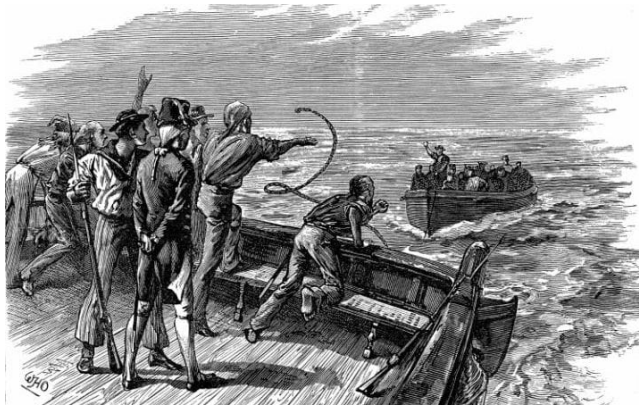


Ecosystem Management Coordination



Court Decisions

1. Water Rights & Special Use Permits | Region 4 (Courtesy of Michael Brumbaugh)

The U.S. Court of Appeals for the Federal Circuit has affirmed that the U.S. Court of Federal Claims was justified in dismissing a claim for financial compensation from the Forest Service, who had allegedly prevented the plaintiffs from maintaining ditches on federal property in *Estate of E. Wayne Hage et al. v. United States*. The estates of E. Wayne Hage and Jean N. Hage (collectively “the Hages”) asserted that previous court cases had left unresolved certain issues related to their entitlement to compensation from the United States for the purported Fifth Amendment taking of their water rights. The Hages also asserted the claims court, in its most recent ruling, “should have recalculated and awarded [the Hages] the amount of compensation” they were due as a result of this alleged physical taking by the United States. In its ruling, the appeals court re-asserted its own determinations in a previous appeal the Hages had made and stated once again that the Hages had not tried to secure the special use permits needed to maintain the ditch, permits which the court believed the Forest Service would have granted. (91-01470, Fed. Cir.)

Litigation Update

1. None to Report.

New Cases

1. None to Report.

Notices of Intent

1. Range & Wildlife | Region 5

Sierra Forest Legacy and Central Sierra Environmental Resource Center submitted a Notice of Intent to Sue (NOI) for claimed violations of the Endangered Species Act (ESA) in the Stanislaus National Forest. The NOI claims that the authorization of livestock grazing in the habitat for the Sierra Nevada yellow-legged frog and Yosemite toad are agency actions that are illegal under the ESA.

On June 16, 2014, the Forest Service requested formal consultation as to the effects of its actions on the Sierra Nevada yellow-legged frog and the Yosemite toad. On December 19, 2014, the U.S. Fish and Wildlife Service (FWS) issued a Programmatic Biological Opinion (Prgm. BiOp) which found that the species were threatened by livestock grazing. As a result, the Prgm. BiOp stated that the Forest Service must establish a monitoring program to determine if and how well certain conservation measures minimize effects to the listed species and their habitats.

According to the NOI, for the 2014 and 2015 grazing seasons, Sierra Forest Legacy, Central Sierra Environmental Resource Center, and others “have provided evidence to the Forest Service and FWS demonstrating lack of monitoring, overgrazed meadows, degraded special aquatic features, and degraded stability along stream reaches where the natural streambank and streambed stability have been pocked, chiseled, sloughed, and otherwise damaged by livestock.” Additionally, the NOI claims that the effects of climate change and the spread of Chytridiomycosis constitutes new information that was not previously considered. This evidence and new information, according to the NOI, demonstrates that the Forest Service must reinitiate of consultation.

Natural Resource Management Decisions Involving Other Agencies

1. None to Report.