

'Live' tree dispute kills logging plan

A federal judge's injunction against the fire-salvage harvest of an old-growth stand could have wide-ranging effects east of the Cascades

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A federal court injunction issued Friday against a fire salvage logging plan in Eastern Oregon could have sweeping effects on how the U.S. Forest Service determines which trees to cut east of the Cascade Range.

In Portland, U.S. District Judge Garr M. King sided with conservation groups, ordering a halt to Forest Service plans to log 209 acres of old-growth trees in a 2002 burn in the Malheur National Forest.

The preliminary injunction against the High Roberts fire salvage came in response to two November lawsuits by the League of Wilderness Defenders and the Forest Service Employees for Environmental Ethics.

The groups claimed the agency was abusing its discretion in applying rules governing salvage logging of burned stands. They said the Forest Service was set to cut living old-growth trees, and they asked the court to temporarily halt the project.

King said the injunction was based primarily on one issue. Under a provision known as "eastside screens," the cutting of "live" trees greater than 21 inches in diameter is prohibited. The conservation groups argued that the Forest Service was set to violate that policy because it was calling living trees "dead or dying."

"Although the Forest Service categorizes the marked trees as 'dying,' the plain meaning of 'live' is still living, in other words, 'not dead,'" King wrote in his opinion.

Ralph Bloemers, a Cascade Resources Advocacy Group attorney who represents the League of Wilderness Defenders, said the case provides a good example of what is actually happening on the ground in the fight to save old-growth forests. He said the government is using flawed mortality guidelines. Bloemers said experts found that few trees marked for cutting were dead. He showed pictures in court of large green pines and said the ground fire that burned there increased forest health.

"At this point it's about the fact that they can't cut old-growth trees using those rules when the trees are alive," Bloemers said.

Andy Stahl, executive director of Forest Service Employees for Environmental Ethics, said the judge's ruling will affect logging not just in burned stands, but in any old-growth forest on the east side of the Cascade Range in Oregon and Washington.

He said the Forest Service often sells stands to timber companies based on whether trees will die rather than whether they are already dead because of insect infestation.

"This decision has implications far beyond this one timber sale, and it has implications beyond salvage logging," Stahl said. "It's all about protecting old-growth trees."

The employee group's lawsuit was based on a protest by Dan Becker, a former Forest Service employee and whistle-blower who worked in the Malheur forest. He said the Forest Service guidelines for determining tree mortality were flawed, and he circulated a letter in protest.

The Forest Service has prevailed in challenges to other salvage logging projects in the West. But

King's ruling follows a ruling last month by U.S. District Judge Ancer L. Haggerty in Portland over another logging project in the Malheur forest. Haggerty said the Forest Service was using flawed science to determine critical populations of woodpeckers and other wildlife, and he criticized the agency for not revealing serious scientific debate over a controversial Forest Service hypothesis regarding catastrophic second fires in recently burned areas.

The High Roberts fire salvage was approved in September for 209 acres along the southern border of the Strawberry Mountain Wilderness. Forest managers approved using helicopters and tractors to remove 2.6 million board feet of dead and dying trees before insects and decay ruin their value. In July 2002, fire burned through about 13,535 acres of the 388,000-acre Malheur National Forest.

The Forest Service said the project would have no effect on old-growth forest, endangered or sensitive species, or critical habitat. The agency determined the project meets standards under salvage logging rules that allowed it to move forward with limited environmental assessment or public review.

Attorneys representing the Forest Service could not be reached for comment Friday.

The latest ruling stops the High Roberts logging project for now but does not stop the debate.

Still to be determined is whether the Forest Service guidelines for determining tree mortality after fires are valid. Environmentalists contend they are flawed, unproven and lack scientific peer review.

Future court debate also will come on claims that the Forest Service approved timber cutting in sensitive areas without the proper environmental studies. The League of Wilderness Defenders charged that the agency approved logging without taking into account the impact to threatened bull trout and other wildlife. And it charged that the rules for salvage logging -- a pillar of the Bush administration's Healthy Forests Initiative -- should be set aside because they never underwent environmental analysis themselves.

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