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Lesser Prairie Chicken program undergoing changes



by **JACK MONEY**

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A lesser prairie chicken takes flight. [PROVIDED BY WADE FREE, OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION]

The Western Association of Fish and Wildlife Agencies promotes the region's outdoorsman lifestyle.

It also helps manage various species of North American wildlife, either to keep them off or to help them leave protected and endangered lists set by the federal government.

Recently, questions have circulated about whether the association itself or a program it operates to preserve habitats for the lesser prairie chicken in Oklahoma and surrounding states might be in danger of disappearing.

But while the association's interim executive director recently said both the association and the chicken conservation program are undergoing some restructuring, neither is facing a threatened existence.

Christopher M. Moore, who also is the executive director of the Mid-Atlantic Fishery Management Council, took on the top job at the Western Association of Fish and Wildlife Agencies on a pro-bono basis in April 2019.

Discussing the organization's future, Moore confidently predicts it will emerge in the coming year fully capable of meeting its goals.

"The organization is looking at the way it conducts its business for a number of things, including lesser prairie chickens, and everything looks great," Moore said.

"Those folks who are saying we are leaving the planet shortly are incorrect."

A century's worth of work

The association traces its roots to the early 1920s, when a few state game officials in the West felt the need to work together to solve a series of game management questions they had in common.

Initial members included Montana, Wyoming, Colorado, New Mexico, Nevada, Utah, Idaho, Arizona, California, Oregon and Washington.

Today, the association and its members represent 24 states and Canadian provinces, covering nearly 3.7 million square miles of some of North America's most wild and scenic country.

Its work to support sound resource management and to build partnerships at all levels to conserve wildlife for the use and benefit of all affects more than 40% of the continent, including two-thirds of the United States.

Over the decades, it has helped build and manage successful conservation programs involving numerous species, such as the black-tailed prairie dog, the black-footed ferret, Townsend's big-eared bat, the swift fox, sage grouse, the western native trout and the lesser prairie chicken.

It also has launched other successful initiatives.

In the early 1940s, its members began exchanging information about scientific-based game management issues. Members since have used game management science to address many complex issues, publishing recaps of those efforts and supporting research through an annual Western Proceedings document that is still distributed nationally today.

The association also developed and funded a wildlife education program for classroom teachers with technical and financial support from member agencies in an effort to counter the growing urbanization of the nation in the late 1970s.

While it no longer is directly involved in that program, the association continues to support Project WILD, an interdisciplinary, supplementary environmental and conservation education program for educators of kindergarten through high school-age young people.

It pioneered development of the science of response management in the mid-1980s, a process now widely used by fish and wildlife agencies to become more responsive to conflicting user and public demands on the natural resources.

For the past couple of decades, the association also has involved itself in numerous conservation and management programs to maintain Great Plains and desert grasslands.

Those efforts both aim to protect the grasslands from diseases and urbanization, as they slow water runoff and allow for aquifer recharge, and to protect and encourage the growth of nearly 200 species that live in the Western U.S.

The association's members routinely participate in numerous working groups evaluating or developing management plans for different species.

One group focuses on monarch butterflies, while another evaluates how to control invasive aquatic species that are harmful to other wildlife. One looks at best practices for managing mule deer populations, and another does the same for wild sheep.

In 2012, the association partnered with New Mexico, Colorado, Kansas, Oklahoma and Texas to address concerns about declining populations of the lesser prairie chicken. Together with other conservation groups, developmental industries and several federal agencies, the group created a conservation plan to address the species' needs.

When the bird was listed as protected in 2014, the fish and wildlife service incorporated the plan into its rules, establishing conservation activities for participants.

In addition, a Candidate Conservation Agreement with Assurances was developed with the oil, gas and pipeline industries, which protects them from potential liabilities involved with encroachments they make into the bird's habitat if the species ultimately is found to be warranted for listing.

A component of the program pays landowners, farmers and ranchers to conserve the grassland habitats needed by the chicken, using dollars paid in by the oil, gas, wind, electricity and telecommunications industries.

In 2019, the association audited the plan and its framework as part of a regular review called for by its agreements with the participating parties.

By then, industry partners had paid more than \$64 million into the program, while landowners had agreed to set aside more than 150,000 acres of habitat for the bird.

Concerns raised by audit

Although the association has not yet released the complete audit results, officials admit it found issues involving the program's structure and operations that jeopardized its financial well-being.

Declining industry enrollments, it found, posed a threat to its long-term viability.

A question about whether the bird needs any protection at all also needs settled.

A federal judge raised that issue in a 2015 ruling that determined the U.S. Fish and Wildlife Service acted "arbitrarily and capriciously by improperly interpreting and then applying" applicable law when it made its determination that the chicken was threatened.

That same judge's ruling also effectively removed the bird from the service's threatened species list, although a subsequent lawsuit filed by environmentalists prompted the federal agency to agree to consider the bird's status again.

That review is expected to be completed before the end of 2021.

Then, there is a lawsuit the association filed in 2019 against an Oklahoma-based oil and gas company that didn't hold up its end of a contract it had entered to help maintain the bird's habitat.

Le Norman Operating, part of Templar Energy — a company started and grown but no longer owned by David Le Norman, chairman of the Oklahoma Petroleum Alliance — was sued in Oklahoma County District Court by the association, which asserts the company owes it about \$4.1 million that it would use to help landowners undertake conservation measures to help preserve the species.

The company countersued, arguing that the agreement it had entered into effectively was voided by the federal judge's 2015 decision. It also asks for the association to return about \$352,000 it had paid as part of the agreement so far, and asked the judge also to require the nonprofit to pay Le Norman's attorney fees, costs and expenses.

In July, Oklahoma County District Court Judge Richard C. Ogden ruled the contract between the two parties valid.

Le Norman Operating appealed that ruling to the Oklahoma Supreme Court, where the case remains pending.

If Le Norman were to successfully win its case, that could open the door for other companies to walk away from their contracts. But both Moore and Ben Shepperd, president of the Permian Basin Association, said they have not heard that any other companies are considering making similar arguments.

'The way to go'

Shepperd said more than 160 oil and gas operators are involved in the lesser prairie chicken conservation program, so far.

"The program is just a little over 5 years old now, and we think it has been very successful," Shepperd said. "Now, we are evaluating it to see how we can keep it viable for decades to come.

"We are at the table and having conversations. The industry commitment remains firm — we think it is the way to go."

As interim director of the association, Moore said he has concentrated on helping the larger organization redefine itself while it also looks at making needed improvements to the lesser prairie chicken conservation program so that it can continue.

Earlier this month, he said that process is well underway.

The association, he noted, saved a significant amount of its administrative expenses for the lesser prairie chicken program by using a new vendor to collect and provide data it follows to track the effort's progress.

States involved in the program also have volunteered their staffs and time to help conduct needed fieldwork and take aerial surveys as well.

Meanwhile, the association has quit taking new enrollments involving businesses in the lesser prairie chicken program, though those already involved are being encouraged to continue submitting mitigation development plans.

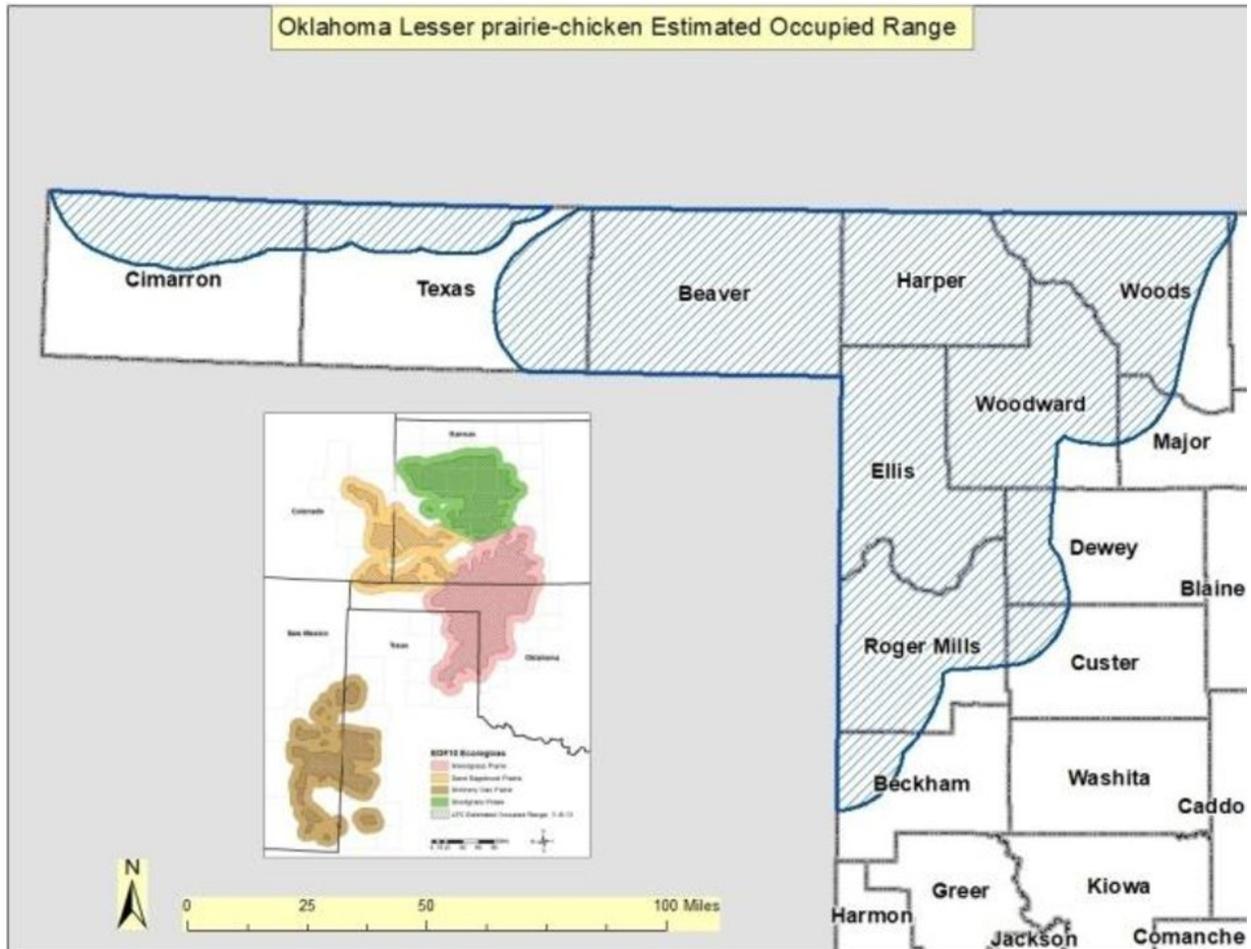
Participating landowners, meanwhile, are continuing to receive compensation.

"From my perspective, we have done everything we need to do to maintain the current permit (to conduct the program) with the fish and wildlife agency," Moore said.

RELATED PHOTOS



Lesser prairie chickens are photographed on western Oklahoma grasslands.



This map shows the estimated rangeland for lesser prairie chickens in Oklahoma and surrounding states.



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Jack Money has worked for The Oklahoman for more than 20 years. During that time, he has worked for the paper's city, state, metro and business news desks, including serving for a while as an assistant city editor. Money has won state and regional journalism awards and garnered praise from outside groups for historical books he has co-authored. Today, he works as a Business Writer who covers energy, agriculture and aerospace. He also has covered retail news for the Oklahoman.