

# Congress of the United States

Washington, DC 20515

January 12, 2023

The Honorable Deb Haaland  
Secretary  
Department of the Interior  
1849 C Street NW  
Washington, DC 20240

**Re: Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken; Threatened Status with Section 4(d) Rule for the Northern Distinct Population Segment and Endangered Status for the Southern Distinct Population Segment; Docket No. FWS-R2-ES-2021-0015**

Dear Secretary Haaland,

We write today with serious concerns regarding the final rule to list the lesser prairie-chicken (LPC) under the Endangered Species Act (ESA) by the United States Fish and Wildlife Service (Service) and request that you delay the effective date of the final rule to April 1, 2023. This will provide industry stakeholders time to adjust their operations and finalize voluntary efforts to conserve the bird.

First and foremost, we believe the Service should promote voluntary conservation work that has proven successful at conserving the bird and not list the LPC whatsoever. Given the decades-long history of private lands conservation in coordination with the Service and state partners, we believe listing the LPC undermines private property rights and will discourage critical conservation efforts on private lands. Let us be clear, while we strongly urge the Service to revoke the listing, at minimum it is necessary to delay the effective date for involved parties to effectively comply with the rule. An extension of the effective date will give industry stakeholders more time to participate in or expand voluntary conservation prior to the primary nesting season of the LPC and give ranchers time to comply with the new 4(d) rule for grazing activities or establish Candidate Conservation Agreement with Assurances (CCAA).

A major issue with the final rule, making a delay necessary, is the 4(d) rule regarding grazing practices. Instead of granting incidental take protections for routine grazing practices on existing grasslands, as it did for routine agricultural practices on existing cultivated lands, the Service chose a path to dramatically increase control over private property. Requiring a third-party verified grazing plan on millions of acres of private property is nothing short of an egregious federal takeover of private property, effectively making private property in LPC range no different than federal lands. Even the Service acknowledges that “[g]razing has long been an ecological driving force throughout the ecosystems of the Great Plains” and that it is in fact

needed to maintain the LPC, yet this rule presumes that the Service could conduct grazing activities better than local ranchers who have been doing it for decades.

Delaying the effective date provides the Service proper time to approve qualified parties to develop prescribed grazing plans. According to the final rule, prior to the effective date of the rule the Service will post a list of Service-approved parties to develop site-specific grazing plans. Individuals or entities must also request to be on the list of Service-approved parties to develop site-specific grazing plans. Finally, those Requests for approval to develop site-specific grazing management plans must be written and submitted to the Service's Lesser Prairie-Chicken Coordinator and must include a statement of qualifications and a commitment to develop site-specific management plans. This is an impractical timeline for people to submit their applications to the Service's Lesser Prairie-Chicken Coordinator for approval. Not only this, but the Service expects ranchers to be in compliance with the rule and have grazing management plans established by the time the rule is effective. There is certainly not enough time for interested parties to submit applications to the Service for approval and for the Service to approve the submission, and then for millions of acres of grazing land to establish site-specific grazing plans.

Delaying the effective date will also help establish more conservation through CCAAs. Unfortunately, CCAA enrollment cuts off on the effective date, however, the Service has indicated enrollment does not need to be completed by the effective date, but the process needs to have been started. Delaying the effective date will provide industry stakeholders, including ranchers in the Southern Distinct Population who cannot use the 4(d) rule, time to start the CCAA process already established and successfully used by the Service.

Finally, because the final rule was not published until late November and the Service waited until mid-December to report the rule to Congress under the Congressional Review Act, Congress won't get a chance to potentially act to strike the rule until after it becomes effective. In fact, the joint resolution of disapproval cannot even be introduced in the new Congress until after the rule becomes effective. Delaying the effective date of the rule to April 1 will give Congress time to act on the rule before it becomes effective.

There is no question that this listing will hurt our nation's agricultural economy, hinder our oil and gas independence, increase utility costs, and prevent the development of renewable energy. If the goal of the rule is to conserve the habitat of the LPC, the Service should delay the effective date. The current plan to allow the final rule to become effective in less than 60 days after its publication severely limits the choices of those who can actually promote and protect the bird. We strongly urge you to delay the effective date to April 1, 2023.

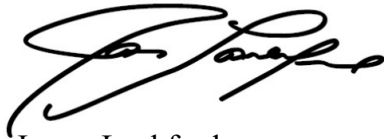
Sincerely,



Roger Marshall, M.D.  
United States Senator



Tracey Mann  
Member of Congress



James Lankford  
United States Senator



Jerry Moran  
United States Senator



Markwayne Mullin  
United States Senator



Ronny L. Jackson  
Member of Congress



Ron Estes  
Member of Congress



Jake LaTurner  
Member of Congress



August Pfluger  
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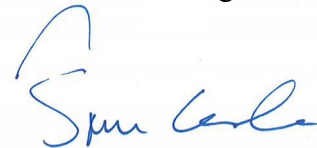
Stephanie Bice  
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Tom Cole  
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