

Lawsuit targets post-fire tree removal

By MATEUSZ PERKOWSKI
Capital Press

An environmental group claims the U.S. Forest Service unlawfully approved the removal of hazard trees burned last year in the Rogue River-Siskiyou National Forest.

The Klamath Forest Alliance has filed a lawsuit accusing the agency of improperly “categorically excluding” the Slater Fire Safe Re-entry Project from environmental analysis.

The complaint alleges that logging trees along 146 miles of roadsides without an “environmental assessment” or a more rigorous “environmental impact statement” violates the National Environmental Policy Act.

The project is expected to generate about 30 million board-feet of timber — enough to fill 6,000 logging trucks — which is larger than intended for a “categorical exclusion” based on “repair and maintenance,” the plaintiff said.

“The Forest Service has failed to articulate a rational explanation as to why such a major ‘salvage’ logging project constitutes ‘road repair and maintenance’ such that the Forest Service may avoid



Courtesy U.S. Forest Service

An environmental group claims the U.S. Forest Service unlawfully approved the removal of hazard trees burned last year in the Rogue River-Siskiyou National Forest.

preparation of an EIS or even an EA,” according to the complaint.

The Slater Fire erupted in September 2020 and spread over 157,000 acres, including about 65,000 acres in the national forest, whose nearly 1.8 million acres straddles the Oregon-California border.

The project authorizes removing trees that are not only dead, but those which have a potential to fall onto roads within five

years, the complaint said. Under the standards used by the Forest Service, “many trees that the project authorizes for felling pose no immediate hazard.”

More recent guidelines for assessing post-fire tree status also predict fewer trees will die based on crown scorch than the standards applied by the agency, the plaintiff claims.

Most of the damaged trees in the project area will be removed,

eliminating more than 1,000 acres of post-fire snag habitat for the threatened northern spotted owl and disturbing the ecosystem more severely than leaving the logs in place, the complaint said.

Even though the Forest Service acknowledges the treatment is “likely to adversely affect” the spotted owl, it hasn’t consulted with other agencies on the impacts, as required under the Endangered Species Act, according to the plaintiffs.

The project also authorizes logging more than 2,000 acres of “late succession reserves” that would normally be protected under the Northwest Forest Plan, the complaint said. The ecological role of dead and dying trees must be considered in such reserves.

Klamath Forest Alliance alleges that “categorical exclusions” do not apply to “a commercial logging project of this scale, involving the removal of tens of thousands of trees.” The adverse effect on spotted owls is an “extraordinary circumstance” that warrants environmental analysis, the plaintiff said.

The Forest Service failed to explain how logging in late successional reserves is consistent

with the National Forest Management Act, the complaint said. The plaintiff may also pursue an Endangered Species Act claim after the required 60-day notice period.

The plaintiff has asked a federal judge to overturn the project’s approval and prohibit its implementation until the Forest Service has proven it complies with environmental laws.

A representative of the Forest Service said the agency doesn’t discuss pending litigation.

In a decision memorandum, the Forest Service said the project was necessary to abate hazards from frequently traveled routes through the forest.

The project aims to remove trees that may eventually become dangerous to avoid multiple entries into fire-damaged areas, the agency said. Seed trees will be left standing in these areas to provide natural forest regeneration.

The “categorical exclusion” for the project is permitted as a post-fire rehabilitation activity up to 4,200 acres and was recommended by an interdisciplinary team of resource specialists, the agency said.

LEGAL

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re

Chapter 11

EASTERDAY RANCHES, INC., *et al.*

Lead Case No. 21-00141-11
Jointly Administered

Debtors.¹

NOTICE OF SALE OF PROPERTY BY AUCTION, SALE OBJECTION DEADLINE, AND SALE HEARING

NOTICE TO CREDITORS OF EASTERDAY RANCHES, INC. (“RANCHES”); EASTERDAY FARMS (“FARMS”); CODY EASTERDAY AND DEBBY EASTERDAY, HUSBAND AND WIFE, KAREN EASTERDAY, IN HER INDIVIDUAL CAPACITY AND AS THE PERSONAL REPRESENTATIVE OF THE ESTATE OF GALE EASTERDAY² (COLLECTIVELY, THE “EASTERDAYS”).

PLEASE TAKE NOTICE OF THE FOLLOWING MATTERS THAT MAY AFFECT YOUR RIGHTS:

On February 1, 2021, and February 8, 2021, respectively, Ranches and Farms (together, the “Debtors”), commenced chapter 11 bankruptcy cases (the “Bankruptcy Cases”) in the U.S. Bankruptcy Court for the Eastern District of Washington (the “Bankruptcy Court”).

The Debtors operate commercial farms and ranches that utilize multiple farms, feedlots, ranches, and other facilities that are commonly referred to as Nine Canyon Farm, Goose Gap Farm, River Farm, Cox Farm, Farm Manager House, and Storage Complex (the “Property”). The Property is owned in part by the Debtors (the “Debtor Property”) and in part by the Easterdays (the “Easterday Property”).

To maximize the value of the Property, the Debtors and the Easterdays determined that the Property should be marketed for sale together. Accordingly, on March 26, 2021, the Debtors filed two motions with the Bankruptcy Court: (i) a motion to approve a cooperation agreement (the “Cooperation Agreement”) between the Debtors and the Easterdays (together, the “Sellers”) and (ii) a motion (x) establishing a process to sell the Property and (y) to approve the sale of the Property at the conclusion of such process (the “Sale Motion”).

On April 28, 2021, the Bankruptcy Court entered an order (the “Cooperation Agreement Order”) approving the Cooperation Agreement between and among the Debtors and the Easterdays. On April 29, 2021, the Bankruptcy Court entered the Bidding Procedures Order which, among other things, (i) approved procedures for submitting offers and bidding at an auction for the Property (“Bidding Procedures”), (ii) approved procedures for the assumption and assignment of certain executory contracts and unexpired leases, (iii) scheduled a hearing on the sale, and (iv) granted related relief.

On May 19, 2021, the Sellers, entered into a purchase and sale agreement (the “Stalking Horse APA”) with Farmland Reserve, Inc. (“FRI” or the “Stalking Horse Bidder”), pursuant to which, and subject to higher and better offers in accordance with the Bidding Procedures:

(i) the Debtors shall acquire the Easterday Property, upon which transfer all of the Easterday Property shall constitute property of the Debtors’ bankruptcy estates in the Bankruptcy Cases and for which the Easterdays shall receive, subject to the approval of the Bankruptcy Court, an allocable interest in the Net Sale Proceeds, as such term is defined in the Cooperation Agreement;

(ii) the Debtors shall sell, assign, transfer, convey and deliver to FRI, and FRI shall acquire and accept from Debtors, free and clear of all Claims, Rights, and Encumbrances (as defined in the proposed Sale Order attached to the Stalking Horse APA), all of the Debtors’ rights, title and interest in and to the Property; and

(iii) FRI shall pay \$188,000,000 plus any transfer taxes or the like “Purchase Price” for the Property (i) through (iii), the “Sale”).

Also on May 19, 2021, the Debtors supplemented the Sale Motion with their motion to designate FRI as the Stalking Horse Bidder, approve the bid protections in the Stalking Horse APA, and supplement the relief requested by the Debtors in the Sale Motion to include authorization for the Debtors to acquire all rights, title and interest in and to the Easterday Property for the purpose of including the Easterday Property in the Sale, pursuant to the Stalking Horse APA (“Supplemental Bidding Procedures Motion”).

On May 28, 2021, the Bankruptcy Court entered an order granting the Supplemental Bidding Procedures Motion, pursuant to which the Bankruptcy Court (i) approved the Stalking Horse APA as the Stalking Horse Bid and FRI as the Stalking Horse Bidder, (ii) authorized the Debtors to enter into and perform under the Stalking Horse APA, subject to higher or otherwise better offers by other qualified bidders, and (iii) approved the Debtors’ request to supplement the relief requested by the Debtors in the Sale Motion to include authorization for the Debtors to acquire all rights, title and interest in and to the Easterday Property for the purpose of consummating the Sale with the Stalking Horse Bidder, subject to higher or otherwise better offers by other qualified bidders at an auction (the “Auction”) to be held on **June 14, 2021, commencing at 10:00 a.m. (Pacific Time)** (“Supplemental Bidding Procedures Order”).

THE BANKRUPTCY COURT HAS CURRENTLY SET JUNE 30, 2021 AT 4:00 P.M. (PACIFIC TIME) AS THE DEADLINE FOR ALL OBJECTIONS TO THE SALE (THE “SALE OBJECTION DEADLINE”).

All objections to the Sale and related relief must: (a) be in writing; (b) be signed by counsel or attested to by the objecting party; (c) conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court (“Local Rules”); (d) be filed with the Clerk of the Bankruptcy Court, 402 E. Yakima Avenue, Yakima, WA 98901 by no later than the Sale Objection Deadline; and (e) be served in accordance with the Local Rules so as to be received on or before the Objection Deadline by the following: (i) counsel to the Debtors: (a) Bush Kornfeld LLP, 601 Union Suite, Suite 500, Seattle, WA 98101, Attention: Armand J. Kornfeld (jkornfeld@bskd.com) and Thomas A. Buford (tbuford@bskd.com); and (b) Pachulski Stang Ziehl & Jones, LLP, 10100 Santa Monica Boulevard, 13th Floor, Los Angeles, CA 90067, Attention: Richard M. Pachulski (rpachulski@pszjlaw.com), Ira D. Kharasch (ikharasch@pszjlaw.com), Jeffrey W. Dulberg (jdulberg@pszjlaw.com) and Jason H. Rosell (jrosell@pszjlaw.com); (ii) the Office of the United States Trustee for the Eastern District of Washington, 920 W Riverside Ave, Suite 593, Spokane, WA 99201, Attn: Gary W. Dyer (Gary.W.Dyer@usdoj.gov); (iii) counsel to the Stalking Horse Bidder, Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101, Attention: Oren B. Haker (oren.haker@stoel.com) and Ellen E. Ostrow (ellen.ostrow@stoel.com); and (iv) those parties who have filed notices of appearance and/or requested service of all motions and pleadings in these Chapter 11 Cases prior to the date of service thereof.

THE SALE SHALL BE FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES OR OTHER INTERESTS UNDER SECTION 363 OF THE BANKRUPTCY CODE. THE ASSIGNMENT OF CERTAIN OF THE SELLERS’ CONTRACTS AND LEASES MAY BE APPROVED AND AUTHORIZED BY THE BANKRUPTCY COURT ABSENT A TIMELY OBJECTION BY ANY PERSON OR ENTITY CLAIMING AN INTEREST OR RIGHT IN SUCH CONTRACT OR LEASE. THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION ON OR BEFORE THE SALE OBJECTION DEADLINE MAY BE DEEMED CONSENT TO ANY SALE OR ASSIGNMENT APPROVED BY THE BANKRUPTCY COURT AND MAY BE A BAR TO THE ASSERTION OF ANY LIENS, CLAIMS, RIGHTS, ENCUMBRANCES OR OTHER INTERESTS IN THE PROPERTY SOLD, ASSIGNED OR OTHERWISE TRANSFERRED TO THE STALKING HORSE BIDDER OR THE SUCCESSFUL BIDDER(S), AND MAY BE A BAR TO ANY RECOVERY AGAINST THE STALKING HORSE BIDDER OR OTHER SUCCESSFUL BIDDER(S).

IF YOU ARE A CREDITOR OF THE SELLERS OR A CONTRACT OR LEASE COUNTERPARTY TO ANY OF THE SELLERS, YOUR RIGHTS MAY BE AFFECTED BY THE SALE OF THE PROPERTY TO THE STALKING HORSE BIDDER OR OTHER SUCCESSFUL BIDDER(S). You should review the documents related to the Sale and discuss them with your attorney. If you do not have an attorney, you may wish to consult one. Sale documents, including the Stalking Horse APA, Sale Motion, Bidding Procedures Order, Supplemental Bidding Procedures Order, and proposed sale order, can be obtained through the Bankruptcy Court or by requesting copies from the Debtors’ bankruptcy counsel by email to Jason Rosell (email: jrosell@pszjlaw.com). **If you do not want the Bankruptcy Court to approve the Sale, you must file an objection with the Bankruptcy Court by the Sale Objection Deadline as set forth above.**

A hearing to confirm the results of the Auction and approve the sale of the Property (the “Sale Hearing”) will be held before the Honorable Whitman Holt, United States Bankruptcy Judge, on **July 14, 2021 at 11:00 a.m. (PT)**, or at such other time as the Bankruptcy Court permits, in the United States Bankruptcy Court for the Eastern District of Washington, 402 E. Yakima Avenue, Second Floor Courtroom, Yakima, WA 98901. Parties may appear at the Sale Hearing by telephone. To make a telephonic appearance, parties must call 877-402-9757; code 7036041. The Debtors may adjourn or reschedule the Sale Hearing one or more times with prior notice filed on the docket in the Bankruptcy Cases or without prior notice by making an announcement at the Sale Hearing.

Dates set forth in this notice are subject to change, and further notice of such changes may not be provided except through announcements in open court and/or the filing of notices in the Bankruptcy Cases. Interested persons or entities are encouraged to monitor the electronic court docket for further updates.

¹ The Debtors along with their case numbers are as follows: Easterday Ranches, Inc. (21-00141) and Easterday Farms, a Washington general partnership (21-00176).

² The administration of the Estate of Gale Easterday is currently pending in Franklin County Superior Court, Case No. 21-450004-11. 5247685-1

Suit seeks to stop northeast Washington forest project

By DON JENKINS
Capital Press



Colville National Forest
Cows graze in the Colville National Forest in northeast Washington.

A Colville National Forest tree-thinning project to prevent insects, diseases and wildfire from spreading onto an adjacent Indian reservation in northeast Washington has been challenged by an environmental group.

The Kettle Range Conservation Group claims the U.S. Forest Service should do a more detailed environmental study before logging, according to a suit filed in U.S. District Court for Eastern Washington.

The group’s director, Tim Coleman, said he doesn’t disagree with the project’s goals, but wants more assurances the timber harvests won’t harm the environment.

“In essence, the lawsuit boils down to, the Forest Service is saying, ‘Trust us.’ And I’m concerned we don’t know what they’re going to do,” Coleman said.

The Forest Service declined to comment on the lawsuit.

The Sanpoil project, named for a Columbia River tributary, includes commercially logging about 5,100 acres. Other acres would be thinned, but the trees would have marginal or no value, according to the Forest Service.

Other land would be cleared by fire or by hand. The logging, controlled burns and brush clearing would free up water, nutrients and sunshine for other trees, making the forest healthier and able to survive bugs, diseases and fires, according to the Forest Service.

Republic District Ranger Travis Fletcher approved the Sanpoil project after an environmental assessment concluded it would not cause significant environmental harm.

Fletcher stated his decision was heavily influenced by the project’s location, just north of the Confederation Tribes of the Colville Reservation.

The tribe-supported project was proposed under the

Tribal Forest Protection Act, intended to keep insects, diseases and fires from spreading to tribal lands.

The Kettle Range lawsuit seeks a more-detailed environmental impact statement. It alleges logging and road building would turn forests into “clear-cut wastelands” and despoil pristine wildernesses and recreation areas.

According to the Forest Service, loggers would cut “smaller less vigorous trees and those infested by pathogens” and would stay away from old-growth areas.

If the logging produced 50 million board-feet over a decade, 90 private-sector and 10 public-sector jobs would be created, the Forest Service estimates. The non-commercial thinning would create 20 to 40 private-sector and 10 federal seasonal jobs.

The area has one grazing allotment authorized for 328 cow-calf pairs. The Forest Service figures that thinning the forest will open up about 10,000 more acres suitable for foraging cattle.

The agency has no plans to permit more cattle on the allotment, but each cow-calf pair would have 33 more acres to graze, reducing the intensity of grazing, especially along water, according to the Forest Service.

The suit alleges that expanding grazing acreage could be a problem because wolf-livestock conflicts lead to the state-sanctioned killing of wolves.

The suit also alleges that the Sanpoil project combined with other forest projects will have a cumulative effect on the environment.

“This is not an indictment of (grazing), an indictment of the timber industry or an indictment of treaty rights or anything like that. It has everything to do with the way the Forest Service is doing the project,” Coleman said.

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**PURSUANT TO ORS
CHAPTER 819**

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/07/2021. The sale will be held at 10:00am by

B.C TOWING INC
2140 TURNER RD SE SALEM, OR
2020 UTILITY V52RA TRL
VIN = 3UTV52535L8893816
Amount due on lien \$17,630.00
Reputed owner(s)
WESTERN AG INCORPORATED
MIDLAND STATES BANK

LEGAL

**PURSUANT TO ORS
CHAPTER 87**

Notice is hereby given that the following vehicle will be sold, for cash to the highest bidder, on 06/07/2021. The sale will be held at 10:00am by

COPART OF WASHINGTON INC
2885 NATIONAL WAY WOODBURN, OR
2019 FORD ECP UT
VIN = 1FMCU9GD5KUA72379
Amount due on lien \$1,455.00
Reputed owner(s)
DOUG WOODWARD HEATING INC
ALLY BANK

**PUBLIC LIEN SALE
U-STORE SELF STORAGE**
Auction Starts June 15, 2021
storageauctions.com
Ends Friday, June 25, 2021, 10am

1st - 1668 Industrial Way SW

Albany, Oregon

Dobson Katherine, Y013; Michelle Kimble, H094; Grace Moller, G002; Jordan Young, J001

2nd - 1501 Hawthorne Ave NE

Salem, Oregon

Lucy Briseno, 2D61; Jessica Jordyn Gregory, 2D69; Felipe Jimenez, 2D42; Joshua Kouches, 2A73; Larry R Lewis, 2B11; Casey Moore, 1D37; Kimberly Munz, Y217; Melissa Taylor, 1C01; Roger Tudela, 1C21; Phyllis Woodard, RD03

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