

Flap over sage grouse spurs Congress to intervene

December 11 2014, by Matthew Brown

Congress is poised to make an end-run around the Endangered Species Act with a legislative rider on a massive spending bill that would delay protections for several struggling bird populations in the Western U.S.

The rider blocks the Interior Department from spending money on rules to protect greater sage grouse and three related birds.

The chicken-sized sage grouse has been on a collision course with oil and gas companies, agriculture and other industries in recent years. The Obama administration was up against a September 2015 deadline to either turn around the bird's fading fortunes, or propose protections that could mean severe restrictions on industry.

Worries about a potential [endangered species](#) listing for sage grouse already prompted the deferral of sales on more than 8 million acres of potential federal oil and gas leases.

The sage grouse rider was tucked deep within the 1,603-page spending package at the behest of Western lawmakers. The bill faces a Thursday House vote after leaders of both parties came to agreement on the \$1.1 trillion measure to fund much of the federal government through the next fiscal year.

Critics said the rider would hasten the sagebrush-dependent bird's demise, by forestalling work to shore up its population across a range that spans 11 states and two Canadian provinces.

Their hopes that the rider could be stripped out of the spending bill were bolstered when some Democrats came out in opposition to the bill's environmental provisions.

But U.S. Rep. Cory Gardner, a Colorado Republican set to join the Senate in January, said the rider was likely to stay intact—and even get carried over for future years.

"Once you have a policy rider that's been approved in legislation, the odds of it remaining significantly increase," said Gardiner, who sponsored unsuccessful stand-alone legislation to delay sage grouse protections.

The spending package was billed a compromise measure.

Interior spokeswoman Jessica Kershaw said that the agency will continue working with state and local governments to craft conservation measures. Those will provide "predictability" for ranchers, energy companies and others operating in greater sage grouse territory, she said.

Federal biologists said protections were warranted for greater sage grouse under the Endangered Species Act in 2010. But the Fish and Wildlife Service didn't act, citing other priorities and a shortage of funds.

The legislative rider also delays protections for the closely-related Gunnison sage grouse of Utah and Colorado and for two subspecies of greater sage grouse in Washington state, Nevada and California.

Population estimates for greater sage grouse range from 100,000 to 500,000 birds. They occupy 290,000 square miles of sage brush habitat in California, Colorado, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming.

Croplands, home development, wildfires and oil and gas drilling consumed more than half that habitat over the past century.

A pair of legal settlements that were approved by a federal judge resulted in the September 2015 deadline to propose protections.

However, the settlements with the groups WildEarth Guardians and the Center for Biological Diversity gave the government leeway to miss the deadline if unforeseen circumstances arise. As a result, little can be done if the bill becomes law, said Noah Greenwald of the Center for Biological Diversity.

Wyoming Audubon executive director Brian Rutledge characterized the move by Congress as "misguided intervention." He said it could slow momentum within states trying to balance protections for the [sage grouse](#) with continued economic development.

"It seems to me a backward approach," Rutledge said. "We don't want to stop the Fish and Wildlife Service from working toward a decision because right now we're headed in the right direction."

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