Flowchart demonstrating when the LPC Conference Opinion applies

adapted version of the LESSER PRAIRIE-CHICKEN CONFERENCE OPINION, APPENDIX VII

Use of this flow chart is recommended for all NRCS assistance (TA and FA) within the Action Area as defined by the Conference Opinion (CO) or any area outside the Action Area where there is documented lesser prairie-chicken (LPC) activity or occupation.

Landowner/Participant: _____

Completed by: _____

Date: _____

Box 1

Is the project located within the LPC Action Area, *or* is there documented evidence[1] of LPC occupancy?

[1] May include (but is not limited to) documentation from ODWC, sighting by a reputable source, or physical evidence of LEPC use within the last three years.

NO → ☐ **The conference measures do not apply.** *Justification:*

YES ↓

Box 2

Is current or planned land cover grassland, grass-shrubland, or prairie?

Includes CRP (or similar) even if a monoculture or non-native. Note: if currently grassland/grass-shrub and it is planned to be converted to non-grassland/shrub, this is not covered by the CO and will require individual conferencing with USFWS.

NO → ☐ **The conference measures do not apply.** *Justification:*

YES ↓

Box 3

Is the area capable of supporting LPC habitat?

Considerations: has the site been determined suitable LPC habitat in the CHAT tool? or in the ESD? If unsure, contact the State or SWAT biologist for assistance.

NO → ☐ **The conference measures do not apply.** *Justification:*

YES ↓

Box 4

Are the acres predominantly agricultural use with no planned developments that would render the site incompatible with LPC life requirements[2]?

[2] Refer to the LPC Threats Checklist for more information or contact a State or SWAT biologist.

NO → ☐ **The conference measures do not apply.** *Justification:*

YES ↓

Box 5

Are <u>all</u> practices to be implemented included in the conference opinion?

CO includes: 314, 315, 327, 338, 340, 342, 351, 378, 382, 384, 394, 410, 472, 500, 511, 512, 516, 528, 533, 550, 561, 574, 612, 614, 642, 643, and 645. Also FWS has agreed to NLAA for 355 when in conjunction with 642.

NO →

Box 7

☐ **Further conferencing with the U.S. Fish & Wildlife Service may be required.**

- Document "may effect" LPC on the NRCS-CPA-52, check the box "further action is needed" and then,
- Contact the State Biologist for assistance.

(GM 190, 410.22 (E)(6))

YES ↓

Box 6

☐ **If yes to all, the benefits and modified conservation measures under the conference opinion apply regardless of landowners desire to participate in LPCI or not.**

- A WHEG will be completed for all NRCS assistance,
- Document "may effect" LPC on the NRCS-CPA-52 and state "actions will follow the LPC conference opinion conservation measures".

If the conservation measures will not be followed, then conferencing with the Service will be required- see **Box 7**

Attach the completed flow chart to the NRCS-CPA-52

This will provide proper documentation of the decision reached.

Flowchart Guidance

Use of this flow chart is recommended for all NRCS assistance (TA and FA) within the Action Area as defined by the Conference Report/Opinion or any area outside the Action Area where there is documented Lesser Prairie-chicken activity or occupation. A completed flow chart can serve as NRCS documentation of LPC habitat and the need to follow the associated conservation measures of the Conference Report/Opinion in order to provide the assisted producer the regulatory predictability provided through this document. For any assistance provided where the end result of this flow chart ends up in the green box (Box 6) a Wildlife Habitat Evaluation Guide (WHEG) must be completed. A situation which ends up in determining that the "conservation measures do not apply" can serve as NRCS documentation the proposed assistance has no potential to affect the LPC. A copy of this completed flow chart shall remain in the producer's conservation case file as proper documentation of the decision reached. Should a field office choose other methods for documenting their decisions that documentation shall be retained in the producer's case file.

Instruction

The following guidance is provided to assist field staff with completion of this flow chart. The examples associated with each box are provided as possible sources of documentation and items to consider when completing the flow chart. These are not all inclusive but are provided for use by field staff as possible considerations. These and other considerations may be utilized where appropriate. It is important a third party can look at your completed flow chart/documentation and ascertain how you reached your final conclusion. A completed flowchart should have a single box checked to indicate the decision reached along with supporting justification evidence used to reach your decision – additional sheets/photos/etc. may be attached supporting your conclusions.

Box 1 – Evidence of LPC occupancy may include (but not limited to) Fish and Wildlife agency documentation, sighting by a reputable source including the land owner/operator, or physical evidence of LPC use within the last three years.

Box 2 – Current land cover percentages/dispersal. Planned land cover if restoring habitat or changing land use.

- CRP plant cover may be providing LPC habitat/use even if a monoculture or species not normally associated with LPC habitat use (e.g. old world bluestem).
- If changing land use from grassland or prairie to non-grassland or prairie, and the conversion is not covered under any other programmatic conferencing, individual conferencing must be initiated. If an NRCS action NRCS shall initiate conferencing with permission of landowner.

Box 3 – Consider:

- Size of habitat unit being considered, including adjacent habitats. Will the size and landscape position of the evaluated area provide necessary habitat in relationship to adjacent habitats.
- Fragmentation of habitat unit. Is there permanent or long standing fragmentation present?
- Soils – is the site capable of supporting LPC habitat? Is it an ESD determined as an important LPC habitat type.

Some planner interpretation is necessary in this step and detailed documentation of justification is critical to support.

Box 4 – Consider extenuating circumstances which could preclude habitat considerations such as the construction of wind energy, transmission power lines, or similar developments. Consider development which would cause fragmentation to the point habitat becomes incompatible with LPC use. Considerations should be situations which are impending based on planner knowledge. The intent is not to consider possible scenarios which are not currently in place to be implemented. Again, provide detailed documentation of circumstances that warrant a 'No' conclusion.

Box 5 – Are the planned practices included in the conference opinion? Where planning multiple practices a situation may arise where the answer is both "Yes" and "No".

Box 6 – If this box is reached all NRCS assistance must include completion of the Wildlife Habitat Evaluation Guide (WHEG) and all conservation measures contained in the conference opinion shall be followed. For assistance through the LPCI the most limiting factor identified in the WHEG must be addressed initially. For all other assistance the WHEG shall serve as a tool to provide planning considerations/alternatives.

Box 7 – Consultation will be initiated by NRCS, with written permission of the landowner, for any NRCS financial assistance program. For technical assistance only we are not required to consult. The Farm Service Agency (FSA) is responsible for conferencing on CRP contracted land.