



THE LESSER PRAIRIE-CHICKEN RANGE-WIDE CONSERVATION PLAN

EXECUTIVE SUMMARY

March 4, 2014

BACKGROUND

Because of population declines, the U.S. Fish & Wildlife Service (USFWS) was petitioned to list the lesser prairie-chicken (LPC) as threatened in 1995. After review, the USFWS issued its findings and in 1998 the species was determined to be warranted for listing but precluded because of actions needed for higher priority species. The USFWS assigned LPC a listing priority number of 8 (1 indicating the highest need for action and 12 lowest), which they then revised in 2008, increasing it to a 2 because of their belief that the threat of wind development and associated development of transmission lines within the occupied range had increased since their last analysis. On December 11, 2012, the USFWS expressed concerns that a number of existing and expanding threats are currently outside of the regulatory authority of the states to control and proposed listing LPC as threatened. The listing decision was originally scheduled to be announced by September 30, 2013 but was delayed by 6 months due to significant scientific disagreement. The final listing determination for the LPC is scheduled to be announced no later than March 30, 2014.

PURPOSE

The purpose of the range-wide plan (RWP) for the lesser prairie-chicken (LPC) is to identify a conservation strategy that will ensure the long-term existence of the species at sustainable levels when fully implemented. More specifically, the RWP:

1. Identifies range-wide and sub-population goals for LPC, the first benchmark being a 10-year average of 67,000 birds range-wide.
2. Identifies desired habitat amounts and conditions to achieve the population goal within the first 10-year timeframe.
3. Uses a decision support tool that identifies focal areas and connectivity zones where LPC conservation actions will be emphasized to produce the habitat conditions required to conserve the species at sustainable levels.
4. Enhances programs and cooperative efforts to encourage and expand voluntary landowner cooperation in the development and maintenance of the desired habitat conditions.
5. Promotes agreements designed to avoid and minimize impacts to LPC habitat from various development activities and where avoidance is not possible, mitigate impacts.
6. Establishes a mitigation framework that could be used by any entity and administered by the Western Association of Fish & Wildlife Agencies (WAFWA) that will offset impacts to LPC habitat with offsite mitigation.
7. Identifies research needs and implements monitoring.
8. Develops an adaptive management framework that will incorporate monitoring and new information into future adjustments to the conservation strategy to maximize benefits to LPC.
9. Addresses input and suggestions from agencies, organizations, landowners, industries, other stakeholders, and the general public on the conservation plan for LPC.

10. Maintains management authority with the affected state wildlife agencies even if the bird is found to be warranted for federal protections

Overall, the RWP will allow for economic development to continue in a seamless manner by providing an efficient mechanism to voluntarily conserve the LPC and/or comply with the ESA, if the final determination is to list the species. Without the RWP, there would be significant regulatory delays in obtaining take permits, disruption to economic activity in an area vital to state and national interests, and little incentive to conserve LPC habitat on private lands to potentially preclude listing of the LPC. The RWP encourages participants to immediately enact proactive and voluntary conservation activities in response to the proposed listing of the LPC. Goals and objectives associated with population levels, habitat conservation objectives using short and long term agreements, and funding streams will be reviewed, and adjusted accordingly through an adaptive management process.

WAFWA MITIGATION SYSTEM

The WAFWA Mitigation Framework incentivizes avoidance and minimization of impacts to LPC habitat. The metrics system within this framework provides a pathway to mitigate for all impacts to habitat through a biologically-based system that incorporates space, time and habitat quality. It also utilizes a 2:1 mitigation ratio to ensure that offsets are greater than impacts, resulting in a net conservation benefit for the LPC. The mitigation fees are based on the USDA estimated costs to implement the necessary conservation practices plus a 12.5% administration fee for the WAFWA to deliver the program. The mitigation fees will be split between permanent conservation efforts (25%) and short-term management contracts (75%) that will shift around the action area identified in the RWP. Those dollars will be offered to landowners within the LPC range for voluntarily implementing conservation practices that benefit the LPC. Landowner payments will be calculated based on their acreage and its location and habitat quality. Landowners in high priority locations with optimal habitat will be paid 125% of the actual cost of implementing the needed conservation.

Industries will be required to pay an enrollment fee when they agree to participate in the RWP. Those enrollment fees are necessary because they will not be able to develop until the offsetting conservation actions are in place. The enrollment fees allow WAFWA to contract with private landowners prior to any development activity which will minimize or eliminate any delays. Enrollment fees will count toward any future developments and participating industries will not be required to pay for subsequent impacts until they have exhausted their entire enrollment fee. Industry will also be able to generate offsetting conservation by remediating existing impacts. All aspects of the mitigation system will be evaluated periodically by the plan administrators and any needed adjustments will be made following the procedures outlined in the RWP.

PLAN ADMINISTRATION

The WAFWA was founded in 1922. It currently consists of 23 member states and provinces that have primary responsibility and authority for protecting and managing fish and wildlife in the western United States and Canada. The 19 member states encompass over 2.5 million square miles. The Fiscal Year 2012 budgets for the member states were over \$1.7 billion. The chief executive officer of each fish and wildlife agency are on the Board of Directors of both the Western Association of Fish and Wildlife Agencies and its fund-raising arm, the Foundation for Western Fish and Wildlife (FWFW).

The WAFWA Board of Directors will establish the LPC Initiative Council (LPCIC). The directors of the state fish and wildlife agencies within the LPC range are members of the WAFWA and FFWF Boards of Directors and will comprise the LPCIC along with a member of the Executive Committee, appointed by the President, and representing an agency with extensive experience with ESA issues as it pertains to private lands. This relationship will ensure decision-making roles for the affected state agencies regarding how and where funds are spent, as well as coordination with other WAFWA/FFWF conservation efforts.

The LPCIC will establish an Advisory Committee and associated subcommittees and maintain the LPC interstate working group (IWG) which is a technical arm of the WAFWA. The Advisory Committee and IWG will be strictly advisory in nature and will provide recommendations to the LPCIC for final approval. The intent of these groups is to support the RWP, promote effective communication between all parties, and make recommendations for dispute resolutions, fee structures, and adaptive management decisions. The Advisory Committee will be supported by two subcommittees: (1) Fee Structure Subcommittee and (2) Science Subcommittee

Committee Composition:

Committees will be developed or maintained to guide progress toward the goals of the RWP. The committees will provide the necessary expertise and a diverse representation of the affected stakeholders.

Interstate Working Group

- One representative from each of the 5 state fish and wildlife agencies
- The WAFWA Grassland Coordinator as an ex officio member

Advisory Committee

- The WAFWA LPC Program Manager will coordinate and facilitate the Advisory Committee as an ex officio member
- An additional 17 representatives will compose the committee
 - One representative from 3 of the 5 state fish and wildlife agencies, to serve on a rotating schedule
 - One representative from each of the 2 primary federal agencies closely involved with LPC conservation (USFWS and NRCS)
 - Three representatives from industry organizations (e.g. oil & gas, wind, transmission, etc.)
 - Three representatives from agricultural and landowner organizations (e.g. Cattlemen's Association, Corn Grower's Farm Bureau etc.)
 - Three representatives from conservation organizations (e.g. The Nature Conservancy, North American Grouse Partnership, National Audubon Society, etc.)
 - Three representatives from local government or municipalities

Fee Structure Subcommittee

- The WAFWA LPC Program Manager will coordinate and facilitate the Fee Structure Subcommittee as an ex officio member.
- An additional 13-15 representatives will compose the committee
 - One representative from 3 of the 5 state fish and wildlife agencies

- One representative from each of the 5 LPC states from NRCS
- One representative from each of the 5 LPC states from FSA
- One representative from FWS Regions 2 and 6 from the Partners for Fish and Wildlife Program, if desired

Science Subcommittee

- The WAFWA LPC Program Manager will coordinate and facilitate the Science Subcommittee as an ex officio member.
- Up to a maximum of an additional 15 representatives will compose the committee
 - One representative from each of the 5 state fish and wildlife agencies and USFWS
 - Up to 9 additional members with expertise in LPC ecology, habitat modeling, population monitoring, impact evaluation, and other relevant topics may serve on the subcommittee

USFWS ENDORSEMENT

On October 23, 2013 the U.S. Fish & Wildlife Service (USFWS) endorsed the RWP as “a comprehensive conservation plan that reflects sound conservation design and strategy that, when implemented, will provide a net conservation benefit to the lesser prairie-chicken.” Implementation of the RWP will reduce or eliminate all of the threats to the LPC identified by the USFWS in the December 11, 2012 proposed rule to list the species as threatened. To date, the RWP is the only plan that has been endorsed by the USFWS and is the only pathway that has the potential to lead to a not warranted final decision. Additionally, if the LPC does become federally listed, the RWP is the currently the only option that can immediately provide take coverage to developers and prevent or minimize construction delays.

CURRENT IMPLEMENTATION STATUS

The WAFWA is currently enrolling industry and accepting their fees. Private companies in five states have now enrolled more than 2.5 million acres in the Lesser Prairie-Chicken Range-wide Conservation Plan, representing oil and gas, pipelines, electric transmission and wind energy, resulting in nearly \$15 million for habitat conservation. Range-wide plan enrollment now includes 14 electric transmission companies, representing most of the electric grid across the species’ range in New Mexico, Oklahoma, and Texas. Also, eight oil and gas companies have enrolled more than 2 million acres across all five states. And, two wind energy developments and one natural gas pipeline company have signed on. The WAFWA is also expecting more enrollments prior to the listing decision from additional electric cooperatives, transmission developers, wind energy developers, midstream pipeline companies, and oil/gas companies. The amount of voluntary enrollment in the RWP will likely weigh heavily into the final listing decision.

Additionally, the WAFWA just passed the landowner application cut-off for the first funding cycle on February 28. Prior to that deadline, the WAFWA received 24 eligible applications from across the LPC range totaling >330,000 acres. The associated application packets will be completed within the next two weeks and the offers will be ranked according to their value to LPC using several previously identified criteria. The highest ranking offers will be funded with the available enrollment dollars when the selection process is conducted in mid March. Landowners who follow the prescriptions in these conservation plans will not only receive annual payments but they will also be exempted from the take prohibition of the endangered species act (ESA) if the LPC becomes federally listed. The WAFWA will be

continually accepting landowner applications for this program but the cut-off for the next funding cycle likely will not occur until next fall with implementation to begin in spring 2015.

The WAFWA will also be continuously developing another type of conservation plan for those landowners not selected during the ranking process or only wanting to be exempted from the take prohibitions of the ESA. The management prescriptions in these conservation plans won't be quite as conservative and landowners won't receive payment for implementing them. However, if the species is listed, the landowners will be protected from the take provisions of the ESA as long as they are following the management prescriptions contained in the conservation plan.