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Judge bans logging in Tahoe forest fire area

By Denny Walsh -- Bee Staff Writer
Published 2:15 am PDT Saturday, August 21, 2004

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Logging of fire-ravaged trees in a roadless area of Tahoe National Forest that has been proposed as Placer County wilderness was barred Friday by a Sacramento federal judge.

After thinking about it more than a year, U.S. District Judge Morrison C. England Jr. adopted arguments by plaintiffs, including the Sierra Nevada Forest Protection Campaign and other environmental groups, that foresters' plan for a timber sale could do more harm than good.

The judge enjoined that part of a major U.S. Forest Service restoration project slated for Duncan Canyon, about 30 miles southeast of Foresthill.

England imposed a temporary restraining order in July 2003, and it was extended by agreement of the parties through his protracted deliberation on the environmentalists' motion for a preliminary injunction.

It has been demonstrated that the Red Star Project's environmental impact statement violates federal law "by failing to take the requisite 'hard look' at scientific opinion contrary to the

logging methods being proposed," Eng-land wrote in a 26-page order.

That is enough to satisfy the "irreparable harm" showing necessary for an injunction, he concluded.

"The increased risk and intensity of fire that may be caused by such logging may both elevate the likelihood of extreme fire and damage critical habitat for certain (species) whose population, in the absence of proper monitoring, remains unknown," he wrote.

It appears the proposed sale also may violate the Forest Service's Roadless Area Conservation Rule, which permits logging in such areas only under specified circumstances, notably an effort to reduce wildfires, England wrote.

Nor, he added, does the plan fit the other main exception to the rule: habitat enhancement for threatened, endangered or sensitive species.

"The specter of bonfire-like combustion across the landscape, as raised by plaintiffs, would hardly meet that objective," he observed.

The judge found a lack of population data for certain species, including the mountain quail, wild turkey and pileated woodpecker, to be another of the plan's shortcomings. Absence of that data "appears to run afoul of the requirements" of the Sierra Nevada Forest Plan Amendment, the Tahoe Forest Land and Resource Management Plan, and the National Forest Management Act, he said. The judge also noted that, as part of her California Wild Heritage Act, U.S. Sen. Barbara Boxer, D-Calif., has proposed Duncan Canyon as a wilderness area.

"Because any potential wilderness suitability would be destroyed by logging, that represents another reason why the balance of hardships militates against allowing logging to proceed," England wrote.

At a June 7 status conference, opposing counsel told England that the Forest Service still intended to propose 450 acres in Duncan Canyon for logging. But, in an interview Friday, Tahoe National Forest Supervisor Steven Eubanks said that is probably no longer viable. He said at least half the trees the Forest Service wanted to sell have rotted and lost their commercial value.

The environmentalists' challenge is "self-defeating," and their victory will prove to be a Pyrrhic one, Eubanks added. Up to \$4 million from the timber sale would have funded cleanup, brush control and new trees, he explained.

"That would have reduced future wildfire hazard and speeded up the restoration of a large old forest. But, we've lost that ability," Eubanks said.

Leaving all the dead material as fuel will eventually result in "a fire so intense we will have little ability to control it," he predicted. "It's not a matter of if, but when."

In the summer of 2001, the Star fire started on nearby land owned by Sierra Pacific Industries. It spread over 10,473 acres of Tahoe National Forest, including 4,309 acres in the roadless area of Duncan Canyon.

The Forest Service mapped out a massive salvage timber sale, including helicopter logging in the canyon to avoid building roads. Logging essentially has been completed in areas other than the canyon.

While England found scientific support for the entire project to be "suspect," he noted he is powerless to undo whatever harm may have already been done by logging outside the canyon.

"By failing to adequately consider and evaluate adverse scientific opinion, the Red Star Project ... fails to meet" the requirements of the National Environmental Policy Act, he declared.

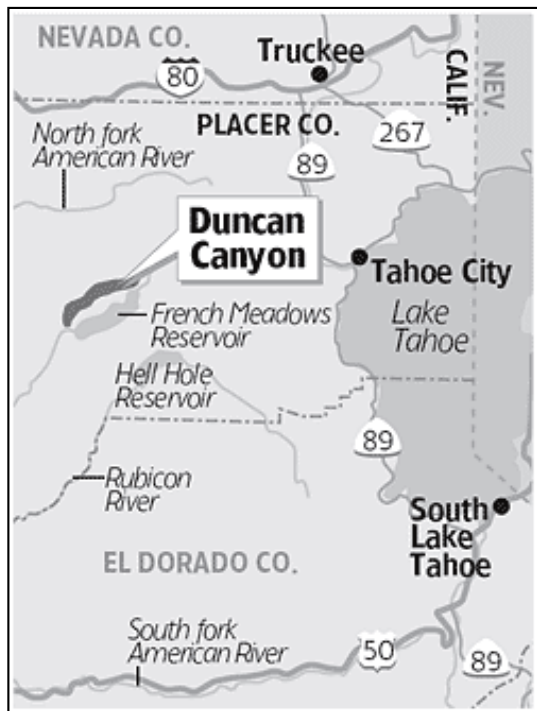
Eubanks disagreed. Contrary to causing harm, he said, the Forest Service has been making a positive difference outside Duncan Canyon, cleaning up and regenerating thousands of burned acres.

About the Writer

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