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**ENDANGERED AND THREATENED WILDLIFE AND PLANTS LISTING THE LESSER PRAIRIE-
CHICKEN AS A THREATENED SPECIES WITH A SPECIAL RULE**

Re: Docket Number:

FWS-R2-ES-2012-0071;4500030113
RIN1018-AY21

*Comments on Draft Environmental Assessment for the Rangelwide Oil and Gas
Candidate Conservation Agreement with Assurances for the Lesser Prairie Chicken;
Draft Environmental Assessment.*

Comments By: The Kansas Natural Resource Coalition

Comments on Draft Oil and Gas Candidate Conservation Agreement With Assurances for the Lesser Prairie-Chicken; Draft Environmental Assessment

The Executive branch of administrative government derives authority to make regulations and policy from the American people through congressional acts. Because local government is closest to the people, it remains the first level of accountability as gate keeper of the 10th Amendment police powers to protect public safety, health and welfare. Local government has a duty to guard its residents from potential economic damage that could impact the social cohesiveness of its residents.

Through preparation of the *Draft Environmental Assessment for the Rangelwide Oil and Gas Candidate Conservation Agreement with Assurances for the Lesser Prairie Chicken* (Draft EA) document, the United States Fish and Wildlife Service (USFWS) has formally recognized and publically accepted the applicability of the National Environmental Policy Act (NEPA) Procedural Process and the entire sphere of the pre-decisional requirements placed upon the Service by the Council of Environmental Quality (CEQ). Similarly, the Service, through its Draft EA action accepts the mandates levied by Executive Orders (EO) 11514, 13352, 12372, 12630, and 12291, and recent decisions by the 10th Circuit Court of Appeals.

Because the Draft EA proposes to evaluate human impacts resulting from CCAAs that are integral to the WAFWA 5-state Rangelwide Conservation Plan, any conclusions reached by USFWS in the NEPA Process are applicable to and will materially affect rural populations in portions of Oklahoma, Kansas, Texas, New Mexico and Colorado.

The Draft EA represents the sole attempt by USFWS to comply with NEPA and as a result, the Draft EA negates USFWS's position in the Federal Register Volume 77 Number 238, December 11, 2012 page 73887 that "environmental assessments for the Lesser Prairie Chicken (LPC) Listing need not be prepared..." because the Draft EA is now the Environmental Assessment for the Lesser Prairie Chicken Listing Proposal of public record.

General Comments

The purpose of the NEPA EA Process (40 CFR 1508.21) is to present actions, alternatives and evidence in such a way as to determine if an Environmental Impact Statement (EIS) needs to be prepared or a Finding of No Significant Impact (FONSI) may be rendered (40 CFR 1508.13). The EA is to contain useful, high quality, and accurate scientific analysis, expert testimony, and CEQ regulations require it identify and concentrate on the issues that affect both natural and human environments (40 CFR 1502.24).

One component of the EA Process is to identify and focus on adverse effects to the human environment, and to enhance and balance any adverse effects from proposed agency action.

The NEPA process is to be initiated early in the proposal process and is to be complete before a proposal is made in the Federal Register (40 CFR 1501.2, 40 CFR 1502.5, and 40 CFR 1502.5(b)). The Draft EA Process was started in August, 2013, and the document appears too late in the process to be meaningful; its sole purpose appears to be justification of the 5-State Rangewide Conservation Plan and Conservation Agreements that support that document.

As presented, the scope of the Draft EA is limited and it does not address human and natural impacts across all 5 states. The document appears to survey in a cursory fashion the impacts of Conservation Agreements to property owners and companies entering into Conservation Agreements; it contains no meaningful information necessary to gauge impacts to human and natural environments.

The purpose of the Draft EA is inadequate even for its stated objective:

The Draft EA is silent on the economic effects or impacts of Conservation Agreements long understood to devalue property (40 CFR 1501.2(b));

The Draft EA does not consider impacts to local economies resulting from lands being removed from oil and gas production for conservation activities;

The Draft EA does not consider the potential impact of “split estates” that could result on lands whose surface right holders differ from mineral-right holders;

The Draft EA does not consider impacts to local populations, economies, and communities resulting from “in perpetuity” Conservation Easements proposed for focal areas;

The Draft EA does not discuss that Oil and Gas lease holders in public lands will still be required to undergo the Section 7 Consultation Process, irrespective of their participation in CCAs or CCAAs;

The Draft EA does not mention the *Lesser Prairie Chicken Conservation Management and Study Plan* that has been adopted by 32 Kansas counties in the majority of the Lesser Prairie Chicken habitat – the conservation plan of record and preference by local government;

The Draft EA appears as a platform to convince private landholders of the necessity to enroll in the 5-State Rangewide Conservation Plan, and it does not contain meaningful consideration of any long term cultural, economic, or social impacts – the stated purpose for the NEPA and CEQ EA Process (40 CFR 1502.1(g));

The Draft EA does not contain a minimum level of quantitative information necessary for the public to understand the economic effects of or potential necessity for preparation of an EIS – another stated purpose for the NEPA EA Process;

The Draft EA does not consider whatsoever the potential economic impacts to Hispanic, Somali, and similar underprivileged feedlot and packing-plant migrant working populations that could result from large tracts of agricultural lands being permanently transferred to habitat as proposed in the 5 State Rangewide Conservation Plan;

The Draft EA does not evaluate - nor address in any fashion - the downstream economic impacts to rural populations and communities resulting from infrastructure location restrictions proposed to be placed upon power companies, oil and gas producers, and transmission companies;

The Draft EA does not seriously evaluate the positive contribution of low cost Lesser Prairie Chicken conservation efforts at the local level;

The "Socioeconomics" portion of the Draft EA contains no references or supporting data used to derive its conclusions;

The Draft EA does not consider the economic implications to cities and towns resulting from a likely decrease in property values resulting from CCA and CCAA restrictions being placed on properties through the mechanism of Conservation Easements;

The Draft EA does not consider the tax implications to local and state economies resulting from lands transitioned from agriculture to habitat;

The Draft EA fails to recognize the controversial nature of the Lesser Prairie Chicken Listing Proposal, which under NEPA and CEQ regulations require preparation of an EIS.

Because the *Draft EA for the Rangewide Oil and Gas Candidate Conservation Agreement with Assurances for the Lesser Prairie Chicken* is limited in scope, late in preparation, deficient of minimum CEQ standards, lacking meaningful consideration of human impacts, devoid of quality (or any) scientific information, **in its present form the Draft EA is insufficient to determine if an Environmental Impact Statement (EIS) must be performed or if a Finding of No Significant Impact (FONSI) can be rendered.**