



Appeals Court: Live trees must be protected pending ruling

2/12/2007, 6:18 p.m. PT

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The Associated Press

GRANTS PASS, Ore. (AP) — Big trees that survived a wildfire on the Umatilla National Forest in Eastern Washington must be left standing pending the outcome of a lawsuit challenging the decision to cut them for timber, a federal appeals court ruled Monday.

A three-judge panel of the 9th U.S. Circuit Court of Appeals found that U.S. District Judge Lonny R. Suko in Spokane, Wash., erred when he failed to grant a preliminary injunction halting logging on 9,423 acres of salvage timber sales in an area burned by the 2005 School fire.

The appeals court agreed with conservation groups that a prohibition against logging "live trees" larger than 21 inches in diameter, known as the Eastside Screens, applies to all trees that are not dead yet, even if the U.S. Forest Service has decided they will be dead soon.

Neither the National Forest Management Act, nor the local forest plan defines the term "live trees," so the common meaning that they are all trees that have not yet died applies, wrote Judge Susan Graber.

"The Forest Service is free, of course, to amend the Eastside Screens to allow logging of old-growth dying trees," the judge wrote. "Unless and until it does so, there is no basis to adopt its proposed definition."

The Eastside Screens were adopted on nine Northwest national forests east of the Cascade Range in 1994 to promote old growth forests and the species that live in them while a comprehensive management plan was being developed. By protecting the most commercially valuable trees, they have significantly reduced federal logging in the region.

About a third of the trees sold for logging after the School fire have been cut, including live trees that would have been protected by a temporary restraining order, said Mike Petersen, executive director of the Lands Council in Spokane, Wash., the lead plaintiff in the case. Snow has prevented logging the rest until spring.

"The agencies are looking for any excuse they can to log these big trees," said Doug Heiken of Oregon Wild, another plaintiff in the case. "Salvage was the one loophole they had on these Eastside Screens.

"They stretched the rule beyond recognition, taking trees that were damaged but certainly not dead. Any tree that has lived 300 years out there has survived fires before and can survive fires again, but may not survive the chain saw if we don't give them a chance."

Umatilla National Forest Supervisor Kevin Martin, the defendant in the lawsuit, did not immediately return a telephone call for comment.

Chris West, vice president of the American Forest Resource Council, a timber industry group, said the ruling pointed out the need to revise the Eastside Screens.

"When we have judges in San Francisco second-guessing trained professional foresters on the determination if a tree is going to live after a catastrophic wildfire it is crazy," said West.

"If we wait any longer there is going to be no value left in this salvage potential and not only is the federal government going to lose out, but so will the people who work in the woods and the communities in which they live."

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