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Contact: Asha Aiello, 503-222-9505

AFRC Secures Legal Win for Public Safety and Forest Health

Portland, OR – In a win for public safety and forest health, the U.S. District Court for the Eastern District of California yesterday approved a roadside hazard tree removal project on the Sequoia National Forest.

The Forest Service developed the Bull Run Roadside Hazard Tree Removal Project in response to the lightning-induced Cedar Fire that burned approximately 29,322 acres in the summer of 2016. The purpose of the Bull Run Project is to remove dead or dying trees along 50.2 miles of road (3,500 acres) that create dangerous conditions for the public, firefighters, and those looking to safely access public lands. The project also generates economic benefit to local communities by providing raw materials to manufacture local, renewable wood products.

Environmental groups opposed the public safety project and attempted to delay implementation through a lawsuit. Environmental plaintiffs used the “throw spaghetti at the wall and hope something sticks” approach, claiming the Forest Service violated multiple federal laws in planning the important project, including the National Environmental Policy Act and Endangered Species Act.

Ultimately, the plaintiffs hoped a lawsuit would force the Forest Service to convene a more time consuming, exhaustive, expensive, and unnecessary process to remove the hazardous trees. AFRC intervened on behalf of its member Sierra Forest Products, which has the contract to implement some of the project.

The District Court shut down the plaintiffs’ claims and delay tactics. First, the court relied on other district court opinions that have upheld the use of the road maintenance categorical exclusion (CE) in similar circumstances and that removing hazard trees that may fall on a road fits within the general scope of the CE. The court also rejected plaintiffs’ claim that the commercial component of the project brings it outside of the scope of ordinary road maintenance. The court determined that the road maintenance CE contains no such limitation that felled trees be left in place and such an interpretation would result in practical difficulties. Finally, the court upheld the Forest Service’s explanation why the effects on the Pacific fisher and California spotted owl were insignificant.

“We are pleased to see Judge O’Neill uphold the use of a very important Forest Service tool that allows the agency to quickly and effectively remove hazard trees along roadways,” stated AFRC staff attorney Sara Ghafouri. “As more intense and severe wildfires destroy forest resources and create unsafe conditions, it is crucial that the Forest Service be able to take appropriate action to protect public and firefighter safety. That’s really what this case is all about.”

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About the American Forest Resource Council

AFRC is a regional trade association whose purpose is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. AFRC does this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. It works to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands. The goal of AFRC's programs and initiatives is to advance its members' ability to practice socially and scientifically responsible forestry on both public and private forest lands.