



Questions and Answers for the Lesser Prairie-Chicken JULY 2012

Q: Where is the lesser prairie-chicken found?

A: The lesser prairie-chicken currently occupies a five-state range that includes portions of Colorado, Kansas, New Mexico, Oklahoma and Texas.

Q: What factors have contributed to the decline of lesser prairie-chicken populations?

A: The U.S. Fish and Wildlife Service (Service) identified the lesser prairie-chicken as a candidate for Federal listing in 1998 due to habitat loss, modification, degradation and fragmentation within its range. In addition and more recently, land uses related to wind energy and transmission development, in combination with the potential loss of Conservation Reserve Program (CRP, for more info: <http://www.in.nrcs.usda.gov/programs/CRP/crphomepage.html>) acres, present both conservation challenges and opportunities to develop conservation partnerships.

Q: How did the lesser prairie-chicken become a candidate for listing?

A: On October 6, 1995, the Service received a petition to list the lesser prairie-chicken as a threatened species from the Center for Biological Diversity (previously the Biodiversity Legal Foundation). The Endangered Species Act (ESA) directs us to review petitions to determine if they contain substantial information indicating that the listing may be warranted. If a petition is found to be substantial, the ESA requires the Service to complete a thorough status review of the species.

On June 9, 1998, the Service announced in the *Federal Register* the outcome of the status review. In that publication, the Service provided our determination that listing of the lesser prairie-chicken was warranted under the ESA. However, the immediate listing of the lesser prairie-chicken was precluded by the need to first list other species that were higher priority for protection. A "warranted but precluded" finding must be reviewed every 12 months to determine if the listing priority for the lesser prairie-chicken has changed.

In 2008, the Service updated the listing priority number (LPN) of the lesser prairie-chicken and changed the priority from an 8 to a 2, thereby elevating its listing priority. The change reflected an increase in the overall magnitude of threats to the species throughout its range, primarily from wind energy development and conversion of CRP lands to croplands. These activities are ongoing and continue to affect the long-term viability of the lesser prairie-chicken.

Q: What ESA actions are currently being undertaken by the U.S. Fish and Wildlife Service related the lesser prairie-chicken?

A: The Service is now evaluating the status of and threats to the lesser prairie-chicken as part of the ESA listing process. Initiation of the listing proposal process for the lesser prairie-chicken is a part of the terms of a multi-year listing work plan approved by the U.S. District Court for the District of Columbia on September 9, 2011. This work plan, developed through a settlement agreement with WildEarth Guardians and a separate, smaller settlement agreement with the Center for Biological Diversity, will enable the Service to systematically, review and address the needs of more than 250 species now on the candidate list over a period of six years, to determine if they require ESA protection. A list of these species is available at http://www.fws.gov/endangered/improving_ESA/listing_workplan.html.

In January 2011, the Service began development of a proposed listing rule for the species. We intend to publish the proposed rule no later than September 2012 and we will use the best available science to develop a proposed rule (<http://www.fws.gov/endangered/laws-policies/policy-information-standards.html>.) When completed, the proposed rule will be published in the *Federal Register*. Following publication there will be a minimum 60-day public comment period and public hearings will be held, if requested. After analyzing the comments received, including comments from peer reviewers, the Service will either prepare a final rule to list the species, or if the biological information and assessment of threats no longer supports listing, we would withdraw the proposed rule. Under the ESA, the Service has one year from the date of publication of a proposed rule to make a final determination. More information on the ESA listing process and the lesser prairie-chicken can be found at <http://www.fws.gov/southwest/>.

Q: Why is the U.S. Fish and Wildlife Service taking action now to list the lesser prairie-chicken?

A: The lesser prairie-chicken was determined to warrant listing by the Service in 1998. The Service did not propose to list the lesser prairie-chicken at that time as it was precluded by the need to first list other species that had a higher priority for protection.

In January 2011, funding was provided to begin work on a proposed rule to list the lesser prairie-chicken. On September 9, 2011, a multi-year listing work plan for the Service was approved by the U.S. District Court for the District of Columbia. The September 2011 agreement entered into by the Service requires that we address the status of all candidates (i.e. all species that have been determined to warrant listing) and therefore the lesser prairie-chicken became part of the settlement agreement. Work on a proposed listing rule began eight months prior to the September agreement and is not a result of that agreement.

Q: What efforts are currently being undertaken to protect the lesser prairie-chicken?

A: A number of efforts are currently underway to protect the lesser prairie-chicken. The species is listed as threatened by the State of Colorado. New Mexico, Oklahoma and Texas have closed their lesser prairie-chicken hunting seasons. State wildlife agencies in Colorado, Kansas, New

Mexico, Oklahoma and Texas have joined together to form the "Lesser Prairie-Chicken Interstate Working Group." The Group is currently working on the development of a regional conservation strategy for the lesser prairie-chicken. As part of this group, Texas Parks and Wildlife Department (TPWD) contracted with the Dorothy Marcille Wood Foundation to develop a website for landowners and other interested parties, with information on conservation opportunities among other topics (lesserprairiechicken.org).

In addition, the Great Plains Landscape Conservation Cooperative (GPLCC) has identified the lesser prairie-chicken as one of its top priorities. Over the past three years, the GPLCC has provided financial and programmatic support to five projects to improve scientific information on the lesser prairie-chicken and to assist in improving capacity for planning and conservation delivery for the species. One of the GPLCC-funded projects is "Rangewide Population Estimation and Monitoring for LEPCs: Sampling Design and Pilot Implementation" which is supported through a grant to the Western Association of Fish and Wildlife Agencies (WAFWA) - as representation of the five state agencies managing lesser prairie-chickens. The results of this project will include a range-wide baseline estimate of the lesser prairie-chicken across its five-state range.

Q: What are Candidate Conservation Agreements and Candidate Conservation Agreements with Assurances?

A: Candidate Conservation Agreements (CCAs) are voluntary conservation agreements between the Service and one or more public or private parties. The Service working with our partners identifies threats to candidate species, plans the measures needed to address the threats and conserve these species, identifies willing landowners, develops agreements, designs and implements conservation measures and monitors their effectiveness.

Candidate Conservation Agreement with Assurances (CCAAs) expand on the success of traditional CCAs by providing non-Federal landowners with additional incentives for engaging in voluntary, proactive conservation. The CCAA program was developed to address non-federal landowner concerns about conserving a species that may become listed, and being faced with potential increased regulatory implications of having a listed species on their land. The CCAA program specifically targets non-Federal landowners and provides them with the assurance that if they implement various conservation activities that address identified threats to the species, they will not be subject to additional restrictions or asked to do more if the species becomes listed under the ESA. These assurances are only available to non-federal entities for actions on non-federal lands. More information on CCAs and CCAAs may be found at <http://www.fws.gov/endangered/what-we-do/cca.html>.

Q: How are Candidate Conservation Agreements (CCAs) and Candidate Conservation Agreements with Assurances (CCAAs) being employed to conserve the lesser prairie-chicken?

A: In New Mexico, a combination CCA and CCAA is in place for the lesser prairie-chicken and dunes sagebrush lizard. As of July 15, 2012, thirty oil and gas companies are enrolled in the CCA/A for a total of 808,000 acres (the participating Federal agency in this case is the Bureau of

Land Management (BLM)). In addition, forty-one New Mexico ranchers have enrolled a combined 1.5 million acres of rangeland in the CCA/A and the New Mexico State Land Office has enrolled 248,000 acres in the CCAA. Partners in the NM CCA/A include BLM, Center of Excellence for Hazardous Materials Management (non-profit third party to manage funds and implement CCA/A's), New Mexico Department of Game and Fish (NMGF), New Mexico State Land Office and several oil-gas companies. The CCA/A includes the entire range of the lesser prairie-chicken in New Mexico.

In Texas, TPWD holds a permit and issues Certificates of Inclusion to participating landowners who are voluntarily implementing management plans for lesser prairie-chickens. As of July 15, 2012, twenty-five Texas ranchers have 282,878 acres enrolled in the CCAA. Oklahoma, under the leadership of the Oklahoma Department of Wildlife Conservation (ODWC), submitted a CCAA to the Service. The Service published a Notice of Availability for the draft CCAA on June 25, 2012. The public comment period for the draft CCAA is 60 days and closes on August 24, 2012.

Q: Why should someone enroll in a Candidate Conservation Agreements or Candidate Conservation Agreement?

A: While development of the listing proposal for the lesser prairie-chicken continues, the Service encourages landowners, oil and gas operators, and ranching operators to participate in conservation programs such as the CCA/CCAAs. Activities undertaken through these agreements can help restore habitat and conserve the lesser prairie-chicken, and if the lesser prairie-chicken is listed in the future, the CCAAs will provide landowners with the assurance that they can continue to manage their lands as outlined in their agreements with no additional requirements. However, the Service cannot guarantee that these agreements will prevent a listing of the lesser prairie-chicken. Conservation agreements that affect only a portion of the chicken's range, or that address only some threats, may not be enough to avoid the need to list the species.

Q: What is the Lesser Prairie-Chicken Initiative?

A: In the five state range of the lesser prairie-chicken, the USDA Natural Resource Conservation Service (NRCS) is implementing the Lesser Prairie-Chicken Initiative (LPCI). The LPCI is important because the vast majority (approximately 95 %) of lesser prairie-chicken habitat occurs on privately owned lands across the five-state range. Therefore, the voluntary actions of private landowners (many of whom receive financial and technical assistance from NRCS) are key to maintaining, enhancing, restoring and reconnecting habitat for the species.

Q: What are the components of the Lesser Prairie-Chicken Initiative?

A: The LPCI includes the following components: (1) strategic focus of technical and financial resources on important LPC areas; (2) the implementation of conservation practice standards to support the needs of the LPC; (3) the development of a science-support plan; (4) systematic monitoring and assessment of the results of the on-the-ground actions; (5) a comprehensive training program; and (6) funding of both the technical and financial assistance needs.

Q: How is the Lesser Prairie-Chicken Initiative funded?

A: Over the next four years of the LPCI, NRCS proposes to fund the proposed action with a combination of Environmental Quality Incentives Program (EQIP) and the Wildlife Habitat Incentive Program (WHIP) dollars.

Q: Are there other opportunities to do on-the-ground work with the Service?

A: The Service’s Partners for Fish and Wildlife (PFW) program is a voluntary non-regulatory program that provides private landowners with the opportunity to perform restoration and enhancement activities that benefit both the lesser prairie-chicken and the landowner’s overall operation. PFW provides financial and technical assistance for activities such as grazing management, upland restoration, and wetland enhancement and can cover items such as fencing, water tanks, solar pumps, seeding, or a combination of facilitative practices.

PFW Projects done in conjunction with private landowners for lesser prairie-chicken*

STATE	NUMBER OF AGREEMENTS	ACRES
Colorado	13	16,447
Kansas	52	91,169
Texas	66	131,190
Oklahoma	154	96,258
New Mexico	65	70,404

*As of April 30, 2012

Q: How does the Conservation Reserve Program (CRP) fit into the habitat needs of the lesser prairie-chicken and other upland wildlife species of the southern Great Plains?

A: The Conservation Reserve Program (CRP) greatly benefits native grassland and the lesser prairie-chicken by providing valuable habitat. In many areas of the bird’s range (e.g. Kansas) lesser prairie-chickens have responded positively to the presence of CRP grasslands on the landscape. Reestablishment of marginal cropland areas to native warm-season grasses, forbs, and shrubs may benefit prairie-chickens by providing nesting cover and food sources. Areas adjacent to existing prairie-chicken populations planted with native grass mixtures will contribute the most to lesser prairie-chicken population needs. Recognizing the importance of the CRP program to the conservation of lesser prairie-chickens, the Service is working closely with NRCS and FSA to ensure long-term viability of the program and encourage landowner interest in CRP. We recognize that the long-term viability and recovery of the lesser prairie-chicken depends on private landowner involvement across the range.

Q: How would the lesser prairie-chicken benefit from an ESA listing?

A: Conservation measures provided to species listed as endangered or threatened under the ESA include recognition, recovery actions, requirements for federal protection, and prohibitions

against certain practices. Recognition results in public awareness and conservation by federal, state, tribal, and local agencies; private organizations; and individuals. The ESA encourages cooperation with the States and requires that recovery actions be carried out for all listed species.

The Act also requires that federal agencies ensure that actions they approve, fund, or carry out do not jeopardize the continued existence of a listed species or destroy its critical habitat. In addition endangered species benefit from the recovery planning process.

The Act also requires the Service to develop and implement recovery plans for the conservation of threatened and endangered species. Recovery plans outline actions that are needed to improve the species' status such that it no longer requires protection under the ESA. The Service develops and implements these plans in partnership with the species experts; other Federal, State, and local agencies; Tribes; nongovernmental organizations; academia; and other stakeholders. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Examples of typical recovery actions include habitat protection, habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education.

In addition, under the ESA, endangered animal species cannot be killed, hunted, collected, injured, or otherwise subjected to "harm." Endangered species cannot be purchased or sold in interstate or foreign commerce without a federal permit.

Q: Are economics impacts considered by the U.S. Fish and Wildlife Service as they develop a listing proposal?

A: Although the ESA does not authorize the Service to consider economic impacts during the listing process, the Service is sensitive to the public's concerns regarding the economic impacts of a possible listing, especially during these challenging economic times. Programs such as CCAs and CCAAs provide landowners and industry with assurances that if the species is listed in the future, they can continue to manage their lands as outlined in their agreements with no additional requirements.

Q: Will the States have to bear the entire cost of recovery for the lesser prairie-chicken?

A: No. If the species is listed, funding for recovery actions will be available from a variety of sources, including Federal funding, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, under the ESA, the States of Colorado, Kansas, New Mexico, Oklahoma and Texas are eligible for Federal funds to implement management actions that promote the protection and recovery of the lesser prairie-chicken. Information on Service grant programs that are available to aid species recovery can be found at: <http://www.fws.gov/grants>.

Q: Would the listing of the lesser prairie-chicken take away my rights as a private property owner?

A: The Service recognizes that ESA actions have the potential to affect private property owners. Once a species is listed under the ESA there are prohibitions related to the “take” of listed species and certain activities may require that landowners obtain a permit from the Service. In the case of the lesser prairie-chicken, the Service is working with interested landowners on implementing voluntary programs such as CCAAs to provide landowners with assurances that they can continue to manage their property and undertake voluntary, proactive conservation measures without additional regulatory requirements if the lesser prairie-chicken is listed in the future.

Q: What is the difference between a threatened and an endangered species?

A: An endangered species is in danger of extinction throughout all or a significant portion of its range; whereas, a threatened species is likely to become endangered within the foreseeable future throughout all or a portion of its range. Protections under the ESA are generally the same for threatened and endangered species. However, for threatened species the Service can develop special rules that allow for greater flexibility in managing the species.

Q: Does a 'critical habitat' designation mean an area is considered a wildlife refuge or sanctuary?

A: No, Critical habitat does not designate a new wildlife refuge or sanctuary. Critical habitat is a term in the Endangered Species Act that identifies geographic areas containing features essential for the conservation of a threatened or endangered species, and which may require special management considerations or protection. To be considered critical habitat, the area must be defined, identified and published in the *Federal Register*. In addition to serving as a notification tool, the designation of critical habitat also provides regulatory protection for threatened and endangered species – the requirement that federal agencies consult with the Service to ensure actions they fund, authorize or carry out are not likely to destroy or adversely modify critical habitat.

Designation of critical habitat does not affect land ownership or establish a refuge, preserve or sanctuary. In general, a critical habitat designation has no impact on private landowners taking actions on their land that do not require federal funding or permits.

Q: How does the Service determine what areas to designate as critical habitat?

A: In designating critical habitat, the Service considers the physical and biological features needed for survival, conservation and recovery of a species. These include but are not limited to:

- space for individual and population growth, and for normal behavior;
- cover, food, water, and other nutritional/physiological requirements; and
- sites for breeding and rearing offspring.

Such habitats determined to be essential to the conservation of the species may often require special management considerations or protection. In proposing critical habitat, the Service will designate occupied areas that contain the physical and biological features essential to the

conservation of the lesser prairie-chicken and may also include areas that are not occupied but are essential to the conservation of the species.

Q: Are economic effects considered during critical habitat designation?

A: While the ESA does not authorize the Service to consider economic impacts during the listing process, as part of the designation of critical habitat, the Service does take into consideration the economic impact of designating an area as critical habitat. The ESA requires the Service to designate critical habitat on the basis of the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. The Service may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species. During the year period between the proposed and final listing determinations, the Service will conduct an economic analysis to inform whether any exclusions are appropriate. The public will have an opportunity to provide comments on this analysis.

Q: Where can I go to find additional information about the lesser prairie-chicken?

A: For information on the distribution, biology, habitat requirements, and status of the lesser prairie-chicken, the Service recommends you contact the appropriate state wildlife management agency:

Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216
(303) 297-1192
www.wildlife.state.co.us

Kansas Dept. of Wildlife, Parks and Tourism
900 SW Jackson St., Suite 502
Topeka, KS 66612-1233
(913) 296-2281
www.kdwpt.state.ks.us

New Mexico Dept. of Game and Fish
P. O. Box 25112
Santa Fe, NM 87504
(505) 827-7911
www.wildlife.state.nm.us

Oklahoma Dept. of Wildlife Conservation
1801 N. Lincoln Blvd.
Oklahoma City, OK 73152
(405) 521-3851
www.wildlifedepartment.com

Texas Parks and Wildlife Dept.
4200 Smith School Road
Austin, TX 78744
(512) 389-4800
www.tpwd.state.tx.us

For information related to the listing process for the lesser prairie-chicken under the Endangered Species Act, please contact:

U.S. Fish and Wildlife Service
Southwest Regional Office
500 Gold Avenue SW
Albuquerque, NM 87102
(505) 248-6911
www.fws.gov/southwest

For general information about the Endangered Species Act, please contact the U.S. Fish and Wildlife Service Ecological Services Field Office nearest you:

Colorado: 134 Union Blvd., Suite 670
Lakewood, CO 80228
303-236-4773

New Mexico: 2105 Osuna, NE
Albuquerque, NM 87113
(505) 761-4525

Oklahoma: 9014 E. 21st St.
Tulsa, OK 74129
(918) 581-7458

Texas: 10711 Burnet Road, Suite 200
Austin, TX 78758
(512) 490-0057

OR 2005 NE Green Oaks Blvd, Suite 140
Arlington, TX 76006
(817) 277-1100

Kansas: 2609 Anderson Ave.
Manhattan, KS 66502
(785) 539-3474