Energy Corp.</b>	<b>Active</b>
<b>Opal Resources</b>	<b>Active</b>
<b>P.O. &amp; G. Operating LLC</b>	<b>Active</b>
<b>Peregrine Petroleum Partners, Ltd.</b>	<b>Active</b>
<b>Pioneer Resources, Inc.</b>	<b>Active</b>

<b>Prairie Wind Transmission</b>	<b>Active</b>
<b>Ramsey Property Management</b>	<b>Active</b>
<b>Raydon Exploration</b>	<b>Active</b>
<b>Raymond Oil Company, Inc.</b>	<b>Active</b>
<b>Red Oak Energy Inc.</b>	<b>Active</b>
<b>Regency Energy Partners LP</b>	<b>Active</b>
<b>Roosevelt County Electric Cooperative</b>	<b>Active</b>
<b>Slawson Exploration Company</b>	<b>Active</b>
<b>Southern Star Central Gas Pipeline, Inc.</b>	<b>Active</b>
<b>Sunflower Electric Power Corporation</b>	<b>Active</b>
<b>Superior Pipeline Co.</b>	<b>Active</b>
<b>Texakoma Exploration &amp; Production, LLC</b>	<b>Active</b>
<b>Toto Energy, LLC</b>	<b>Active</b>
<b>Tower Assets Newco IX, LLC</b>	<b>Active</b>
<b>Tri-County Electric Cooperative</b>	<b>Active</b>
<b>VAL Energy</b>	<b>Active</b>
<b>Western Farmers Electric Cooperative</b>	<b>Active</b>
<b>Western Gas Partners, LP</b>	<b>Active</b>
<b>Williams LLC</b>	<b>Active</b>
<b>Xcel Energy Inc.</b>	<b>Active</b>
<b>Tapstone Energy, LLC</b>	<b>Partial Suspension</b>
<b>Alfalfa Electric Cooperative, Inc.</b>	<b>Self Terminated</b>
<b>Eagle Oil &amp; Gas</b>	<b>Self Terminated</b>
<b>Nadel and Gussman Operating LLC</b>	<b>Self Terminated</b>
<b>Stratakan Exploration, LLC</b>	<b>Self Terminated</b>
<b>Access Midstream Partners</b>	<b>Sold/Transferred</b>
<b>Eagle Rock Energy Services, LP</b>	<b>Sold/Transferred</b>

<b>Eagle Rock Field Services, LP</b>	<b>Sold/Transferred</b>
<b>Chaparral Energy LLP</b>	<b>Suspended</b>
<b>Dolomite Resources Corporation</b>	<b>Suspended</b>
<b>Forestar Petroleum Corporation</b>	<b>Suspended</b>
<b>Monarch Oil Pipeline</b>	<b>Suspended</b>
<b>T.H. McElvain Oil &amp; Gas LLLP</b>	<b>Suspended</b>
<b>Apache Corporation</b>	<b>Transferred/Inactive</b>
<b>Centurion Pipeline L.P.</b>	<b>Transferred/Inactive</b>
<b>COG Operating, LLC</b>	<b>Transferred/Inactive</b>
<b>Conoco Phillips</b>	<b>Transferred/Inactive</b>
<b>Continental Resources, Inc.</b>	<b>Transferred/Inactive</b>
<b>DCP Midstream LP</b>	<b>Transferred/Inactive</b>
<b>Devon Energy Corporation - Kansas</b>	<b>Transferred/Inactive</b>
<b>Devon Energy Corporation - Oklahoma</b>	<b>Transferred/Inactive</b>
<b>Devon Energy Corporation - Panhandle</b>	<b>Transferred/Inactive</b>
<b>Devon Energy Corporation - Permian Basin</b>	<b>Transferred/Inactive</b>
<b>Devon Energy Corporation - Rockies</b>	<b>Transferred/Inactive</b>
<b>Enable Midstream Partners</b>	<b>Transferred/Inactive</b>
<b>Energy Transfer Partners</b>	<b>Transferred/Inactive</b>
<b>Enervest Operating LLC</b>	<b>Transferred/Inactive</b>
<b>Jayhawk Pipeline LLC</b>	<b>Transferred/Inactive</b>
<b>Jones Energy LLC</b>	<b>Transferred/Inactive</b>
<b>Kirkpatrick Oil Company Inc.</b>	<b>Transferred/Inactive</b>
<b>Landmark Resources, Inc.</b>	<b>Transferred/Inactive</b>
<b>Linn Operating, Inc.</b>	<b>Transferred/Inactive</b>
<b>Mewbourne Oil Company</b>	<b>Transferred/Inactive</b>
<b>Midcoast Operating</b>	<b>Transferred/Inactive</b>

<b>ONEOK Partners, LP</b>	<b>Transferred/Inactive</b>
<b>Plains All American Pipeline</b>	<b>Transferred/Inactive</b>
<b>Samsou Resources</b>	<b>Transferred/Inactive</b>
<b>Samuel L. Gary Jr. &amp; Associates, Inc.</b>	<b>Transferred/Inactive</b>
<b>SemGroup Corporation</b>	<b>Transferred/Inactive</b>
<b>Unit Petroleum Company</b>	<b>Transferred/Inactive</b>
<b>Versado Gas Processors</b>	<b>Transferred/Inactive</b>

\*Contract status is as follows: active contracts have a current balance and no outstanding compliance notice, suspended or partially suspended contracts have a past-due enrollment fee balance, self-terminated contracts indicate a voluntary termination by the participant company, sold/transferred indicates that the enrollment was sold, transferred to another enrolled company and remains in the program, and transferred/inactive indicates that the company transferred the acreage to the CCAA program and retains the WCA contract without any enrolled acres.

**Candidate Conservation Agreement with Assurances (CCAA) Industry Participation**

The CCAA covers oil and gas and related activities such as wells, roads, pipelines, storage tank facilities, compressor and pumping stations, and electric service for oil and gas facilities. Several companies transferred enrollments from the WCA into the CCAA for its stronger legal assurances.

<b>Company Name</b>	<b>Agreement Status</b>
<b>Anadarko Minerals, Inc.</b>	<b>Active</b>
<b>Anadarko Petroleum Corporation</b>	<b>Active</b>
<b>Apache Corporation</b>	<b>Active</b>
<b>Apache Corporation - Permian Region</b>	<b>Active</b>
<b>Beren Corporation</b>	<b>Active</b>
<b>BP America</b>	<b>Active</b>
<b>Castelli Exploration, Inc.</b>	<b>Active</b>
<b>Centurion Pipeline L.P.</b>	<b>Active</b>
<b>Chisholm Partners II, LLC</b>	<b>Active</b>
<b>Cimarex Energy Co.</b>	<b>Active</b>
<b>Cimarex Energy Co. - West Texas</b>	<b>Active</b>
<b>CMX, Inc.</b>	<b>Active</b>
<b>Coats Energy, Inc.</b>	<b>Active</b>
<b>COG Operating, LLC</b>	<b>Active</b>
<b>Conoco Phillips</b>	<b>Active</b>
<b>Continental Resources, Inc.</b>	<b>Active</b>
<b>Corlena Oil Company</b>	<b>Active</b>
<b>Crawley Petroleum Corporation</b>	<b>Active</b>
<b>Culbreath Oil &amp; Gas Co., Inc.</b>	<b>Active</b>
<b>Cynosure Energy LLC</b>	<b>Active</b>
<b>DaMar Resources, Inc.</b>	<b>Active</b>
<b>Daystar Petroleum Inc.</b>	<b>Active</b>
<b>DGP Midstream LP</b>	<b>Active</b>
<b>Devon Energy Corporation - Kansas</b>	<b>Active</b>

<b>Devon Energy Corporation - Oklahoma</b>	<b>Active</b>
<b>Devon Energy Corporation - Panhandle</b>	<b>Active</b>
<b>Devon Energy Corporation - Permian Basin</b>	<b>Active</b>
<b>Devon Energy Corporation - Rockies</b>	<b>Active</b>
<b>Diehl Oil, Inc.</b>	<b>Active</b>
<b>Dorchester Minerals Operating LP - Oklahoma</b>	<b>Active</b>
<b>Duncan Oil Properties, Inc.</b>	<b>Active</b>
<b>Edison Operating Company, LLC</b>	<b>Active</b>
<b>Edmiston Oil Company, Inc.</b>	<b>Active</b>
<b>Elevation Resources LLC</b>	<b>Active</b>
<b>Empire Energy E&amp;P LLC</b>	<b>Active</b>
<b>Enable Midstream Partners</b>	<b>Active</b>
<b>Encino Operating, LLC</b>	<b>Active</b>
<b>Energy Alliance Company, Inc.</b>	<b>Active</b>
<b>Energy Transfer Partners</b>	<b>Active</b>
<b>Enervest Operating LLC</b>	<b>Active</b>
<b>EOG Resources, Inc.</b>	<b>Active</b>
<b>Fasken Oil and Ranch</b>	<b>Active</b>
<b>Griffin Management LLC</b>	<b>Active</b>
<b>IA Operating, Inc.</b>	<b>Active</b>
<b>Jayhawk Pipeline LLC</b>	<b>Active</b>
<b>JMA Energy Company, LLC</b>	<b>Active</b>
<b>Jolen Operating Company</b>	<b>Active</b>
<b>Jones Energy LLC</b>	<b>Active</b>
<b>Kenneth W. Cory, Ltd.</b>	<b>Active</b>
<b>Kinder Morgan Inc.</b>	<b>Active</b>
<b>Kirkpatrick Oil Company Inc.</b>	<b>Active</b>

<b>Landmark Resources, Inc.</b>	<b>Active</b>
<b>Legacy Reserves Operating LP</b>	<b>Active</b>
<b>Lighthouse Oil &amp; Gas LP</b>	<b>Active</b>
<b>Linn Operating, Inc.</b>	<b>Active</b>
<b>M&amp;M Exploration, Inc.</b>	<b>Active</b>
<b>Magellan Midstream Partners, LP</b>	<b>Active</b>
<b>Marathon Oil Company</b>	<b>Active</b>
<b>MarkWest OK Gas Company, LLC</b>	<b>Active</b>
<b>Maverick Brothers Resources, LLC</b>	<b>Active</b>
<b>McGinness Oil Co. of Kansas, Inc.</b>	<b>Active</b>
<b>Merit Energy Company, LLC</b>	<b>Active</b>
<b>Mewbourne Oil Company</b>	<b>Active</b>
<b>MIDCO Exploration, Inc.</b>	<b>Active</b>
<b>Midcoast Operating</b>	<b>Active</b>
<b>MidCon Energy Operating LLC</b>	<b>Active</b>
<b>Midnight Hour, LLC</b>	<b>Active</b>
<b>Murfin Drilling Co., Inc.</b>	<b>Active</b>
<b>Nadel and Gussman Permian LLC</b>	<b>Active</b>
<b>O'Benco IV LP</b>	<b>Active</b>
<b>ONE Gas Inc.</b>	<b>Active</b>
<b>ONEOK Partners, LP</b>	<b>Active</b>
<b>Oolite Energy Corporation</b>	<b>Active</b>
<b>Osage Investors I, LLC</b>	<b>Active</b>
<b>Oxy USA, Inc.</b>	<b>Active</b>
<b>Paladin Energy Corp.</b>	<b>Active</b>
<b>Panhandle Topeka, LLC</b>	<b>Active</b>
<b>Pickrell Drilling Company, Inc.</b>	<b>Active</b>

## **Habitat Acquisition**

During this reporting period for the 2016 annual report, WAFWA secured two permanent conservation sites. The first site consists of 1,781 acres of privately owned native rangeland in the Mixed Grass ecoregion of which 1,670 acres are in CHAT 1. WAFWA also acquired the title to a 29,718-acre ranch in the Sand Sagebrush ecoregion. This ranch was acquired by WAFWA from a willing seller in June 2016.

In addition to these two new acquisitions, WAFWA had previously secured an additional 1,554-acre permanently conserved site in the Shinnery Oak Ecoregion. WAFWA states they are also conserving 100,650 additional acres across thirteen active 10-year term contracts.

## **Project Logs and Ledgers**

According to the last annual report, tracking of information about a project and its implementation status within the RWP workflow is available internally, accessible by companies for their specific projects and by USFWS.

WAFWA states that during the first year of the RWP, a tracking log was created in a shared online spreadsheet, such that each new project was entered as a new record row and attribute columns regarding the project stage, date it was evaluated, impact costs, impact units, and dates the project was approved and sent to accounting for completion were manually entered every time new information was collected.

The tracking log and ledgers are accessible via a secure website along with a summary of projects status and important project details (region, CHAT score, habitat impact units, mitigation cost). In 2015, great effort was expended getting all the tracking information into a comprehensive GIS geodatabase and a relational geodatabase was created that had automatic daily updates of project information pulled from the GIS data. This new tracking log and ledgers were not available via a web interface, but were part of the geodatabase shared with the USFWS.

A web interface is said to be now available and provides role based access to authorized data sets. Users from WAFWA and USFWS can access information for all companies, conservation enrollments, as well as access the summary logs, and the impact balance ledgers. Figure 13 shows an example of a page that lists and maps projects that are under review, but not yet finalized.

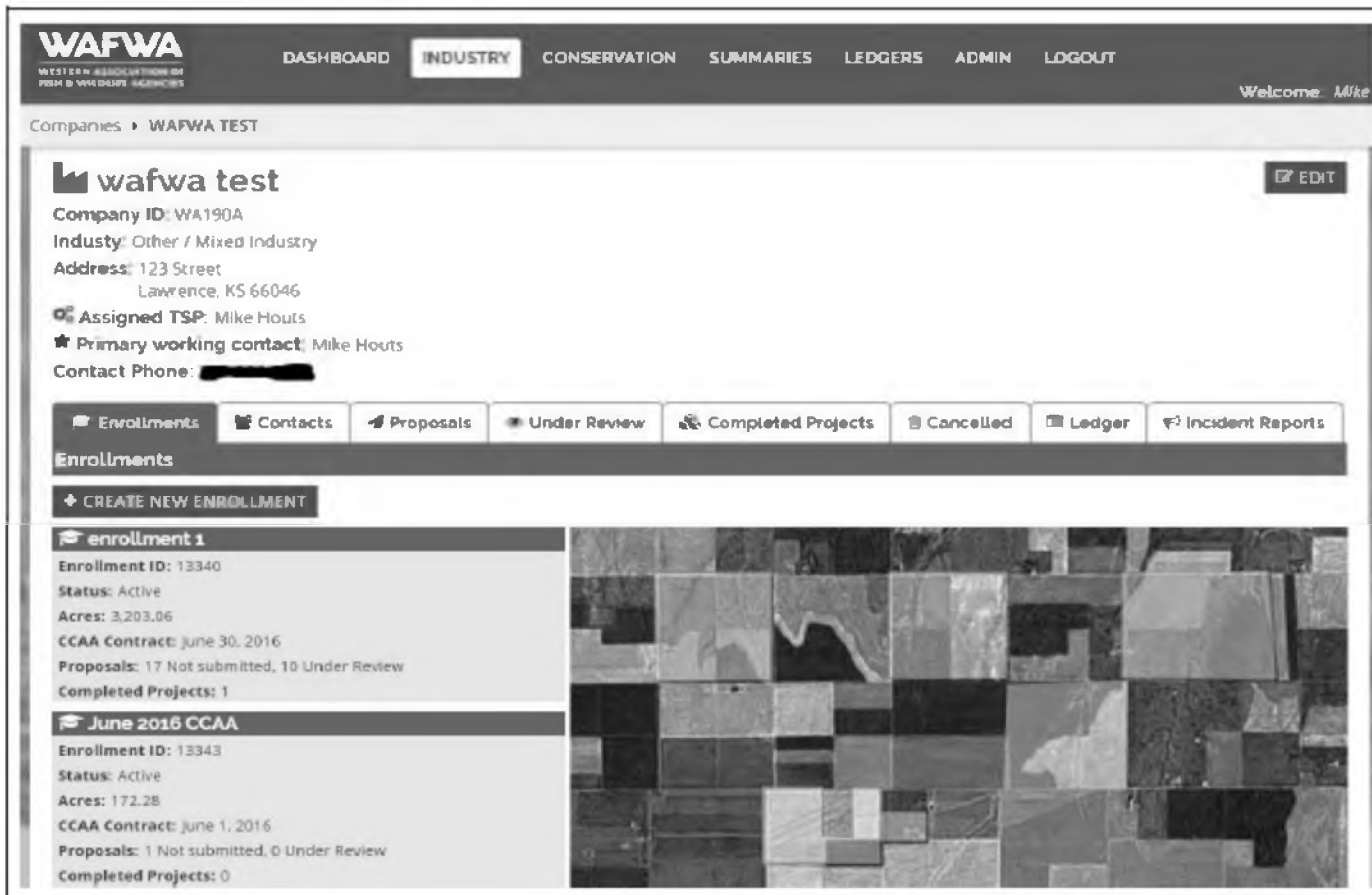


Figure 12. View of the WCT web interface showing enrollment parcels for a hypothetical “WAFWA Test” company. Tabs within the view provide access to unique sets of data and tools.

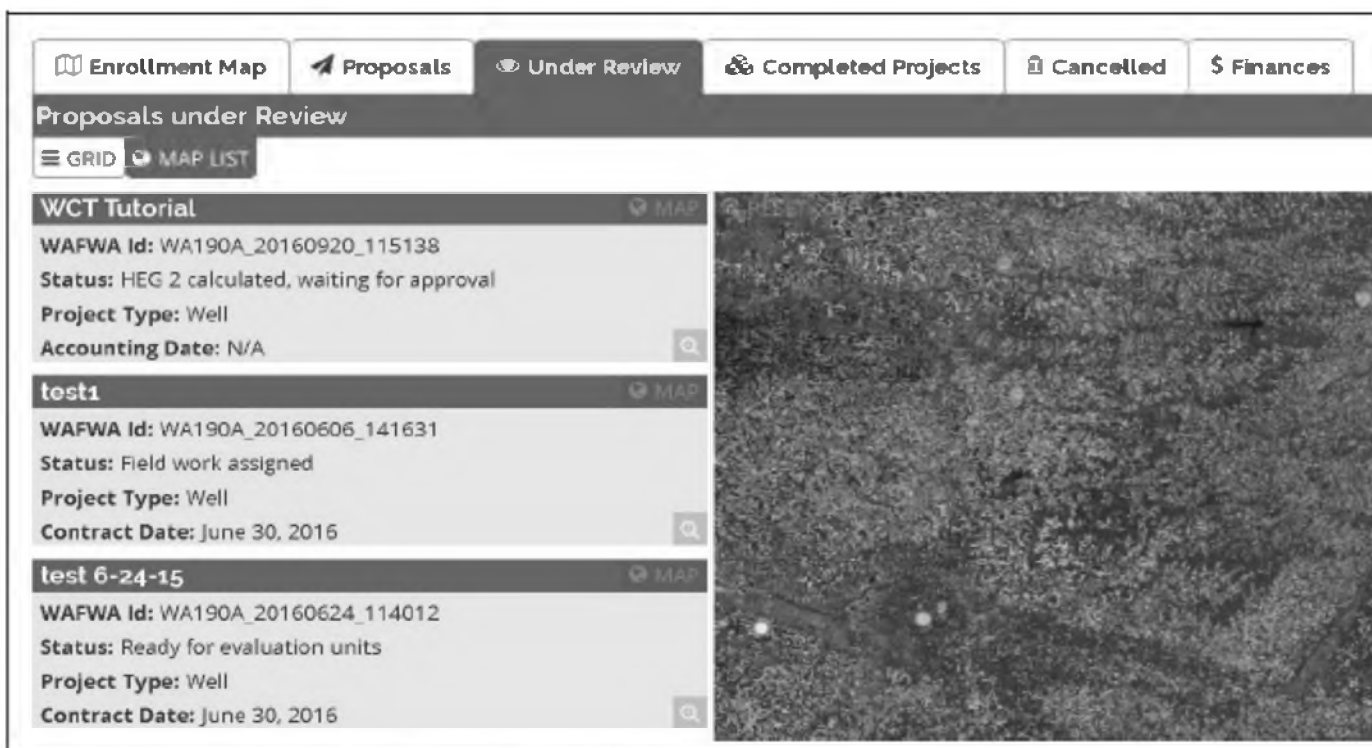


Figure 13. View of projects listed in “Under Review” tab for the hypothetical WAFWA Test company. Projects are listed and mapped, with the list functioning as a link to specific project de

The line-by-line ecoregion ledgers that track credit and debit, show which projects are associated with which conservation sites, and provide a running balance of that conservation sites available credit are available by ecoregion in the WCT app through the Ledger tab. A subset of this ledger is shown in the figure below.

Entry Date	WAFWA ID	ProjectName	Ecoregion	CHAT	ChargeType	DebitUnits	Credit	OffsetSite	SiteBalance
12/22/2016	DX131A_20141215_054406	Willard 135K - Revised	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2001	130
12/22/2016	DX131A_20141215_054405	Willard 133AL	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/22/2016	DX131A_20141215_054401	Willard 116D - Revised	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/22/2016	DX131A_20141215_054403	Willard 116CL	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/22/2016	DX131A_20141215_054402	Willard 114D	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/22/2016	DX131A_20141215_054401	Willard 113E	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/22/2016	DX131A_20141215_054400	Willard 112E	Shinnery Oak Prairie	4	2014-2016 Impact	-0.64	0	C2003	130
12/12/2016	RO154A_20161212_123714	Fleming Distribution Line Route 3	Shinnery Oak Prairie	2	Final Impact	-0.32	0	C2014	130
12/7/2016	DX131A_20161129_081112	EC 19	Shinnery Oak Prairie	4	Final Impact	-1.64	0	C2013	130
12/7/2016	DX131A_20161129_081318	EC 18	Shinnery Oak Prairie	4	Final Impact	-0.88	0	C2013	130
12/7/2016	DX131A_20161129_080923	EC 17	Shinnery Oak Prairie	4	Final Impact	-6.79	0	C2013	130
12/7/2016	DX131A_20161129_080302	EC 16	Shinnery Oak Prairie	4	Final Impact	-4.6	0	C2013	130
11/24/2016	DX131A_20161129_071107	CLLU 93R	Shinnery Oak Prairie	4	Final Impact	0	0	C2014	130
11/23/2016	TE175A_20151014_100030	Mcrae 3	Shinnery Oak Prairie	3	2015-2016 Impact	-0.82	0	C2013	130
11/23/2016	TE175A_20151014_100010	Mcrae 2	Shinnery Oak Prairie	3	2015-2016 Impact	-3.75	0	C2013	130
11/16/2016	TE175A_20141105_100600	Mcrae 1	Shinnery Oak Prairie	3	2014-2016 Impact	-0.79	0	C2014	130
11/5/2016	DX131A_00001176_061176	WDOC 806	Shinnery Oak Prairie	4	2014-2016 Impact	0	0	C2014	130
11/5/2016	DX131A_00001175_061175	WDOC 807	Shinnery Oak Prairie	4	2014-2016 Impact	0	0	C2014	130
11/5/2016	DX131A_00001174_061174	WDOC 808	Shinnery Oak Prairie	4	2014-2016 Impact	0	0	C2014	130

Figure 14. Subset of the line-item ledger for the Shinnery Oak ecoregion where the habitat unit credit debits for each project and conservation site are tracked. For each impact, the region, CHAT category, impact units, and offset site associated with it are shown.

<sup>[1]</sup> As of December 31, 2016, and not included in the \$62.3 million, \$1,477,418 are in account receivables and \$902,676 has been written off to bad debt