

Working Lands for Wildlife Partnership

Colorado's Implementation Plan

I. PARTNERSHIP OVERVIEW

The Working Lands for Wildlife (WLFW) partnership was established on March 8, 2012, when the Secretaries of Agriculture and Interior jointly announced a voluntary, incentive-based effort to provide private and Tribal landowners with technical and financial assistance to: (1) to restore populations of declining wildlife species; (2) provide farmers, ranchers, and forest managers with regulatory predictability that conservation investments they make today help sustain their operations over the long term; (3) strengthen and sustain rural economies by restoring and protecting the productive capacity of working lands.

(1) Selection of Identified Priority Wildlife Species. A partnership of federal, state and local wildlife experts jointly identified the wildlife species that would most successfully benefit from targeted efforts on private and Tribal lands. Seven species nationally were identified for inclusion in the WLFW partnership: the Lesser Prairie-Chicken, New England Cottontail, Southwestern Willow Flycatcher, Greater and Gunnison Sage-Grouse, Gopher Tortoise, Bog Turtle, and Golden-Winged Warbler. Three of the species occur in Colorado and are included in Colorado's WLFW partnership: the [lesser prairie-chicken](#), [greater and Gunnison sage grouse](#), and the [southwestern willow flycatcher](#).

(2) Providing ESA Regulatory Predictability. The U.S. Fish and Wildlife Service (USFWS) and the NRCS have entered into programmatic consultation under section 7 of the Endangered Species Act (ESA) for each species identified for inclusion in the WLFW partnership. The resulting programmatic conferencing or consultation documents include details of the NRCS conservation practices that were evaluated as part of the consultation and identifies any required 'conservation measures' necessary to minimize or eliminate potential detrimental effects that they may have to the species or their habitat. These conditioned conservation practices are considered to be 'covered' under the ESA consultation process. When covered conservation practices are implemented and maintained following the conservation measures outlined in the consultation/conferencing, the USFWS has provided that: if the species is/will become threatened or endangered, then the WLFW participant will be covered from any incidental take that may be inadvertently caused by the installation and maintenance of those practices on their privately owned land. This provides the WLFW participant with "ESA predictability".

(3) Restoring and Protecting Productive Capacity of Working Lands. In addition to providing ESA predictability that the conservation investments made today will help sustain their operations over the long term, NRCS provides technical and financial assistance through the USDA Farm Bill to assist WLFW applicants with implementing the covered conservation practices.

Even though the Sage Grouse Initiative (SGI) and the Lesser Prairie-chicken Initiative (LPCI) function as stand-alone initiatives that predate the WLFW partnership, they fall under the WLFW partnership umbrella to provide ESA predictability to our participants. The Black-footed Ferret (BFF) special effort also has ESA predictability available for certain practices but BFF is not one of the identified priority species for WLFW. Refer to the BFF Special Effort Implementation Plan for more details.

For more information on the WLFW partnership, please visit the [national NRCS website](#).

II. WLFW PLANNER

WLFW planners are resource professionals who work with interested participants to develop and implement WLFW conservation plans (WLFW plan). WLFW planners are trained to understand the species' needs and the principles to address any limiting factors or threats by working under ESA section 7 consultation. WLFW certified planners may be NRCS, USFWS, Partner Biologists or other partner organization field staff (e.g., State wildlife agency, conservation nonprofits, and consultants).

- ✓ The WLFW planner is a separate certification from the NRCS conservation planner certification. This was nationally directed to ensure a high level of quality across a species range ([NB 300-14-7](#)).

WLFW Planner Levels:

Level 1 WLFW planners have successfully completed the required training and can apply the principles with limited oversight; they can develop WLFW plans with review and signature approval by a Level 2 WLFW planner.

Level 2 WLFW planners are NRCS certified conservation planners that have successfully completed the required training and have demonstrated proficiency in applying the principles with no oversight. Level 2 WLFW planners may sign the WLFW plan as the planner. They may also review and provide planner signature approval on plans developed by Level 1 planners. Level 2 planners are responsible for providing the participant with the “ESA predictability information packet” and completing the necessary reporting. Level 2 planners are encouraged to provide on-the-job training to Level 1 planners.

Required Training. Training requirements have been coordinated across each species' range to ensure consistency to the greatest extent possible. In Colorado, these requirements are provided in [Appendix II-WLFW Planner Training Record](#). The training record provides: training requirements for each WLFW priority species and their habitat; provides the certification process; and documents the planner's training received and certification approval.

III. PROGRAMMATIC CONSULTATION

The USFWS and the NRCS have entered into programmatic consultation under ESA section 7 for each species identified for inclusion in the WLFW partnership. The consultations include evaluation and assessment of all actions anticipated to occur through the WLFW partnership, across the species' range, for a 30-year period.

The resulting programmatic consultation documents include: a description of the species and its habitat; the area evaluated, which generally includes the species range plus a buffer (the Action Area); details of the NRCS conservation practices that were evaluated and the identification of any required 'conservation measures' necessary to minimize or eliminate potential detrimental effects that they may have to the species or their habitat (collectively these are called Covered Conservation Practices); habitat evaluation tools (WHEG, Threats Checklist) that are required to be used; and information and requirements of the incidental take permit (if applicable).

Provided below are the USFWS programmatic consultations/conferencing under ESA section 7 for the NRCS Working Lands for Wildlife partnership that apply to Colorado:

DOI, 2014. [USFWS's Biological Opinion \(BO\) for the NRCS's Lesser Prairie-Chicken Initiative \(LPCI\) and associated procedures, conservation practices, and conservation measures](#). Washington D.C. Signed 09/13/2014. Document expires on 09/13/2044.

DOI, 2012. [USFWS' programmatic Biological Opinion \(BO\) for the NRCS' Working Lands for Wildlife Project for the Southwestern Willow Flycatcher and its critical habitat as well as 68 other federally listed and candidate species on eligible private lands in the states of Arizona, California, Colorado, New Mexico, Texas and Utah](#). Albuquerque NM. Signed 07/23/2012. Document expires on 07/23/2042.

DOI, 2010. [USFWS' Conference Report \(CR\) for the NRCS's Sage-grouse Initiative \(SGI\) and associated procedures and conservation measures](#). Washington D.C. Signed 07/30/2010. Document expires on 07/30/2040.

As species listings change, these documents will be revised as appropriate. These documents can be found in the Colorado electronic Field Office Technical Guide ([eFOTG](#)) Section II-Special Environmental Concerns-T&E.

IV. WLFW CONSERVATION PLAN

In addition to NRCS' comprehensive approach to planning using a nine-step planning process described in the NRCS "National Planning Procedures Handbook", the WLFW planner must use NRCS-approved habitat evaluation tools for the targeted WLFW priority wildlife species (i.e. the Wildlife Habitat Evaluation Guide, Threats Checklist) as identified in the CR/CO/BO. These tools will be used to assess the initial habitat conditions and limiting habitat factors, and the restoration potential for a site. Based on the results of these evaluation tools, the WLFW planner works with the participant to develop and evaluate alternatives to address the identified limiting habitat factors (in order of identified priority) on sites determined to have restoration potential. The resulting conservation plan will include at least one core conservation practice (as required by the CR/CO/BO) and all conservation practices must follow the conservation measures of the CR/CO/BO.

Overview of WLFW Plan Requirements

- Developed by a WLFW Planner (Level 1 or 2) and must be signed by a Level 2 WLFW Planner,
- The habitat evaluation tools identified in the CR/CO/BO for the targeted WLFW priority species must be completed and incorporated into the planning process for every WLFW conservation plan,
- The WLFW conservation plan must include at least one core practice as required by the CR/CO/BO.
- The WLFW conservation plan must remove or reduce limiting factors(s) in their order of significance, as indicated by the results of the above mentioned habitat evaluation tools (this is a criteria of the core practices),
- Every practice planned, designed and installed under a WLFW conservation plan must adhere to the conservation measures identified for that practice in the CR/CO/BO,

Additionally, the plan must clearly detail what is required to "maintain" the conservation practices and habitat at a suitable level for the species. Suitable habitat is defined for each species in the CR/CO/BO and associated tools (WHEG/Threats Checklist). It is generally the minimum habitat requirements for the species (a WHEG score ≥ 0.5). This is a crucial distinction to make in order for the participant to maintain ESA predictability after practice implementation (see next section on ESA Predictability).

V. ESA PREDICTABILITY

The USFWS has provided that if the targeted WLFW priority wildlife species is/will become threatened or endangered, then the WLFW participant will be covered from any "incidental take" that may be inadvertently caused by the installation and maintenance of covered conservation practices on their privately owned lands; provided that the practices were implemented/maintained as described in their WLFW conservation plan.

Notifying Participants Early. WLFW planners will inform WLFW participants of their ESA predictably coverage early in the planning phase. An "ESA Predictability Frequently Asked Questions" handout is provided in [Appendix I](#) to assist. The planner may also present the (uncompleted) form letters to participant at this time (see below).

Relaying ESA Predictability (once the WLFW plan is signed)

A. Provide the 'ESA Predictability Information Packet'. Once the WLFW conservation plan is signed, the WLFW Level 2 planner will prepare and deliver to the applicant an "ESA predictability information packet", which will include the following four items:

1. A letter providing written concurrence that the WLFW plan meets the programmatic consultation/conferencing. The letter also requests the participant's voluntary participation to annually report if they are maintaining and continuing to use the covered conservation practices as detailed in their WLFW conservation plan. See [Section VI](#) for details.
2. A letter from USFWS that explains the predictability provided,
3. The "ESA Predictability Frequently Asked Questions" handout, and
4. The WLFW conservation plan with supporting practice specifications/job sheets.

Documents are provided in [Appendix I](#) and available on the [Colorado SharePoint](#) under ECS/Biology/WLFW.

Relaying ESA Predictability (Cont.)

B. Document for Future Reference. Provide a copy of the completed, signed NRCS letter to the participant (item #1) and a copy of the WLFW plan (item #4) in the customer's administrative case file.

C. Update Reporting/Tracking Tools:

1] *Toolkit Reporting.* The WLFW Level 2 planner will update the customer's Toolkit plan ([Species Reporting Tool](#)) by adding all planned WLFW practices into the tool, identifying the priority (a.k.a. the WLFW targeted species), and entering the planned action (such as prescribed grazing, fence markers etc.).

✓ Do not check the "ESA Predictability" box until the practice is implemented.

2] *WLFW Tracking Database.* Until the Toolkit reporting tool is fully functional with report generating capabilities, a separate database will need to be maintained to track WLFW participation; for the purpose of providing participant notifications (see [Section VI](#)). The WLFW Level 2 planner will enter the necessary tracking information into the database located on the [Colorado SharePoint](#) under ECS/Biology/WLFW.

Key Points to ESA Predictability

- ESA predictability is provided regardless of USDA program enrollment (i.e. a WLFW plan developed only under conservation technical assistance will receive ESA predictability).
- ESA predictability can only be provided on privately-owned lands (not BLM or State-leased land etc.).
- **Practice Implementation.** The participant is covered *automatically* through the WLFW agreement between USFWS and NRCS *immediately* upon practice implementation^{1]} **if** the practice(s) were implemented as described in their WLFW conservation plan.

^{1]} ESA predictability coverage is provided immediately upon implementation, not when the practice is 'certified' by NRCS. However, upon certification if it is found that the practice does not meet standards/specification/job sheets or the conservation measures, then the actions did not/do not have ESA predictability covering incidental take.
- **Practice Maintenance.** Predictability is based on the continued maintenance of the covered conservation practices (which includes following the associated conservation measures) where it maintains suitable habitat for the species, per the participant's WLFW conservation plan.

Example: If a participant decides not to maintain a practice that was included in their WLFW plan (say conifer removal), then that participant only loses predictability on that practice. However, if the unmaintained practice affects the suitability of the habitat (say conifer regrowth makes the site unsuitable habitat), then predictability is lost for the entire area affected. If the participant would like to regain predictability, then they would need to complete the habitat actions or management necessary to regain suitable habitat. The WLFW planner will provide these recommendations as a plan revision.

 - Predictability is attached to the land and is transferrable to any future owners as long as they continue to maintain suitable habitat for the species, per the WLFW conservation plan.
 - ESA predictability is offered for up to 30 years from the date the CR/CO/BO was signed.
 - The landowner's participation is voluntary at all times. The landowner can decide to continue practices or not continue practices at any time. Predictability, however, is only applicable if the practices are continued.
- **NRCS's responsibility is to be a facilitator** in helping participants understand and maintain ESA predictability. This includes recommending habitat actions or management to help the landowner preserve predictability (if they desire to maintain predictability).
- **NRCS does not have the authority to** regulate predictability or to decide if predictability is maintained or lost, that is the responsibly of the USFWS. If there are any discrepancies between what the landowner and the WLFW planner believes is warranted to maintain predictability, final decisions will be made by USFWS

VI. VOLUNTARY LANDOWNER VERIFICATION

Participants will be provided the option to annually self-verify that they are maintaining and continuing to use the conservation practices as detailed in their WLFW conservation plan. This request for voluntary participation is initially presented to the participant early in the planning phase during the discussion regarding predictability and formally relayed in the “ESA predictability information packet”.

This voluntary reporting by the participant is not required to maintain ESA predictability. It is just a way for NRCS and USFWS to track voluntary conservation actions benefitting the species. It will be used to assist the USFWS in listing decisions; to help determine the level and extent of voluntary conservation occurring.

A. Annual Request for Information (once the WLFW plan is implemented)

Starting one year after WLFW plan implementation (all practices certified as completed), the landowner will receive an annual request (verbal or written) from NRCS to voluntarily update information regarding their conservation activities. The [WLFW Tracking Database](#) (Section V) will be used to identify participants that need to be contacted. The request will include the following questions:

1) *Are you maintaining or continuing to follow your WLFW conservation plan?*

If they report “no”, then ask if they are continuing to follow one or more of the plan’s practices and if so, which ones. Because, ESA predictability may still be maintained for those practices, refer to [Section V - Practice Maintenance](#). If none of the practices are maintained, notify the participant that ESA predictability can no longer be provided and ask if NRCS or our partners can further assist in any way.

2) *Would you like to request a technical assistance visit from a WLFW Planner?*

Use this opportunity to commend them for the excellent voluntary species conservation they have completed, and listen for ways that NRCS and our partners can further assist them in these efforts.

- During update visits, participants have the option to add practices to the WLFW plan; provided the additional practices are covered in the CR/CO/BO and the associated conservation measures are followed.
- Update visits should be used to offer habitat management recommendations to help the participant preserve predictability, if needed and desired. Provide clear, documented recommendations to the participant.

Documentation and Reporting. 1] Ensure that this request and the subsequent answers/outcomes are clearly documented in the customer’s administrative case file (generally in the assistance notes). 2] The WLFW Level 2 planner will update the customer’s Toolkit plan ([Species Reporting Tool](#)) as information is provided or before the end of the fiscal year (to allow for accurate annual reporting to the USFWS).

- If the participant reports they are maintaining their WLFW plan, leave all ESA Predictability boxes checked.
- If the participant reports that they are not maintaining their WLFW plan or they do not reply, uncheck the ESA Predictability boxes for all practices within the WLFW plan. Remember to update the WLFW tracking database, so that no further requests for information are made.
- If a site visit confirms that one or more practices (but not all) are being maintained and the site is still providing suitable habitat, then leave the boxes checked for the maintained practices and uncheck the others.

Annual Report to the USFWS. The information provided will be aggregated and submitted to the USFWS annually (completed on a national level using Toolkit reporting). Site-specific information such as participant names, spatial locations, and other personally identifiable information will not be transferred. This will not track or report to the USFWS on ESA predictability (as NRCS does not make this determination), it will only report that the participant has stated that practices are being implemented and maintained per the WLFW conservation plan.

B. Five-year Site Verification. As part of the voluntary landowner verification, Level 2 WLFW planners will meet with actively reporting participants (on-site) at least once every five year to: determine the continued effectiveness of the practices by using the species-specific WHEG or Threat Checklist and observational data; and to offer habitat management recommendations (if needed) to help the participant preserve ESA predictability, if desired.

- Verbal landowner/participant consent is required to conduct the site visit. If consent is not provided, NRCS will update the customer’s Toolkit plan ([Species Reporting Tool](#)) by unchecking all of the ESA Predictability boxes. Remember to update the WLFW tracking database, so that no further requests for information are made.

VI. VOLUNTARY LANDOWNER VERIFICATION (cont.)

B. Five-year Site Verification (cont.)

- If the site is still providing suitable habitat, the participant may continue voluntarily reporting.
- If the site is no longer providing suitable habitat, then offer habitat management recommendations to help the participant preserve predictability, if they desire to maintain predictability. The participant may perform the recommended maintenance and continue reporting or stop reporting.

Remember, this is voluntary conservation and reporting it is not to be treated like a compliance review.

Figure 1. - Toolkit Species Reporting Tool Guidance

Practice Code: Select the practice code that is being planned through WLFW.

Identified Priority: Nationally, there are seven (7) priority wildlife species identified for WLFW (as found in the drop-down list). Three (3) of the species occur in Colorado: the lesser prairie chicken, sage grouse, and southwestern willow flycatcher. In addition, this tool will be used to report black-footed ferret activities under Safe Harbor Agreements. Select the identified priority species.

Action: The populated list of actions correlates to the payment components for the selected practice code. However, the actions may, or may not, receive financial assistance (i.e. CTA actions can receive ESA predictability). Select the action that is included in the WLFW conservation plan. Please note that not all WLFW actions are tracked (this is generated nationally).

ESA Predictability: If the client wants to benefit WLFW species and wants ESA predictability, and the WLFW planner determines that ESA predictability may apply; then check the box (a check indicates that yes ESA predictability may apply).

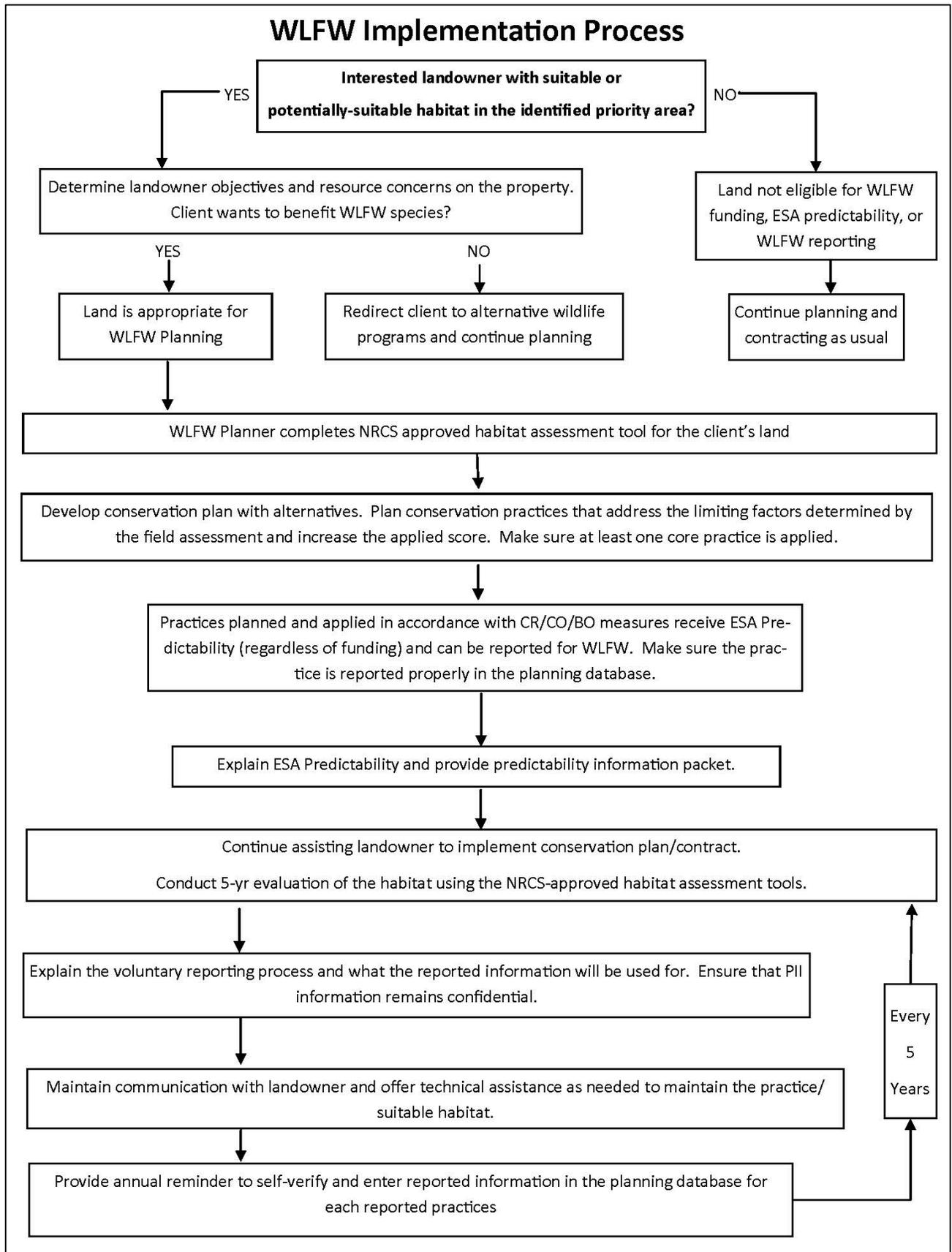
- This check-box can be misleading; it is not to relay that ESA Predictability applies or does not apply. NRCS does not have the authority to make this determination (that is the responsibility of the USFWS). NRCS is only indicating that predictability may apply.

Figure 1 -Toolkit Species Reporting Tool

PracticeCode	IdentifiedPriority	Action	ESAPredictabi
645	Sage Grouse	Fence Marki...	True

PROCESS SUMMARY

1. WLFW Planner (level 1 or 2) identifies if the site is within the identified priority species' habitat boundary and whether it has suitable or potentially suitable habitat for the species. This can be done on-site or remotely (using CHAT, aerial imagery, landowner's description of their land, etc.).
2. If the site has potential for WLFW, the planner will discuss the details of the WLFW Partnership with the landowner, including: WLFW goals and objectives to ensure that they are compatible with the landowner's goals and objectives for their property, and early notification of the ESA predictability offered (see [Section IV](#)).
3. If goals are compatible, the WLFW planner (level 1 or 2) visits the property to ensure that it has suitable/potentially suitable habitat for the targeted WLFW species. This evaluation will use the tools identified in the species' CR/CO/BO, such as a WHEG and threats checklist.
4. The WLFW planner (level 1 or 2) develops a WLFW conservation plan with the landowner that may include financial assistance (FA), technical assistance (TA), and other partnership funding. The planning process will continue to follow NRCS' 9-steps of planning and will include the additional requirements of a WLFW plan (see [Section IV](#)). A WLFW planner (level 2) reviews and signs the plan, relays ESA Predictability to the participant, and then ensures the Toolkit Reporting Tool and WLFW tracking database are updated (see [Section V](#)).
5. If the landowner decides to implement the WLFW conservation plan, the WLFW planner (level 2) certifies practice implementation and documents whether the WLFW plan and conservation measures have been followed (on assistance notes, practice cert. form, etc.). The WLFW planner (level 2) updates the Toolkit Reporting Tool by checking the box next to "ESA Predictability" for each implemented practice that followed the WLFW plan and conservation measures.
6. Starting one year after plan implementation (all the practices are completed), the landowner will receive an annual request from NRCS to voluntarily update information on their conservation activities. Based on this information, and any resulting site visits, the WLFW planner (level 2) will update the reporting and tracking databases.
7. WLFW planners will meet with participants as requested or needed and at least once every 5 years (verbal landowner consent is required). The planner will offer habitat management recommendations to help the participant preserve predictability (if needed), if they desire to maintain predictability.



GLOSSARY OF TERMS

(Provided by the ESA Section 7 Consultation Handbook, March 1998)

Action Area - all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

Biological Opinion - document which includes: (1) the opinion of the USFWS as to whether or not a Federal action is likely to jeopardize the continued existence of listed species, or result in the destruction or adverse modification of designated critical habitat; (2) a summary of the information on which the opinion is based; and (3) a detailed discussion of the effects of the action on listed species or designated critical habitat.

Conference - a process of early interagency cooperation involving informal or formal discussions between a Federal agency and the USFWS pursuant to section 7(a)(4) of the Act regarding the likely impact of an action on proposed species or proposed critical habitat. Conferences are: (1) required for proposed Federal actions likely to jeopardize proposed species, or destroy or adversely modify proposed critical habitat; (2) designed to help Federal agencies identify and resolve potential conflicts between an action and species conservation early in a project's planning; and (3) designed to develop recommendations to minimize or avoid adverse effects to proposed species or proposed critical habitat.

Consultation (formal) - a process between the Services and a Federal agency or applicant that: (1) determines whether a proposed Federal action is likely to jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat; (2) begins with a Federal agency's written request and submittal of a complete initiation package; and (3) concludes with the issuance of a biological opinion and incidental take statement by either of the Services. If a proposed Federal action may affect a listed species or designated critical habitat, formal consultation is required (except when the Services concur, in writing, that a proposed action "is not likely to adversely affect" listed species or designated critical habitat).

Conservation Measures - are actions to benefit or promote the recovery of listed species that are included by the Federal agency (NRCS) as an integral part of the proposed action. These actions will be taken by the Federal agency or applicant, and serve to minimize or compensate for, project effects on the species under review. These may include actions which the Federal agency or applicant have committed to complete in a conference report, conference opinion, biological assessment or similar document.

Covered Conservation Practices - The programmatic conferencing or consultation documents include details of the NRCS conservation practices that were evaluated as part of the consultation/conferencing and identifies any required 'conservation measures' necessary to minimize or eliminate potential detrimental effects that they may have to the species or their habitat. These conditioned conservation practices are considered to be 'covered' under the ESA consultation/conferencing process.

ESA predictability - When covered conservation practices are implemented and maintained following the conservation measures outlined in the consultation/conferencing, the USFWS has provided that: if the species is/will become threatened or endangered, then the WLFW participant will be covered from any incidental take that may be inadvertently caused by the installation and maintenance of those practices. This provides the WLFW participant with "ESA predictability" on their privately owned lands. *Note:* ESA Predictability is not an ESA legal term, it was developed specifically for the WLFW (and it was previously called ESA Assurances).

This has been compared to having an insurance policy. The participant knows that if a listing decision occurs in the future, they are protected as long as the conservation practices they agreed to in the WLFW conservation plan are still being followed. Predictability gives the landowner consistency on how he or she is running an operation without fear of some future regulation.

Incidental Take - Take of listed fish or wildlife species that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by a Federal agency or applicant.

Take - to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct. Harm is further defined by FWS to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Harass is defined by FWS as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering.

Programmatic Consultation - consultation addressing an agency's multiple actions on a program, regional or other basis.

- For the purposes of the WLFW: if a species is declining but not yet a candidate species a document identifying conservation measures is sufficient. If the species is a federal candidate for listing, a conference report (CR) or conference opinion (CO) is used. A CO includes the same level of direction for conservation measures as found in a CR, however it also estimates the level of incidental take expected to occur. Federally listed species (threatened, endangered) are addressed in a biological opinion (BO) with an incidental take permit.

REFERENCE

National Bulletin 300-14-7. Delivering ESA Predictability through the WLFW Partnership. November 25, 2013.

APPENDIX I – ESA Predictability Information Packet

Attached are the 'ESA Predictability Information Packet' documents:

1. A letter providing written concurrence that the WLFW plan meets the programmatic consultation/conferencing (CR/CO/BO). The letter also requests the participant's voluntary participation to annually report if they are maintaining and continuing to use the covered conservation practices as detailed in their WLFW conservation plan.
2. A letter from USFWS that explains the predictability provided,
3. The "ESA Predictability Frequently Asked Questions" handout.

REMINDER:

In addition, the WLFW planner will need to ensure that the WLFW conservation plan with supporting practice specifications/job sheets is attached to the Predictability Information Packet.

Fillable forms are provided on the [SharePoint under ECS-Biology](#).

[Date]

Dear [Participant],

The attached U.S. Fish and Wildlife Service's (Service's) letter describes the Endangered Species Act (ESA) predictability you are provided if you voluntarily implement and maintain the conservation practices exactly as detailed in the attached Working Lands for Wildlife (WLFW) conservation plan; which was developed to benefit the [WLFW targeted species] on [Farm#, Tract#, Field#] in [County], Colorado. The ESA predictability for this species is available until [CR/CO/BO expiration date].

This letter also relays an important voluntary reporting component of the WLFW Partnership that we encourage you to participate in. NRCS has developed a reporting process to capture the voluntary conservation actions benefiting the species that results from the continued maintenance of the conservation practices.

Each year after your WLFW plan has been implemented, you will be asked by NRCS to voluntarily report whether the conservation practices have continued to be maintained as outlined in the WLFW conservation plan. This information will be aggregated together, and submitted to the Service to provide information on the voluntary conservation actions benefitting the species. Site-specific information (landowner names, spatial locations, and other personally identifiable information) will not be transferred to other agencies and is protected by NRCS privacy policies. You will be asked the following questions: 1) *Are you maintaining or continuing to follow your conservation plan?* and 2) *Would you like to request a technical assistance visit from a WLFW Planner?*

At least once every 5 years, you will be contacted by NRCS for permission to have a WLFW planner visit the project site and offer management recommendations (as needed). This is necessary because habitat naturally changes over time, and adaptive management may be needed to maintain the suitability of the site for the species. If the WLFW planner recognizes that one or more practices are no longer maintaining suitable habitat (as identified in the WLFW plan), you can perform the management recommendations and continue reporting, or NRCS will stop reporting those practices are benefiting the species. While NRCS does not have the authority to determine whether predictability is maintained or lost, we do have the responsibility to recommend habitat management to help you preserve predictability (if desired).

We sincerely hope you will work with us on this critical tracking need and let the positive benefits you have implemented count towards the recovery of specific declining species.

WLFW Level 2 Planner Approving Concurrence

Printed Name

Date

- Attachments: 1. U.S. Fish and Wildlife Service's letter to the participant on ESA predictability
2. ESA Predictability "Frequently Asked Questions"
3. WLFW Conservation Plan with supporting specifications/job sheets



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



JUL 15 2013

In Reply Refer To:
FWS/AES/DRR/BCCC/054959

Dear Working Lands For Wildlife Participant:

Thank you for your participation in Working Lands for Wildlife (WLFW), an innovative collaboration by the Natural Resources Conservation Service (NRCS), the U. S. Fish and Wildlife Service (Service) and private land stewards like you. In conjunction with your voluntary implementation of conservation practices outlined in WLFW, the Service is providing you with regulatory predictability under the Endangered Species Act. If the species is currently listed or is listed in the future, you will be exempt from any incidental take of the species that may be inadvertently caused by the implementation and maintenance of the conservation practices identified in your conservation plan.

In order to receive the incidental take exemption for the term specified in the fact sheet (attached), you are required to implement and maintain the practices and associated conservation measures identified in your conservation plan exactly as detailed. I encourage you to consult with a NRCS planner on a regular basis to seek guidance on needed management activities in your conservation plan. The regulatory predictability is attached to the land and is transferrable to any future owner(s) as long as they continue to maintain the species habitat per the conservation plan recommendations.

If you decide to change your land management, you are in no way bound to continue implementation of the conservation practices and measures. The predictability applies specifically to the conservation practices and measures identified in your conservation plan, and do not apply if they are no longer implemented. If you wish to make land management changes and keep the provided predictability developed through the NRCS-Service partnership, please consult with your local NRCS representative to discuss the proposed changes and update your conservation plan.

If you have any questions, feel free to contact your local NRCS or Service office. Thank you for your voluntary efforts to conserve habitat on your land.

Sincerely,

DIRECTOR

ESA Predictability Frequently Asked Questions

What is Working Lands for Wildlife? Working Lands for Wildlife (WLFW) is a partnership between the USDA Natural Resources Conservation Service (NRCS), the U.S. Fish and Wildlife Service (FWS), and private landowners. The voluntary effort:

- Provides farmers, ranchers and forest managers with Endangered Species Act (ESA) predictability options
- Helps restore populations of specific declining wildlife species
- Strengthens rural economies by protecting the productivity of working lands



Photo: USDA NRCS

Warm season grassland habitat in Litchfield County, CT

What species are included in WLFW? WLFW includes seven species: the bog turtle, golden-winged warbler, gopher tortoise, greater sage-grouse, lesser prairie-chicken, New England cottontail and southwestern willow flycatcher.

Are these species listed under the Endangered Species Act? The bog turtle, gopher tortoise (in its western range), and southwestern willow flycatcher are currently listed under the ESA. The gopher tortoise (in its eastern range), the greater sage-grouse, the lesser prairie chicken and the New England cottontail are not currently listed under the ESA, but are candidates for listing. The golden-winged warbler is neither listed nor a candidate for ESA listing, but it is a declining (or at-risk) species.

Why should I enroll in WLFW? The program provides technical and financial assistance for landowners who voluntarily choose to implement specific conservation practices for a particular species while continuing to manage the property as working lands. These conservation practices and associated conservation measures were developed in partnership by NRCS and FWS to benefit a species. WLFW also provides landowners with predictability about the use of the conservation practices and the ESA.

What does ESA predictability mean for landowners who sign up for WLFW? While the benefits of the conservation practices are clear, some practices such as prescribed burning could have negative “incidental” impacts to a particular species in the short term but significant benefits in the long term. Landowners who voluntarily sign up for WLFW receive the ESA predictability that they will be exempted from any incidental take of the species caused by the implementation of WLFW conservation practices.



Photo: USDA NRCS

Trees provide wildlife habitat and diversification in an ecosystem



This hillside covered with wildflowers provides open space for wildlife and adds diversity to the landscape

To provide predictability to landowners, FWS has completed biological opinions for the listed species and conservation reports/opinions for candidate species under section seven of the ESA. These documents assess impacts of the conservation practices and exempts any incidental take anticipated. If a landowner voluntarily continues to implement the conservation practices and associated conservation measures in the future, any incidental take anticipated from their implementation is exempted for up to 30 years.

What is incidental take? “Take” is defined as: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect or to attempt to engage in any such conduct; may include significant habitat modification or degradation if it kills or injures wildlife by significantly impairing essential behavioral patterns including breeding, feeding, or sheltering.

“Incidental take” is defined as: Take that results from, but is not the purpose of, carrying out an otherwise lawful activity.

How will ESA predictability address the candidate species in WLFW that are not listed now, but may be listed in the future? In the future, the FWS will determine whether to list the eastern range of the gopher tortoise, the greater sage-grouse, the lesser prairie chicken, and the New England cottontail as threatened or endangered under the ESA. If any of the species are listed, the FWS is committed to the conference report and opinions the agency has already completed for these species. The conference reports and opinions assess the impacts of the conservation practices on these candidate species. Biological opinions will exempt incidental take from the conservation practices for up to 30 years. As a result, the predictability for landowners is clear. They will know that the conservation practices will continue to benefit particular species for as long as they are implemented, and that any ESA issues associated with their implementation have already been addressed.

How does ESA predictability relate to the golden-winged warbler? The golden-winged warbler is neither listed nor a candidate species for listing under ESA. Should the species' status change in the future, FWS intends to follow the same approach to ESA predictability for NRCS and landowners that is used for the other species in WLFW.

Where do landowners go to find out more about WLFW? Interested landowners should contact their local NRCS service center. An NRCS planner will determine if habitat on the property is suitable or can be improved or created to benefit the species. If so, the NRCS planner and the landowner will jointly develop a conservation plan that will recommend a combination of conservation practices and measures for the landowner to apply in order to create or improve the habitat for the species.

For more information about WLFW, visit <http://goo.gl/mE74va> or contact your local NRCS service center. Visit www.nrcs.usda.gov, to learn more about NRCS conservation programs.

APPENDIX II - WLFW Planner - Training Record

Planner's Name: _____

Position Title: _____

WLFW planners are resource professionals who work with interested participants to develop and implement WLFW conservation plans. WLFW planners are trained to understand the species' needs and the principles to address any limiting factors or threats by working under ESA Section 7 consultation. WLFW certified planners may be NRCS, USFWS, or other partner organization field staff (e.g., State wildlife agency, conservation nonprofits, and consultants).

The WLFW planner is a separate certification from the NRCS conservation planner certification. The WLFW planner certification is nationally directed to ensure a high level of quality across a species range (NB 300-14-7).

There are two levels of WLFW planner certification:

- **Level 1 WLFW planners** have successfully completed the required training and can apply the principles with limited oversight; they can develop WLFW plans with review and signature approval by a Level 2 planner.
- **Level 2 WLFW planners** are NRCS certified conservation planners that have successfully completed the required training and have demonstrated proficiency in applying the principles with no oversight. Level 2 WLFW planners may sign the WLFW plan as the planner. They may also review and provide planner signature approval on plans developed by Level 1 planners. Level 2 planners will be responsible for providing the participant with the “ESA predictability information packet” and completing the necessary reporting. Level 2 planners will be encouraged to provide on-the-job training to Level 1 planners.

REQUIRED TRAINING

- **Working Lands for Wildlife (WLFW) Partnership**

Gain background knowledge on the development of the partnership and an understanding of the WLFW goals and objectives, and a working knowledge of program requirements (this will require ongoing training).

- **Overview of the Endangered Species Act (ESA) Section 7 and 10**

Training on the interagency ESA consultation under Section 7, including: the process of initiating consultation; informal versus formal consultation, conferencing, and the benefits of programmatic consultation/conferencing. Training will include an overview of ESA regulation on non-federal lands and the exemptions provided under Section 10.

- **Delivering ESA Predictability through the WLFW Partnership**

Focused training on delivering ESA predictability through the WLFW Partnership, including an overview of how landowner and species benefit; training on the use of the support documents (i.e. participant's letter); participant's responsibilities and reporting requirements; and NRCS's role in tracking practice maintenance.

- **ESA Programmatic Conference/Consultation Developed for WLFW**

Training on the programmatic Conference Report/Opinion or Biological Opinion developed for WLFW species, including: planning/implementation of the conservation measures; use of decision support tools; and (if applicable) the incidental take statement and reporting requirements.

- **Species Ecology 101**

Obtain a basic understanding of species' life history, distribution, habitat associations, and historic perspective of population trends and influencers; with a more in-depth focus on species habitat requirements, limiting factors/threats, and the opportunities available to address those threats.

- **Using WLFW Field Tools**

Applied training on the use of WLFW developed field tools such as the Wildlife Habitat Evaluation Guides (WHEGs), Threats Checklists, monitoring protocols, and the tools used to determine the restoration potential of a site (such as range inventories).

- **WLFW Plan Development**

Obtain the training necessary to develop a conservation plan to benefit WLFW species, including: NRCS planning protocol (9 steps of planning), knowledge of NRCS planning and NEPA policy, use of practice standards and specifications, and use of ArcMap and Toolkit. Note: demonstration of planning proficiently is required for a Level 2 planner.

Training Opportunities:

Training formats may be classroom, field exercises, webinar, video, or on-the-job training from a WLFW Level 2 planner. A listing of approved training opportunities is provided on the [SharePoint under ECS-Biology](#). Formalized training will be announced as available and will be designed to cover several of the training requirements. Attendance at past trainings may be accepted. Requests for trainings may be made to the [NRCS Area Biologist](#).

Training Record:

Each planner will maintain their own training record; the format provided below may be used for this purpose.

Certification Process:

When all required trainings have been successfully completed (for one or more species) the planner will submit their training record to the [NRCS Area Biologist](#) for review. Upon approval by the Area Biologist, the planner will receive certification (as Level 1 or 2) and will be added to the state roster as a WLFW planner. The state roster will be maintained by the State Biologist.

Note: Certification is granted per species. Example: a NRCS certified conservation planner may have demonstrated proficiently (Level 2) for sage grouse, but still requires oversight (Level 1) for southwestern willow flycatcher.

TRAINING RECORD

	Required Training	Describe the Training Received	Date Completed
Level 1	·Working Lands for Wildlife Partnership		
	·Overview of the ESA Section 7 & 10		
	·Delivering ESA Predictability through WLFW		
	·ESA Programmatic Conference/Consultation		
	·Species Ecology 101		
	·Using WLFW Field Tools		
	·WLFW Plan Development		
<p>Level 1 is approved for the following species: _____</p> <p><i>I certify that I have successfully taken the required trainings, as identified above, and feel that I can apply the principles with limited oversight.</i></p> <p>Planner Signature: _____</p> <p>Approved by: _____ Certification Date: _____</p> <p style="text-align: center;"><i>Area Biologist Signature</i></p>			
Level 2	<p>Level 2 is approved for the following species: _____</p> <p>A certified conservation planner (GM_CO_180_409_A) that has obtained all Level 1 required training and has demonstrated the ability to: use knowledge and tools to assess the initial habitat conditions (including limiting factors, threats and restoration potential for a site); and develop a plan to address the identified concerns for the WLFW species. Demonstrated by submitting one WLFW plan (per WLFW species) to a Level 2 planner, that required no corrections.</p>		
	<p>Approved by: _____ Certification Date: _____</p> <p style="text-align: center;"><i>Area Biologist Signature</i></p>		