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THE UTAH ENVIRONMENTAL CONGRESS

Mission Statement: Reclaiming and acting upon our ancestral responsibility to the land, the Utah Environmental Congress brings people together to engage in genuine protection of living forest systems that provide islands of refuge in Utah's desert country.

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UEC Appeal Win Stops Logging Project on Manti-La Sal!

In December UEC won its appeal of the "Lake Project" timber sale because the logging approved violated Forest Plan standards and guidelines requiring specific amounts of deer and elk habitat. The Lake project logging was first proposed in the late 1990's as a part of the "South Tent" timber sale. With extensive logging in roadless old growth across the entire northern half of the Wasatch Plateau, South Tent was so controversial and unwieldy that it was shelved. Named after the scenic and roadless Lake Canyon, the Lake Project is the first notable South Tent spin-off.

Located on the Price Ranger District, this timber sale project included logging on 820 acres including harvest of high-elevation old growth Spruce and Subalpine fir timber, aspen clear cuts, and new road construction. In order to justify the proposed logging of mature and old growth Spruce forest the Forest Service irrationally claimed it would suppress a population of bark beetles. The Forest Service's own research has documented that logging to control beetle outbreaks is ineffective so the Forest's main purpose for the project would not be met. In addition, the impacts to sensitive species, such as the three-toed woodpecker, a species that thrives in areas with bark beetles, were not adequately mitigated. Also of concern were impacts to water resources and irreversible loss of areas that have roadless characteristics.

The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) were issued in September of 2006 revealing little change in the majority of the UEC's concerns. Thus we filed an administrative appeal in response to the MLSNF issuing a decision approving a project that would harm wildlife habitat. The UEC won the appeal by demonstrating the Forest Service's approval to log the area violated Forest Plan standards and guidelines for deer and elk hiding cover and foraging habitat.

In addition to being key big game species, Deer and Elk are management indicator species (MIS) that serve as bellwethers to indicate changes in habitat resulting from activities on the Forest. It is biologically unsound to go forward with a project such as a timber sale, without doing an accurate analysis as to how the project will impact wildlife and their habitat, particularly when it is known that the logging violates minimum standards for MIS habitat requirements.

If this project returns in a new form UEC will be there to make sure the wildlife that depends on these Forests are given a voice!

View from the Skyline Drive looking east into the roadless Lake Canyon. Cutting units are on the north-facing slope in center back.

Photo by Kevin Mueller.



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Forest Service Issues Final Rule for Forest Plan Regulations

In December 2006, the U.S. Forest Service finalized an amendment to its environmental procedures handbook approving drastic eliminations of environmental analyses for Forest Plans that are revised.

A Land and Resource Management Plan, also called a Forest Plan, is the central management document for each National Forest. These Plans are updated or revised every 15 -20 years and provide for the authorization of how all natural resources will be managed, and how projects will be implemented on the ground. They are legally binding documents.

The National Forest Management Act (NFMA) requires Forest Plans for every National Forest in the country. Under the 1982 NFMA implementing regulations, the Forest Service had to develop an Environmental Impact Statement (EIS) for each Forest Plan that required a reasonable range of alternatives the public could comment on and/or raise concerns about. The EIS contained important environmental analyses for each natural resource such as wildlife, habitat, water quality, soils, recreation, wilderness, etc.

In 2005 the Bush Administration approved new NFMA implementing regulations that would significantly eliminate basic environmental analyses previously required by the National Environmental Policy Act (NEPA), such as those requiring an EIS. The amendment to the agency's environmental policy handbook approved in December takes that a step farther. Forest Service can now exempt a Forest Plan entirely from NEPA. A Categorical Exclusion (CE) is a minimal, cursory environmental analysis that was originally intended for projects that were not controversial and that had virtually no environmental impacts. CE's were never intended to serve as the "Management Bible" of each National Forest.

Implementation of the Bush NFMA regulations is alarming for many reasons. As previously stated, it significantly cuts back on the public's opportunity to participate in the forest planning process. It also allows the Forest Service to neglect the success or failure of past planning, and fails to document the current status of natural resources across each Forest. For example, did the past Forest Plan meet its legal obligations to maintain water quality or certain populations of imperiled species? The new rule ignores all of the past history of the forest – both the successes and failures. The new rule also eliminates the requirement to maintain at least minimum viable populations for wildlife. Because of these and numerous other reasons, the UEC strongly opposes this new rule.

Currently, the Dixie, Fishlake, Manti-La Sal and Ashley National Forests are all revising their current Forest Plans. This process has been on-going for several years and the UEC has provided extensive comments on each Forest's revision.

There is reason for some optimism regarding the future of these regulations. On the day the Forest Service issued its final rule, Rep. Nick J. Rahall (D-WV) stated in a press release that, "The result of this new regulation is that the people will have even less ability to know about, let alone weigh in on, management of their U.S. Forest lands."

The UEC is closely monitoring this situation and is an appellant in the Western Environmental Law Center's national challenge to the 2005 regulations, but unless Congress acts to overturn the rule, it's likely the National Forests in Utah will proceed to implement the new Forest Plans under a CE. If so, that decision will likely end up in litigation.

Cottonwood, Aspen, and Butterflies: Addicted to Large Predators?

Join the UEC for a free presentation by Dr. Robert Beschta, Oregon State University Emeritus Professor of Forest Hydrology, as he discusses the outcomes from his current field research in Yellowstone and Zion National Parks, which is revealing how the loss of large predators is linked to loss of riparian and stream functioning in the West.

Dr. Beschta will speak at 7pm on April 2, 2007 in Moab (Moab Information Center; Center & Main) and at 7pm on April 3, 2007 in Salt Lake City (REI at 3285 E 3300 S).

Dr. Mary O'Brien organized this rare opportunity and we thank her for doing this. For more information contact Mary at mob@uoregon.edu or at (541) 485-6886

Update: Utah Roadless Petition Shelved

Utah Governor Jon Huntsman Jr. recently stated at the Outdoor Retailers convention in Salt Lake City that he was shelving the State's roadless petition...at least temporarily. The 'Roadless Rule' issue has developed quite a history, filled with lawsuits and controversy of which the Governor's proposed petition is the most recent. In short, the 2001 Clinton 'roadless area conservation rule' was flawed but certainly better than Bush's anti-conservation, 'states rights' roadless rule. In September of 2006 a District Court judge reinstated the Clinton roadless rule yet several states, including Utah, still appeared to be going forward with submitting state petitions as allowed by the Bush Administration's rule. Utah's petition was likely to become a county land-grab that would have opened up roadless areas to harmful activities.

Since Governor Huntsman has stated he will not be submitting Utah's roadless petition to the Department of Agriculture, the wildlife dependent on National Forest roadless areas can breathe a little easier. The reasons given for not submitting the petition seemed to be based more on the legality and feasibility of pursuing the petition, than with concerns for protecting wildlife. Whatever the reason, we believe Governor Huntsman made a wise decision and by default, is doing what is best for the roadless areas and wildlife in Utah.

However, if or when the Governor ever does decide to submit a state petition, the UEC is prepared to immediately submit our own petition. We again thank all those individuals, organizations and businesses that signed on to UEC's petition. It remains a worthwhile endeavor and unfortunately the fight for roadless areas in Utah is far from over. UEC remains vigilant and prepared on this important issue.

Litigation Reporter

It has been some time since we provided a status update of the active UEC litigation in the Sylvan Sentinel. With this being the first newsletter of the New Year, this is a good opportunity to do just that. All are currently before the Tenth Circuit Court of Appeals:

Six-project Management Indicator Species case

UEC challenged six Forest Service logging and road construction projects in four National Forests (Wasatch-Cache, Manti-La-Sal, Uinta, and Dixie) in one legal challenge because each project dealt with the Forest Service's failure to properly manage Management Indicator Species (MIS). Functioning very much like each Forest's Dow Jones index for wildlife viability and diversity, MIS duties are a management shortcut created by the Reagan Administration in 1982 for meeting requirements under several laws that the Forest Service monitor and preserve at least minimum viable populations of all native fish and wildlife.

The appeals for these projects were filed in the summer of 2004, in the wake of UEC's precedent setting win on this issue at the 10th Circuit Court of Appeals. However, after these appeals were filed, the Bush Administration subsequently issued a bewildering series of new retroactive interpretive regulations. These new interpretive regulations claim that duties to monitor

the MIS indices - and even the bedrock requirement to maintain at least minimum viable populations of wildlife - have not been in effect since 2000. In their place, the only requirement under the National Forest Management Act is to consider -but not use- the 'best available science.' UEC's position is that regulations that did not exist could not have been applied and that the Forest Service is bound by its Forest Plans and the 1982 National Forest Management Act (NFMA) regulations, which the Forest Service violated by not collecting population trend data for MIS.

Status - case was argued in late September 2006. We are awaiting a ruling and expect it at any time.

Barnev Top

UEC challenged the Dixie National Forest's approval of a timber sale that includes logging Northern goshawk habitat. The Goshawk is a Dixie National Forest MIS for species that need old growth forests, and is a "sensitive species." The Forest Service set a minimum viable population on the Forest at 40 pairs, but admits that at last count only half of that number were left. Nonetheless, the proposed logging will further reduce old growth habitat for the Goshawk.

Status - case was argued mid-January 2007. A decision is pending.

Trout Slope West

UEC and High Uintas Preservation Council challenged the Ashley National Forest's approval of a timber sale and a Forest Plan Amendment reducing the number of Management Indicator Species from 12 to 2. We won on the challenge to the MIS thus reversing the MIS amendment in Utah District Court, but the Utah Court did not reverse the timber sale. The case involves a challenge to the Forest Service's failure to properly monitor the Colorado River cutthroat trout (CRCT), an MIS and "sensitive species," by failing to collect population trend data.

Status - case will be heard at the Tenth Circuit Court of Appeals in early March 2007.

Heli-skiing Expansion

Save Our Canyons and UEC are challenging the Wasatch-Cache and Uinta National Forests' approval to expand the Heli-ski program in the central Wasatch Mountains. Save Our Canyons is taking the lead with this challenge.

Status - briefing is in the early stages at the Tenth Circuit Court of Appeals.

There's a New Chief in Town...
As of February 2nd there is a new Chief of the Forest Service. Dale Bosworth retired and was replaced by Abigail Kimbell. While her legacy as chief, (besides being the first woman to serve in this position), is yet to be seen we have a pretty good idea of what's in store. Kimbell was one of the original authors of the inflammatory and incorrect Congressional findings included in the "Healthy Forests Restoration Act."



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Wildlife Spotlight: Northern goshawk (Accipiter gentilis)

Fierce and graceful, the Northern goshawk can be found over much of North America and Eurasia. In the State of Utah, these powerful raptors can be found on all six of the National Forests, although field monitoring reports indicate that populations are on the decline. The Northern goshawk is also a management indicator species (MIS) for all six National Forests in Utah. As a MIS, the Northern goshawk population trends are an indicator of changes to the larger community of species that depend upon mature and old growth forests.

While the forester looks at a stand and sees a bunch of dead and dying trees that need to be logged and the ecologist argues it's a complex old growth forest rich with wildlife, one thing is clear: the Goshawk sees an ideal home with abundant food and perfect perches by which to hunt their meals and nest. Some of the goshawk's favorite prey includes woodpeckers, birds, squirrels and hares. As hunters, Northern goshawks have amazing endurance and have been known to follow their prey for long periods of time. Goshawks typically mate for life and are known to be highly territorial and strong defenders of their nests.



These noble creatures are an important aspect of monitoring the health of our National Forests. Timber harvest is a major threat to goshawk populations, but the UEC works hard to ensure its viability for many years to come!

