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## **The Project Old Enough to Vote: AFRC Secures Affirmative Decision on Frog Project Needed to Restore Forest Health**

Portland, Ore. – In a landmark decision after a long history, The American Forest Resource Council (AFRC)'s legal team, working with the Forest Service, obtained a victory on the Frog Project in Southern California. In September of 2017, Judge Anthony Ishii of the Eastern District of California issued an order permitting the Frog Project to proceed. The Ninth Circuit affirmed the district court's favorable opinion on Friday, May 18<sup>th</sup>. AFRC member Sierra Forest Products purchased the contract on the project – *in 2001* – and intervened in the lawsuit.

The Frog Project proposes to improve forest stand health on 1,630 acres in the Sequoia National Forest by thinning small understory trees to reduce stand density. This type of forest management is essential to support a robust forest products industry and rural economies, but even more so for the long-term health of the forest and wildlife during this era of megafires caused in part by lack of responsible federal forest land management.

The project has a long litigation and planning history. It was first proposed in 1999 and Sierra Forest Products acquired the contract to operate the first sale on the project in 2001. Operations commenced in 2004 but were halted by the McNally Fire. Litigation followed and the U.S. District Court, Northern District of California (Judge Charles Breyer) issued a preliminary injunction in 2005 and a permanent injunction in 2006. The court found that a supplemental NEPA review was warranted due to new information about the status of Pacific fisher in the southern Sierras. The initial injunctions remained in place for seven years.

In 2013, the Forest Service completed a revised Environmental Assessment and the court dissolved the injunction. Sierra Forest Products resumed operations in 2015. Shortly before the 2016 operating season, a lawsuit was filed, claiming that the 2013 revised EA needed to be supplemented because of effects on fisher habitat arising from the recent mortality epidemic in the southern Sierras.

This encapsulates the litigation problem on public forests; if projects like Frog were not delayed by litigation, the healthy forest would have resisted many of the impacts of the severe drought. The Forest Service voluntarily suspended Frog operations for a year in order to obtain some additional vegetation data in light of the recent insect/disease epidemic. In April 2017, the Forest Service, having completed its analysis of the data, determined not to prepare a supplemental EA for Frog and issued a Supplemental Information Report (SIR). Judge Ishii's order came with just enough time to resume operations in 2017. The court's thorough 60-page opinion found the Forest Service's SIR and its decision on supplementation were not arbitrary or capricious.

AFRC hopes this decision will also lead to positive outcomes in other cases in the southern Sierras. There continues to be a need for forest health treatments in this area and the Forest Service determined any impacts in the short term would be well balanced by improvements to forest health and resilience.

“We are very pleased that the Ninth Circuit issued its ruling approving the Frog project after over 18 years of planning and litigation,” stated AFRC General Counsel Lawson Fite, who argued the case in the Ninth Circuit on May 15. We will continue to press for reasonable litigation reforms to ensure valuable projects don’t get stalled for decades while forest health continues to decline.”

AFRC President Travis Joseph added, “It’s really good news that this project has finally cleared all its legal hurdles, but we need to do more to keep up with the pace and scale of the forest health crisis.”

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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.