

May 11, 2018

## Ecosystem Management Coordination



### Court Decisions

#### 1. Timber | Region 4

The District of Idaho found for the Forest Service regarding a motion seeking to enjoin the North and South Pioneer salvage logging projects on the Boise National Forest in *Wildlands Defense, et al. v. Seesholtz, et al.*

In response to the Pioneer Fire, the Forest Service created the North and South Pioneer projects to: 1) remove hazard trees; 2) restore conifer species; 3) decommission unauthorized roads; and 4) conduct salvage logging before the dead timber deteriorates. The profit from the salvage logging was to be used to fund the first three purposes. Each project was approved under an Emergency Situation Determination on the grounds that the burned trees constituted a hazard to the public and a delay would result in deterioration of the trees of over \$1 million and jeopardizing the reforestation plans contained in both projects. Plaintiffs filed Endangered Species Act (ESA), National Forest Management Act (NFMA), and National Environmental Policy Act (NEPA) claims against the Agency in an attempt to stop the projects.

Looking at its November 14, 2017, decision denying Plaintiffs' motion for a temporary restraining order against the projects (reported in the November 17, 2017, Litigation Weekly) **the court determined its analysis that Plaintiffs had not raised serious questions on the merits was still sound**. The earlier decision found the agency's environmental analysis thorough, gave the agency's analysis deference, and found the plaintiffs' claims were thus not likely to succeed on the merits. In the current decision, the court added further analysis of the model used by the Forest Service in creating Riparian Conservation Areas (RCAs) in which certain activities were limited to minimize sediment delivery into perennial streams. The court noted the Forest Service "took extra steps to ensure the accuracy of the model's estimate" and "obtained review and approval of the [FWS] for its protective measures." **As the court still concluded Plaintiffs failed to raise serious questions on the merits, the court denied plaintiffs' motion for preliminary injunction.** (17-408, D. Idaho)

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Photo credit: <http://fortune.com/video/2017/04/18/mothers-day-gift-ideas/>

## Litigation Update

1. Nothing to report

## New Cases

1. Nothing to report

## Notices of Intent

1. Timber | Region 1

Alliance for the Wild Rockies and Native Ecosystems (collectively Alliance) filed a Notice of Intent to Sue under the ESA against the North Hebgen Project on the Gallatin National Forest. Alliance claims wolverines are located in the project area, but the species list used for the project does not include wolverine. As wolverines are proposed for listing under the ESA, the Alliance argues, the Forest Service must include the wolverine in the Project Biological Assessment to ensure the project does not “jeopardize threatened and endangered species and modify critical habitat...”

## Natural Resource Management Decisions Involving Other Agencies

1. Nothing to report

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