

Ecosystem Management Coordination

FATTEST BEAR 2018



Court Decisions

1. Timber | Region 6

The Eastern District of Washington ruled in the Agency's favor on a challenge to the North Fork Mill Creek A to Z Project on the Colville National Forest in *Alliance for the Wild Rockies v. Pena, et al.*

Plaintiff challenged the bidding process for the project, in which only one bid was received, and several aspects of the Agency's environmental assessment (EA). The court found Plaintiff lacked standing to bring the suit given the plaintiff did not participate in the bidding process, but the court looked at the challenges in case the circuit court could find standing. The court concluded that even though only one party submitted a bid, the bidding process was open and fair. The court also found that the splitting of the North Fork and Middle/South Fork projects did not create a conflict of interest where promises of future work on the other project was created. The projects, the court found, were separated by a ridgeline with few overlapping roads, had different drainage areas, and would proceed on different timelines which made the Forest Service's decision to split the project into segments reasonable.

Regarding challenges to the adequacy of the EA, the court reviewed the Agency's sedimentation analysis and Pine Marten monitoring. The court, giving deference to the Agency, noted that the analysis shows that sediment reduction benefits from road restoration occurs before sediment levels are increased by the project so that there will be a net decrease in sediment levels at all times throughout the project. For Pine Marten the court found that proxy analysis was permissible despite the pine marten's absence from the project area given there were still sightings reported in other parts of the Forest and that pine marten are difficult to detect. (16-294, E.D. Wa.)

Litigation Update

1. Nothing to report

New Cases

The NFS Litigation Weekly Newsletter is provided to Forest Service employees for internal, informational purposes and is not intended to provide a legal/policy opinion or interpretation of its subject matter. Information presented in the Litigation Weekly is publicly available via official court records. Official court records should be consulted for the most complete and accurate discussion of each case.

Photo credit: <https://www.npr.org/2018/10/10/655937903/alaska-national-park-declares-fattest-bear-winner>

1. Nothing to report

Notices of Intent

1. Nothing to report

Natural Resource Management Decisions Involving Other Agencies

1. Nothing to report

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