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ENDANGERED SPECIES

Interior finalizes revisions to Obama's sage grouse plans

Scott Streater, E&E News reporter • Published: Wednesday, January 13, 2021



The Bureau of Land Management tomorrow plans to publish decisions affirming its sage grouse protection plans. Intermountain Forest Service-USDA Region 4/Flickr

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The Trump administration will go out insisting that its controversial revised greater sage grouse protection plans were done correctly and should be implemented, even as a federal judge's order blocking the Bureau of Land

Management from doing so remains in place.

The latest is a series of records of decision (RODs) the bureau will publish tomorrow in the *Federal Register* that, while not new planning documents, attempt to set in stone the Interior Department's position that the 2019 revisions to Obama-era sage grouse protection plans should be implemented without any changes.

The six RODs — covering the seven states affected by the revisions — conclude a more than yearlong effort by BLM to convince Judge B. Lynn Winmill in the U.S. District Court for the District of Idaho to lift his [preliminary injunction](#) blocking the bureau from implementing the revisions ([Greenwire](#), Oct. 17, 2019).

They also finalize supplements to six environmental impact statements used to justify the revisions. The supplemental EISs addressed some of the problems Winmill noted in issuing his injunction, mainly oversights of National Environmental Policy Act mandates ([Greenwire](#), Nov. 19, 2020).

But Winmill's preliminary injunction order remains in place.

BLM has never implemented the revised plans that, among other things, added "modifications, exemptions and waivers" to mandates in the Obama blueprint that reduced buffers around sage grouse breeding grounds and limited no-surface-occupancy requirements, as well as seasonal restrictions near sensitive habitat.

What's more, the Trump administration has made no move asking Winmill to lift the injunction, said Sarah Stellberg, a staff attorney for Advocates for the West, which is representing environmental groups challenging the revised plans.

"The preliminary injunction against the 2019 plans will remain in effect until Judge Winmill rules otherwise, either on a motion to lift the injunction or summary judgment briefing," Stellberg told E&E News. "Neither will occur anytime soon."

BLM issued a statement to E&E News today saying that it is "considering all legal options."

President-elect Joe Biden, who was President Obama's vice president, is almost certain to drop the Trump administration revisions. Biden will be inaugurated Jan. 20.

For environmental groups, the RODs amount to little more than a "gratuitous, spiteful parting shot" aimed at the imperiled sage grouse and ongoing efforts to protect it and its habitat, said Michael Saul, a senior attorney at the Center for Biological Diversity.

"The bright side is there's no legal effect of this new action," Saul said.

The RODs also serve as a reminder of the Trump administration's failure to implement one of its signature public lands policies, begun in the early days of President Trump's term by then-Interior Secretary Ryan Zinke.

The Obama-era blueprint, finalized in 2015, amended 98 BLM and Forest Service land use plans to incorporate strong grouse protection measures across nearly 70 million acres in 10 Western states.

Looking toward 2024

The overall plans were strong enough to convince the Fish and Wildlife Service in 2015 that the greater sage grouse did not warrant protections under the Endangered Species Act.

But the Trump administration insisted the revisions — finalized in March 2019 — were needed to remove unnecessary provisions hampering energy development, recreation and other uses of federal lands.

The changes, it argued, better align with grouse protection plans devised by individual states.

Indeed, a source told E&E News last fall that the ongoing effort to defend the revised sage grouse plans is about looking ahead to the 2024 presidential election, when a GOP candidate could highlight the differences between the Trump approach and the 2015 Obama-era plans, which were viewed by some Western state leaders as "heavy-handed" and unnecessarily "burdensome."

The flexibility given to states in the "modifications, exemptions and waivers" to mandates garnered bipartisan support for the revisions, including from Colorado Gov. Jared Polis (D) and Wyoming Gov. Mark Gordon (R).

But some of the revisions were sweeping.

For example, they removed almost all of the 10 million acres of so-called sagebrush focal areas, identified in the Obama-era plans as habitat critical to the bird's survival.

The RODs also eliminated compensatory mitigation requirements for impacts to sage grouse habitat. Instead, the revised plans stated that BLM "will consider compensatory mitigation only when offered voluntarily by a project proponent," or required by a law other than the Federal Land Policy and Management Act, which governs BLM.

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