

November 5, 2014

Re: Policy Regarding Voluntary Prelisting Conservation Actions

Dear United States Fish and Wildlife Service:

The Western Landowners Alliance (WLA) is a West-wide organization of conservation-minded landowners that advances policies and practices that sustain working lands, connected landscapes, and native species. WLA offers the following comments on the USFWS Policy Regarding Voluntary Prelisting Conservation Actions.

Comments to Docket No. FWS–R9–ES–2011–0099 “In addition to more general comments and information, we ask that you comment on the following specific aspects of the policy:”

WESTERN LANDOWNERS ALLIANCE COMMENTS

1) The policy requires an overall positive assistance to the species; how should we define this benefit?

Positive assistance needs to be measurable. While best management practices (BMPs) are a good start, ultimately crediting should be an adaptive, dynamic (but secure) outcome-based process. Whether basing credits on BMPs or outcomes, the process must allow for adaptive management and not become overly regulated and inflexible, institutionalizing practices or goals that are ‘outdated’. Some measures (from most to least useful in demonstrating positive assistance) include: increased **numbers of individuals** (population), possibly some measure of **population condition or vital rates** (increasing mean number young/produced/female; increased mean weight or other condition index of individuals), increase of **occupied acres** (range), increased **acres of suitable habitat or functional acres** (potential range), and finally implementation of **‘best management practices’** (conservation practices). Which measures of positive assistance are applicable depends on the species. Is this a species that is easily counted (population) or observed (range), whose habitat needs are well known (potential habitat) or for which BMPs have been documented or are expected to provide conservation value to the species?

Overall positive assistance can be broken down into (at least) two types of credits. There should be credits for actions that increase the amount and quality of habitat (**uplift credits**) commensurate to the cost of habitat uplift or improvement. However, there is also a need for crediting for the costs of maintaining/protecting the quality of habitat already created (**preservation credits**), as there are generally maintenance actions and costs associated with maintaining good habitat condition. Habitat conservation is a process not an event.

2) The policy requires that a prelisting conservation action be part of a State plan. What approach should we take if there is no State plan for the species?

USFWS in collaboration with NRCS, WAFWA and Federal Land Agencies (if applicable) should develop a range-wide conservation action plan. Having a range-wide conservation plan would aid in development

of State plans and would allow implementation of federally funded conservation measures to begin. Tracking and monitoring should be done by either an independent contractor (e.g. an NGO or Wildlife Consulting firm) or the USFWS if the State cannot or will not track and monitor conservation measures. Federal or State oversight of an independent contractor or team of NGO's seems prudent and cost effective.

3) For those species for which the State does not have the authority or jurisdiction, should we revise the policy to allow prelisting conservation actions for these species to receive credit? If so, how would these prelisting conservation actions be tracked and monitored?

If the documentation, monitoring and tracking were conducted by an independent contractor (as suggested above) or a collaborative entity populated by State and Federal agency personnel with cooperating NGOs, all species could be tracked regardless of whose management jurisdiction they were under. Funding could come from state, federal, NGO and business sources, similar to Joint Ventures funding.

4) How should we quantify the value of the voluntary prelisting conservation actions and credits?

Again, where possible, quantification should be outcome-based rather than action or practice-based. Quantification must rely on good metrics that can reliably measure habitat quality relative to desired goal, number of individuals (population size), population vital rates (reproduction and survival), and meta-population connectivity.

Companies like EcoMetrix Solutions Group have already developed quantification tools (e.g. the Greater Sage Grouse Habitat Quantification Tool) for similar purposes. The USFWS should look to existing quantification processes, like this, rather than re-inventing the wheel. It is important that there are credits for both improving and creating habitat (uplift credits) and maintaining/protecting the quality of existent good habitat (preservation credits). Landowners that have been doing the right thing and protecting habitat/species, which often requires displacement of other economic activities (e.g. removal of acreage from production, stocking reductions, etc.), should not be left out of the credit system, while less conservation-minded land managers are able to take advantage of it.

5) Based on the species and the nature of the actions, how should we determine the percentage set aside?

For species that are extremely endangered (i.e. extremely small populations, extremely limited habitat, extremely low reproductive potential and extremely poor colonizers of novel territory) mitigation is not likely to be an appropriate tool. However, for those species that are more robust and/or have relatively secure populations and habitat, mitigation seems a reasonable opportunity to increase populations and habitat. For actions that occur in suitable occupied habitat and are intended to increase habitat quality or population size, the percentage set aside might be as low as 3:1 or 2:1. In the case where the mitigation effort is attempting to establish populations in unoccupied habitat, or marginal quality habitat, the acceptable percentage set aside should be much higher (>3:1, possibly much higher, depending on risk and the projected possibility of success). Calculating percentage set aside should

consider the likelihood of 'success' and benefit to the species; high risk actions with lower probabilities of success should be tried on small scales (in the spirit of adaptive management and learning), but should carry a high percentage set aside.

6) *The policy allows for the transfer of credits. How could we develop an un-complicated trading system mechanism?*

If the question is how USFWS might acquire an uncomplicated trading system, you might consider reviewing mitigation programs and projects currently being developed by EPA and NGOs like the Environmental Defense Fund. These groups have trading systems already in action or in development.

In the spirit of entrepreneurship, USFWS might also consider offering a cash reward/challenge for the best ideas for setting up said system (i.e. BLM-DOI are currently offering a monetary reward/challenge looking for innovative ways to administer contraceptive drugs to wild horses).

Additional Comments:

Enrollment in Candidate Conservation Agreements with Assurances (CCAAs) is one way of demonstration baseline requirements have been met. It should be considered as a baseline and not as a reward for landowners. Determination of baseline for a CCAA requires achievable, measurable goals. Clearly defined outcome-based goals are preferential to open-ended Conservation Measures (best management practices) when determining baseline and CCAA achievements. In this manner, we can measure when the baseline requirements of the CCAA have been met, and a mitigation incentive becomes appropriate.

CCAAs are provided to landowners who have managed in a manner that maintained suitable habitat, sometimes at considerable personal expense and (at times) by maintaining land in a less-than-profitable condition (giving up timber, crop or forage production). CCAAs are an insurance policy purchased with a management plan and actions. Landowners should not be disqualified from mitigation credits because they are enrolled in a CCAA. Landowners should qualify for both uplift credits when outcomes go beyond the baseline and preservation credits on avoided-loss basis (that is, discounted according to the estimated probability that the loss would have occurred).

In the face of climate change and split mineral estate issues, there is a need for permanent mitigation but also the flexibility of the location of mitigation (e.g. dynamic permanent mitigation acres). This should be taken into consideration.

The benefits of mitigation projects should meet or exceed the life of the development impact for which mitigation is being provided. In cases where impacts are assumed to be permanent, crediting projects will need to demonstrate permanent benefits including, but not limited to, stewardship funding in perpetuity.

Despite the best planning and efforts, some mitigation projects will fail to produce the expected outcomes. We proposed that development projects be required to purchase additional credits to be placed in a separate account and act as an insurance policy for projects that are properly implemented

but do not succeed due to unforeseeable and unpreventable circumstances (e.g. wildfire, extreme drought, etc.) Preventable and foreseeable project failure would not be insured through this fund but be the responsibility of the landowner or “credit producer”. This insurance concept provides incentive for landowners to mitigate problems that are within their control, but security that he/she will not be blamed for failure beyond his/her control.

Thank you for your consideration of these perspectives.

Lesli Allison
Executive Director

A handwritten signature in cursive script, appearing to read 'LA', is positioned below the typed name and title.