

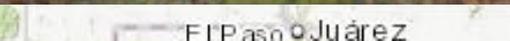
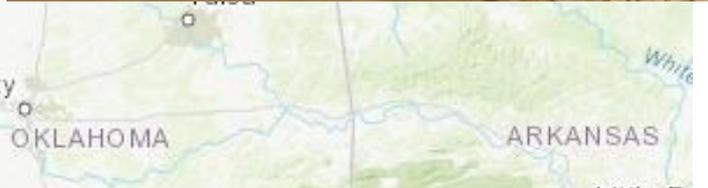
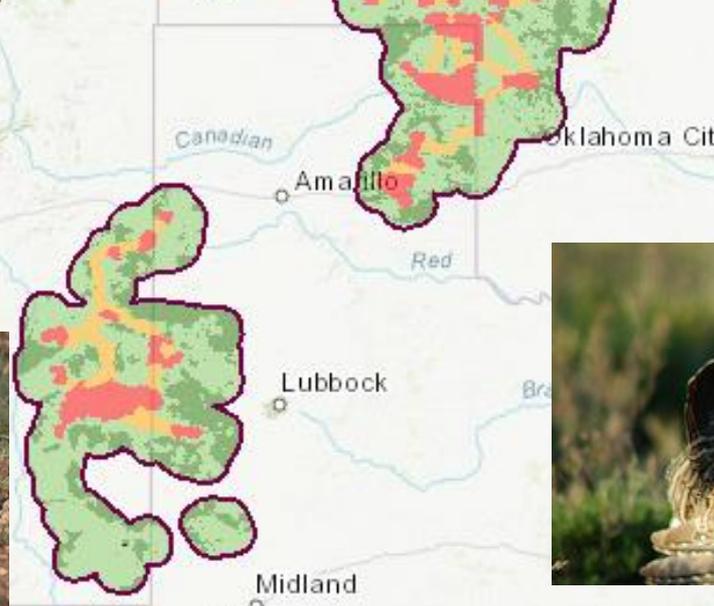
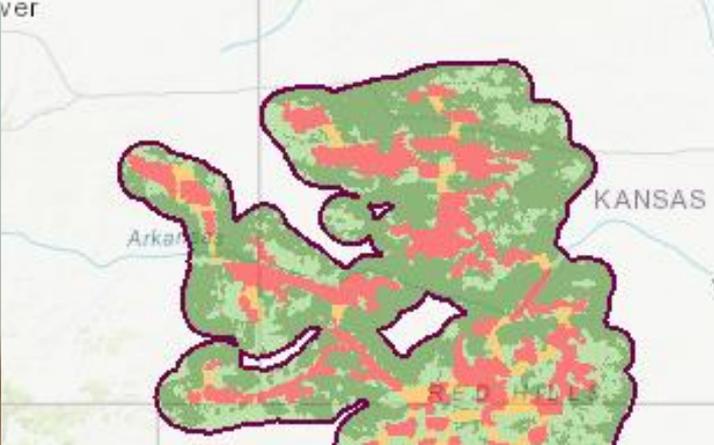
Lesser Prairie Chicken Regulatory Status Update

Sean Kyle

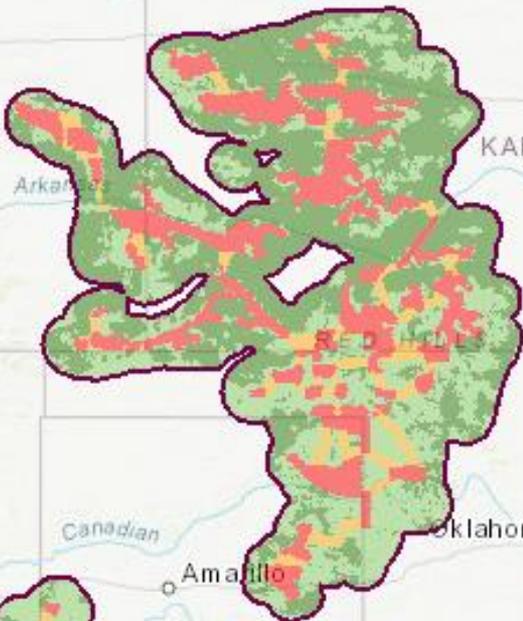
Industry Service Director

Western Association of Fish and Wildlife Agencies

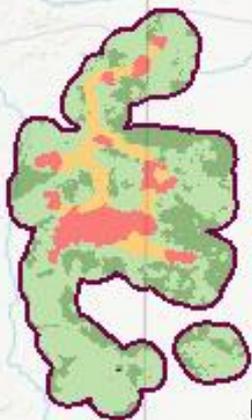




The oil and gas industry produces roughly \$200 billion per year in the five states encompassing the LPC range

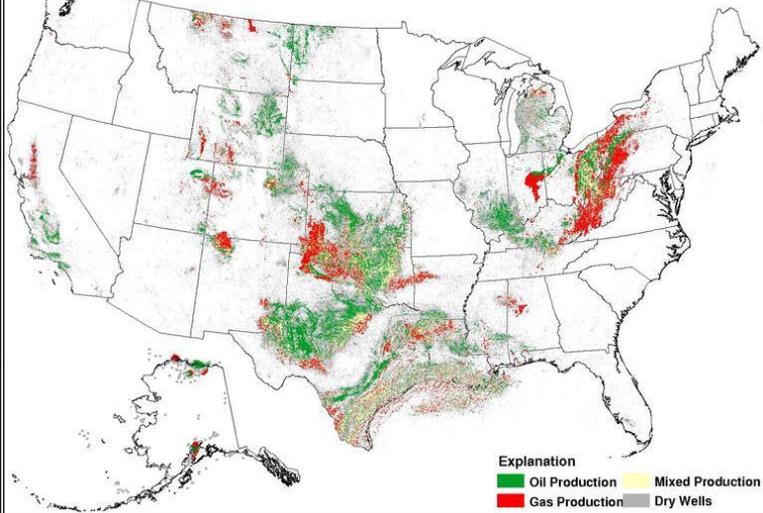


The southern Great Plains represents a majority of wind energy production in the US



Oil and Natural Gas Production in the United States

(Derived from Mast, et al, 1998)



Explanation
Oil Production
Gas Production
Mixed Production
Dry Wells

Existing wind capacity and planned wind plant installations through 2015



online as of September 2014 (62 GW)
expected online October-December 2014 (3 GW)
expected online in 2015



FWS Status Review

- Following the PBPA court decision when the LPC was delisted, USFWS initiated another status review for the LPC.
- Environmental groups petitioned in Sept 2016.—Established statutory timeline.
- Species Status Assessment completed
 - Supports listing despite short term increases in populations



Listing Timeline

- 12-month finding
 - Delayed and more than a year late
- Litigation expected—Most likely pathway for listing
- Proposed rule included in 12-month finding if warranted
- Listing decision—About 12 months from proposed rule

Lesser Prairie-Chicken Range-Wide Conservation Plan

- State-led conservation effort
 - Common population and habitat goals
- CCAA and WCA agreements
 - Legal assurances and operational certainty
- Restoration program—New option
- Finalized and implemented in 2013
- Endorsed by FWS Director in Oct 2013

The Lesser Prairie-Chicken Range-wide Conservation Plan



Edited by:

William E. Van Pelt
Western Association of Fish and Wildlife Agencies Grassland Coordinator
Arizona Game and Fish Department

Drafted by:

Lesser Prairie-Chicken Interstate Working Group Members:
Sean Kyle, Chair, Texas Parks and Wildlife Department
Jim Pitman, Vice Chair, Kansas Department of Wildlife, Parks, and Tourism
David Klute, Colorado Parks and Wildlife
Grant Beauprez, New Mexico Department of Game and Fish
Doug Schoeling, Oklahoma Department of Wildlife Conservation
Allan Janus, Oklahoma Department of Wildlife Conservation
and
Jonathan B. Hauffer, Ecosystem Management Research Institute
September 2013

CCAA was Cooperatively Developed by and for Industry

- Industry staff and attorneys helped develop the agreement.
- Companies donated funds to cover USFWS staff time to complete the agreement.





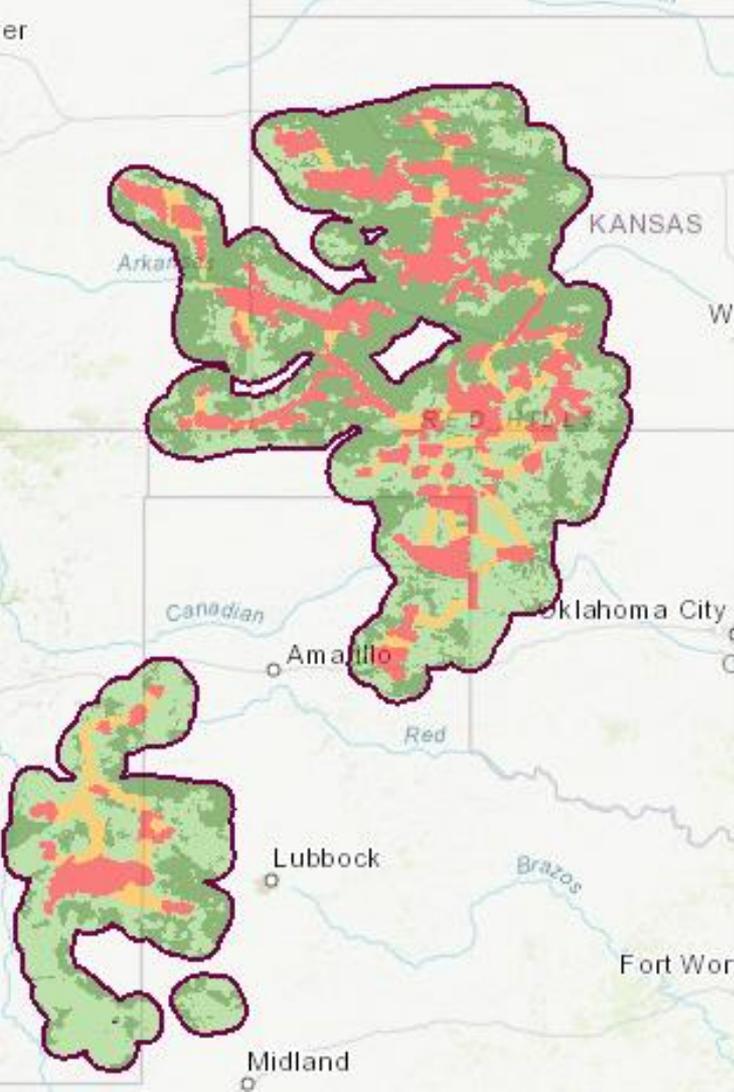
What do the CCAA and WCA require?

- **Conservation measures**
 - Timing and off-road travel restrictions near leks
 - Burial of electric distribution lines near leks
 - Noise restrictions-on all new construction in CHAT 1-3
 - Lek surveys may be required
- **Mitigate for new developments**
 - Average mitigation cost for a well is \$11k
 - Half of the wells are less than \$2k
 - Average wind turbine is about \$22k
- Enrollment cost is \$6.75 per acre
- Fast processing times mean no delays



Largest Single Species Wildlife Mitigation Program

- 147 companies
- Nearly 7 million acres
- Generated \$65 million to date
 - Less than 0.2% of estimated O&G drilling costs
 - Microscopic percentage of estimated annual production for all industries



RWP Conservation Successes

- Over 150,000 acres contracted for in-perpetuity conservation to date
 - 24% in permanent easements
 - 76% in iterative term contracts
 - Permanent conservation in 3 of 4 ecoregions
- Targeted conservation
 - 93% of conservation properties in CHAT 1&2
- Ahead of the game
 - 75% of the conservation credit is available for mitigation—No delays



Industry Funding Benefits Local Communities

- Payments to farmers and ranchers fund local businesses
 - Brush control contractors
 - Fencing contractors
 - Farm and ranch suppliers
- Conservation practices improve private lands
 - Improves range condition and increases drought tolerance
 - Some increases in stocking rates due to restoration

Investment also pays off for industry

- Permian Basin Petroleum Association sued USDI
- Courts vacated the listing decision in Sept 2015
- FWS removed the species from the list in 2016
- RWP and PECE were the basis for this decision



Western District Court Decision

- FWS failed to properly apply PECE to the RWP.
- *At the outset, FWS made a critical assumption that shaped the entire RWP PECE evaluation: "{T}his analysis assumes that if a listing of the lesser prairie-chicken is precluded, much of the incentive for industry to enroll in the range-wide plan would be removed after March 31, 2014."*





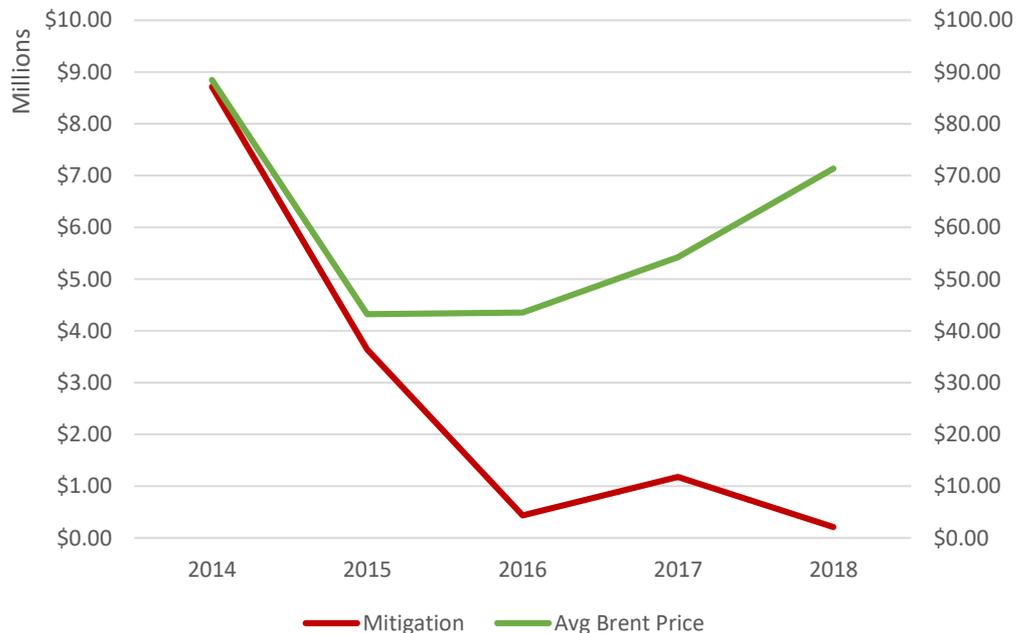
What's happened since then?

- Overall participation across all industries is only 10-15%
 - Less than environmental groups estimated
 - Oil and gas participation dropped from 30% in 2014-15 to 23% in 2017
- Missed all enrollment targets since the PBPA case
- Companies are not enrolling new acquisitions where the development is occurring

Effects of the Oil Price Crash in 2015

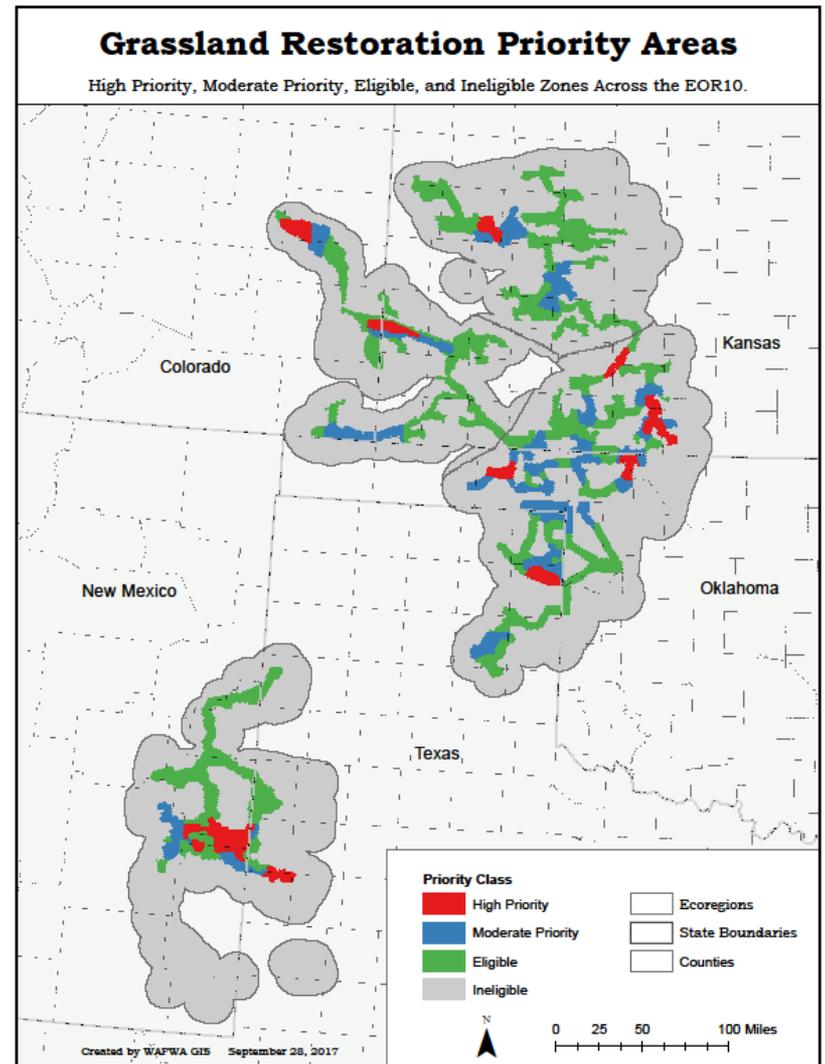
- Mitigation of oil wells declined substantially with oil prices, but has not rebounded as markets recovered.
- Most of the current mitigation is old field development
- Declines in mitigation are negatively affecting funding to run the program, triggering adaptive management provisions.

Annual Well Mitigation vs. Annual Average Brent Oil Price



WAFWA Grassland Restoration Program

- An alternative pathway for industry engagement in the RWP habitat goals
- Targeted grassland restoration using tax-deductible donations
 - <3 miles from active and historic leks in CHAT 1&2
 - Focused primarily on tree removal
- Donations are leveraged 3:1 with grant funding from the states
- WAFWA's goal is to contract for 20-40k acres in 2019
- This is a relatively inexpensive way for industry to make a big impact on the listing process.



Take-Home Points

1. The LPC is on a track to be federally regulated under the Endangered Species Act.
2. Litigation is the likely pathway for that to occur.
3. The RWP has successfully avoided listing through litigation efforts in the past.
4. Future attempts to preclude a listing or thwart litigation using the RWP are less likely to be successful due to low participation levels.
5. If companies want the benefits of the RWP to avoid federal regulation, higher levels of participation are required.
6. Companies may participate in the RWP through mitigation, donations for habitat restoration, or both.

