



Sage grouse status leaves everyone in limbo

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The status of the sage grouse under the Endangered Species Act is officially confusing.

The U.S. Fish and Wildlife Service's "warranted but precluded" finding seems contradictory: The sage grouse deserves to be on the list of threatened or endangered species -- but it's not in enough danger of extinction to actually be included.

The matter ultimately boils down to resources.

The bird's population and habitat have been degraded enough to warrant listing, according to the agency, but other species face a greater risk and are thus a higher priority for ESA protection.

About 250 species currently fall into the "warranted but precluded" category, which some environmental groups have likened to a regulatory black hole.

"This is purgatory. They're just sitting in limbo," said Rob Mrowka, an ecologist with the Center for Biological Diversity.

Environmentalists worry that "warranted but precluded" species will languish without federal protection, edging closer to the brink of extinction as they wait for a higher-priority regulatory status.

"They're really rolling the dice on the existence of these species," said Mrowka.

Ranchers who rely on public lands for grazing also face continued uncertainty due to the sage grouse's "warranted but precluded" listing.

The finding won't impose new restrictions on public land grazing -- as a listing probably would -- but the decision is essentially temporary and must be revisited.

The path the sage grouse case has followed is equally confusing.

When the U.S. Fish and Wildlife Service receives a petition to list a species, it must initially make a "90-day finding" whether the listing "may be warranted."

If substantial evidence supports that conclusion, the species is subjected to a 12-month status review.

In its initial 90-day findings for the sage grouse, the agency said the bird failed to meet that threshold and declined to conduct a status review.

That led to years of litigation, which prompted the Fish and Wildlife Service to revisit that decision.

In 2008, the agency changed its mind and undertook a 12-month status review for the sage grouse.

Generally, if that process determines a new listing is warranted, the agency then proposes to extend ESA protection to the species.

The proposal must be studied by experts and submitted for public comment before the listing becomes final.

In the case of the sage grouse, though, the process has instead entered a loop.

Because the 12-month status review found the listing to be "warranted but precluded," the petition must cycle through the review again, potentially year after year.

For that reason, the possibility of a sage grouse listing and grazing restrictions will continue to loom over ranchers who rely on public lands for grazing.

On the bright side, the "warranted but precluded" decision provides a window of time for sage grouse recovery efforts to work, said John O'Keefe, a representative of the Public Lands Council, a group representing ranchers.

The bird's current status is "a huge incentive for on-the-ground conservation measures," he said.

If the sage grouse is ultimately listed, that may discourage some ranchers from proceeding with conservation measures on their private land -- particularly if they're prohibited from grazing on adjacent public allotments, said Skye Krebs, president of the Public Lands Council.

"Why would you continue to do that?" said Krebs.

The Endangered Species Act should be a tool for preserving species, not for promoting a radical environmental land use agenda, said O'Keefe.

"It's gotten away from on-the-ground work for species," he said.