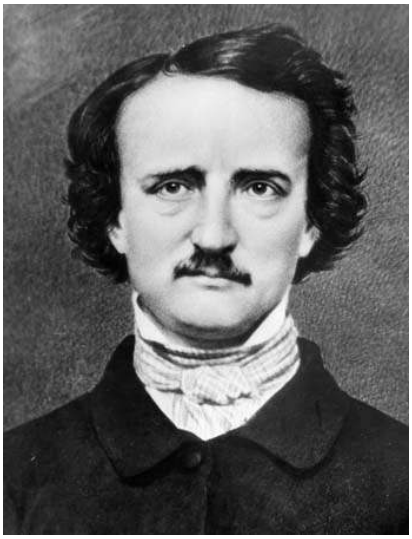
Ecosystem Management Coordination



Court Decisions

1. Timber | Region 1

The 9th Circuit affirmed the District Court of Idaho's refusal to issue a preliminary injunction against the Tower and Grizzly Fire Salvage and Restoration Projects on the Idaho Panhandle National Forest in *Alliance for the Wild Rockies v. Farnsworth, et al.* Both projects were approved under an Emergency Situation Determination (ESD).

Plaintiff's first challenge was that the Forest Service failed to adequately involve the public in the two projects. The court concluded the agency "undertook numerous efforts to involve the public in the projects."

Next the plaintiffs challenged the use of ESDs for the projects. An ESD may be issued to immediately implement a project where it recognizes that at least one enumerated "emergency situation" related to the project exists. Here, the court found the Chief enumerated two such emergency situations, "including hazards to human health and safety posed by the dead and dying burned trees, for each project.

Lastly, plaintiffs claimed the Forest Service was required to prepare an environmental impact statement (EIS) for the projects. However, the court concluded the agency "conducted the requisite analysis for each project's context and intensity" and so does not have to prepare further National Environmental Policy Act (NEPA) analysis in the form of an EIS. (17-35381, 9th Cir.)

Photo credit: https://www.britannica.com/biography/Edgar-Allan-Poe

Litigation Update

1. Minerals | Region 2

In their first amended complaint, plaintiff environmental groups added the Forest Service to National Environmental Policy Act (NEPA) claims levied against the Bureau of Land Management (BLM) for the approval of the Bull Mountain Unit Master Development Plan in *Citizens for a Healthy Community, et al. v. BLM, et al.* According to the plaintiffs the master plan, which was approved by BLM and the Forest Service and "spans 19,670 acres in the headwaters of the North Fork of the Gunnison River," approves the construction of numerous oil and gas wells and well pads. Several of these wells and well pads would be placed on the Grand Mesa, Uncompahgre, and Gunnison National Forests. Plaintiffs allege the BLM and Forest Service approved the master plan "without properly studying alternatives, analyzing impacts, and disclosing information to the public." Specifically, plaintiffs allege:

- The agencies failed to consider all reasonable alternatives. Plaintiffs believe BLM and the Forest Service did not adequately consider resource-protective alternatives; alternatives that would phase-out or reduce development; or control the development's timing, pace, or scale;
- The agencies failed to consider the cumulative impacts of the master plan. Plaintiffs state the agencies failed to consider the impacts of construction and other reasonably foreseeable actions within the project area over the life of the plan, did not analyze or provide for any mitigation measures, and failed to take a "hard look" at the cumulative impacts the development would have on wildlife in the area;
- The agencies failed to consider the costs greenhouse gas emissions stemming from the new wells would have on society;
- The agencies did not adequately analyze the impacts hydraulic fracturing, which would be used at several sites, would have on human health, wildlife species, water quality, air quality, and pipeline safety; and
- That the depth of approved drilling was not included in the agencies' NEPA documentation and thus constitutes significant new circumstances requiring supplemental NEPA analysis.

(17-2519, D. Colo.)

New Cases

1. Minerals & Recreation | Region 8

A recreational gold collector filed a suit in the Southern District of Georgia challenging the United States Department of Agriculture's (USDA) "legislative authority to monitor 'recreational gold collecting' activities by vacationers, unless the USDA obtains a warrant" in *Martin v. USDA.* Plaintiffs asserts that the 1872 Mining Act, the Clean Water Act, and the 1964 Wilderness Act only regulate commercial operations and not recreational activities. Additionally, plaintiff claims that the Highway Safety Act only relates to on-highway passenger vehicles and as such the USDA cannot prohibit off-road vehicle use on public land under this act. Plaintiff is asking the court to rule that "1) all outdoor rock and mineral collecting activities, and all related equipment, and motorized or mechanical collecting equipment, and off-road vehicles – excluding

commercial mine and quarry operations – are recreational, and 2) no recreational activities are authorized to be monitored or regulated by the USDA under any Act of Legislature." Plaintiff also asks the court to order the USDA to "1) completely deregulate and void any and all authority the USDA presumed over Plaintiff's recreational use of land, including Plaintiff's use of her recreational equipment; 2) immediately remove all blockades and prohibitions (both physical and regulatory) that have damaged and could further damage Plaintiff in the immediate future." (118-0009, S.D. Ga.)

Notices of Intent

1. Nothing to report

Natural Resource Management Decisions Involving Other Agencies

1. Nothing to report