



# United States Department of the Interior



## FISH AND WILDLIFE SERVICE

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Representative Cliff Bentz  
PO Box 1027  
Ontario, Oregon 97914

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Dear Representative Bentz,

Thank you for your January 30, 2014, request to comment on the proposed legislation, LC 201, the "Wild Bird Conservation and Landowner Protection Act." The U.S. Fish and Wildlife Service (Service) does not offer a formal position on this or other proposed state legislation at this time. However, I can provide some information regarding how this legislative concept, as I understand it and if enacted, might affect the conservation of the Greater Sage Grouse (GSG) and related issues such as the pending listing decision under the federal Endangered Species Act (ESA).

The Service has not made a final decision yet whether to propose the GSG as a listed species across the 11 western states where it occurs. This decision will be made in September, 2015. We are working hard with many other federal agencies, state governments, and concerned stakeholders to implement conservation measures and plans to hopefully provide enough conservation to make listing the GSG unnecessary. For example, we recently completed a draft Candidate Conservation Agreement with Assurances (CCA) with the Harney County Soil and Water Conservation District. When finalized, this agreement will provide regulatory protections to local landowners and ranchers in exchange for implementation of voluntary conservation measures on private lands. Incentivizing landowners – through legislation or otherwise – to sign-up under the CCA and implement these voluntary measures is something USFWS feels would help bring benefits to sage grouse conservation and address factors the agency is considering when reviewing the status of the bird.

Given that the GSG occurs across 11 western states, and it is impacted by a variety of natural disturbances and human activities across this large range, I am not able to commit to you that enactment of this legislation would preclude the need to list the species. There are many factors outside the state of Oregon that will influence this decision. However, I can state unequivocally that the provision of a new, dedicated funding source for wild bird conservation in Oregon – with a focus on sage grouse – would have several positive impacts under a number of potential scenarios. First, by providing dedicated funds to sage grouse conservation, it would reduce the likelihood of a listing by demonstrating there is enhanced certainty that conservation activities

would be enacted. One thing that is considered in ESA listing decisions is whether there is certainty that proposed conservation actions will be carried out; providing dedicated funds provides more certainty, and this would definitely be taken into account by the Service before making a final listing decision.

Second, even if a decision is made by the Service to list the species across the 11 state range despite Oregon-based conservation measures such as this legislation, the legislation can still have a positive impact for Oregon by helping my office implement Oregon-specific programs that provide regulatory relief from an ESA listing, such as the Harney County agreement described above. These and other ESA programs, such as Safe Harbor Agreements or a "section 4(d) rule," could possibly exempt certain ranching and agricultural activities from ESA prohibitions if they are part of a broader GSG conservation strategy.

Lastly, this type of funding source could help address wild bird conservation issues beyond sage grouse and advance ESA-relevant voluntary conservation efforts in other parts of the State. Several wild bird species with habitat in Oregon are either listed (e.g., streaked horn lark) or of conservation concern (e.g., golden eagles). Avoiding the need for listing species under the ESA is the preferred situation from the USFWS's perspective, and state and locally-based approaches that proactively address conservation with willing actors and funding is critical to achieving that outcome.

Again, I cannot provide more commitments on these potential outcomes without more detail and specific circumstances. But I can commit that the Service has and will continue to work in good faith with any interested constituents to find solutions that both provide for the conservation of the sage grouse and the economic well-being of eastern Oregonians. We have recently worked closely with the Oregon Cattlemen's Association, Oregon Farm Bureau, and other local entities on similar issues, and we look forward to additional collaboration with related stakeholders. Thank you for the opportunity to provide you with this information, and for your efforts to support sage grouse conservation and local communities in Oregon.

Sincerely



Paul Henson, Ph.D.  
State Supervisor