

Ecosystem Management Coordination



Court Decisions

1. Nothing to report

Litigation Update

1. Timber & Wildlife | Region 4

Plaintiff environmental groups filed a motion in the District of Idaho for stay and injunction pending an appeal to the Ninth Circuit concerning the North and South Pioneer Project on the Boise National Forest in *Wildlands Defense, et al. v. Seesholtz, et al.* Plaintiffs claim the projects violate the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) due to the projects' impacts on Bull trout and Bull trout designated critical habitat. On May 4, the District Court denied the plaintiffs' motion for preliminary injunction (reported in the May 11, 2018 Litigation Weekly) and on November 14, 2017, the District Court denied the plaintiffs' motion for a temporary restraining order (reported in the November 17, 2017 Litigation Weekly). (17-408, D. Idaho)

New Cases

1. Timber & Wildlife | Region 1

Native Ecosystems Council and Alliance for the Wild Rockies filed a complaint for injunctive and declaratory relief in the District of Montana alleging the approval of the North Hebgen Project on the Custer-Gallatin National Forest violates NEPA, ESA, the National Forest Management Act (NFMA) and the Administrative Procedure Act (APA) in *Native Ecosystems Council, et al. v. Marten, et al.* In Plaintiffs' factual allegation section they discuss grizzly bears and the percentage of motorized access routes in the project area along with a discussion of lynx and elk habitat in the project area. Plaintiffs also note that the Lonesome Wood 2 Project is taking place in the vicinity of the North Hebgen Project but that the North Hebgen Project's Environmental Assessment (EA) does not analyze the cumulative effects on wildlife from the two projects.

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Plaintiffs' specific claims include:

1. The project **violates the Forest Plan's hiding cover standard** for Elk;
2. The Agency **should have prepared an Environmental Impact Statement (EIS)** instead of an EA due to the project's significant effects on wildlife;
3. The EA **didn't take a hard look at the cumulative effects** of the project and adjacent projects on wildlife; and
4. The Agency **failed to consult on lynx and lynx critical habitat for Gallatin Forest Plan Amendment 51** which plaintiffs claim "eliminated or modified 56 goals and standards in the Forest Plan."

(18-87, D. Mont.)

2. Public Access | Region 8

Plaintiff, a D.O. licensed to practice medicine by the Commonwealth of Virginia, filed suit in the Western District of Virginia challenging Order Number 08-08-11-18-05 ("Revised Mountain Valley Pipeline Project Emergency Closure") which purportedly closes off area adjacent to the Mountain Valley Pipeline (MVP) right of way in the George Washington and Jefferson National Forest in *Gelburd v. Christiansen, et al.* Plaintiff states that on or about March 27, 2018, an adult female known as "Nutty" began occupying a monopod within the MVP right of way. On May 5, 2018, Plaintiff claims he hiked to area Nutty is occupying in an attempt to reach her and conduct a medical examination, but he claims that police tape cordoning off the area and generators in the area prevented him from providing Nutty medical advice and assistance. Plaintiff claims he tried to visit Nutty due to his concern for her well-being and health rooted in his training as a physician and his religious beliefs. **Plaintiff claims the Order limiting his access to Nutty violates the Religious Freedom Restoration Act and the First Amendment's Free Exercise Clause and Freedom of Speech Clause by posing a substantial burden on the plaintiff exercising his religious beliefs in providing medical assistance to Nutty.** Plaintiff also claims the Agency is violating the Fifth Amendment's Due Process Clause by preventing Nutty from "obtaining basic human necessities" such as medical care. (18-215, W.D. Va.)

3. Timber & Recreation | Region 10

Plaintiff environmental groups filed a complaint in the District of Alaska claiming the Forest Service violated NEPA by not preparing a supplemental EIS for the Kuiu Timber Sale on the Tongass National Forest in *Southeast Alaska Conservation Council, et al. v. Stewart, et al.* Authorized in May 2008, plaintiffs claim "[i]n the eleven years since publication of the final EIS, there have been significant changes relevant to the timber sale, including: the sale's dramatically increased public costs; a significant decline in employment opportunities due to export allowances; the growth of an ecotourism industry that relies on the project area for peaceful, remote scenery; and recent reports and studies indicating perilous declines in wildlife population on Kuiu Island." **These "significant changes," the plaintiffs assert, require supplemental NEPA analysis before the timber sale can proceed.** (D. Alaska)

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Notices of Intent

1. Nothing to report

Natural Resource Management Decisions Involving Other Agencies

1. Minerals | Bureau of Land Management (BLM)

Plaintiff environmental groups filed suit in the District of Montana challenging “BLM’s decision to sell oil and gas leases on public lands ... while turning a blind eye to the groundwater contamination and climate pollution that will result from them” in *WildEarth Guardians, et al. v. BLM, et al.* Focusing mainly on the impacts of fracking on climate change and an Environmental Protection Agency report highlighting the proximity of underground drinking water to hydraulically fractured rock, plaintiffs claim numerous EAs prepared for lease sales failed to evaluate the site-specific impacts fracking would have on groundwater and failed to quantify the reasonably foreseeable effect the sales’ cumulative emissions will have on climate change. **Plaintiffs assert BLM must analyze all these EAs and their impacts on groundwater and climate change in a single EIS given their “cumulatively significant impacts on the environment.”** (18-73, D. Mont.)

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