

January 18, 2019  
For Immediate Release



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# Bulletin

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## **Activist Groups Issue 60-day Notice of Intent to Sue USFWS for Failure to Issue a 12-month Finding on a Petition to List the Lesser Prairie-Chicken as Threatened or Endangered**

The Kansas Natural Resource Coalition (KNRC) has engaged in numerous meetings and actions in respect to the range-wide health and protection of the Lesser prairie-chicken (LPC). During the past year and a half, we have followed the status of a petition to list the LPC as threatened or endangered under the provisions of the Endangered Species Act (ESA). This petition follows the vacating by the federal courts of the previous listing of the species.

In September 2017 [KNRC sent a letter to the U.S. Fish and Wildlife Service](#) (USFWS) concerning their having missed the statutory deadline for completing a 12-month review of the species responsive to that petition, with a finding that the petition was not warranted, was warranted, or warranted but precluded, as mandated by 16 U.S.C. §1533(B). We expressed our concern that our member counties had not received either early notification of USFWS intent to meet the statutory deadline or notice that the agency had failed to comply with that mandate.

On February 14<sup>th</sup>, the Center for Biological Diversity, Defenders of Wildlife, and WildEarth Guardians issued a 60-day notice of intent to sue USFWS for having missed the deadline. We have posted the article below for the public in the *Green Watch* section of the [KNRC website](#).

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On February 14, 2019, the Center for Biological Diversity (CBD), Defenders of Wildlife (DW), and WildEarth Guardians (WEG) issued a [60-day notice of intent to sue USFWS](#) for failing to issue a 12-month finding on the groups' 2016 petition to list the Lesser prairie-chicken as ESA threatened or endangered.

The original 2014 LPC listing was vacated in 2015 by the U.S. District Court for the Western District of Texas in *Permian Basing Petroleum Association v. Department of the Interior*. [KNRC participated in that suit with an amicus curiae brief](#).

Instead of appealing the court's ruling, USFWS filed a motion to amend the judgment asking that instead of vacating the listing, the court retain the ESA protections and remand the listing decision to USFWS for further review. The court [rejected that request on February 29, 2016](#). It took USFWS until July 26, 2016 to formally remove the LPC from the ESA list of threatened and endangered species.

The activist groups then petitioned again for listing the LPC on September 8, 2016, triggering a 90-day review that resulted in a finding on November 30, 2016 that listing of the LPC may be warranted. That finding triggered the 12-month review that USFWS has still not completed.

Upon completion of the 60-day waiting period, the petitioning groups may initiate their intended lawsuit against USFWS, unless the agency remedies the groups' complaints against it.

[Click here](#) for the Center for Biological Diversity's press release announcing the groups' notice of intent.

[Click here](#) for the groups' notice of intent to sue letter.

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If USFWS fails to publish the overdue 12-month finding prior to the end of the 60-day notice of intent to sue, the groups will be able to file suit in federal court to compel the agency to make its determination and issue its finding.

*The Kansas Natural Resource Coalition (KNRC) is an association of counties who maintain collective and participatory involvement in administrative government on behalf of its citizenry. The Coalition serves as a conduit between local, state and federal governments to promote balanced, necessary and effective administrative policymaking through the mechanism of government-to-government coordination. Our mission is to monitor, analyze, understand, communicate, and participate in those initiatives that materially affect the natural or human systems governed by individual member counties.*