

Nev. judge denies counties' bid for sage grouse injunction

By Scott Sonner, AP

A federal judge in Nevada refused Tuesday to temporarily block new U.S. rules intended to protect the greater sage grouse, leaving the land use planning amendments intact at least until a trial expected to begin early next year.

U.S. District Judge Miranda Du said nine Nevada counties, two mining companies and a ranching operation challenging the regulations have failed to prove any irreparable harm that could be averted by immediately halting implementation of the regulations.

The lawsuit backed by Nevada Attorney General Adam Laxalt – over the objections of his fellow Republican Gov. Brian Sandoval – claims the restrictions on development were adopted illegally and would threaten the survival of miners, ranchers and rural economies across much of the West.

Du said opponents can argue their case at a trial. But she said the evidence presented during a three-day hearing in Reno last month, in general, is “too speculative” to meet the “extraordinary” legal standard required for a temporary injunction to halt the policy U.S. wildlife officials say is needed to ensure the hen-sized bird doesn't go extinct in the 11 western states where it lives in sage grouse habitat.

U.S. Interior Secretary Sally Jewell announced the new policies for U.S. Forest Service and Bureau of Land Management lands in September at the same time she decided against listing the greater sage grouse as threatened or endangered. She said the added protections were necessary to reverse the

department's decision in 2010 that the bird warranted protection under the Endangered Species Act.

The regulations establish buffer zones as large as 3 miles in diameter around sage grouse "leks," the traditional breeding grounds for the bird whose numbers have dwindled from 16 million to between 500,000 and 200,000 due in large part to wildfires, mining, livestock grazing and other development.

The case before Judge Du directly impacts only federal lands in Nevada and eastern California, but also carries ramifications for thousands of square miles of rangeland stretching from Oregon to the Dakotas.

Government lawyers say the counties and mining companies are misrepresenting and exaggerating the potential effects of the rules. They said the opponents are prematurely challenging the amendments, which they argue offer guidelines but no specific decisions on individual grazing mining or other federal permits.

During last month's hearing on the preliminary injunction, Du questioned whether alleged delays in approval of proposed development in Washoe, Elko Eureka and White Pine counties were directly related to grouse protection, or even out of the ordinary.

In her 16-page ruling issued Tuesday, she said most of the claims to date raise "only the possibility – not a likelihood – of irreparable harm," adding that the fears of one mining company trying to develop a gold mine in Nevada near the Idaho line are based on "hypothetical scenarios of adverse consequences."

Du said even witnesses for the counties and ranchers "conceded that the land amendments themselves do not modify grazing permits and current permit-holder have not yet been affected by those directives."