



USDA Forest Service
National Forest System Briefing Paper
Date: June 25th, 2013

Issue: Vegetation Management Litigation Trends in Region 1 (R1)

A. FY 13 Complaints Received, Notice of Intent to Sue (NOI) and Associated Preliminary Injunctions

Trapper Creek was withdrawn in response to litigation. Motion for preliminary injunctions (PI) was filed on the Young Dodge Timber Sale June 8, 2013.

Project	Document	Unit	Plaintiff/Notifier	Complaint Filed/NOI	Volume (CCFs)	Planned Treatment Acres
FY 13						
Lonesome Wood II	EIS	Gallatin	Native Ecosystems Council	03/20/13	11,894	1312
Trapper Creek	EA	B-D	Native Ecosystems Council	12/18/12	N/A	3400
Glacier Loon Fuels	EA	Flathead	Friends of the Wild Swan Swan View Coalition Alliance for Wild Rockies Native Ecosystems Council	06/24/13	20,860	925
Young Dodge	EIS	Kootenai	Alliance for Wild Rockies	05/14/13	36,000	1,700
Millie Creek RHR	CE	Gallatin	Alliance for Wild Rockies Native Ecosystems Council	NOI 05/22/13	1,290	191
Blankenship	EA	Lewis/Clark	Native Ecosystems Council	05/31/13	12,200	536
Rennic Stark	EA	Lolo	Alliance for Wild Rockies Native Ecosystems Council	NOI 05/24/13	4,892	639
Total¹					87,136	5,303

B. FY 13 Appeals Received and Outcomes

Two decisions appealed In FY 13 were also litigated this year: Lonesome Wood II and Glacier Loon Fuels. Additionally, Millie Creek Roadside Hazard Tree Removal and Rennic Stark have received a NOI.

Project	Document	Unit	Appellants	Outcome	Volume (CCFs)	Planned Treatment Acres
FY 13						
Griffin Creek	EA	Flathead	Dick Artley Friends of Wild Swan Swan View Coalition Alliance for Wild Rockies	Withdrawn	36,000	2,800
Lonesome Wood II	EIS	Gallatin	Native Ecosystems Council	Affirmed	11,894	1,312
Glacier Loon Fuels	EA	Flathead	Dick Artley Friends of the Wild Swan Swan View Coalition Alliance for Wild Rockies Native Ecosystems Council	Affirmed	20,860	925
Lower Priest	EA	IPNFs	Dick Artley Alliance for Wild Rockies	Affirmed	20,000	1,070
Rennic Stark	EA	Lolo	Alliance for Wild Rockies Native Ecosystems Council	Affirmed w/instructions	4,892	639

FY 13 Appeals Received and Outcomes (Continued)						
Project	Document	Unit	Appellants	Outcome	Volume (CCFs)	Planned Treatment Acres
Lower Orogrande	EIS	Nez/Clr	Dick Artley Friends of Clearwater	In Appeal Review	11,000	1,180
Three Saddle	EA	Bitterroot	Dick Artley Ravalli Co. Off Road Users Floyd Wood	In Appeal Review	20,342	1,291
Millie Creek RHR	CE	Gallatin	Alliance for Wild Rockies Native Ecosystems Council	In Appeal Review	1,290	191
Spring Gulch	EA	Kootenai	Alliance for Wild Rockies Lands Council	Appeals – resolved;	7,000	234
Pilgrim Creek	EIS	Kootenai	Dick Artley Alliance for Wild Rockies Lands Council	Appeal Review week July 15th	37,600	1,458
Total					170,878	11,100

C. FY 12 Complaints Received and Preliminary Injunctions

Region 1 received nine complaints in FY 12 associated with vegetation projects. This is similar to the total number of complaints filed on vegetation projects in previous years. Little Belt Hazard Tree was withdrawn in response to litigation. Fleecer and Cabin Gulch Timber Sales received an adverse decision on May 24 and June 25, 2013 respectively. Spotted Bear River received a favorable magistrate recommendation on June 3 and is awaiting decision. Fern Hardy, Bozeman Municipal Watershed, East Boulder, Solider Addition II, Flathead Pre-Commercial Thin have been fully briefed and are awaiting decision. Little Slate briefing will be completed this summer.

On June 21, 2013, Plaintiffs' filed a motion for a PI on both Spotted Bear River and Solider Addition II decision, which comprises the Tin Mule Timber Sale. The Flathead Pre-commercial Thinning Decision also received a motion for a PI on the same date.

Project	Document	Unit	Plaintiff	Complaint Filed	Volume (CCFs)	Acres Treated
FY 12						
Fern Hardy ²	EA	Idaho Panhandle	Idaho Conservation League	01/04/12	19,150	638
Fleecer	EA	Beaverhead-Deerlodge	Native Ecosystems Council Alliance for Wild Rockies	02/21/12	44,000	2,000
Spotted Bear River	EA	Flathead	Friends of the Wild Swan Swan View Coalition	02/28/12	20,000	1,000
Bozeman Municipal Watershed & East Boulder	EIS	Gallatin	Alliance for Wild Rockies Native Ecosystem Council	04/10/12	18,184	1,112
Soldier Addition II	EA	Flathead	Friends of the Wild Swan Swan View Coalition	04/16/12	26,214	649
Pre-commercial Thin	DM	Flathead	Alliance for Wild Rockies	05/29/12	N/A	3,650
Cabin Gulch	EIS	Helena	Alliance for Wild Rockies	09/06/12	28,635	1,319
Little Slate	EIS	Nez Perce	Alliance for Wild Rockies	09/11/12	69,350	1,820
Little Belt Mountain Hazard Tree	DM	Lewis & Clark	Alliance for Wild Rockies	09/14/12	TBD	17,000
Total³					225,532	12,188

D. Ongoing Complaints from Previous Fiscal Years

The region has **ongoing** litigation for a number of projects that were litigated prior to FY 12, including Colt Summit [Lolo NF], Grizzly Vegetation and Transportation Management, Miller West Fisher [Kootenai NF], and the Bussell 484 Project on the IPNF. These projects total about **105,049 CCFs** and approximately **3,495 acres** of planned treatment. A Supplement to the Colt Summit EA was prepared and recently rejected by the Montana District court.

Ongoing litigation is affecting the Regions' ability to meet timber volume sold targets, which affects our ability to sustain jobs for our local communities as well as contributing to the restoration of ecosystem resiliency.

E. Northern Rockies Lynx Amendment Litigation

On April 4, 2013, the United States District Court for the District of Montana found against the Forest Service when it failed to re-initiate programmatic consultation with the U.S. Fish and Wildlife Service (FWS) on the Lynx Forest Plan Amendment after the FWS subsequently designated lynx critical habitat. The Court did not enjoin any specific projects and did not grant the broad injunctive relief requested by the plaintiffs. However, Plaintiffs are now amending previous project complaints to include the Salix decision.

The Forest Service is currently determining the next steps to take in the lawsuit. No decision has been made at this time.

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¹ Total does not reflect Trapper Creek acres.

² Sale awarded in 09/24/11.

³ Total does not reflect Little Belt Mtn acres.