

Ecosystem Management Coordination



Omaha Beach, Normandy (D-Day, June 6)

Court Decisions

Klamath-Siskiyou Wildlands, et al. v. Grantham, et al. (18-02785, D. E. Cal.) **Region 5**— On May 31, 2019 the Eastern District Court of California issued an order granting the Forest Service’s motion for a stay of the preliminary injunction (PI), issued January 25, 2019. The Forest Service is seeking appeal on the PI. The case concerns **Seiad-Horse Reduction Project** (project) in the **Klamath National Forest** (KNF). The court action lifts the preliminary injunction for the foreseeable future during the pendency of the appeal.

Gallatin Wildlife Association v. United States Forest Service, et al. (15-0027, D. Mont.) **Region 1**— On May 07, 2019 the District of Montana dismissed a complaint filed in 2015, concerning the **Allotment Management Plans (AMP) on 7 domestic sheep allotments**, on the **Beaverhead Deerlodge National Forest** (BDNF). In 2016, district court issued partial summary judgement in favor of the Forest Service regarding the use of course filter or habitat by proxy methodology in the 2009 BDNF Forest Plan final Environmental Impact Statement (EIS). The court ordered the agency to review new information to determine if the final EIS approving AMP on 7 domestic sheep allotments needed supplementing. The FS completed a supplemental EIS to the BDNF Forest Plan that evaluated the potential consequences of the 2000 and 2008 Memoranda of Understanding (MOU) between the Forest Service and Montana Fish Wildlife and Parks. The Forest Service completed the supplemental EIS. The Forest Service issued another ROD on October 26, 2018. The plaintiff’s appealed the order granting partial summary judgment jointly agreeing to move the district court to enter final judgement. The district court entered final judgment, denied all other requested relief and dismissed the action.

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Center for Biological Diversity v. United States Forest Service (12-08176, D. Ariz.; 17-15790, 9th Cir.) **Region 3**— On May 30, 2019 the 9th Circuit Court of Appeals issued an opinion against the Forest Service reversing the District Court of Arizona’s March 15, 2017 dismissal order and remanding the case back to the district court for further proceedings consistent with the 9th Circuit’s opinion. The plaintiffs are concerned with the **exposure of the California condor to spent lead ammunition on the Kaibab National Forest** (KNF). The 9th Circuit reversed the district court’s finding, and rejected the United States’ argument that the district court properly exercised its discretion under the Declaratory Judgment Act. Specifically, the 9th Circuit ruled the district court has jurisdiction in an action brought under the citizen suit provision of Resource Conservation Recovery Act (RCRA) seeking to require the Forest Service to abate the alleged imminent and substantial endangerment caused by hunters in the KNF.

Wild Watershed v. Hurlocker et al. (18-0486, D. N. Mexico)-Region 3-On June 3, 2019 the District Court in New Mexico entered judgment for the USFS. Defendants provided the Court with final administrative records for the Hyde Park and Pacheco Canyon projects on October 5, 2018. The Court concluded USFS did not act arbitrarily, capriciously, or contrary to law and affirmed the administrative decisions and dismissed the Plaintiffs’ claims. The Court stated:

Duhring Resource Company v. USA (15-289, W.D. Pa.; 18-1289, 3rd Cir.) **Region 9**—On June 4, 2019 the 3rd Circuit Court of Appeals vacated the Western District Court of Pennsylvania December 14, 2017 decision and remanded the case back to the district court for further proceedings. The case concerns the Forest Service’s **delay of oil and gas operations on the plaintiff’s four tracts of subsurface property on the Allegheny National Forest** (ANF). The Circuit Court’s reading of Pennsylvania case law and state court precedent led them to vacate and remand the district court’s order. The Circuit Court sided with the plaintiff as to the extent of the Government’s liability under Pennsylvania law. The Circuit Court determined that lost profits incurred by the plaintiff’s as a result of interference with access to their easement are non-recoverable. However, while the plaintiff did not assert a claim for lost rental value, the Circuit Court will allow the plaintiff to claim these damages on remand.

Litigation Update

None to Report.

New Cases

Realty/Travel Management | Region 4

Idaho State Snowmobile Association v. U.S. Forest Service, et al. (19-00195, D. Idaho) **Region 4**— On May 29, 2019 the plaintiff filed a complaint in the District Court of Idaho against the Forest Service’s **Over-snow Vehicle Travel Management in the Northern Portion of the Fairfield Ranger District on the Sawtooth National Forest** (SNF) concerning the Final Decision Notice (DN), Finding of No Significant

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Impact, and associated actions. The plaintiff claims the Forest Service violated the Administrative Procedures Act, National Environmental Policy Act and National Forest Management Act. The plaintiff alleges the Forest Service's DN prohibits snowmobile use on 85,266 acres of public land in the Fairfield Ranger District based on environmental concerns that are not supported by the record. The plaintiff further alleges the Agency's DN admittedly "assumes" that snowmobiling in the closed areas will have adverse environmental impacts without providing any solid scientific evidence.

Klamath-Siskiyou Wildlands, et al. v. Grantham, et al. (18-02785, D. E. Cal.) **Region 5**— On May 31, 2019 the Eastern District Court of California issued an order granting the Forest Service's motion for a stay of the preliminary injunction (PI), issued January 25, 2019, as the Forest Service seeks appeal on the PI. The case concerns the **Seiad-Horse Reduction Project** (project) in the **Klamath National Forest** (KNF).

Notices of Intent

None to Report

Natural Resource Management Decisions Involving Other Agencies

None to Report

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