

■ **Thursday, May 22, 2008**

## **Ninth Circuit Sierra ruling works against saving habitat from catastrophic fire**

12:47 PM ET

**Mike Dubrasich** [Executive Director, **Western Institute for Study of the Environment**]: "After eight years of a planning exercise called the Sierra Nevada Forest Plan Amendment (SNFPA) - one that involved thousands of people, hundreds of meetings, and tens of thousands of documents, studies, reviews, rehashes, monitoring, and re-monitoring - a Federal judge last week **enjoined fire-preventative thinnings** created under SNFPA guidance with the judgment that the planning was not "rigorous" enough to satisfy.

That suit was brought by the **Wilderness Society**, and in effect destroyed eight years of effort by **USFS** employees and an engaged public to comply with the law.

The Wilderness Society had every opportunity to participate in the Sierra Nevada Forest Plan planning exercise. There was an open process with public hearings and public involvement every step of the way. Indeed, the Wilderness Society was invited and even begged to participate, to become part of the process, to meet with local residents, and to resolve differences in an amicable and collaborative fashion.

Instead the Wilderness Society chose to shun that process and to sue to kill it, in concert with the Sierra Club, the Center For Biological Diversity, the Natural Resources Defense Council, and the Sierra Nevada Forest Protection Campaign (who recently changed their name to Sierra Forest Legacy in a marketing/branding move).

Intervening on behalf of the unsuccessful Defendants were Tuolumne County Alliance For Resources & Environment, California Forest Counties Schools Coalition, Regional Council Of Rural Counties, Western Council Of Industrial Workers, Klamath Alliance For Resources & Environment, Coarse Gold Resource Conservation District/Eastern Madera County Fire Safe Council; Tulare County Resource Conservation District, Sierra Resource Conservation District, Strawberry Property Owners' Association, Huntington Lake Association, Huntington Lake Big Creek Historical Conservancy, California Equestrian Trails & Lands Coalition, California Forestry Association, California Licensed Foresters Association, California/Nevada Snowmobile Association, American Forest & Paper Association, American Forest Resource Council, Blueribbon Coalition, California Ski Industry Association, California Cattlemen's Association, Quincy Library Group, and Plumas County.

Judge Noonan first compared Federal timber sales to extortion. Then he called them collusion. Then he called them bribery. Yet the Plumas timber sales are standard and common transactions following all the rules. When the judge goes down to the lumber yard and buys boards with real money drawn from his federal paycheck, is that extortion, collusion, and bribery? Are all market transactions extortion, collusion, and bribery in the eyes of Noonan? The USFS has sold material harvested in forest practice operations

for over 100 years because that is what they have been charged to do by the Organic Act, the Multiple Use Sustained Yield Act, the National Forest Management Act, and various other federal laws. What does the judge think the USFS is supposed to do, give the logs away? Burn them in a heap?

The 2001 Fire Effects Information System (FEIS) includes selling timber and Possible Sale Quantities of green timber - thus the Forest Service can neatly sidestep Noonan's ridiculous tirade - and the proposed treatments include group selection harvests and DPFZs (Defensible Fuel Profile Zones: areas approximately 1/4 to 1/2 mile wide where fuel loadings are reduced, usually along roads, that would have saved hundreds of thousands of acres of Sierra forest from catastrophic fire). The timber harvest bulk of both Basin and Empire projects, sawlog-wise, are in group selection units; repackaging and selling them without the money-losing DPFZ units would ironically keep the commercial logging going, but shut down the landscape-scale strategic fuels work. That's what the 9th Circuit's order allows to be implemented.

The landscape-scale fuels work *is* the basis of the 2001 Framework's California Spotted Owl Conservation Strategy (Conservation Strategy for Old Forest Ecosystems and Associated Species; **2001 ROD Appendix A pp.A-1 through A-4**). Look at the last sentence of the section: "The goal is to strategically treat fuels across 30 to 40 percent of each landscape with the overall objective of reducing uncharacteristically severe wildland fire effects across the entire landscape." The treatments enjoined would have saved wildlife habitat from catastrophic destruction. The recent (last week) **USFWS Recovery Plan for the Northern Spotted Owl** calls for exactly such treatments and is based on the professional expertise of numerous owl and forest biologists. The plaintiffs have successfully written a death warrant for the very things they purport to save."

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