Judge Clarifies Rule for Forests

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Low-impact activities on national forest lands such as Christmas tree harvesting wont have to be advertised to the public for comment following a judge's clarification of his earlier ruling.

In an order issued late Wednesday, California US. District Court Judge James K. Singleton Jr. clarified his July 2 decision on categorical exclusions. Critics contend the Bush administration dramatized the ruling to make environmental groups appear extreme.

"It's the end of this false crisis that the Forest Service created," said Matt Kenna of the Western Environmental Law Center. The center represented the four environmental groups that were plaintiffs in the case - Heartwood, Sierra Club, Center for Biological Diversity and Earth Island Institute.

Categorical exclusions apply to projects that are deemed to have no significant environmental impact, such as firewood gathering or road repair.

The Forest Service's Northern Region office in Missoula - which oversees offices in Idaho, Montana, North Dakota and South Dakota - had compiled a list of nearly 100 project types that were affected by the Forest Service's original interpretation of the judge's ruling. They included such activities as closure of an abandoned mine on the Beaverhead-Deerlodge National Forest, campground improvements in Idaho's Clearwater National Forest and a hazardous- fuels reduction project on the Gallatin National Forest.

Following Singleton's initial ruling, forests required that many such smaller projects would require public notice, comment and appeal.

"It's clear that the Forest Service overapplied the ruling to get this big public backlash," Kenna said. "There's no other explanation, no other legal explanation for their reaction."

The original lawsuit was filed to overturn the Bush administrations 2003 ruling that removed the rights of public comment and appeal on noncontroversial projects - categorical exclusions - that had significant environmental impacts, such as timber sales up to 250 acres in size.

"Our original intent was to set aside the 2003 Bush administration rules," Kenna said. "The effect of our suit was to put the old rules back in place."

Singleton agreed with the plaintiffs, and in his July decision ruled that the Forest Service must implement its prior regulations that required public comment and appeal on potentially harmful activities such as timber sales, oil and gas development and creation of motorized trail routes.

"There is a difference between simple and controversial activities, between mushroom gathering and 250-acre timber sales, distinctions which the judge has again required the Forest Service to recognize," Jim Bensman, of Heartwood, said in a press release.

The Northern Region office received a letter from Forest Service Chief Dale Bosworth Friday outlining the impacts of Singleton's Wednesday ruling.

"We're still trying to sort through what does and doesnt apply," said Ed Nesselroad, a spokesperson for the Northern Region. "It's really something we asked for, as well."

The Forest Service had filed a motion on Oct. 12 for a stay of the decision pending appeal.

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