

**Midwest Association of
Fish and Wildlife Agencies
Special Board Meeting Minutes
Tuesday, October 21, 2014, 2:00 p.m. (CDT)
Conference Call**

Call to Order – President Keith Creagh called the meeting to order at 2:05 pm.

Quorum – Keith Creagh, Michigan; Dr Jim Herkert, proxy Illinois; Mark Reiter, Indiana; Kelley Myers, Iowa; Keith Sexson, Kansas; Charles Bush, proxy Kentucky; Ed Boggess, Minnesota; Tim Ripperger, proxy Missouri; Tim McCoy, proxy Nebraska; Scott Peterson, proxy North Dakota; Scott Zody, Ohio; Jeff Vonk, South Dakota, and Scott Gunderson, Wisconsin. Also present were Ollie Torgerson, Executive Secretary; and Sheila Kemmis, Recording Secretary, Kansas. Guests Rich Baker, Minnesota; Dan Kennedy, Michigan; Sunni Carr, Kentucky; Erin Crain and Kurt Thiede, Wisconsin; Dr. Dale Garner, Iowa; Stan Kohn, North Dakota; and Jenny Norris, Ohio.

No. Long-Eared Bat Letter and Next Steps – Creagh – We decided during our annual meeting in Traverse City to hold a bat workshop due to the potential endangered species listing of the northern long-eared bat. This workshop was held in October in Minnesota and I ask Director Zody to summarize. Zody - Recognize members of planning committee that did yeoman's work to pull the conference together and steer through the minefield – all deserve a gold medal; good quality people. The Minnesota facilitators were excellent. First day brought in USFWS and talked about the process and listened to reports on biology; USFS and states that had data talked on second day and also discussed white-nosed syndrome (WNS) the second day; last day worked on framing issues for multistate letter and drafting conservation measures that we were asked to put together. Letter was easier, but consensus on how to approach conservation measures was harder; had intensive behind the scenes discussions in planning committee. Have good product out of this process. Experiment is moving forward with this process and moving forward with other species. Creagh – The Service was concerned about violation and was only there in advisory capacity; told us that if we ask for a change in the proposed listing that we had to present new science that justifies the change. MAFWA said we would commit up to \$20,000 to underwrite the workshop, we asked support from NEAFWA and SEAFWA for \$5,000 each, got \$5,000 from NE, but not SE, so our cost will be about \$13,000; kept down costs by using Minnesota-provided facilitators. Rich Baker and Dan Kennedy are authors of the letter, would you go through that letter and then discuss conversation points. Baker – The letter is structured in two parts; listing determination and 4(d) rule. Impacts of WNS, current and future, and what states are already undertaking; 4(d) is based on normal forest management; in a nutshell. I gave the Board nine points I want the Board to discuss. Creagh – On content and process; unanimous at conference (65 scientists from 25 states), all

agreed that endangered listing was not warranted except South Dakota said threatened would be the way to go. McCoy – One of the questions here I need to raise from our issue (Nebraska) is potential legal action going on through our AG's office because we convened our scientists not our policy experts. You need to allow the opportunity for directors to weigh in. If this letter goes forward with asking for threatened listing our state will not be able to sign on to this. Creagh – I tried to articulate it was scientists who met. Zody – As I recall Oklahoma and Kansas had expressed reservations of signing onto the letter if it too strongly recommended a threatened listing; expected this depending on policy of ESAs, other than “don't list”; this is understandable. What surprised me was SEAFWA, strongly supporting a threatened recommendation. Creagh – Interesting conversation. Vonk – What is the reasoning? Why do we need to tell the Service what to do, other than an endangered species is not warranted? Zody – Service was looking for some support on that regard; there was some struggle to come to consensus on how to wordsmith that; felt most recent version did pretty good at that; SEAFWA suggestions are heading too far the other way. Gunderson – Consider states that were there and those who don't want to list at all and some that want endangered, looking for sweet spot in the middle. Everyone will have their own opinion from their own state, to include notion of listing as threatened overall makes the most sense. Vonk – There are times to compromise and times when silence is better; if we state we are opposed to endangered, only two other places to go without us telling them where to go; I recommend we not say too much. Boggess – We had a similar discussion; to me it is almost splitting hairs to say we don't want endangered or we want threatened. Present data and science to ask them not to make an endangered status, outcome is the same. Gunderson – Seems if you look at science, offers some level of support here. Creagh – What we want is interim guidance documents and make sure forestry is not negatively impacted, it needs some protection. How do you get there? Zody – Have to make decision here today on which way we press this letter, SEAFWA's concerns or move forward with our letter and lose a few states. Vonk – Would be more comfortable in South Dakota with that. Keith – How about Nebraska? McCoy – If identifying determination it doesn't help us to use wobble words in front of it. It essentially identifies a conclusion and doesn't put us in a good position. Creagh – Take out sentence completely? Zody – State foresters would think they would be more apt to sign our version than the SEAFWA version. Vonk – Should the Service make a determination of threatened, that determination would, or should, include the 4(d) rule. Baker – That was the language before I made these changes to reflect SEAFWA changes. Creagh – Would Wisconsin be okay? Gunderson – We are listed as state threatened right now and we don't want to go backwards. Baker – Return all language on threatened determination. Gunderson – Wisconsin can't take that out. Kennedy – We have state issued and federal listed species. Crain – It was based on the science, warranted threatened listing five years ago, now with increased spread of WNS, it would be difficult sell to say not warranted anymore. Kennedy – Not saying not warranted, just saying not endangered listing. Gunderson – Want to not mention threatened, but just don't want endangered. Zody – Not saying we don't believe threatened is

warranted, but not saying it is as well, being silent on that point and not advocating on that point one way or the other. Gunderson – Just need to know how to best answer that question when asked. Boggess – Can have species endangered and threatened at a state level, but doesn't justify that level at federal level throughout its range, you can only judge Wisconsin. Saying not endangered throughout its range, not being inconsistent with your state's position. Gunderson – We may be able to make that work, need to cover the bases for Secretary Stepp. Creagh – Second point? Baker – We believe we will lose those 18 states as a result of this decision, is okay with you? Creagh – If MAFWA states can agree on wording, either Ed or I get on phone conversation with NEAFWA and SEAFWA. Baker – Minor detail on workshop, brief paragraph on that on first page; is that adequate? Creagh – Enough information to protect Service from anything other than advisory capacity. Dan, do you agree with that? Kennedy – Saying they were not there, concern with omitting USFWS and USFS from the workshop attendance even though they were there. Creagh – Scott, opinion? Zody – Legal wrangling. Myers – I think we should state they were there, lends credibility, add "the Service was there for part of meeting". Zody – Thank them for help in the process. Vonk – Good approach. Myers – Is 25 states accurate? Kennedy – Yes, I checked. Baker – Included 4(d) rule for normal forest management and conservation on page 10 and 12 and a number of comments on excluding conservation actions for fear it would be used to back the states into a corner. I took them out for SEAFWA, but we discussed that before. Creagh – How general or how specific should this letter be? Gunderson – Remove other land management from the letter, it has been developed, just say land management only. Creagh – Be more general. Zody – Extensive discussion in workshop and planning committee, one of charges director's gave and we wanted to develop the list if we could; concerns were expressed about putting ourselves out on this limb and have USFWS use that for incidental take under 4(d) rule. Looked at list we developed and didn't see anything overly burdensome; I can live with being a little vague. Creagh – If we remain general, expect engagement as they develop 4(d) rule and some of Gundy's wording. Baker – That is fourth point and I am talking about second point. Gunderson – One broad sweeping statement and we are good, don't break those out. Zody – We agree. Boggess – On development of 4(d) rule, if they publish at same time as listing determination will they have opportunity to involve us if that is the case? Baker – Could craft 4(d) rule broadly and details worked out with the states. Myers – If they publish that it would be open for comment. Kennedy – Service is considering publishing 4(d) rule before final rule which would work perfect for us and we could make public comment; December for 4(d) rule posting and publish in January. Gunderson – Where are you getting that from? Kennedy – Tony Sullins, no commitment, but considering this path; I asked him specifically. If they do it afterwards there are additional NEPA requirements. Boggess – That would be good for engaging us, don't know how to list that in the letter. Creagh – Capture that in letter if we can. Myers – Important to us for them to engage us before they initiate that. Creagh – Rich, find spot in letter for that. Baker – Final paragraph in 4(d) rule possibly. Myers – Also, on first page. Baker – That is

helpful. Regarding comments from Wisconsin to include other land management activities; for which BMPs have been developed. Kennedy – I will contact Tony Sullins to clarify that I understood him correctly and contact Ollie. Baker – The timeline we are trying to adhere to is November 5, signing commitments will have to go out this Friday, need final approval of letter before then. Creagh – Run back through planning committee or share electronically with those on the call and see if agreeable with you. Gunderson – We support that, everyone on this call. Myers – Agreed. Rich – I can give to Ollie and he can get into process points of how it goes out; finalize by noon, give to Ollie and send out for final approval to you. Boggess – Send from MAFWA or signed by individual states? Creagh – For MAFWA to circulate to states to get individual state's signature; states in east could do it or send their own. Vonk – When does it have to go out? Creagh – Be in USFWS hands by November 5. Vonk – Having president sign it would be okay. Creagh – We could do that. Vonk – I am okay to sign it too. Baker – Original intent was to also ask state forestry agencies to sign on. Zody – Director's sign and sponsor the letter and they could submit comment letters when put out for comment. I think a lot of the foresters would prefer to submit their own letters. Boggess – May still need to have this conversation with NEAFWA and SEAFWA. Letter from range states would be presumptuous for us to send to SEAFWA states if they are working on their own letter. Creagh – Will make a phone call. Gunderson – Come from MAFWA under Keith's signature? Creagh – Under Ed's signature, my presidency is finished. More powerful under each signature rather than one signature for collective group? Boggess – We could get from our states, tough to get with states in SEAFWA and NEAFWA, tight on timeline. Creagh – Sign as states or MAFWA? Ollie – Need motion. **Jeff Vonk, South Dakota moved to send letter under MAFWA president's signature, Scott Zody, Ohio second.** Zody – With exception of pulling out list of conservation measures and other land practices that have BMPs and collaborate with 4(d) rule going back to original letter before SEAFWA markup? Gunderson – Need scientific determination, letter is lengthy but needs more scientific citations, in talking with our folks we think we need to take out undocumented statements and put in citations for significant arguments in the letter. Hard to find supporting citations for some of these statements. Creagh – Tony was very clear as was Tom Melius that this needed to be science based. Rich, run draft past planning committee then recirculate letter to see if we capture that. Once letter is redrafted and reviewed by those on call, President has permission to send to the Service on behalf of MAFWA. **Approved.** Ollie – Another portion in this letter on process. Rich, anything else you need to cover? Baker – Need to contact SEAFWA, I can call Martin or let you let them know. Creagh – Ed, do you and I want to call them? Boggess – Yes, message to SEAFWA we are still working on letter, but will not contain threatened request. Creagh – We will do that for NEAFWA too.

National Pheasant Plan Coordinator Funding – Ollie – This is an update, when we met in Traverse City we agreed to send letter under president's signature, requesting pheasant range states willingness to support funding for a National Wild Pheasant Plan Coordinator position , asking for \$5,000 for 3 years

from each state (co-signed by PF). Not many responses as of September 30; of 23 states that got this letter, nine will support, three will not, and 11 states have not responded. Need direction, once we get responses have special board meeting called to decide whether or not to go ahead and fund or not? Ed, you will have to call a special meeting to take action on this. Zody – My understanding was, we raised concern about coming up with match. Ollie – Talked to Hannibal Bolton who said you could use federal aid money, but would have to come up with the match of course. Creagh – We may need more information sent to those other 11 states. Ollie – Midwest pheasant study group working on getting those letters out. McCoy - We (Nebraska) just signed. Peterson – We (North Dakota) will sign on soon. Bush – Waiting on Kentucky? Ollie – Maybe you didn't get a letter because you don't have pheasants.

Don't need another meeting on bat issue, once drafted and recirculated we will send out under president's signature. Thanks Mr. President for your excellent leadership this last year, it was great to work with you; Ed takes over on Friday. Creagh – Appreciate patience. Boggess – Echo what Ollie said, you have been terrific to work with, different background and brought different perspective to the table. If irreconcilable issues, can Executive Committee resolve anything not resolved by planning committee? Ollie – Have unanimous decision for president to sign it. Boggess – If one or two states don't like it? Myers – Could we have another special meeting if we need to resolve an issue? Ollie – Takes 10-day notice according to our bylaws. Myers – Could we plan one and cancel it if we don't need it? Vonk – Policy decision of states involved. Gunderson – Unanimously agreed to have this letter go out, think we are pretty close to having something come out from MAFWA, maybe all states won't agree with every aspect. Unknown person - Planning committee did a great job.

Adjourn – Scott Gunderson, Wisconsin moved to adjourn, Tim McCoy, Missouri second. Adjourned at 3:14 pm.