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Judge orders grouse listing reconsidered

By Mike Stark

In deciding not to extend federal protections to the greater sage grouse, the Bush administration ignored experts and allowed the decision to be "tainted by the inexcusable conduct" of a senior Interior Department official, a federal judge in Idaho ruled Tuesday.

U.S. District Judge B. Lynn Winmill overturned the U.S. Fish and Wildlife Service's 2005 decision not to place the bird on the endangered species list and ordered the agency to reconsider the issue.

The decision could have widespread ramifications for sage grouse habitat, which includes portions of at least eight Western states, including large swaths of Montana and Wyoming and the Powder River Basin, where there's intense interest in energy development.

The species has been declining for decades and now occupies about half of its original, year-round habitat.

The bird faces "accelerating threats" on several fronts, including invasive weeds, fires, oil and gas development and livestock grazing, Winmill noted in his 35-page ruling.

The Fish and Wildlife Service received three petitions in 2002 and 2003 to list the greater sage grouse as an endangered species.

In January 2005, the agency said the sage grouse population, numbering between 100,000 and 500,000, didn't warrant the listing.

Idaho-based Western Watersheds Project sued over the decision.

Laird Lucas, of Advocates for the West, represented the group in its lawsuit. He said he was glad to see Winmill recognize the scale and scope of difficulties the sage grouse face.

"This growing fragmentation from so many forces is the real threat sage grouse face. He said the service really didn't come to grips with that," Lucas said.

Winmill said the Fish and Wildlife Service erred when it consulted with experts but didn't include that information in its decision.

"What an odd process," Winmill wrote. "Right at the moment where the 'best science' was most needed, it was locked out of the room."

The judge also noted the extensive involvement of Julie MacDonald, a deputy assistant secretary with the Department of Interior, which oversees the Fish and Wildlife Service.

MacDonald, a political appointee, used "intimidation tactics" and altered the "best science" to fit a decision not to list the sage grouse, Winmill noted.

The judge "makes it very clear that political tampering in what's supposed to be a science-based decision is wrong," Lucas said.

MacDonald resigned in May after an Interior Department inspector general investigation concluded that the agency's scientists were being pressured to alter their findings on endangered species. Agency officials said late last month they will reverse seven previous decisions denying endangered species protections. The sage grouse case was not included in that announcement.

Sharon Rose, a spokeswoman for the Fish and Wildlife Service, said Tuesday afternoon that agency officials were still reviewing Winmill's ruling. Once it's been digested, they'll come up with a plan about how to proceed, she said. It's unclear how long the next review might take.

"It'll take a little time to get through and determine what we're going to do," Rose said. "It's certainly an important issue that we'll have to talk about."

Mark Salvo, director of the Sagebrush Sea Campaign, one of the groups that petitioned to have the bird listed, said any new review will include new information detailing increasing pressure on the sagebrush steppe that's crucial to the sage grouse's survival.

"There's been significant new science published on greater sage grouse and unfortunately most of it indicates the greater sage grouse is facing even more threats than the species did in 2005," Salvo said.