

Environmentalists to join fight over sage grouse rules

By Associated Press

RENO – Federal judges have agreed to allow environmental lawyers in to legal battles being waged by rural and commercial interests in Nevada and Idaho intent on blocking new U.S. protections for the greater sage grouse.



Butch Otter

Idaho Gov. C.L. “Butch” Otter didn’t oppose granting intervenor status to the three national conservation groups in the lawsuit he has filed in Washington, D.C., and the Obama administration hasn’t objected in either case.

But nine Nevada counties, three mining companies and a livestock ranch opposed to the move that sets up a three-pronged approach to the arguments in an already complicated case expected to drag well into the summer in Reno.

The Wilderness Society, National Wildlife Federation and mining watchdog group Earthworks won the status in both lawsuits filed last fall. A third lawsuit was filed last week by Utah’s governor and legislature repeating claims that the land use planning amendments impose unnecessary restrictions on activities in or near grouse habitat.

Those activities range from livestock grazing to road building

and energy exploration.

The conservationists agree with the government's argument that blocking the regulations could force reconsideration of Interior Secretary Sally Jewell's decision in September to deny the bird protection under the Endangered Species Act.

But they also said they have many other interests contrary to those of the Forest Service and Bureau of Land Management, given the agencies' legal mandate to manage federal lands for multiple uses.

U.S. District Judge Miranda Du said in her ruling in Reno late last month that such intervention is permitted by anyone with a legal interest in the property "unless existing parties adequately represent that interest."

"The court agrees with (the) conservation groups that because of their more narrowed focus (on) environmental protections in contrast to the agencies' broader land management interests," she said.

She concluded that the government "may not adequately represent their interests."

Conservationists have won similar status before in a number of land management battles in Nevada, including disputes over roundups of wild mustangs and ownership of a national forest road in Elko County.

Elko and Eureka counties first filed the lawsuit Sept. 23, along with Western Exploration LLC and Quantum Minerals LLC accusing the Forest Service and Bureau of Land Management of illegally adopting the planning amendments in violation of the National Environmental Policy Act and Federal Land Planning Management Act.

Since then, seven other counties have joined the suit. So has Nevada Attorney General Adam Laxalt, over the objections of

fellow Republican Gov. Brian Sandoval, who argues that continued negotiations with the Interior Department will prove more productive than a protracted legal battle that could last years.

Laura Granier, lead attorney for the Nevada plaintiffs, argued the environmental groups shouldn't be allowed any formal status in the proceedings because they have "only made generalized environmental statements which do not rise to the level of 'significantly protectable interests.'"

They "apparently just seek to argue environmental policy issues," she said.

But Judge Du disagreed. She said the Ninth U.S. Circuit Court of Appeals "has recognized public interest groups are generally permitted to intervene where they have been directly involved in the enactment of the law or the administration proceedings out of which the litigation arose."

Du noted at least two of the groups had been providing public comment and engaged in the planning amendment process before the Fish and Wildlife Service first concluded in 2010 that federal listing of the greater sage grouse was warranted, but precluded by higher priority listing actions.

U.S. District Judge Emmet Sullivan in the D.C. Circuit made a similar finding last month. He said they'd proven they could "suffer an injury-in-fact" if the Idaho officials are able to persuade the court to set aside the government's plans.