

Oregon

Appeals court rules there are limits to ESA protections

Whitebark pine faces threats from disease, insects, fire suppression

By MATEUSZ PERKOWSKI
Capital Press



Richard Sniezko/U.S. Forest Service
A stand of whitebark pine grows near Crater Lake in Oregon.

Whitebark pine was lawfully denied Endangered Species Act protection despite facing the danger of extinction, according to a federal appeals court.

The U.S. Fish and Wildlife Service properly concluded that ESA protection for the tree was "warranted but precluded" by proposed listings for other species, the 9th U.S. Circuit Court of Appeals has ruled.

The Wildwest Institute and the Alliance for the Wild Rockies filed a lawsuit arguing the decision was arbitrary and capricious because the agency had considered whitebark pine a high priority for listing.

The 9th Circuit has rejected this argument, ruling that the Fish and Wildlife Service was allowed to consider other factors beyond the "listing priority number," or LPN, of a species in reaching the conclusion that ESA protection was "warranted but precluded."

The language of the ESA makes clear the LPN "ranking system is just one tool used to identify priorities for listing," the 9th Circuit said, upholding an earlier decision by Chief Judge Dana Christensen of the U.S. District Court of Montana.

"Congress and FWS enshrined flexibility into the system so that the responsible agency could make the most efficient and effective use of its resources," according to the 9th Circuit's opinion.

The appellate court also

decided the agency wasn't required to "provide a detailed, individualized explanation for each species" whose listing precluded protection for whitebark pine.

"We decline to impose such a burdensome requirement, which would divert scarce agency resources to writing justifications rather than studying the pertinent sciences, species, and ecosystems," the ruling said.

Even so, the 9th Circuit judges said that "vigorous advocacy for this imperiled species is laudable" and that they can appreciate the plaintiffs' "frustration with the slow-moving ESA process."

"Despite its best efforts, FWS's ability to protect species through the ESA is limited by practical realities," the ruling said.

Whitebark pine are being killed by a disease, white pine blister rust, as well as an insect, the mountain pine beetle, according to the Fish and Wildlife Service.

Meanwhile, other species of trees have crowded out whitebark pine due to fire suppression efforts over the past century, the agency said.

Revived bull trout lawsuit seeks grazing prohibition

By MATEUSZ PERKOWSKI
Capital Press

PORTLAND — A long-standing dispute over cattle impacts on bull trout has been roused from dormancy, with two environmental groups seeking an order prohibiting grazing along two Eastern Oregon rivers.

The Oregon Natural Desert Association and the Center for Biological Diversity initially filed a complaint challenging federal grazing authorizations along the Malheur and North Fork Malheur rivers in 2003.

That lawsuit was combined with two later grazing cases that were eventually closed, but the environmental groups were unable to settle the original litigation with the U.S. Forest Service and the affected ranchers.

During oral arguments on May 5, the plaintiffs asked U.S. Magistrate Judge Paul Papak to declare that grazing authorizations in seven allotments of the Malheur National Forest violated the National Forest Management Act and the National Wild and Scenic Rivers Act.

"The bull trout is in serious



Courtesy U.S. Fish and Wildlife Service

The bull trout is listed as threatened under the federal Endangered Species Act.

trouble in these two watersheds," said Mac Lacy, attorney for ONDA. "We are at an important point here. Immediate action is needed to stave off that damage."

Trampling by cattle erodes soil along streams, harming bull trout egg nests, as well as widening river channels and reducing vegetation, which raises water temperatures to the detriment of fish, the plaintiffs claim.

Bull trout were listed as a threatened species nearly two decades ago, resulting in pro-

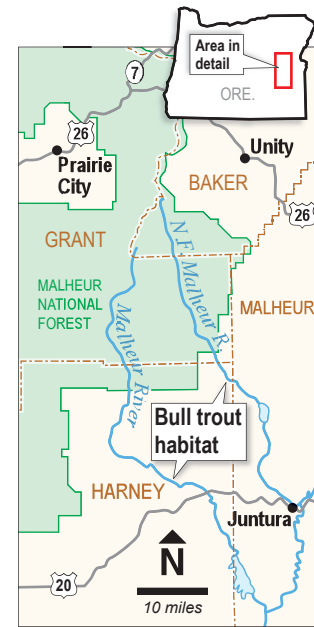
tections for their in-stream habitats across the Northwest.

"On-the-ground conditions are relevant to the Forest Service's decision-making, or they should be," Lacy said.

However, only about 50 bull trout inhabit each of the two rivers in question, which shows the Forest Service's approach isn't working, he said.

"The populations themselves are dropping precipitously," Lacy said.

The bull trout's fortunes have continued to decline even though the agency reports that



Alan Kenagal/Capital Press

conditions are improving, he said.

The Forest Service bases this conclusion on proxy measurements, such as stubble height and stream bank alteration, Lacy said.

Meanwhile, the areas continue to fall short of the actual "riparian management objectives" that are integral for fish recovery, he said.

Aviation field day introduces sixth-graders to ag-related careers

By SEAN ELLIS
Capital Press

ONTARIO, Ore. — Every sixth-grader in Malheur County was introduced to the locally available ag-related careers involving aviation during a May 4 field day at the Ontario Municipal Airport.

About 400 students got a chance to learn about aviation, speak with pilots who fly helicopters and airplanes to spray farm fields, and experience flying using virtual reality goggles.

They also learned about some of the locally available jobs centered around aviation, including crop duster pilots and associated engineering jobs.

"We really want to get the kids thinking about the careers available locally, including careers in agriculture, and keep them in our community," said event organizer Barbara Brody, Oregon State University's local 4-H coordinator.

She said 4-H did a community needs assessment five years ago and found that many kids did not know what careers are available in the area, which is heavily agricultural.

Brody began working with Frazier Aviation to expose kids to some of the jobs available locally and has recently partnered with Treasure Valley Community College, one of the few colleges in the nation where people can obtain an ag applicator license.

Part of the field day involved teaching the students about agriculture, which drives the local economy.

"A lot of these kids are not aware of what our local farmers do so it was a great way to expose them to the ag industry," Brody said.

In this area, farming and aviation go hand-in-hand, said Tommy Frazier, owner of Frazier Aviation.

Three ag applicators are based at the airport, a lot of area ranchers utilize helicopters in their operations and employees of many of the region's biggest farm companies regularly fly in and out of the area, he said.

Careers in aviation and associated industries, such as

drones, are going to expand in the near future, Frazier said, and TVCC's aviation program will allow local residents to participate in those careers.

"There are going to be some excellent opportunities here locally," he said. "And those kids are not going to have to go out of state to do that. They can do it right here."

Aviation has always been a career that many people want to be in but are not sure how to go about getting into, said Paul McAlvain, president of Pauly's Helicopter Services.

McAlvain spent the field day showing kids his helicopter and explaining how the boom attached to it is used to apply chemicals to farm fields.

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