

# As feds delay, advocates work to protect rare bird

By: [Kathryn McNutt](#) The Journal Record August 12, 2022 [Q](#)



A male lesser prairie-chicken in the Red Hills of Kansas. (Photo by Greg Kramos/USFWS)

Champions of the lesser prairie-chicken are awaiting word whether the rare dancing grouse will be relisted under the Endangered Species Act two months after a final decision was expected. The Center for Biological Diversity notified the U.S. Fish and Wildlife Service on Thursday that it would sue the agency for failing to protect the birds under the ESA if it did not do so within 60 days. The delay is not good because it creates uncertainty, said Wayne Walker, CEO of LPC Conservation, the only private conservation bank for the lesser prairie-chicken in the bird's range, which includes western Oklahoma.

[Conservation banks](#) work with landowners to preserve habitat needed to save species in danger of dying out while allowing essential economic drivers to continue development. "They (landowners) get what they need financially, and the bird gets what it needs," Walker said.

As they await the listing decision, conservationists have received some good news. The role of private conservation banks – which provide a permanent solution compared to the conservation efforts led by state and regional programs – is now being formally recognized by the Fish and Wildlife Service. On July 27, the service announced it is developing specific standards and objectives for private banks and mitigation credits.

"The rulemaking is welcomed by the mitigation industry because it will set a standard for mitigation performance for all species going forward," Walker said. The hope is it will replicate the successful 2008 program for restoration and protection of wetland, he said.

Listing the bird under the ESA would require industries to mitigate any negative impacts they have on the species. A decision not to list leaves mitigation efforts to their discretion.

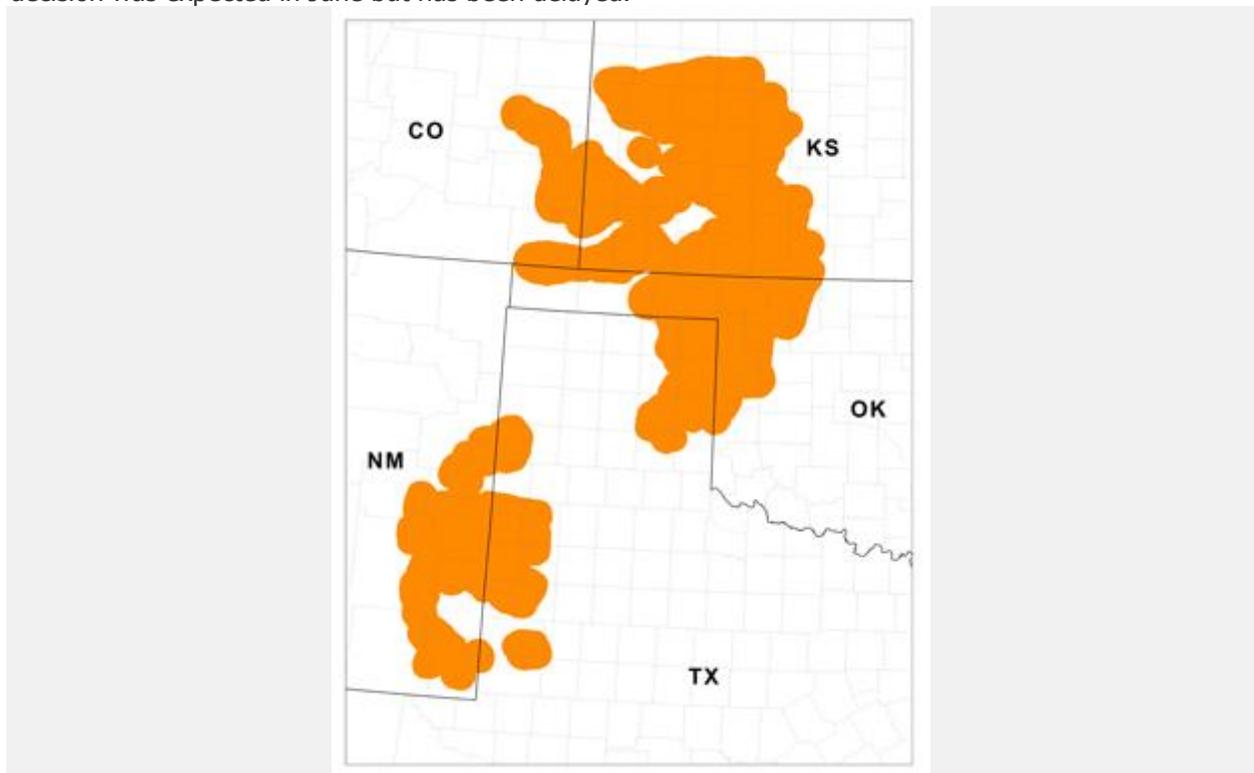
A portion of the lesser prairie-chicken's range overlaps with the oil- and gas-rich Permian Basin. Oil and gas industry trade groups have argued that ongoing voluntary efforts to prevent the bird's extinction are sufficient and increased federal regulation would harm the industry.

Conservationists say the species has suffered serious population declines and needs the protection. Aerial surveys presented by the Western Alliance of Fish and Wildlife Agencies at its summer conference in Oklahoma City showed a 20% decline since 2020. Only 1,500 birds remain in New Mexico and Texas, and about 25,000 in Colorado, Kansas and Oklahoma, WAFWA reported.

The lesser prairie-chicken was listed as a threatened animal under the federal Endangered Species Act in 2014. Oil and gas companies, wind developers and others that disturbed the ground in the bird's five-state habitat were required to either avoid its habitat or pay to conserve critical habitat in a different part of the territory.

But in 2015, a federal judge reversed the threatened listing for the lesser prairie-chicken. All of the conservation efforts became voluntary.

Last year the Fish and Wildlife Service proposed an endangered listing for the bird in southeast New Mexico and West Texas and a threatened listing for the birds in Colorado, Kansas and Oklahoma. A decision was expected in June but has been delayed.



Map of the remaining lesser prairie-chicken habitat. (Courtesy Natural Resources Conservation Service)

A species is considered "endangered" by the agency when its extinction is believed imminent, while "threatened" means the animal could soon warrant endangered status.

LPC Conservation has 70,000 acres of suitable habitat under contract and 40,000 acres of conservation credits that could be purchased right now by developers who need to compensate for unavoidable adverse impacts their projects have on the species, Walker said. The conservation bank has a range-wide habitat conservation plan specifically for the oil and gas industry that was approved by the Fish and Wildlife Service on June 3. It enables energy developers to obtain legal assurance in exchange for contributing to securing conservation strongholds and habitat restoration, Walker said.

"We believe using a market-based business model is the best way to secure the desired outcomes for all involved to finally deliver quantifiable conservation benefits to the lesser prairie-chicken," he said. WAFWA announced in 2014 that five oil and gas companies voluntarily enrolled nearly 1.5 million acres of land under a plan to conserve the lesser prairie-chicken.

Continental Resources, Devon Energy, Apache Corp., Occidental Oil and Gas Corp. and Samson Resources were the first to commit to develop enrolled land in ways that minimize impacts on lesser prairie-chicken habitat and to provide funding for conservation on private land throughout the region. Continental currently has no operations in areas that are known habitats for the lesser prairie-chicken, Kristin Thomas, chief communications officer, said.

Lisa Adams, head of corporate communications for Devon Energy, said she was unable to provide information about the company's efforts by deadline.

The WAFWA range-management plan hasn't worked because agreements are temporary and the programs don't bring in enough money to pay for what is needed, Walker said.

"Wildlife agencies are really good at hunting and fishing, but not when it comes to complicated endangered species mitigation," Walker said. Conservation bankers are people who know how to work with private landowners and navigate the "quagmire of ESA challenges," he said.

They pay ranchers a lump sum to secure acreage that becomes a permanent conservation easement held by a nonprofit land trust that will pay for the management going forward.

The Natural Resources Conservation Service reports about 95% of the lesser prairie-chicken's habitat is privately owned, making the land management decisions of landowners pivotal to the bird's success.