

Missoulian's Coverage of Lolo Post Burn Case Biased and Misleading
By Matthew Koehler

Earlier this year the U.S. Supreme Court provided good news to wildlife dependent on old-growth forest habitat by refusing to accept an appeal from timber and mining interests of the Lolo National Forest's Post-Burn logging project.

Back in 2002 – following full participation in the public process – our organization challenged this logging project because the Forest Service wanted to log old-growth forests and unroaded wildlands following the wildfires of 2000 while not following laws protecting wildlife and forest health.

The Court of Appeals said the Forest Service provided scant evidence to prove the government's claim that logging in old-growth forests would benefit wildlife. In fact, the Court stated, "Just as it would be arbitrary and capricious for a pharmaceutical company to market a drug to the general population without first conducting a clinical trial to verify that the drug is safe and effective, it is arbitrary and capricious for the Forest Service to irreversibly 'treat' more and more old-growth forest without first determining that such treatment is safe and effective for [old-growth] dependent species."

The Court also ruled that the Forest Service had not demonstrated that the proposed logging would adequately protect the health of the forest topsoil, which is necessary to ensure the health of the forest.

As a direct result of our lawsuit, the Lolo National Forest is now monitoring past and current management activities to ensure the long-term survival of birds and animals dependent on old-growth forest habitat, as well as protect soil quality. Many of the Forest Service's own specialists have spent years advocating for these actions and they have privately thanked us for ensuring this happens.

The WildWest Institute views this as a positive step to ensure that future management activities, such as logging projects, will be designed using the best science, thereby reducing impacts on the land, clean water and critters.

Unfortunately, recent media coverage hasn't focused on the Forest Service failures to follow their regulations or the positive steps resulting from our lawsuit. Rather, the *Missoulian* has made false allegations that our organization is getting rich winning these lawsuits.

That's simply not true and it would be illegal for us to do so. Let me clearly state that 100% of the legal fees that we have rightfully requested to be reimbursed through the Equal Access to Justice Act go to private laws firms, not into our organization's coffers as a "self-funding mechanism" as the *Missoulian* claimed.

Over the past few years we have attempted to avoid lawsuits through dialogue with the Forest Service. In fact, back in September 2003 our attorney wrote a letter to the previous

regional forester, Brad Powell, that outlined a proposal to “bring the Northern Region into compliance with the Court’s legal rulings on old-growth, and thus avoid future and protracted litigation over these issues.”

The letter stated, “It’s my client’s sincere hope that you will choose a more constructive path, and address our wildlife concerns at this time, rather than continue to argue over what is minimally required to protect species. I am confident that if you choose to work with us, rather than against us, we can get forest management in this region moving in a positive direction that serves everyone’s interests.”

Powell was very receptive to this strategy, agreeing to every point in the letter in a personal meeting attended by many of his staff, but two weeks later he was reassigned by the agency. After that, Gail Kimbell became regional forester and any willingness by the Regional Office to work with us to help reach agreements outside the courtroom were stonewalled. Now that Kimbell is Forest Service Chief it will certainly be interesting to see what happens in the near future.

While WildWest will continue to ensure that the government follows laws protecting wildlife and applies the best science in managing our public forests, we are also engaged in a number of open and inclusive collaborative efforts to help protect communities from wildfire and restore our forests and watersheds.

For example, WildWest helped form and serves on the steering committee of the Montana FireSafe Council and we are also active members of collaborative groups in Lemhi County, Idaho and up in Lincoln County. We’re also part of the Montana Forest Restoration Working Group, a broad-based cooperative effort to craft a vision for restoration of Montana’s National Forest lands.

On the national level, WildWest serves on a restoration working group with community-based forestry advocates and restoration practitioners who share the goal of increasing congressional funding for the Forest Service to do bona-fide restoration work.

Finally, this May we’ll again join forces with the West End Volunteer Fire Department in DeBorgia for our second annual community wildfire protection work week to create defensible space around the homes of elderly members of the community and along key roads in town.

While the public might not always agree on every aspect of national forest management, I hope you can see that the WildWest Institute is working on many different levels to find solutions that will benefit our forests, wildlife and communities. If this is a goal you share, we’d love to hear from you.

Matthew Koehler is executive director of the Montana-based WildWest Institute. You can learn more at www.wildwestinstitute.org or 406.542.7343.