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FORESTS: Judge says species protection is critical part of NW Forest Plan

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A federal judge in Seattle has ruled the Bush administration violated environmental laws last year when it removed forest-wide species protection measures from the Northwest Forest Plan.

Under the original NWFP issued in 1994, the Forest Service and Bureau of Land Management were forced to survey public lands in California, Oregon and Washington for 296 species not protected under the Endangered Species Act, including mammals, reptiles, rodents and fungi. Last year, the Bush administration eliminated this requirement -- known as the Survey and Manage program -- in an effort to increase timber production under the plan, which had fallen below what was expected (Greenwire, March 24, 2004).

But District Court Judge Marsha Pechman ruled Monday that BLM and the Forest Service had broken the law by not fully analyzing the environmental effects of ending the surveys. The administration had argued another forest program -- called the "special species status" program -- would protect the species, but Pechman said the two programs were not necessarily interchangeable -- a species protected under one might not be protected under the other.

The federal agencies had also argued the species would be protected under the late-successional reserves set aside for old-growth dependent species like the spotted owl. Although 80 percent of the plan area is designated late-successional reserves, less than half of those reserves are actually old-growth forest, and they tend to be highly fragmented. The drafters of the NWFP included the Survey and Manage program as one way to mitigate for the fact that not enough old-growth forest existed anymore to prevent the demise of hundreds of species that rely on these older trees.

"Even though the Survey and Manage standard was only a part of the overall strategy to protect these species, it was a necessary part to satisfy the [Northwest Forest] Plan's 'foundational objectives.'"

Pechman also disagreed with the agencies' claim that Survey and Manage was hindering their ability to thin out hazardous, fire-prone fuels from Northwest forests, ruling that their calculations of acres in need of thinning were flawed, as was their cost analysis.

Environmental groups applauded the ruling. "The Survey and Manage program is a stopgap measure designed to ensure that the diverse web of life found in older forests won't be unraveled by logging and development," said Dominick DellaSala from the World Wildlife Fund's southern Oregon office. "It is a global model of conservation developed by some of the best scientific thinkers in the region to ensure that the American people will be able to enjoy older forests in perpetuity."

Timber interests were disappointed by the ruling but noted that the judge did not invalidate the current plan and did not rule in favor of environmentalists on every count.

"The Survey and Manage program has been determined over the years to be a very costly, tedious process that no one envisioned when it got started," said Bob Ragon of Douglas Timber Operators. "And what the agencies did was to recommend, by writing an environmental impact statement, going back to a sensitive species program that both the Forest Service and the BLM had used before the Northwest Forest Plan existed."

Spokespeople for BLM and the Forest Service said it was too soon for them to comment on the ruling and they are currently discussing what arguments to make at a hearing this fall where the judge will decide what actions the agencies need to take and whether certain logging operations must be stopped.

The Bush administration decision to do away with Survey and Manage stemmed from a 2001 lawsuit filed by Douglas Timber Operators and other timber interests challenging the program. The administration chose to settle the lawsuit, a move criticized by many environmentalists as capitulating to corporate interests, and proposed removing Survey and Manage.

Pechman's decision came as a result of a lawsuit filed in April 2004 by several environmental groups, including Klamath Siskiyou Wildlands Center, Oregon Natural Resources Council, American Lands Alliance and the Center for Biological Diversity.

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