

Ecosystem Management Coordination



Mojave Desert, California: Credit: KS

Court Decisions

None to Report.

Litigation Update

None to Report.

New Cases

1. Wilderness | Region 2

Wilderness Watch, San Juan Citizens Alliance, and Great old Broads for Wilderness v. USFS, et al. (19-1449, D. Colo.) Region 2—On May 22, 2019 the plaintiffs filed a complaint in the District Court of Colorado alleging the Forest Service authorized use of chainsaws throughout two designated Wilderness Areas (WA) (**Weminuche Wilderness & South San Juan Wilderness**) in violation of the Wilderness Act, National Environmental Policy Act (NEPA) and Administrative Procedures Act (APA) (located in **San Juan National Forest (SJNF) & Rio Grande National Forest (RGNF)**).

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 post complete accurate discussion of each case.

On May 7, 2019 approval for limited chainsaw use to clear trail obstructions in both Wildernesses between June 1 and August 17, 2019 was granted accompanied by the “Minimum Requirements Decision Guide Workbook” which is a workbook required by the Wilderness Act when managers are considering a use prohibited by Section 4c of the Wilderness Act.

The plaintiffs claim the Forest Service’s justification for the chainsaw use, “for the purposes of clearing trail obstructions and creating safe refuges for administrative use and trail users,” violated the Wilderness Act and the Forest Service’s requirement that management decisions may not elevate recreational and commercial interests over preservation of wilderness character.

The plaintiffs are asking for the decision to be voided and remanded to comply with NEPA, APA and WA with an immediate Temporary Restraining Order and Preliminary Injunction enjoining Forest Service from the decision and any future motorized use proposal in designated WAs that does not first comply with the NEPA, APA and Wilderness Act.

2. Realty/Travel Management | Region 2

Rocky Mountain Wild, San Louis Valley Ecosystem Council, San Juan Citizens Alliance, Wilderness Workshop, v. Dan Dallas, et al. (19-1512, D. Colo.) Region 2— On May 28, 2019 the plaintiffs filed a complaint in the District Court of Colorado concerning the **Forest Service’s Supplemental Information Statement adopting the 2014 Environmental Impact Statement (2014 EIS), and 2019 final Record of Decision (2019 ROD) granting the Leavell-McCombs Joint Venture (LMJV) with additional road access as part of the proposed Village of Wolf Creek on the Rio Grande National Forest (RGNF)**. The plaintiffs’ allege the Forest Service as part of the Administrative Procedures Act (APA) review violated the National Environmental Policy Act (NEPA), National Forest Management Act (NFMA), Alaska National Interest Lands Conservation Act (ANILCA), the Forest Service’s National Forest System Land Exchange regulations (36 CFR § 254.3), Federal Records Act (FRA), and Freedom of Information Act (FOIA); and the U.S. Fish Wildlife Service (FWS) violated the Endangered Species Act (ESA) with issuance of a flawed Biological Opinion (concerning Canada Lynx) with the approval of the road access permit to the Village at Wolf Creek development.

Background

On February 27, 2019 the Forest Service issued a new decision to provide reasonable access to a 288 acre private property parcel adjacent to Wolf Creek Ski Area owned by LMJV. The property owner plans to construct a year-round resort known as the Village at Wolf Creek.

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The decision approves a road and utility right-of-way across National Forest System land from U.S. Highway 160 to the private property. The right-of-way is about 1,610 feet in length and would be within a 100-foot corridor with a total area of about 3.7 acres.

The decision is based on Alternative 3, as analyzed in the 2014 EIS completed for the Village at Wolf Creek Access Project. The ANILCA, a national authority, grants private land owners surrounded by National Forest System lands a right of reasonable access.

The FWS provided a new BO to inform the decision. The BO analyzed the effects to the Canada lynx from the proposed authorization of access across the RGNF.

Notices of Intent

None to Report

Natural Resource Management Decisions Involving Other Agencies

None to Report

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