

Federal judge refuses to halt fracking in Nev.

By Scott Sonner, AP

RENO – A federal judge has refused to block the release of oil and gas leases in Nevada that critics say will be used for hydraulic fracturing that could harm sage grouse and cause more environmental damage than the Bureau of Land Management admits.

U.S. District Judge Miranda Du ruled she has no authority to grant opponents' request for an emergency order that would prevent the BLM from formally issuing the leases in an area stretching across about 270 square miles of central Nevada.

Glade Hall, a lawyer representing the Reese River Basin Citizens Against Fracking, said this week they are considering refiling their complaint.

The coalition of ranchers, farmers and others says the BLM has abused its authority by limiting public comment and failing to conduct an adequate review of the potential impacts of the fracking.

Fracking involves blasting water, sand and chemicals deep into underground rock formations to free oil and gas.

Some of the drilling could occur near key habitat for the sage grouse, which the U.S. Fish and Wildlife Service currently is considering protecting under the Endangered Species Act.

"The new fracking threat in Nevada further imperils the greater sage grouse, making ESA listing even more needed and likely," said Dan Patterson, a Nevada-based ecologist for the Center for Biological Diversity, which petitioned for the listing and is protesting the development.

The citizens group based in Battle Mountain says that besides wildlife threats, the fracking could suck millions of gallons of water from Nevada's high desert and undermine the region's seismic stability about 160 miles northeast of Reno.

Hall said BLM's assumptions there will be little impact are based almost exclusively on unrealistic expectations that the little interest shown in Nevada's oil and gas historically will continue. He said the government is ignoring a recently discovered shale deposit running from southeast Nevada into Utah that some believe could become one of the nation's most valuable.

BLM argues that while it completed the sale of the leases in July, it retains discretion as to whether it will actually issue any of them.

"There currently is no proposal to engage in hydraulic fracturing," Justice Department lawyer Dominika Tarczynska told Du in federal court in Reno earlier this month. She said the agency is still considering protests challenging the leases and could place additional stipulations on any development.

"Until that is completed, there is no final agency action," she said.

Hall insisted BLM's argument that it may not actually follow through with issuing the leases is a legal smoke screen. He said BLM has supplemented some of the flawed environmental assessment with additional information that was never subject to public comment.

"It is simply a prop for a decision that already has been made," Hall said.

Du acknowledged in her Sept. 8 ruling the claim that BLM's actions to date suggest "it is prepared to defend its inevitable decision to issue the leases."

But “until BLM completes its decision-making process, its decision is not subject to judicial review,” the judge wrote.

Hall told The Associated Press that Du was “correct in her ruling.”

“But the game the BLM played in this case does not serve the public interest in being informed about environmental consequences of federal actions at a point in time when the public can intelligently participate in the decision-making process,” he said.