

Robin Jennison
Secretary Kansas Department of Wildlife Parks & Tourism

Chairman Hastings and members of the Committee on Natural Resources:

Thank you for the invitation to testify on H.R. 4866. The Kansas Department of Wildlife Parks and Tourism (KDWPT) supports H.R. 4866. In short, and on a practical basis, it gives the Lesser Prairie Chicken (LPC) the opportunity to rebound from a drought unlike any the plains have seen since the 1930's dust bowl or the 50's drought.

To more completely explain KDWPT's support for H.R. 4866, it is important to emphasize two points. First, and philosophically most important, KDWPT has the authority and is equipped to more appropriately manage the wildlife within the borders of Kansas than United States Fish and Wildlife Service (USFWS). Second, the reduced numbers of prairie chicken at the time of the listing decision were the result of an extended drought. This resulted in not only decreased LPC numbers, but similar declines for other game birds such as pheasant and quail.

As you know, Congress passed the endangered species act in 1973. Kansas followed closely with its passage of the Kansas nongame and endangered species act in 1975. KDWPT is authorized to conduct investigations in order to develop biological and ecological data to determine conservation measures necessary for a species' ability to sustain themselves. Additionally, the department has the jurisdiction to maintain a list of species in need of conservation, as well as the rule and regulatory authority to implement such conservation. Currently, Kansas has listed 24 species as endangered, 36 as threatened, and 76 as species in need of conservation. These 134 species include invertebrates, fish, amphibians, birds, and mammals.

Kansas, the KDWPT, and the 400 professionals that make up the department, take very seriously the charge articulated in KSA 32-702 to improve the natural resources and to plan and provide for the wise management and use of the state's natural resources. Dating back to 1905, the Department, its leadership, and its employees have a distinguished history of conservation, innovation, and being at the forefront of wildlife management. That record is even more remarkable when you consider that ninety seven percent of the land in Kansas is in private ownership. Time does not permit me to even scratch the surface of that distinguished history, but one example is noteworthy.

During the 1940's and 1950s, the State of Kansas acquired 19,857 acres north east of Great Bend, Kansas, and dikes were constructed to impound water in five pools. Canals and dams were built to divert water from the nearby Arkansas River and Wet Walnut Creek to supplement water provided by two intermittent streams, Blood and Deception creeks.

During the 1990s, extensive renovation sub-divided some of the pools. In addition, pump stations were built to allow for increased management flexibility and water level manipulation. This renovation effort also provided increased water conservation to better meet wildlife needs during dry periods. KDWPT just completed a \$4.5 million project to replace the canal from the Arkansas River with a more efficient

underground pipe system. You may or may not recognize the name of the location, Cheyenne Bottoms, but I am certain you will recognize one of the species that rely on it for its migration, the Whooping Crane. Cheyenne Bottoms is the largest marsh in the interior of the United States. Cheyenne Bottoms was designated a Wetland of International Importance in 1988 by the Ramsar Convention on Wetlands, one of two sites in the state (the other being Quivira National Wildlife Refuge). Cheyenne Bottoms is also considered to be a wetland of global importance by the Western Hemispheric Shorebird Reserve Network (WHSRN).

This one example clearly illustrates the dedication of our Department and is intended to make the point that the USFWS and its employees are not any more dedicated or committed to conservation than KDWPT or our counterparts in the range of the LPC. Much of what KDWPT or any of the other state wildlife agencies have accomplished could not have been done without the partnership we have shared with USFWS. However, separate roles serve a purpose and some issues are better left to the states.

In 1997, the Kansas Legislature recognized that public support was important to the continued success of our conservation efforts and an effective Non Game and Endangered Species Act. KSA 32-960a included language for an advisory committee. One of the more significant charges of the committee is to “work with the secretary to adapt the listing of the species and the recovery plan for the species to social and economic conditions of the affected area.”

Those of us charged with conservation of our natural resources and authorized to use the regulatory process to implement those endeavors, must be cognizant of the social and economic impacts or the weight of public opinion will result in its undoing. Should that occur, the losers will be our children and grandchildren. KDWPT and other state wildlife agencies are far better equipped to find the balance than the USFWS. The one size fits all approach, cannot find that balance in the various states. Conservation is too important to jeopardize its future with burdensome regulation or continual litigation.

Environmentalists, Conservationists, and Natural Resource Agencies should unite behind voluntary incentives so we can have a true partnership with private property owners to preserve the diversity of our natural resources. H.R. 4866 recognizes the potential of those partnerships and instructs the Secretary of Interior to monitor and report on their progress.

The annual fluctuation of LPC numbers is not new. Kansas’ attention to the LPC is not new either. In the early 1950’s a department publication stated “In southwest Kansas where the lesser prairie chicken, *Tympanuchus pallidicinctus*, holds forth, it is commonplace for the numbers of this bird to fluctuate widely.” In that time period Kansas trapped and transplanted LPC to spread seed stock and bring the birds back more quickly. Under Director Dave Leahy, the department even experimented with propagation of the LPC.

In a press release dated October 3, 2012, Bill Van Pelt, Western Association of Fish and Wildlife Agencies (WAFWA) Grassland Coordinator, stated “Historically, we saw conditions like we are observing now in the 1930s and we thought the species went extinct.” In reviewing KDWPT 1950 archives, we found a statement from State Game Protector Eddie Gebhard. Gebhard believed there were only two small flocks that survived the 30’s in Kansas, one in Meade county and one in Seward county. Gebhard went

on to say “Since these drought years these two small flocks and possibly some migrants from Oklahoma, have made a considerable comeback in Kansas.” This is relevant as it highlights two historical weather extremes. Relatively speaking the LPC are in a much better position to recover today as compared to the time immediately following the 1930’s when Gebhard noted they made a considerable comeback. Additionally, wildlife biologists would note that prairie chicken numbers can fluctuate up and down from year to year, mainly due to grassland habitat conditions influenced by rainfall.

Kansas currently harbors the most extensive remaining range and largest population of the lesser prairie chicken among the distinct populations found in the five states where it occurs (KS, TX, NM, OK, CO).

The highest densities of LPC occur north of the Arkansas River where seeded CRP grasslands are present in close proximity to native mixed prairies of the Pawnee, Walnut, and Smoky Hill drainages in west-central Kansas. This has been the case for most of the last 12-15 years. However, the densities get equally as high in our native rangelands to the south when we string together a couple of good production years. The fact that the highest densities across the range occur north of the Arkansas River is a testament to the success of voluntary conservation programs. The LPC was thought to have been extirpated from that portion of its historic range until CRP came along. This expansion of lesser and greater prairie chicken populations in west-central Kansas has brought these two historically overlapping species back together in a zone ranging from 20 to 40 miles in width. Some mixed leks with cocks of both species now occur in this zone of overlap.

Lesser prairie-chickens occupy two basic types of habitat which are native rangeland and planted native grasses that have been established primarily through the conservation reserve program (CRP). The total amount of grassland within Kansas’ LPC range is nearly 10% greater now than in 1950 due to the addition of CRP to the landscape (*Kansas State University, unpublished data*). In recent years, much concern has arisen about the future of CRP due to a 28% decline in enrolled acres within Kansas’ LPC range from 3,124,812 in 2008 to 2,242,373 in 2014 (USDA data). However, a recent assessment of images from the National Agricultural Imagery Program (NAIP) found that 90% of the CRP acres expired from 2008-2011 were still being maintained as grasslands in 2012. Similarly high percentages ranging from 73-97% were calculated for the other 4 LPC states (WAFWA LPC Plan).

Additionally in 2008, the Natural Resource Conservation Service (NRCS) launched the Lesser Prairie-Chicken conservation Initiative (LPCI). The objective of this initiative is “to increase the abundance and distribution of the LPC and its habitat while promoting overall health of grazing lands and long term sustainability of ranching operations. Through the LPCI, NRCS is partnering with all five wildlife agencies within the LPC range, Kansas Forest Service, USFWS Partners for Fish and Wildlife Program, LPC Interstate Working Group, National Fish and Wildlife Foundation, National Wildlife Foundation, Pheasants Forever, Playa Lakes Joint Venture, Rocky Mountain Bird Observatory, The Dorothy Marcille Woods Foundation, Texas Wildlife Association, and The Nature Conservancy. Since the inception of LPCI, a total of 84,000 acres of prescribed grazing has been implemented within Kansas’ LPC range (NRCS data). These LPCI acres are additive to the >350,000 acres across Kansas’ LPC range that were contracted through traditional NRCS programs over the same time period (NRCS data).

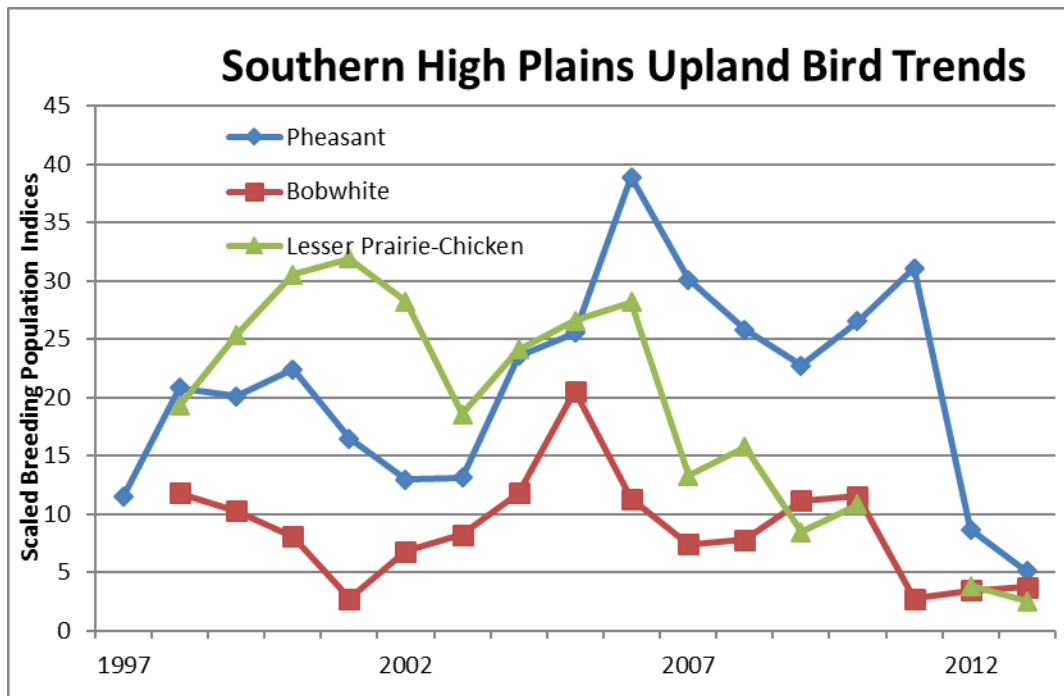
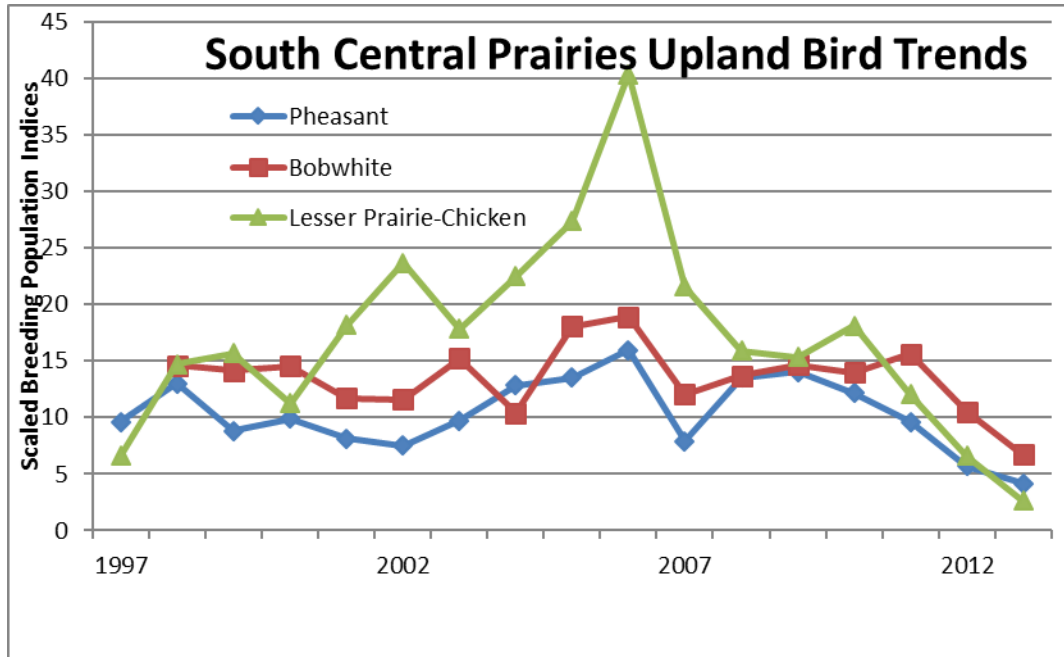
Development impacts within suitable patches of vegetation can also eliminate LPC usable habitat. The data available from numerous industries indicates that an average of a few hundred thousand acres is impacted by development each year in LPC range (*WAFWA LPC plan*). That sounds like a large figure by itself but the range encompasses roughly 40 million acres. Thus, development impacts have only compromised a very small percentage of the range over the last couple of years corresponding with the sharp annual decline in the LPC population. It would take many years of development alone at the current rate to affect enough of the LPC range to cause population level effects.

Given this information, it is likely that the recent LPC population decline of nearly 50% from 2012 to 2013 is almost totally related to drought conditions. Wide population fluctuations are not uncommon for LPC or other gallinaceous birds. The birds in this Order have wide population fluctuations because they depend upon annual production which is heavily influenced by rainfall due to its effect on nesting structure and foraging habitat. For example, in Kansas, the regional populations of pheasant and quail exhibit the same annual fluctuation as LPC illustrating the influence of weather. (See Fig 1& 2) This year under a return to a more normal weather pattern the LPC saw a population increase of 20%.

Notwithstanding KDWPT's belief that the LPC is a state trust species of which Kansas has a long history of active and successful management, USFWS did not give appropriate consideration to the impact the severe record setting drought had on necessary habitat. KDWPT believes H.R. 4866 will allow time for both the LPC to recover from the drought and voluntary conservation efforts to take effect.

Kansas Department of Wildlife Parks and Tourism
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Fig.1 & 2



The recent declines are due primarily to weather as illustrated by other gallinaceous birds in the LPC range. The greater prairie-chicken trend for the Kansas Smoky Hill region, which is the region immediately adjacent to the eastern edge of the LPC range, also correlates with the LPC trends.