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ENVIRONMENT AND
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United States Senate

WASHINGTON, DC 20510-3603

March 24, 2014

The Honorable Daniel M. Ashe
Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, D.C. 20240

Dear Director Ashe,

I know you and many at the Fish and Wildlife Service (Service) are in the last stages of making a final decision on whether to list the Lesser Prairie Chicken (LPC) as a threatened species under the Endangered Species Act (ESA). From what I understand, this decision could come as early as this week.

In light of this, I want to highlight the diligent work Oklahoma and the other four states in the range of the LPC have done to establish voluntary conservation programs that should preclude the need for listing the LPC at this time.

The LPC has been a species of focus for the Service for a number of years. When the Service proposed a threatened listing in December 2012, all of the states that would be affected by the listing began working tirelessly together to construct a range-wide plan (RWP) to successfully conserve the species. The RWP is a paradigm shifting conservation plan. It leverages the resources of the state conservation agencies, the federal government, and all of the interested sectors of the economy and organizes them in a way to produce a *voluntary* plan to execute effective conservation across the entire range of the LPC. With the RWP, which has been endorsed by the Service, conservation of the LPC will be successful.

In fact, over the last several weeks, almost 13 million acres have been collectively enrolled for protection under the conservation practices of the RWP and the variety of other federal, state and private sector conservation programs coordinated under the RWP. This figure is significantly higher than the 9.7 million acres initially targeted by the RWP, which the Service formally endorsed and found to provide the requisite conservation benefit to protect the LPC, and includes over \$21 million in up front funding to begin implementation of the RWP's fine-tuned details. The funding mechanism of the RWP will only continue to grow as time goes on; the money in hand today only incorporates the existing mitigation needs of the range. As business operations continue to morph and expand across the range, additional financial support will be committed so that all new impacts to the LPC range are fully mitigated by conservation activities. This level of acreage enrollment and financial commitment to conservation is

unprecedented, especially with regard to protection of a species whose habitat range crosses numerous states and largely covers private lands. It is for this reason that the LPC RWP represents the new, effective paradigm for administering the ESA, especially in this era in which FWS lacks the financial and personnel resources to implement the needed conservation across these broad habitat ranges across private lands. FWS should declare the LPC RWP an enormous success and work to replicate it for the sage grouse and other multi-state species as a means of conserving those species without the economic dislocation and political upheaval entailed by a listing.

The fact that the RWP has coordinated conservation across five states and across so many industries, including oil and gas, electricity transmission, ranching, agriculture, and transportation and infrastructure development, demonstrates that the state governments and private industry are standing by ready to conserve the LPC without the need for a listing under the Endangered Species Act. In fact, close to half of the conservation work being implemented to mitigate the impacts of the private sector are under Candidate Conservation Agreements with Assurances (CCAAs), which only provide take protection for persons involved in LPC habitat if the conservation activities are effectually implemented. This is significant because it ensures that conservation activities will occur even in the absence of a listing; if the Service does not list the LPC this month, there is nothing that prevents it from doing so in the future. Without carrying out the CCAAs and the RWP, no protection will be provided should the Service list the LPC in the future. This fact reduces the urgency of the Service's need to act.

The details of the RWP are solid, and the biological experts at the state conservation agencies are confident that as the RWP is implemented, the population of the LPC will greatly improve. It is imperative that the Service fully account for this work as it makes its final decision. In fact, 16 U.S.C. 1533 states that any decision to list only be made "*after taking into account [the conservation] efforts...being made by any State...or any political subdivision of a State...to protect such species...*" This makes it fully within your legal right to determine that a listing is not warranted because of the ground breaking conservation activities that are presently being implemented under the RWP.

Further, and with the RWP conservation efforts in mind, it is in the Service's best interest to not list the LPC because it will aid its conservation ambitions of other species that have ranges spanning multiple states. Of greatest note is the conservation needs of the Sage Grouse. Its range spans eleven states from Oregon and Nevada to South Dakota and Colorado. If the LPC is listed after all of the cooperation of the state governments and private industry participants to construct the RWP, then the Service will *significantly* discourage any future, similar effort. Simply put, a listing of the LPC will make it more difficult for voluntary and effective conservation efforts to be designed and implemented for the Sage Grouse.

Lesser Prairie Chicken

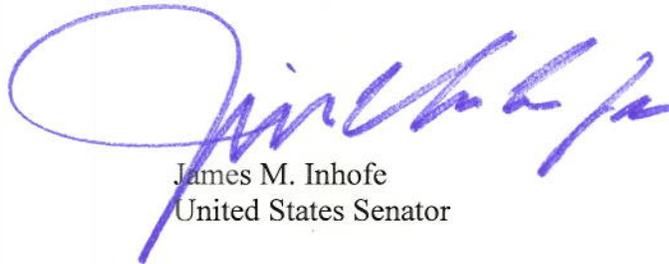
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Finally, it is always easier to list a species under the ESA than it is to delist one. The American Burying Beetle (ABB), found in Eastern Oklahoma, has been listed as an endangered species since 1989, even though recent a population estimate shows there are at least 10,000 ABB in Eastern Oklahoma, which is a significantly higher population level that what was originally targeted in conservation goals following the ABB's listing. Despite this, the ABB remains an endangered species, and it is one without a General Conservation Plan, making economic development in the ABB range very difficult to undertake. That ABB remains listed is to the detriment of Eastern Oklahoma's economy. It is my fear that the LPC will result in the same outcome in Western Oklahoma. I urge you to allow the RWP conservation plans to take root and to not list the LPC as a threatened or endangered species at this time. It is fully within your legal authority to not list the species.

As always, I appreciate your attention to my request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jim Inhofe", is written over the typed name and title.

James M. Inhofe
United States Senator