

A Threatened Species:



At sunset on December 31, 2013 – about the time the New Year’s Eve celebrations were starting on the East Coast – a curtain fell, and an era ended. The season for lesser prairie chickens in Kansas, for many years the only state where *Tympanuchus pallidicinctus* could legally be hunted, closed.

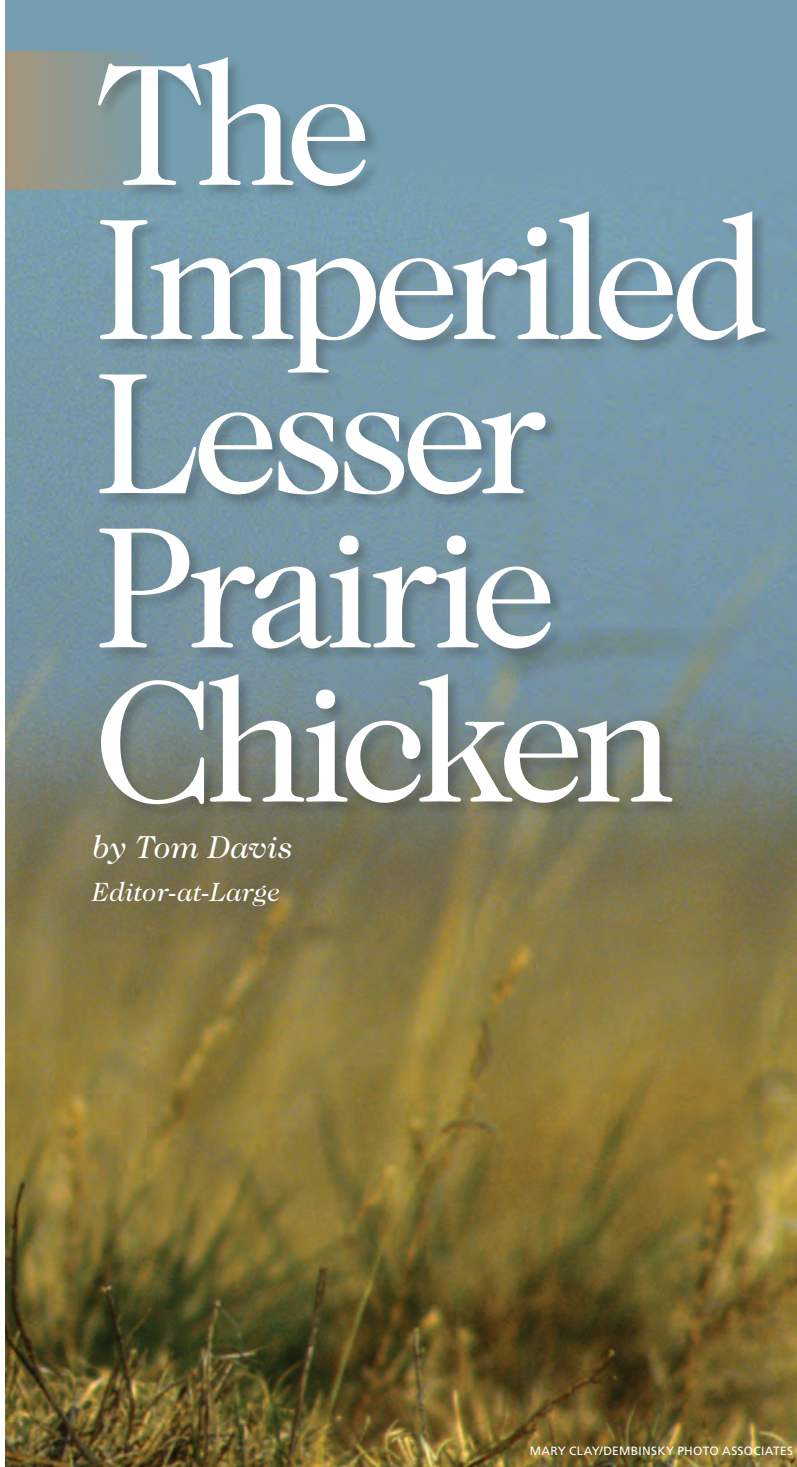
And while there was no official announcement at the time, everyone who’d been following the situation – an unusually diverse group that included not only sportsmen, conservationists, and wildlife professionals but energy industry executives, politicians, landowners, and even the national media – knew it was a foregone conclusion that the 2013 season would be the last. Maybe (and hopefully) not the last ever,

but undoubtedly the last for a period of some years, the precise length of which is impossible to know – and dangerous even to speculate about.

Why? Well, the short answer is because the U.S. Fish and Wildlife Service, despite intense opposition from the five states (Kansas, Oklahoma, Texas, New Mexico, Colorado) that comprise the lesser prairie chicken’s range, was going to be forced to list the bird as “threatened” under the provisions of the Endangered Species Act. By any reasonable interpretation of the data – a contraction of the species’ historical range by 84 percent, a 50 percent decrease in its total population in a single year (2012 to 2013) to an all-time low of 17,616 birds – there was

The Imperiled Lesser Prairie Chicken

by Tom Davis
Editor-at-Large



MARY CLAY/DEMBINSKY PHOTO ASSOCIATES

no other choice. It would have been a dereliction of the Service's duty as the steward and guardian of our nation's wildlife resources *not* to list it.

Here's a little factoid that helps put this in perspective: In 1905, a single market hunter in Texas shipped 20,000 lesser prairie chickens to his buyers – more than the entire population today.

In the early months of 2014, those opposed to the listing, including various governors, congressmen, industry lobbyists, and the *Wall Street Journal*, cranked up the rhetoric. There was the normal default antipathy to the “specter” of federal intrusion; but the more focused, well-defined fear was the impact the listing would have on oil and gas

development in the region – and the precedent it might set for the sage grouse, which the Service has deemed a “candidate” for listing and whose status is scheduled for review in September 2015. (The *Journal's* pointedly disparaging characterization of these species as “two small birds” became a source of morbid amusement to those of us who've had the pleasure of lugging a sage grouse back to the truck.)

On March 27, 2014, the shoe finally dropped. “In response to the rapid and severe decline of the lesser prairie-chicken,” went the news release, “the U.S. Fish and Wildlife Service today announced the final listing of the species as threatened under the Endangered Species Act (ESA)... Under the law, a ‘threatened’ listing means the species is likely to become in danger of extinction within the foreseeable future; it is a step below ‘endangered’ under the ESA and allows for more flexibility in how the Act's protections are implemented.”

Flexibility is indeed the operative word, because the Service clearly bent over backward to make the listing as painless as possible for the parties – corporate, governmental, and human – likely to be affected by it. In what the news release termed an “unprecedented use,” the Service invoked a special rule, known as 4(d), that will “limit regulatory impacts on landowners and businesses” and “allow the five range states to continue to manage conservation efforts... and avoid further regulation of activities such as oil and gas development and utility line maintenance that are covered under the Western Association of Fish and Wildlife Agencies (WAFWA) range-wide conservation plan.”

In other words, the Service is adopting about as hands-off an approach as it can take in the hopes that the WAFWA plan, in conjunction with a number of other programs that collectively comprise an alphabet soup of government acronyms, can take hold and reverse the bird's decline – a decline attributable to a host of factors including habitat loss and fragmentation, conversion of grasslands to agricultural use (as discussed a couple issues ago in “A Future for Pheasants?”), energy development, and the increasing presence of man-made structures (including wind turbines) on the landscape. The plan's target population is 67,000 birds, so there's a long way to go.

Of course, catching a break in the weather would be a huge help, but that's out of our hands. The range of the lesser prairie chicken lies right in the parched heart of the Southern Plains, and it's a certainty that there won't be any meaningful rebound in the bird's numbers until the rains return to that drought-blistered region.

As Dr. Ed Arnett of the Theodore Roosevelt Conservation Partnership and Dr. Terry Riley of the North American Grouse Partnership wrote in an op-ed that appeared in several Western newspapers, “The lesser prairie chicken's fate stemmed from two factors: time and numbers. Efforts by the five states harboring the species to formulate a conservation strategy came during severe drought and were too late to reverse the trends before a listing decision needed to be made. But the foundation for conservation is in place. Now we just need continued will and commitment from all participants – landowners, industries, the states, local governments and politicians – to enable the bird's recovery.”



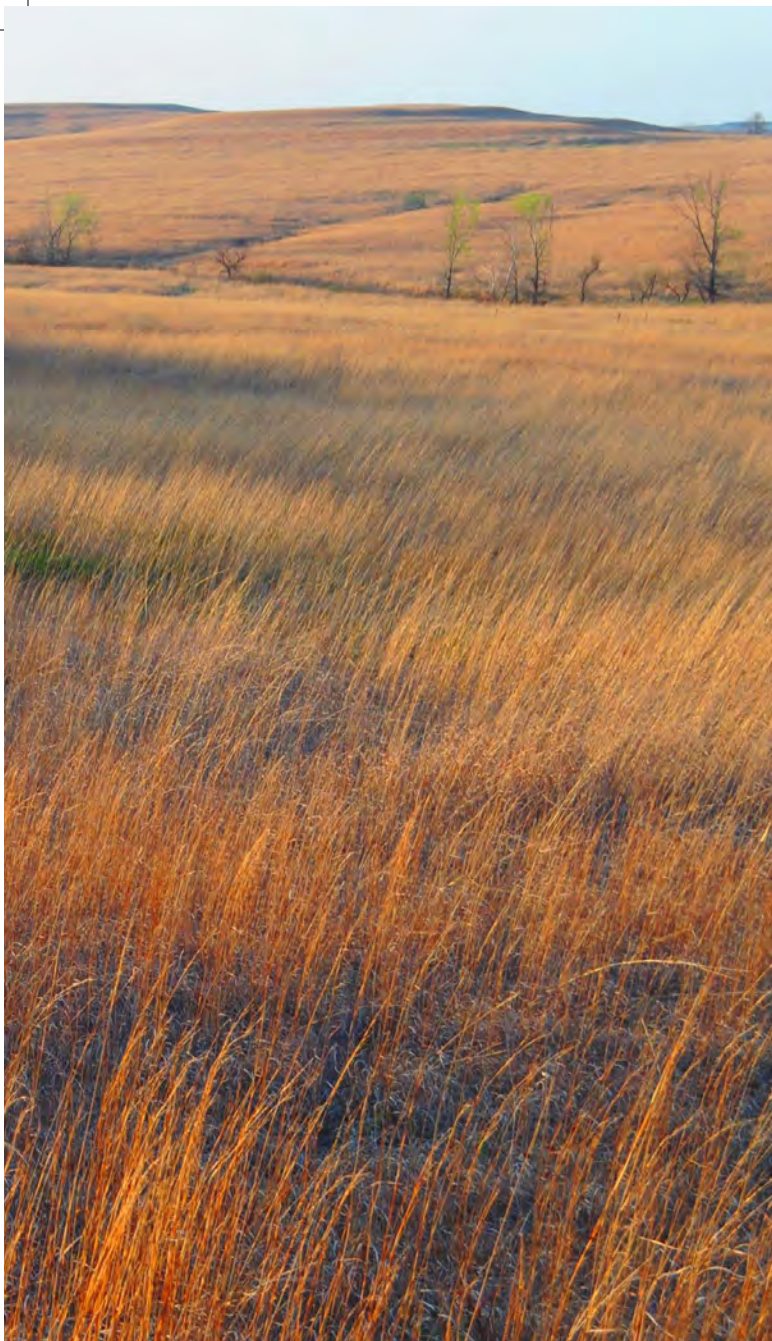
“There is time,” added the authors, “to conserve greater sage grouse populations before a listing decision is made.”

But here’s the ironic kicker: Despite the extraordinary measures the Fish and Wildlife Service has taken to make the lesser prairie chicken pill easy for the “range states” to swallow, two of them, Kansas and Oklahoma, have filed suit to have the listing struck down. (It’s highly unlikely they’ll succeed, as it would essentially require overturning the entire Endangered Species Act.) At the same time, a consortium of environmental groups has filed suit on the grounds that the listing, and in particular the “pass” it gives to landowners and the energy industry via the 4(d) rule, is an inadequate response to a desperately critical situation. They believe the lesser prairie chicken should be immediately listed as “endangered” and accorded the full weight and protection of the ESA.

So you have one side suing on the grounds that the listing goes too far, and another side suing on the grounds that it doesn’t go far enough. Little wonder that some conservation-

ists have likened the lesser prairie chicken to the snail darter, the tiny, minnow-like endangered species that became a *cause célèbre* in the 1970s when its discovery in the Little Tennessee River halted construction of the Tellico Dam – which at the time was 95 percent completed. In what was seen as a test case for the ESA (which became law in 1973), the Supreme Court in 1978 essentially ruled in favor of the snail darter. It took an amendment to the ESA and a subsequent act of Congress to enable the dam’s completion.

Like the snail darter, too, the lesser prairie chicken existed in a kind of blissful semi-obscurity until it suddenly found itself a political hot potato. Similar in behavior and appearance to the better-known greater prairie chicken (the most obvious physical difference is the fuchsia hue of the lesser’s neck sacs), it lives in big, remote, lightly populated country. Sand-sage, buffalo grass, and shinnery oak are the hallmarks of its habitat,



although it's a measure of how little long-term research has been done on the bird that even the "experts" can't agree on what constitutes ideal nesting/brooding cover.

It's just not a critter that, historically, has attracted a lot of attention. Here's a telling bit of lesser prairie chicken trivia: It was the last species the legendary Roger Tory Peterson checked off his "life list" of North American birds – and he was in his mid-70s before he got it done.

It was also the last bird that New York sportsman Joe Augustine needed to complete his "grand slam" of North America's upland gamebirds, a multi-year quest that you can read about in his book *Feathered Tales: A Bird Hunter's Grand Slam Odyssey*. (For the record, PDJ's Ben Williams is also among the handful to accomplish this feat.) Hunting Kansas's Cimarron National Grasslands in January, 2005, Augustine followed his English setters for three-and-a-half days – and, according to his GPS, 31 miles – before he finally flushed a chicken within range and shot it.



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Indeed, a long, hard walk seems to be the common thread that emerges in accounts of hunting these birds. Greg Septon, the executive director of the Society of Tympanuchus Cupido Pinnatus (the nation's oldest prairie grouse conservation organization), recalled his experiences hunting lesser prairie chickens, also on the Cimarron National Grasslands, in a New Year's letter to his board of directors:

I remember the wind-driven sand blowing in under my motel room door all night and getting my car buried in a drift of the stuff. I remember the incidental double I made on scaled quail but most of all I remember the days in pursuit of what I consider the classiest of all game birds... I hunted with a local guide who after the second day began calling me the "walkingest SOB he'd ever met," which I considered a compliment. In the end, after four days, I'd taken a sum total of three lessers – each hard earned and each special in its own way.

Like a lot of sportsmen, I had the lesser prairie chicken on my bucket list. But about the time I'd finally established some contacts in Kansas and was ready to buckle down and get serious about it, the drought hit – and my chance, like most of the standing water in that part of the world, evaporated. I still hope, however, that one day I might have the opportunity to turn loose a dog and flush a covey of these beautiful birds over a point. That seems like an appropriately lofty ambition for the realities of the 21st century.

At the very least, I'd just like to see one.

There are many, many issues facing the lesser prairie chicken," acknowledges Terry Riley, who serves as the Director of Conservation Policy for the North American Grouse Partnership. "Their sensitivity to oil and gas development is the thing you always hear about, but their problems are much bigger than that."

One particularly vexing problem, says Riley, is that the bird's nesting and brooding success is "very low." And while, again, there are a number of variables that affect this, grazing – or, more precisely, overgrazing – is thought to be the chief culprit. It's simply very difficult for lesser prairie chicken hens to find extensive areas of healthy, undisturbed grass in which to nest and rear their young. Being forced to nest in marginal and/or compromised habitat increases the risk of predation, which translates into high mortality and low recruitment. Not surprisingly, one of the major thrusts of the WAFWA conservation plan is to encourage rangers to implement more "chicken friendly" grazing regimes.

Habitat fragmentation, which results in geographically isolated populations – and, more importantly, *genetically* isolated populations – is another major problem. The ballpark minimum for sustaining a lesser prairie chicken population is 20,000 acres of habitat, and in the long run even *that's* not enough without "corridors" that allow contact with other populations and provide opportunities to refresh the gene pool. (This has become an issue with the greater prairie chickens of Wisconsin's Buena Vista Grasslands, where a number of important field trials are held every fall. Despite being the largest grassland ecosystem east of the



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Mississippi River, there isn't enough "connectivity" to other populations to ensure adequate genetic diversity.)

It's also the case that lesser prairie chickens are almost pathologically intolerant of man-made disturbances to their environment. This is where oil, gas, and even wind energy development enters (and complicates) the picture.

"The birds don't abandon an area initially," Riley explains. "But once the infrastructure goes into place – roads, well pads, wind towers, etc. – we gradually see less and less use within a radius of about a mile from the development. Four or, at the most, five years later, they'll quit using the area completely. And so far we've seen no evidence that they'll re-colonize."

Adds Riley, "What it comes down to is, how are we going to deal with this? We know there's going to be energy development, and we know we want to have lesser prairie chickens. So let's figure out a way to limit the impacts, even if it's as simple a thing as closing certain roads when the birds are on their leks in the spring. It doesn't have to be 'either/or,' which is the shape so much of the discussion has taken."

"That was really the purpose of the op-ed Terry and I wrote," says Ed Arnett, who heads up the TRCP's Center for Responsible Energy Development. "There's been such a furor over the ESA issue that we just wanted to cut through the rhetoric and remind people that 'we can fix this.' We can conserve prairie chicken habitat *and* develop respon-

sibly. The weather's been a big factor, obviously, but if we address the bird's habitat needs, it'll give them a fighting chance to bounce back once conditions improve."

Arnett cautions, however, that even under the best-case scenario it's going to take time. The first order of business is simply to stem the bird's decline; the second will be to reverse the decline and get the bird headed in the right direction. He also cautions, with particular respect to the desires of sportsmen, that reaching the conservation plan's target population of 67,000 birds does *not* guarantee that sport hunting will resume. The Fish and Wildlife Service will have to "delist" the species; then it will be up to the state(s) to determine if a managed harvest is warranted.

But these questions remain a long way off, swirling in the vaporous flux of the future. For now, there is only the concrete present, and the urgent imperative – biological, moral, and spiritual – to ensure that this magnificent grouse remains a vital, living presence, not only on the landscape of the southern Great Plains but on the landscape of the American imagination.



The author would like to thank Greg Septon, Executive Director of the Society of Tympanuchus Cupido Pinnatus, for his guidance and input. Please visit the Society's website, www.prairiegrouse.org.