

December 5, 2007

Judge: Reconsider bird ruling ***Agency decided to keep grouse off endangered list***

By Todd Hartman

A federal judge has ordered the U.S. Fish and Wildlife Service to reconsider a decision to keep the greater sage grouse off the endangered species list, a ruling that could have significant implications for Colorado's fast-growing oil and gas industry.

In an order Tuesday from Idaho, U.S. District Judge B. Lynn Winmill criticized the federal government for ignoring expert advice and accused the agency of failing to use the "best science" when it determined the species didn't warrant protection.

Winmill also targeted the actions of Julie MacDonald, a former deputy assistant secretary of the Interior who he described as "neither a scientist nor a sage grouse expert."

He wrote that the sage grouse finding was "tainted by the inexcusable conduct of one of (the agency's) own executives . . . (whose) tactics included everything from editing scientific conclusions to intimidating (wildlife service) staffers."

Environmental groups praised the decision.

They said declining sage grouse numbers reflect human intrusion on sagebrush country, including energy production, livestock grazing, pipelines, roads, fences, transmission lines and suburban sprawl.

The sage grouse "is the canary in the coal mine that is telling us that the sagebrush steppe ecosystem is in as much peril as old-growth forests," said Mark Salvo, director of the Sagebrush Sea Campaign, in a statement on the ruling.

Government officials in Colorado, along with private landowners, energy companies, local governments and environmental groups, have been working for several years to craft voluntary steps to protect sage grouse habitat to avoid the heavier hand of federal government protection.

"Our goal, and I think the goal of everybody involved in these working groups, is to try do everything possible for sage grouse now, to prevent them from being listed (as an endangered species)," said Randy Hampton, a spokesman for the Colorado Division of Wildlife.

The ruling could mean trouble for the oil and gas industry in Colorado and elsewhere in the Rockies, where energy development often overlaps sage grouse territory.

Though sage grouse numbers in Colorado are relatively stable, biologists say further encroachment by drilling rigs could change that.

An endangered species designation for the bird could restrict industry access to certain lands or create costly delays while drilling companies navigate federal regulations.

Doug Hock, a spokesman for energy giant EnCana said the company would prefer to see voluntary protections continue, including the company's own steps to preserve and restore habitat for the bird.

A listing, he said, "would be detrimental to us as an industry, and we don't believe it would be ultimately the best solution."

A U.S. Fish and Wildlife official in Denver declined to say what the ruling means for the agency, and what its next steps would be, as it hadn't yet evaluated it.