

## Court limits packstock use in High Sierra



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There could be fewer visitors to the High Sierra backcountry this season, following a judge's ruling that curtails commercial packstock use.

The May 8 decision by federal Judge Elizabeth D. Laporte was in response to a lawsuit originally filed in April, 2000 by the High Sierra Hikers Association, Wilderness Watch and Forest Service Employees for Environmental Ethics.

That suit alleged that elements of a U.S. Forest Service plan dealing with packstock use in the John Muir and the Ansel Adams Wilderness areas were illegal. The court agreed that there were some deficiencies in the structure of the plan.

While not directly quoting from any specific passages incorporated in Laporte's decision, Inyo National Forest Public Affairs Officer Nancy Upham explained this recent ruling will entail revisiting the agency's earlier Wilderness Plan.

"The Forest Service will comply with the injunctive-relief as spelled out in the judge's order, including implementation of the 2001 Wilderness Plan – which we have 'dusted-off' – and any other specified directives as laid out by the Judge," Upham said. "We have already been meeting with the permit administrators and the packers about what this means for the 2008 summer season."

Included in the provisions of Laporte's ruling last week was a directive that overall commercial packstock use must be cut by 5 percent over previous levels.

"It's great that the court did not allow expansion of these businesses in fragile alpine wilderness," former USFS ranger in the John Muir Wilderness and current Wilderness Watch representative Gary Guenther stated. "But allowing 95 percent of historical (pack) use to continue is inappropriate where too many pack animals cause too much damage. It's essentially the status quo."

One member of the Eastern High Sierra Packers Association (EHSPA) explained that "percentage perspective" as quite a bit more than "status quo."

"When this particular legal proceeding was initiated, the judge initially made a determination that there would be a 20 percent reduction in the total number of pack trips, based upon usage during the 2000-2001 pack season," EHSPA member Ruby Allen said. "So, when we are now facing a '5 percent' reduction due to this latest ruling, that must be viewed in its additive effect upon that initial 20 percent. This basically leaves all commercial packers facing a 25 percent reduction in terms of the number of visitors we were able to take into the Sierra Nevada during the 2000-2001 recreation season."



**A judge has ruled, in response to a lawsuit brought by three environmental groups, that pack operators must reduce overall operations in the Ansel Adams and John Muir Wildernesses by 5 percent. File photo**

The litigating conservationists had requested that the judge cut packing back by 30 percent, rather than the 5 percent that Laporte has just imposed. Allen indicated the judge did not see that request as reasonable, in lieu of what it would do to those dependent upon packing for their livelihood.

"Judge Laporte was adamant during her deliberative comments in the courtroom that she had no intention of decimating Sierra Nevada packing operations," said Allen. "She wisely viewed the significance of these traditional family-run businesses as having a legitimate place in Sierra wilderness access."

The suing parties, describing the judge's orders as "limited measures," expressed their sense that what was achieved through the years of litigation "may not be enough to recover damage in the (wilderness) areas."

Another representative of the Eastern High Sierra Packers Association, Jennifer Roeser, sees things quite differently. The organization's interests were represented in the court proceedings by the National Forest Recreation Association.

"Our purpose is to provide a service to the public, to better enable a more diverse group of individuals to experience the Sierra wilderness," Roeser said, "and packers have been seen as protectors of the wilderness for a very long time. That's been the case because we care about our public lands, our lifestyles and our livelihood – and that has always meant protecting the land. We use approaches to minimize resources disturbance and that is certainly going to continue."

In response to the litigating conservation groups' claim of "damage resulting from excessive stock use," Roeser explained that years of study did not conclusively prove that to be the case.

"During a 10-year period and at a cost of some \$10 million dollars, the USFS, biologists and third-party researchers conducted a study 'on-the-ground' to determine the impacts of packstock," said Roeser. "The result of that study found no appreciable environmental degradation due to public pack access."

Evidence of human and packstock use exists in wilderness areas, Roeser explained, because humans and stock animals have historically traveled through those areas.

"If any sign of human use is viewed as 'degradation,' then any well-traveled trail would qualify as having a negative impact on the environment," Roeser said. "When Congress created the Wilderness Act it was specifically written to allow for access to those public lands in order to enjoy them. And that was for all people to be able to access wilderness, not just those that wish to – and can – do it on foot."

Roeser also explained that the multiple studies that have been conducted at the court's direction "did not produce definitive impact conclusions because there was no establishment of baseline data, nor did the mandate directly address an ultimate determination be made as to the causation for the impacts recorded." While these studies and the resulting data can be viewed as "somewhat skewed" by those involved with

While these studies and the resulting data can be viewed as somewhat skewed by those involved with commercial pack operations, there are those that feel wilderness impacts from commercial packers are still not being reduced, despite years of litigation and study.

"Trail conditions are worse than ever, hiker and backpacker complaints are more numerous than ever," High Sierra Hikers Association representative Peter Browning said, "and a recent survey by scientists at the University of California, Davis showed that horse and mule manure is polluting Sierra lakes and streams."

Despite ongoing criticism of Laporte's level of response to their overall concerns, one goal the conservation groups had sought will now be enforced. This latest court ruling does require commercial packers, for the first time, to limit the number of stock per client.

"The court has concluded that a new pack-to-person ratio must be followed," Roeser said. "Pack outfits must now use only one pack-mule for every 1-1/2 persons in a party, so parties of three can have two mules, in addition to the stock that each individual is riding."

Aside from "use degradation" considerations, the conservation groups had also asked the court to prohibit grazing by commercial horses and mules "in the fragile alpine wetlands that are home to the Yosemite toad," which is only found in the High Sierra and, according to the conservation groups, is reportedly "on the verge of extinction."

While the court established new limits on grazing in the toad's breeding areas, the court declined to prohibit grazing in the remaining portions of the toad's upland habitat.

"It's progress, just not enough," Wilderness Watch's George Nickas said. "The science is clear that all of this imperiled amphibian's habitat needs to be protected. With this ruling, the toad is likely to continue its downward spiral toward extinction."

As with other elements of the issues involved in the court's decision, the perspective of pack operators differs.

"We take into account how best to be protective of all plant and animal life in the wilderness," Roeser said, "whether or not a court ruling said we should be attentive to protecting them – or whether they may or may not be viewed as uniquely impacted."

Mirroring that sentiment, the USFS Inyo National Forest staff does not rely on judicial mandates, Upham also explained, to ensure that ongoing evaluation and adjustments to resource management remain a key focus of their mission.

"The Forest Service, as always, will continue to fulfill our obligation to manage and protect the resources of these special and unique wilderness areas," said Upham.

One more restriction that Laporte included in her ruling is that commercial operators will no longer be allowed to have campfires in areas where the general public cannot. This, too, was seen as a "step in the right direction" by the suing conservationists.

Another front in the legacy of packers operating within the Sierra Nevada backcountry is the historical aspects of pack operations.

"Packers have been supporting USFS operations and supplying the mining camps located in these mountains for nearly a century now," said Allen, "and it wasn't until the late 1920s or so that recreational pack trips began to occur. Packers have a long and important historical place within this entire range." In consideration of that historical presence, there may also be yet another component to be addressed in the ongoing evaluation of access and protections.

"The USFS, like everyone else, must comply with the National Environmental Protection Act (NEPA) guidelines – and that includes compliance with the National Historic Preservation Act (NHPA)," Allen said. "What that suggests is that any agency plan must also adhere to the NHPA requirements to identify and evaluate historic 'buildings, structures and associated features' of that heritage."

There has been just such an effort, Allen explained, to look at the history of packers' presence in order to better determine its eligibility for historic preservation.

"There has been a 'thematic evaluation' done of pack stations on the western portion of the Sierra, as well as in our eastern section," said Allen. "That study was completed just last fall and now those results are being reviewed by the California State Preservation Office. It may be decided that pack stations will be seen as appropriately included under the preservation criteria."

This could also include the historic trails utilized by packers through their history, Allen explained, as an integral "associated feature."

That potential protective determination could extend the access and use dialogue into an entirely unaddressed direction. Allen indicated the EHSPA is awaiting the results from the state's Preservation Office review. Whether pack stations and even trails will eventually be recognized as deserving of protection, pack outfits are scrambling to best prepare themselves to operate this season in full compliance with Laporte's directives.

"This all has actually created more questions and left a lot of things unanswered," Allen said. "The process to obtain permits for pack operations has become so much more complex than it ever needed to be."

Regardless of this latest dispatch from the legal front, Eastern Sierra packers will be doing again this season what they've always done – albeit at a reduced level – providing pack outings to some of America's most beautiful surroundings.

And whether Laporte's ruling in the matter earlier this month will bring an end to years of contention in this case remains to be seen. No decision regarding possible legal appeals has been announced.