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13. FORESTS

Judge blocks Ore. salvage timber sale because trees are still alive

Dan Berman, *Greenwire* reporter

A federal judge last week issued a temporary injunction blocking a planned salvage timber sale in Oregon's Malheur National Forest after environmental groups said the Forest Service is illegally planning to cut down living trees.

U.S. District Judge Garr King in Portland, Ore., ordered the Forest Service to stop plans to harvest 2.7 million board feet of dead and dying timber from 209 acres burned in the 2002 High Roberts fire. King said the proposed timber sale appeared to violate the "Eastside Screens," a clause in forest plans for areas east of the Cascade Range designed to protect live trees greater than 21 inches in diameter.

"Although the Forest Service categorizes many of the marked trees as 'dying,' the plain meaning of 'live' is still living, in other words, not dead," said King in his [order](#) Friday. King added that the Forest Service does not deny that trees marked for cutting are currently alive and greater than 21 inches in diameter.

The Forest Service says any living trees marked for cutting in the forest are dying. "Trees that appear green could really be slowly starving to death because they were girdled by the fire," said Ken Kincaid, Prairie City ranger district forester, last month. "It may not die immediately. It may take a year or two for the tree to turn brown and die" ([Greenwire](#), Nov. 8).

Andy Stahl, executive director of the Forest Service Employees for Environmental Ethics, one of the plaintiff groups, said the Forest Service has been engaging in "mission creep," expanding the definition of dead trees in order to increase salvage projects.

King's order will likely not place limits on future timber sales that are not already written in the forest plans, Stahl said. "If the Forest Service had been following their own plans, this decision would have no effect because they would have already been doing what they're supposed to do," Stahl said.

Stahl said four large ponderosa pine trees in particular have become poster children in the lawsuits filed by FSEEE and the League of Wilderness Defenders. King's order could give everyone time to see if Forest Service projections that the trees will die within a year are correct, Stahl said.

Environmental studies normally required by the National Environmental Policy Act were not needed for this project because the Forest Service used a provision of President Bush's Healthy Forests Initiative that exempts small salvage projects. The "category 13" exclusions allow salvage removal of up to 250 acres of commercially valuable trees

harmd by fire, wind, ice, insects or disease. The trees must have been "severely damaged" and either dead or dying to qualify for the NEPA exemption.



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