



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Washington, D.C. 20240

AUG - 3 2012

In Reply Refer To:
FWS/AES/52307

Mr. Dave White
Chief, Natural Resources Conservation Service
1400 Independence Ave., SW, Room 5105-A
Washington, DC 20250

Dear Mr. ^{Dave}White:

Thank you for your letter dated August 2, 2012 about the Working Lands for Wildlife (WLFW) partnership, which is successfully leveraging the capabilities and resources of our two agencies. We greatly appreciate the collaboration between the Natural Resources Conservation Service (NRCS) and U.S. Fish and Wildlife Service (Service) staff, and the leadership that you have shown to strategically target funding for working lands and sensitive species. This effort clearly demonstrates that productive working rural lands are compatible with the needs of wildlife and their habitats, achieving the missions of both NRCS and the Service.

The purpose of this letter is to describe the Service's approach to candidate conservation under the Endangered Species Act (ESA) and predictability for landowners who participate in WLFW. As referenced in your letter, the Service has recently completed conference opinions for three of the four candidate species involved in WLFW, including lesser prairie chicken, the eastern portion of the gopher tortoise's range, and New England cottontail. In addition, the Service had previously completed an effective conference report for the greater sage grouse, the fourth candidate species involved in WLFW. In these documents, the Service analyzed the effects to these species from the implementation of specific conservation practices by landowners who choose to participate in WLFW. These conservation practices and associated conservation measures were developed in partnership by our agencies to benefit the species and their habitats and be fully compatible with working lands.

The Service will be determining in the future whether to list each of these candidate species as threatened or endangered under the ESA. In the event that any of the species are listed, the Service is committed to validating the conference report and opinions as biological opinions for NRCS under section 7 of the ESA, and exempting any incidental take as described in the biological opinions associated with implementing the specified conservation practices. As a result, the predictability for landowners is clear. They will know that the conservation practices will continue to benefit wildlife for as long as they are implemented, and that any ESA issues associated with their implementation have been already addressed in full.



You also asked how we might encourage landowners to continue to implement these beneficial conservation practices beyond the term of their program contract with NRCS. The Service also recognizes the value of landowners voluntarily choosing to continue implementing the conservation practices after each individual program contract with NRCS under WLFW ends. These contracts can extend from one to fifteen years in length, depending on the species involved and the conservation practices employed. Continuing the implementation of the conservation practices beyond this period would advance the longer-term goals of WLFW and both agencies' missions.

Should any of the candidate species in WLFW be listed in the future, the Service intends to exempt through section 7 any incidental take that is anticipated to occur from the implementation of the conservation practices if a landowner with a WLFW program contract voluntarily chooses to continue implementing the practices after the program contract ends. The Service will review the effects of implementing the specified conservation practices to these species over a 30-year period and exempt any incidental take anticipated to occur from their implementation. Each landowner involved in WLFW will have the sole discretion whether or not to continue implementing the conservation practices at the end of the contract with NRCS. If a landowner chooses, however, to continue implementing the conservation practices defined through our WLFW partnership, they will have predictability and the confidence in knowing that any ESA issues associated with their implementation over a 30-year period will have already been addressed in full. By taking this step, the Service hopes to encourage the long-term implementation of the conservation practices and associated conservation measures.

The Service also notes that two other species included in WLFW are already listed under the ESA, the Southwest willow flycatcher and the bog turtle. For these two species, the Service has completed biological opinions and exempted any incidental take anticipated in the biological opinions to occur from implementation of the conservation practices. In addition, the western portion of the gopher tortoise's range is currently listed (the eastern portion of the range is currently a candidate species as noted above), and the Service has completed a biological opinion and exempted any incidental take anticipated in the biological opinion to occur from implementation of the practices in this portion of the range. Furthermore, the golden-winged warbler is also included in WLFW. This species is neither currently listed under the ESA nor a candidate species for listing. Should the species status change in the future and the potential need for listing be considered, the Service intends to follow the same approach to ESA predictability for NRCS and landowners that has been used for the other species in WLFW.

As WLFW moves forward, we will have the opportunity to gauge the success of the conservation practices over time, and potentially gain information that will allow us to refine them and achieve even better results for landowners, NRCS, and the Service. The Service is committed to this approach of learning and adaptive management in partnership with NRCS and the landowners participating in WLFW. Any refinements to the conservation practices would be developed in full collaboration with NRCS, using information gained from on-the-ground implementation of WLFW.

The Service is also committed to developing more tools for landowners. We are particularly interested in pursuing partnerships using Candidate Conservation Agreements with Assurances with landowners, which can provide long term conservation options and regulatory certainty.

Thank you again for your leadership in working lands conservation. If you have any questions, please contact Gary Frazer, Assistant Director for Endangered Species, at (202) 208-4646.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. M. A.", with a large, sweeping flourish above the first letter.

DIRECTOR