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By Kevin Welch  
kevin.welch@amarillo.com



AP - Lesser prairie-chicken

Three large activist groups lashed out Thursday against the listing of the lesser prairie-chicken as threatened.

Defenders of Wildlife, the Center for Biological Diversity and WildEarth Guardians filed a legal notice in a Washington D.C. federal district court they will be suing the U.S. Fish and Wildlife Service and others in 60 days if the listing isn't upgraded to endangered with mandatory rules and enforcement. Together, they claim more than 1.7 million members.

“The unenforceable state-level plan and voluntary measures are too little, too late, and

will not get traction fast enough to prevent extinction. The lesser prairie-chicken needs the full protection of the Endangered Species Act to stem the tide of habitat destruction,” said Jay Lininger, a senior scientist with the Center for Biological Diversity.

Fish and Wildlife listed the prairie-chicken as threatened on March 27, citing a plan developed by biologists, members of industries that have an impact on habitat and other interested parties in the birds' five-state range that includes the Texas Panhandle.

“Thirty-two private companies in five states representing oil and gas, pipelines, electric transmission and wind energy have committed to enroll more than 3.6 million acres in the Lesser Prairie-Chicken Range-wide Conservation Plan, providing about \$21 million for habitat conservation over three years,” according to a news release from one of the authors of the plans, Western Association of Fish and Wildlife Agencies, before listing.

The companies pay enrollment fees, promise to follow practices meant to minimize impacts and to pay for damages they can't avoid. The money goes to landowners to protect and restore habitat.

“The range-wide plan represents more than a pathway to mitigate industry impacts,” said Bill Van Pelt, grassland coordinator with WAFWA. “It also serves as a way to unify all existing lesser prairie-chicken programs under a common set of goals to conserve the species.”

Other conservation plans involve efforts such as farmers and ranchers protecting habitat in exchange for exemptions from enforcement of federal species protection laws.

Reps. Mac Thornberry, R-Clarendon, and Randy Neugebauer, R-Lubbock, joined Sen. John Cornyn, R-Texas, in condemning the listing as threatened for being too restrictive and a government overreach into private business.

Habitat destruction and hunting that date into the 1800s and droughts have brought the number of prairie-chickens down to about 17,000 total in Texas, New Mexico, Oklahoma, Colorado and Kansas.

“The Service has adopted unprecedented and sweeping loopholes that seriously undermine their ability to monitor the implementation and effectiveness of new and inadequate conservation programs, increasing the likelihood of further loss of prairie-chickens and further habitat destruction,” said Jason Rylander, senior attorney with Defenders of Wildlife.

The agreed-upon habitat protection plans call for shielding businesses and landowners against penalties for inadvertent “takes” of prairie-chickens.

The Endangered Species Act defines “take” as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”

Threats of lawsuits and actual lawsuits are not unusual for the activists. The Guardians have filed dozens of lawsuits to enforce deadlines for Fish and Wildlife to issue findings concerning some of the more than 700 species it has submitted petitions for protection for, according to a written statement from the group. Some of the more recent petitions ask for protection for nine Texas mollusks, the gila monster in Utah and the Mexican wolf.