

# PAGE Opinion

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## A whole lotta' grousing going on

By Laurie Ezzell Brown

WE HAVE TRACKED the saga of the Lesser Prairie-Chicken for some years now, and attended a posterior-numbing succession of meetings held to prepare for its possible listing under the Endangered Species Act. Still, we were unprepared for the hand-wringing, man-the-battle-stations reaction to the U.S. Fish & Wildlife Service's announcement earlier this month that the chicken would be listed as "threatened," rather than the far more onerous designation of "endangered."

In making its decision, the USFWS took into consideration a range-wide conservation plan developed over the last two years with input from representatives of industries that would be affected by the listing—among them oil and gas producers, farmers and ranchers, and wind farm developers. The ruling was accompanied by the federal agency's promise to develop a timetable and criteria for eventual de-listing.

Implicit in that decision was the understanding that the conservation plan should be given a chance to work, and that the stakeholders would be given a chance to show their commitment to making it work.

What we expected would be a declaration of victory by those stakeholders who dodged the endangered-listing bullet was instead a call to battle. It was suddenly very clear that the only acceptable outcome to them would have been no listing at all—this, despite the fact that the prairie-chicken population is in rapid and precipitous decline.

The process of developing the rangewide plan was overseen, in large part, by a five-state consortium of state Fish and Wildlife Agency officials—who typically presented themselves as the more palatable antidote to the USFWS, or "the Feds," as they are affectionately called in the Texas Panhandle—and by representatives of those affected industries, like the Panhandle Producers and Royalty Owners Association (PPROA), which has hosted many of the afore-mentioned meetings.

TPWD wildlife diversity specialist Sean Kyle has been the most prominent public face of that effort, and he is a well-chosen one. Kyle is a skilled public speaker—knowledgeable about prairie-chickens and well-versed in the conservation plan's details—who adeptly cuts through the layers of bureaucratese to answer questions in easily-understandable terms.

Kyle also speaks with thinly-veiled contempt for the USFWS. His comments become increasingly barbed in response to the mumbled "amen's" and "darn-right's" emanating from his audience.

To be fair, though, he hastens to reassure these Chicken Littles that "the sky isn't falling...and black helicopters won't appear on your land," as he told a group assembled here for an Extension Service con-

ference on beef cattle, range and wildlife last Friday.

One of the most frequently-heard comments has been one questioning the civil and criminal penalties that can be assessed to those who willfully or knowingly harm either the chicken itself or its habitat. Those penalties are the muscle, without which any regulatory effort is ineffective.

Kyle explained that there are only 8,000 employees in the USFWS nationwide—most of those in the refuge system—and that it was unlikely they would be visiting her often. He also offered this analogy to landowners who imagined trench-coated Feds coming to arrest them: Endangered species enforcement is a little bit like speed-limit enforcement, he said. If you're doing 118 mph in a 60 mph speed zone, the cops are going to stop you.

In other words, Kyle said, "There is a high bar for proving intent [to harm the prairie-chicken]. But if you drive across a lek, kill a bunch of chickens and post a video of it on YouTube, there is probably an orange jumpsuit waiting somewhere for you."

Participation in one of the rangewide plan's conservation agreements—which is voluntary—is intended to protect stakeholders from those "take" provisions. The threatened designation includes a 4(d) rule, which exempts all practices implemented by landowners, wind developers and oil and gas producers that fall under the auspices of the rangewide plan.

With the listing, the industry must continue to pay into the habitat exchange fund set up by the plan, and landowners who wish to conserve prairie-chicken habitat—using the same kind of beneficial land management practices that most of them already observe—can enroll in the plan and will profit from the exchange.

"If you enroll," Kyle said, "you work with us and you have us in your corner. If you do these things, you cannot be fined. You have a solid contract."

When Kyle invited questions from the group of farmers, ranchers and some oil and gas industry representatives, the conversation devolved into chest-thumping, war-drum beating invective like this, aimed at the state Fish & Wildlife Agency folks who have spent the last 24 months or so developing the plan with stakeholders: "I see you guys waking up on the wrong side of the bed someday," said one conference-goer, "hampering these American industries that are needed by the American people to strengthen the American economy."

It was the first time we had seen Kyle come even close to losing his cool. "I've been working my whole career—almost 22 years now—to keep the bird from getting listed," he said. "Five state agencies pulled together over the last three years and put together this monumental document saying this species should not be listed."

"We were charting a pathway forward so that industry would not be affected," he continued. "If we had not, none of us would know what the heck we were going to do now [that the bird has been listed]."

Kyle may now want to ask the question we are asking. Were these stakeholder industries acting in good faith when they partnered in the rangewide conservation plan, or was their effort disingenuous, intended merely to stave off any listing at all?

## LETTERS

### Opinions

According to Dictionary.com, "Opinion is 1) A belief of judgment that rests on grounds insufficient to produce complete certainty; 2) A personal view, attitude, or appraisal."

Opinions can be either benign or critical. In America, we are granted the right to have and express opinions. There are opinions about politics, religion,

definition of family, etc. While thinking about opinions, I realized that women in this country were once denied the right to their own opinion in the form of voting rights. In many middle eastern countries, women do not have the right to an opinion. Then there is North Korea, the only opinion is that of Kim Jong-un.

Here are two examples of my opinions. My first opinion is rather benign. In my opinion, social media is destructive. As you see, you can either agree or disagree. My second opinion may be considered critical. In my opinion, political opinion of the local newspaper is too liberal leaning. Once again, you can either agree or disagree.

I have a young son. I hope I can instill in him courage to have and express his opinions and dignity when opinions are critical of him.

ROBBIE G. POWELL