From: Dreher, Robert
To: Noreen Walsh; Ren Lohoefener; Richard Hannan
Subject: Fwd: FWS comments on NDAA rider statement
Date: Tuesday, April 28, 2015 11:49:09 AM

Do we know anything about the situations at Nellis and Yakima and other military bases in GSG country that we can say to rebut the claim that listing would interfere with their missions?

---------- Forwarded message ----------
From: **Harding, Stephenne** <stephenne_harding@ios.doi.gov>
Date: Tue, Apr 28, 2015 at 10:13 AM
Subject: Re: FWS comments on NDAA rider statement
To: "Bean, Michael" <michael_bean@ios.doi.gov>
Cc: "Boling, Edward" <ted.boling@sol.doi.gov>, "Dreher, Robert" <robert_dreher@fws.gov>, James Lyons <jim_lyons@ios.doi.gov>, Sarah Greenberger <sarah_greenberger@ios.doi.gov>, Benjamin Gruber <begruber@blm.gov>, Dan Ashe <d_m_ashe@fws.gov>, Dominic Maione <dominic_maione@ios.doi.gov>, Neil Kornze <nkornze@blm.gov>, Megan Kelhart <Megan_Kelhart@fws.gov>, Katherine Kelly <kate_kelly@ios.doi.gov>

For your awareness this ran in Roll Call this am.

Congress Must Act to Protect Military Readiness | Commentary

By Joseph E. Schmitz, Marc Rogers and William G. Boykin
April 27, 2015, 2:51 p.m.

Military readiness and federal regulation of the greater sage grouse — a bird — are not things the average American would consider connected but unless Congress acts, they may well be.

The U.S. Fish and Wildlife Service is imposing onerous restrictions on the Western United States, ostensibly to protect the grouse. While the FWS is eager to restrict human activities on these and other lands, the negative effects appear to come with few conservation benefits for the bird. According to Kathleen Clarke, director of the Utah Public Land Policy Coordinating Office, “The biggest threat to the species in Utah comes from encroachment of unfavorable vegetation and wildfires. It is irksome that although only 3 percent of priority sage grouse habitat in Utah faces any threat of development, the FWS is intent upon focusing severe and unhelpful limitations and regulations on human activity.”

If the FWS is able to implement its restrictive regulatory regime and the greater sage grouse is added to the endangered species list, it will have a significant and negative effect on the military and Western states’ economies without real conservation benefit to the bird. Regulatory restrictions that would blanket huge swaths of 11 states would impair or even eliminate a wide range of economic activities, resulting in lost jobs and lost revenues. These enormous economic effects have been discussed in depth over the last few years in affected states and in Congress. While those concerns are real, the destructive impacts on the readiness of numerous military installations located in or just near the bird’s habitat are less well-known.

Currently, the military's voluntary grouse conservation efforts are already costing millions, and those costs will likely skyrocket if the FWS lists the species under the Endangered Species Act. Worse, based on recent reports, it is our view that if the bird is listed, it is likely to significantly impair the readiness and effectiveness of a number of military installations, and the military units assigned to these sorts of camps and bases. For example, at Yakima Training Center in the state of Washington — one of the Army's premier combat live fire training ranges — it could affect up to 19 training areas and 27 gunnery ranges, making the Yakima all but useless for six months of every year. The Army could be required to transfer up to 5000 soldiers across the country to receive similar training.

Operations at Nellis Test and Training Range in Nevada would also likely be harmed. Nellis Air Force Base is the host of the famed Operation Red Flag and provides the Air Force with a training facility that cannot be replicated anywhere else in the country, or even the world. A federally regulated grouse could restrict overflights, impose further weapons deployment and testing restrictions and degrade the overall capability of Nellis.

Similarly, the Navy's Fallon Naval Air Station in Nevada will feel the impact of a sage grouse listing. According to the Navy, the costs and time delays associated with lengthy consultation processes and expensive conservation measures could affect the capabilities at Fallon. Additionally, seasonal and spatial restrictions could limit maneuvers and other vital training procedures.

This story is repeated at other military installations. Due to the ESA's inflexible nature, conflicts at these military installations are likely if the grouse is regulated under the ESA. Even if the bird is not added to the ESA list, enormous economic effects seem unavoidable if it's managed under the increasingly draconian rules FWS wants on National Forests and Bureau of Land Management lands.

The good news is there are state plans that can adequately conserve the bird, protect the economy and allow the military to focus on its job of protecting the nation. To date, Western states have invested tens of millions of dollars in sage grouse conservation, and they stand ready to continue to provide expertise and funding to conserve the bird so long as it remains under state management. It is our view that we can help increase populations through effective management without unduly impacting activities essential to our military.

Relying on the states to handle conservation of the bird while the military focuses on protecting the nation makes sense. The federal government should carry out those tasks, like defending the nation, which cannot be performed more effectively at the state or local level. The states can effectively conserve the greater sage grouse.

Instead of passively allowing the FWS to implement its restrictive regulatory regime, Congress should pursue all available options to ensure that the conservation of this species, as laudable as that goal is, does not unduly burden our nation's economy and security.

Joseph E. Schmitz is a former inspector general of the Department of Defense and retired Naval Reserve captain; Lt. Gen. William G. Boykin, U.S. Army (retired), is a former deputy undersecretary of Defense; and Lt. Gen. Marc Rogers, U.S. Air Force (retired), is a former inspector general of the Air Force.

On Tue, Apr 28, 2015 at 9:19 AM, Bean, Michael <michael_bean@ios.doi.gov> wrote:

Agreed.

On Tue, Apr 28, 2015 at 9:17 AM, Boling, Edward <ted.boling@sol.doi.gov> wrote:

This looks great.

Ted Boling
Deputy Solicitor -- Parks & Wildlife
U.S Department of the Interior
1849 C Street NW
Washington, DC 20240
202-208-4423 (main)
202-208-3125 (direct)
202-208-5584 (fax)
Ted.Boling@sol.doi.gov

On Tue, Apr 28, 2015 at 9:13 AM, Dreher, Robert <robert_dreher@fws.gov> wrote:

We suggest further language in the attached redline making clear that national defense is not impaired by protection of the GSG, and also specifically noting that the rider effectively repeals major federal land management statutes.

On Tue, Apr 28, 2015 at 9:08 AM, Boling, Edward <ted.boling@sol.doi.gov> wrote:

Attached are SOL edits.

I've just brought Bob up to speed (b) (5) [redacted]

Ted Boling
Deputy Solicitor -- Parks & Wildlife
U.S Department of the Interior
1849 C Street NW
Washington, DC 20240
202-208-4423 (main)
202-208-3125 (direct)
202-208-5584 (fax)
Ted.Boling@sol.doi.gov

On Tue, Apr 28, 2015 at 8:54 AM, Dreher, Robert <robert_dreher@fws.gov> wrote:

Our comments are in the redline attached. We recommend squarely raising the constitutional concerns related to improper delegation of federal control over public lands, as well as the concern about preclusion of judicial review.

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Bob Dreher
Associate Director
U.S. Fish and Wildlife Service
(202) 208-4070

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Bob Dreher
Associate Director
U.S. Fish and Wildlife Service
(202) 208-4070

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Michael J. Bean

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks

Room 7257, Department of the Interior

Washington, DC 20240

202-208-4416

202-208-4684 (fax)

michael_bean@ios.doi.gov

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Stephenne Harding
Deputy Director
Congressional and Legislative Affairs
Department of the Interior
Stephenne_Harding@ios.doi.gov
202-208-6174 (desk)
202-341-8080 (cell)

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Bob Dreher
Associate Director
U.S. Fish and Wildlife Service
(202) 208-4070