



***For Immediate Release: November 29, 2018***

*Contact: Asha Aiello, 503-222-9505*

## **Montana Court Upholds Moose Creek Project and Montana Landscape Designation, In Big Step Forward for Wildfire Prevention**

Portland, OR - On November 19, 2018, Judge Molloy of the United States District Court, District of Montana, issued a strong decision upholding the Moose Creek Vegetation Management Project (Moose Creek Project) on the Helena-Lewis and Clark National Forest. This is the fourth significant legal win involving the 2014 Farm Bill management tools in the last year, and an important decision for reducing wildfire risk and improving forest health using tools already allotted to the Forest Service.

The [Moose Creek Project](#) is in an area [designated](#) by the Chief of the Forest Service as at risk of insect and disease. Montana Governor Steve Bullock requested the designation of nearly five million acres across Montana's National Forests. Passed by overwhelming bipartisan majorities and signed by President Obama, the 2014 Farm Bill includes many tools to expedite forest management in response to the ongoing crisis in forest health. One of those tools allows the Forest Service to use a categorical exclusion (CE) to streamline paperwork for certain projects treating up to 3,000 acres of forest at risk from insect or disease outbreaks.

The Moose Creek Project is one such project: it is designed to maintain and restore 2,200 acres northeast of White Sulphur Springs, Montana that has been adversely affected by severe infestations of spruce budworm and mountain pine beetle. The project treats part of the wildland-urban interface identified in Meagher County's Community Wildfire Protection Plan as an important area to treat for fire resilience and public safety.

Environmental groups still brought suit against the project, and AFRC attorneys intervened in the case on behalf of Montana Logging Association, Meagher County, and Montana Wood Products Association. The State of Montana also filed an *amicus* brief in support of the project.

The court rejected all the environmental groups' claims against the Moose Creek Project and the landscape designation. Judge Molloy determined that designation of the 5-million-acre landscape does not require a separate NEPA analysis because the designation doesn't have environmental effects. He also rejected the environmental groups' assertion that "extraordinary circumstances" preclude the use of the CE, meaning that the Forest Service's separate regulatory process should not be added to the steps explicitly specified in the Farm Bill.

The court also rejected claims that the Forest Service did not use the best scientific information concerning fire ecology and restoring connectivity of wildlife habitat and did not demonstrate that it designed treatments in a way to maximize the retention of old growth and/or large trees. The

latter ruling follows the [language](#) in the Farm Bill which directs implementation of projects in a manner that “maximizes the retention of old-growth and large trees, as appropriate for the forest type, to the extent that the trees promote stands that are resilient to insects and disease.” Environmental groups claimed that the project violated the Farm Bill because there are treatments in stands that contain some older trees. Because the record supports that the older trees slated to be removed were impacted by insects and disease, the court ruled “[u]ltimately, Plaintiffs’ insistence that no old growth can be removed under HFRA is not consistent with the statute and their old-growth challenge fails.”

“Congress came together in 2014 to pass significant forestry improvements in the Farm Bill. It is encouraging to see yet another favorable decision in response to a Farm Bill CE challenge. This ruling is an important step toward protecting existing tools. In the Farm Bill currently under consideration, Congress has a great opportunity to protect forests and fire-vulnerable communities, because administrative processes and litigation are still slowing up projects like Moose Creek. We encourage Congress to reauthorize the Farm Bill and include robust forestry titles,” said Lawson Fite, AFRC General Counsel.

#####

#### 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 ultimate 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.