

Candidate Conservation Agreements With Assurances For Non-Federal Property Owners

What is a candidate species?

Candidate species are plants and animals for which the Fish and Wildlife Service (Service) has sufficient information on their biological status and threats to propose them as endangered or threatened under the Endangered Species Act, but for which development of a proposed listing regulation is precluded by other higher priority listing activities. The National Marine Fisheries Service (NMFS), which has jurisdiction over most marine species, defines candidate species more broadly to include species whose status is of concern but more information is needed before they can be proposed for listing.

What are Candidate Conservation Agreements?

Candidate Conservation Agreements are formal agreements between the Service and one or more parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. The participants voluntarily commit to implementing specific actions that will remove or reduce the threats to these species, thereby contributing to stabilizing or restoring the species so that listing is no longer necessary. The Service has entered into many Candidate Conservation Agreements over the years, primarily with other Federal agencies, State and local agencies, and conservation organizations, such as The Nature Conservancy. Some of these have successfully removed threats and listing was avoided.

What are Candidate Conservation Agreements with Assurances?

Conservation of fish and wildlife resources on private lands is critical to maintaining our Nation's biodiversity. However, private property owners may face land use restrictions if species

found on their lands are listed under the ESA in the future. The potential for future land use restrictions has led some property owners to manage their lands to prevent or discourage colonization of their property by these species. One incentive property owners need to voluntarily promote candidate conservation on their lands and waters is future regulatory certainty. Therefore, the Service and NMFS have finalized a policy to establish standards and procedures for developing Candidate Conservation Agreements with Assurances for private and other non-Federal property owners. This final policy and associated regulations were published in the *Federal Register* on June 17, 1999.

This new approach to Candidate Conservation Agreements provides non-Federal property owners who voluntarily agree to manage their lands or waters to remove threats to candidate or proposed species assurances that their conservation efforts will not result in future regulatory obligations in excess of those they agree to at the time they enter into the Agreement. The Service would provide technical assistance in the development of these Agreements. Property owners may protect and enhance existing populations and habitats, restore degraded habitat, create new habitat, augment existing populations, restore historic populations, or undertake other activities on their lands to improve the status of candidate or proposed species. The management activities included in the Agreement must significantly contribute to elimination of the need to list the target species. Although a single property owner's activities alone may not be sufficient to eliminate the need to list, the activities, if conducted by other property owners on other necessary properties throughout the range of the species, must be sufficient to eliminate the need to list.

In return for the participant's proactive management, the Service and NMFS provide take authorization through the section 10(a)(1)(A) process of the ESA, which authorizes issuance of permits that will enhance the survival of the species. The permit would allow participants to take individuals or modify habitat to return population levels and habitat conditions to those agreed upon and specified in the Agreement.

What species can be included in a Candidate Conservation Agreement with Assurances?

Candidate Conservation Agreements may include plants and animals that have been proposed for listing or are candidates for listing. Species that are likely to become candidate or proposed species in the near future may also be included in an Agreement.

In a Candidate Conservation Agreement with Assurances, what benefits must the species receive?

The ultimate goal of Candidate Conservation Agreements is to remove enough threats to the target species to eliminate the need for protection under the ESA. Before entering into a Candidate Conservation Agreement and providing regulatory assurances, the Service must reasonably expect and make a written finding that the species included in the Agreement will receive a sufficient conservation benefit from the activities conducted under the Agreement. "Sufficient conservation benefit" means that the management actions to be taken would remove the need to list the covered species, when combined with actions carried out on other necessary properties. "Other necessary properties" are those on which conservation measures would have to be implemented in order to preclude or remove any need to list the covered species.

Conservation benefits may include reduction of habitat fragmentation rates, restoration or enhancement of habitats, increase in habitat connectivity, maintenance or increase of population numbers or distribution, reduction of the effects of catastrophic events, establishment of buffers for protected areas, and areas to test and develop new and innovative conservation strategies. Recognizing that while a species is a candidate, a property owner is under no obligation to avoid take, the assessment of benefits would include consideration for what the property owner agrees *not* to do as well as any enhancement measures he or she agrees to undertake. If the Service and the property owner cannot agree on what constitutes benefits, the Service would not enter into the Agreement.

What assurances does the property owner receive?

The Service will provide assurances that, in the event a species covered in the Agreement is subsequently listed as endangered or threatened, the Service will not assert additional restrictions or require additional actions above those the property owner voluntarily committed to in the Agreement. At the time the parties enter into the Agreement, the Service would issue an enhancement of survival permit under section 10(a)(1)(A) of the ESA authorizing the property owner to take individuals or modify habitat to return the property to the conditions agreed upon and specified in the Agreement, provided that the take is at a level consistent with the overall goal of precluding the need to list. The effective date on the permit would be tied to the date any covered species becomes listed.

What must the Candidate Conservation Agreement with Assurances include?

The Candidate Conservation Agreement must include:

- a description of the population levels (if available or determinable) of the covered species existing at the time the parties negotiate the Agreement; the existing habitat characteristics that sustain any current, permanent, or seasonal use by the covered species on lands or waters owned by the property owner;
- a description of the conservation measures that the property owner is willing to undertake to conserve the species covered by the Agreement;



The lesser prairie-chicken is a candidate species that will benefit from several Candidate Conservation Agreements under development in Colorado, Kansas, New Mexico, Oklahoma and Texas. Photo by John Shackford

- an estimate of the expected conservation benefits as a result of conservation measures, and the conditions that the property owner agrees to maintain;

- assurances that the Service will not require additional conservation measures or impose additional take restrictions beyond those agreed to if a covered species is listed in the future;

- a monitoring provision that may include measuring and reporting progress in implementation of the conservation measures described above and changes in habitat conditions and the species' status resulting from the measures; and

- a notification requirement, to provide the Service or appropriate State agencies with a reasonable opportunity to rescue individuals of the covered species before any authorized take occurs.

Who can participate in a Candidate Conservation Agreement with Assurances?

A Candidate Conservation Agreement with Assurances will involve the Service, one or more non-Federal property owners, and possibly other cooperators. State fish and wildlife agencies, which have primary jurisdiction over species that are not federally listed, may be a cooperator in any Candidate Conservation Agreement. Other potential cooperators include neighboring property owners, State or local agencies, Tribal governments, or Federal property owners. Only non-Federal property owners may receive regulatory assurances under the Agreement.

Will there be any public notification of Candidate Conservation Agreements With Assurances?

As with other section 10 permits, the Service will publish a notice in the *Federal Register* when it receives the permit application. The Service will announce receipt and availability of the application and Agreement and will accept and consider comments from the public before making a final decision on issuance of the permit.

What if I sell my land? Is the CCAA transferable?

If a property owner who is party to a Candidate Conservation Agreement with Assurances transfers ownership of the lands included in the Agreement, the Service will regard the new owner as having the same rights with respect to the subject lands as the original property owner if the new property owner agrees to become part of the original Agreement.

Whom should I contact to initiate a Candidate Conservation Agreement?

Interested parties should contact the nearest Fish and Wildlife Service Field Office in their State to discuss potential cooperative opportunities. For information on the final policy and regulations, contact our Headquarters Office at the address below. More information and office addresses can also be found by visiting the Service's website at <http://www.fws.gov>.

**U. S. Fish and Wildlife Service
Endangered Species Program
4401 N. Fairfax Drive, Room 420
Arlington, VA 22203
703/358 2105
<http://endangered.fws.gov>
February 2002**

