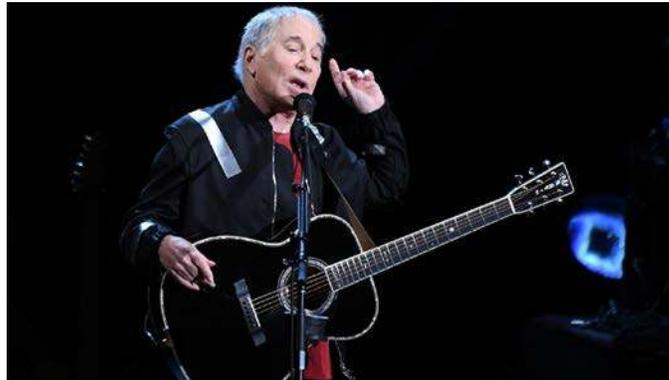


Ecosystem Management Coordination



Court Decisions

1. Timber | Region 6

The District Court of Oregon accepted in whole a Magistrate Judge's findings and recommendations in favor of the Forest Service regarding a complaint against the Lostine Public Safety Project on the Wallowa-Whitman National Forest in *Greater Hells Canyon Council, et al. v. Stein, et al.* The Magistrate's opinion was issued on June 11, 2018 and reported in the June 14, 2018 Litigation Weekly. The Magistrate determined: 1) the Agency does not need to extend "extraordinary circumstances" analysis to the use of Farm Bill CEs; 2) the project complied with the Forest Plan; and 3) further National Environmental Policy Act analysis was unnecessary because the project complied with the Forest Plan and was developed through an inclusive and transparent collaborative process. (17-843, D. Or.)

2. Travel Management | Region 3

A Magistrate Judge in the District of New Mexico issued a recommendation to the court against the Agency on a challenge to the Agency's 2012 travel management decision for the Santa Fe National Forest in *WildEarth Guardians v. U.S. Forest Service*. In preparing this decision the Agency developed a biological assessment addressing only Mexican spotted owl. This assessment was then given to the Fish and Wildlife Service which concurred with the Agency's determination that there would be no likely adverse effects on Mexican spotted owl and its critical habitat. Then, in 2013 the Jemez Mountain salamander was listed as an endangered species under Endangered Species Act (ESA). Plaintiff claimed the Forest Service needed to reinitiate consultation for the travel management decision because of the new species listing in the decision area. The magistrate agreed. Reinitiation of consultation is required where the government retains some discretionary control over the action at issue and where a new species is listed or critical habitat is designated that may be affected by that action. The magistrate determined that **the Forest Service retained discretion to open roads, trails, areas, and corridors within the newly listed salamander's habitat under the travel management decision and thus needs to reinitiate consultation.** (14-828, D.N.M.)

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Photo credit: <http://www.latimes.com/entertainment/music/la-et-ms-paul-simon-blue-light-album-farewell-tour-20180907-story.html#>

Litigation Update

1. Timber | Region 1

The District of Montana denied plaintiffs' motion for an injunction pending appeal in a challenge to the Beaver Creek Landscape Restoration Project on the Flathead National Forest in *Friends of the Wild Swan, et al. v. Kehr, et al.* Reported in the August 3, 2018, *Litigation Weekly*, the District Court granted the Agency's motion for summary judgment this past July. Plaintiffs filed a motion for an injunction pending appeal stating there were "'serious questions' regarding the court's determination that the project complied with [Forest Plan] Amendment 19's road density objectives in the Buck Holland grizzly bear subunit" and that there were "'serious questions' regarding the courts determination that a new biological opinion is not required to measure the effects of the Amendment 19 on seven additional grizzly bear subunits." As the court found that Amendment 19 has only had positive effects on local grizzly populations, and that plaintiffs' argument the project doesn't do enough to decrease road density "[i]s a far cry from demonstrating that harm to the species will result absent an injunction," the court denied plaintiffs' motion. (17-120, D. Mont.)

New Cases

1. Nothing to report

Notices of Intent

1. Mining | Region 1

The Rock Creek Alliance and six other non-profit organizations filed a notice of intent to sue (NOI) under the ESA claiming the Agency must reinitiate consultation for the impacts of the Rock Creek Mine on grizzly bear and bull trout. According to the NOI the mine's mitigation measures, which the mitigation plan concludes would offset human-caused grizzly bear mortality, have actually increased the number of bear mortalities over the last ten years. This, the NOI claims, constitutes new information requiring reinitiation of consultation. The NOI also claims the Forest Service is in violation of the ESA for bull trout by relying on the Fish and Wildlife Service's 2017 biological opinion which the NOI claims is flawed by redrawing core areas in a way that underestimated local bull trout population's importance.

Natural Resource Management Decisions Involving Other Agencies

1. Nothing to report

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