



# THE *Sage Grouse* LISTING DECISION *How Changing Expectations Could Affect Private Conservation*

Rebecca Epanchin-Niell, Kimberly Rollins, and  
Michael H. Taylor

**T**he greater sage grouse is one of more than 350 wildlife species that critically depend on sagebrush habitats, which span vast areas of the western United States and provide important landscapes for livestock grazing, energy and mineral development, and recreation. Yet the sagebrush-steppe is among the nation's most imperiled ecosystems—threatened by development, invasive annual grasses, and altered wildfire regimes.

In September 2015, the US Fish and Wildlife Service (FWS) decided not to list the greater sage grouse (*Centrocercus urophasianus*) under the US Endangered Species Act (ESA). Leading up to this highly anticipated decision, stakeholders throughout the western United States had worked for more than a decade to place the bird on sustainable footing. The FWS touts its sage

grouse strategy as the largest land conservation effort in US history and contends that it has significantly reduced threats across 90 percent of the species' breeding habitat.

In official statements that accompanied the ESA listing decision, the FWS cited the success of ongoing conservation efforts by private property owners—who are largely ranchers—as one of the important factors in its decision. Conservation efforts on private lands were essential because 31 percent of total sage grouse habitat and 80 percent of habitat for raising young birds are on private property. Two pre-listing programs associated with the ESA played key roles in engaging private property owners in sage grouse conservation: Candidate Conservation Agreements with Assurances (CCAAs), and Working Lands for Wildlife—Sage Grouse Initiative (WLFW).

CCAAs and WLFW are both voluntary programs in which private property owners agree to implement a set of conservation practices. In return, the FWS provides regulatory predictability through assurances

---

REBECCA EPANCHIN-NIELL is a fellow at RFF.

KIMBERLY ROLLINS is a professor and MICHAEL H. TAYLOR is an assistant professor in the Department of Economics at the University of Nevada, Reno.

that the conservation practices will not be modified or added to in the event that the sage grouse is listed under the ESA. Unfortunately, FWS's decision not to list could reduce the effectiveness of these programs going forward, for the following reasons.

First, landowners may perceive a reduction in program benefits due to a reduced likelihood of future listing. The benefit to private property owners of participating in the CCAAs and/or WLFW programs depends, in part, on the potential costs associated with a decision to list the species under the ESA. If private property owners now believe that future listing of the sage grouse is less likely than prior to the September 2015 listing decision, the perceived benefits from CCAAs and WLFW participation would be reduced and future enrollment may decline. Private property owners can withdraw from these agreements with just 30 to 60 days notice.

Second, reduced uncertainty about the necessary conservation to avoid listing may induce greater free-riding. Prior to FWS's decision, there was uncertainty among private property owners about what level of enrollment in CCAAs and WLFW would be necessary to avoid the species being listed. The September decision removes some of this uncertainty by contending that existing conservation measures were sufficient to avoid listing. If any property owners believe that the achieved conservation level actually exceeded what was required, some could choose to exit the CCAAs and WLFW programs and free-ride on others' conservation actions.

Third, costs remain high despite the decision not to list the sage grouse. As part of the decision, federal and state agencies have been mandated by the FWS to manage the sage grouse "as though" it had been listed under the ESA. While it is almost

certainly the case that the restrictions would be more onerous and costly had the species been listed under the ESA, the incentives to participate in CCAA and/or WLFW programs depend in part on there being a wedge between the costs of complying with land use restrictions with and without ESA listing. This wedge is diminished by the decision to manage the sage grouse as though it had been listed. Thus, the incentives for private property owners to participate in CCAAs and WLFW are also reduced, as there are likely to be fewer additional costs associated with listing.

Fourth, costs of compliance post-listing could be similar to costs under pre-listing programs on private lands. The role of CCAAs and WLFW in the decision not to list the sage grouse under the ESA reflects their perceived effectiveness at achieving sage grouse conservation objectives on private land. As such, post-listing conservation programs under the ESA (for example, Safe Harbor Agreements) could resemble these pre-listing programs such that costs could be similar. This would reduce further the cost wedge between pre-listing conservation and post-listing ESA compliance.

One way to view the CCAA and WLFW programs is as repeated games between private property owners and the FWS, which could bring unintended and costly consequences. In the coming months and years, it will be informative to observe any exit by current participants as well as new enrollment in these two programs. Changes in enrollment would have implications not only for sage grouse conservation but also for how private conservation agreements are assessed in future listing decisions. Understanding the dynamic incentives of voluntary conservation would facilitate improved design and assessment of these critical tools in imperiled species conservation. ●