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San Miguel County, 9 other groups file suit over grouse

Matt Hildner

MONTROSE — San Miguel County and nine other groups filed suit in the U.S. District Court for the District of Columbia on Monday to overturn a decision by the federal government in April not to protect the Gunnison sage-grouse.

The suit asks the court to set aside the “not warranted” finding of the Fish and Wildlife Service, issue emergency protection for the bird and force the agency to issue a new listing and critical habitat determination.

The suit argues that by ignoring the best available science the federal government violated the Endangered Species Act.

“There is no reason why that decision should have been what it was,” said Amy Atwood, an attorney for the plaintiffs. “All the science goes in the other direction.”

The suit notes that by May of 2004, the service had indicated in a review that the species faced threats of a high magnitude and that its listing was imminent. In the following year, the agency prepared several drafts of a proposed listing and mapped the “critical habitat” designations to accompany the rule.

The suit claims that Julie MacDonald, a deputy assistant secretary for Fish and Wildlife and Parks in the Department of Interior and other officials there reversed the process in December of 2005.

The decision not to list the bird and end its candidacy status for protection came out five months later. The suit argues that the decision miscalculated the bird’s current range in relation to its historic range.

Moreover it claims the agency based its decision on a flawed population study and ignored criticisms of the study’s findings by scientists assigned by the service to review it.

Two population groups of Gunnison sage-grouse live in San Miguel County, and a press release from the county claims that avian scientists have deemed the smaller one imperiled and no longer viable.

The county is also concerned that energy development could encroach upon the bird’s habitat in Disappointment Valley and around Miramonte Reservoir.

“Failing to list does nothing to help save this bird from extinction,” San Miguel County Commissioner Art Goodtimes wrote via e-mail from Portland, Ore. “In fact it puts the Gunnison Grouse at further risk, as federal designation would bring a lot of clout in limiting oil and gas incursions into occupied and historic grouse habitat.”

Goodtimes said that although the listing of the bird under the Endangered Species Act could have a downside, he said it would bring legal clout, money and the appropriate urgency to the current voluntary programs designed to save the bird.

Although the largest population group - roughly 80 percent of the bird's total population - is found in the Gunnison Basin, Goodtimes said San Miguel County did not ask Gunnison County to join the suit.

“They specifically sought to have us not urge listing before the decision because of their concerns for what listing would do to their ag community, which is a very large part of their economic mix,” Goodtimes wrote.