

SUSAN JANE M. BROWN (OSB #054607)
WESTERN ENVIRONMENTAL LAW CENTER
4107 NE Couch St.
Portland, OR 97232
(503) 914-1323
brown@westernlaw.org

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

**CASCADIA WILDLANDS, KLAMATH-
SISKIYOU WILDLANDS CENTER, AND
OREGON WILD,**

Plaintiffs,

vs.

**BUREAU OF LAND MANAGEMENT and
UNITED STATES DEPARTMENT OF the
INTERIOR,**

Defendant.

Civ. Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Federal Land Policy and Management Act,
42 U.S.C. § 1701 *et seq.*; Administrative
Procedure Act, 5 U.S.C. § 551 *et seq.*

INTRODUCTION

1. Plaintiffs Cascadia Wildlands, Klamath-Siskiyou Wildlands Center, and Oregon Wild (“Plaintiffs”) bring this action for declaratory and injunctive relief against federal Defendants Bureau of Land Management and United States Department of the Interior (“the BLM”) for promulgating a final rule that: (1) violates the administrative review requirement of 42 U.S.C. § 1701(a)(5) of the Federal Land Policy and Management Act (“FLPMA”) and (2) violates 5 U.S.C. § 706 and 5 U.S.C. § 553(c) of the Administrative Procedure Act (“APA”).

2. This action stems from the BLM’s final rule, *Forest Management Decision Protest*

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

*Western Environmental Law Center
4107 NE Couch St.*

Process and Timber Sale Administration, 85 Fed. Reg. 82,359 (Dec. 18, 2020) (“Final Administrative Protest Elimination Rule”), which Plaintiffs challenge on its face.

3. Plaintiffs also incorporate an as-applied challenge to the Administrative Protest Elimination Rule as relied on by the BLM to authorize the Mine your Manners Timber Sale Decision Record (“Mine your Manners Timber Sale”) without an administrative protest process.

4. Should Plaintiffs prevail, Plaintiffs will seek an award of costs and attorneys’ fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412.

JURISDICTION AND VENUE

5. This court has jurisdiction pursuant to 28 U.S.C. § 1331 (Federal Question) because this action arises under the laws of the United States: 43 U.S.C. § 1701 *et seq.* (FLPMA) and 5 U.S.C. § 551 *et seq.* (APA).

6. The relief sought is authorized by 28 U.S.C. § 2201 (Declaratory Judgment) and 28 U.S.C. § 2202 (Injunctive Relief).

7. Venue is proper pursuant to 28 U.S.C. § 1391(e)(1)(B) because Defendant is a federal agency of the United States government and a substantial part of BLM property that is affected by the challenged Administrative Protest Elimination Rule is situated within this judicial district.

INTRADISTRICT ASSIGNMENT

8. This case is properly assigned to the Eugene Division under Civil L.R. 3-2 because the challenged timber sale, Mine your Manners, is located in Lane County. Other BLM-managed lands also affected by the Administrative Protest Elimination Rule, at issue in this dispute, are also located within the Eugene Division. The BLM’s violations of federal law have and will continue to affect lands located within the Eugene Division.

9. Additionally, Plaintiffs Cascadia Wildlands and Oregon Wild both have offices within

the Eugene Division, and many individual members of each of the Plaintiff organizations are located within the Eugene Division.

PARTIES

10. Plaintiff CASCADIA WILDLANDS is a non-profit corporation headquartered in Eugene, Oregon, with approximately 12,000 members and supporters throughout the United States. Cascadia Wildlands educates, agitates, and inspires a movement to protect and restore wild ecosystems in the Cascadia Bioregion, extending from Northern California up into Alaska. Cascadia Wildlands envisions vast old-growth forests, rivers full of salmon, wolves howling in the backcountry, and vibrant communities sustained by the unique landscapes of the Cascadia Bioregion. Cascadia Wildlands' members and staff have used and will continue to use the Mine your Manners Timber Sale area for activities such as hiking, bird watching, camping, swimming, fishing, foraging, photography, and other recreational and professional pursuits. The interests of Cascadia Wildlands and its members will be irreparably harmed if the Mine your Manners Timber Sale is allowed to proceed without compliance with our federal environmental laws.

11. Cascadia Wildlands has filed hundreds of administrative protests of federal timber sales and other projects over the past two decades of monitoring public lands' management in the Pacific Northwest. The organization has filed these protests on behalf of members and supporters fearful that the actions of the BLM failed to take into account or mitigate negative impacts to their communities, recreation opportunities, habitats, public safety, fire, drinking water, and imperiled species. The BLM has withdrawn decisions in response to Cascadia Wildlands' protests, revised NEPA documents in response to Cascadia Wildlands' protests, and substantively changed projects to address Cascadia Wildlands' concerns in response to the organization's protests.

12. Cascadia Wildlands engaged and commented during the BLM’s rulemaking to eliminate the administrative protest process. The elimination of the administrative protest takes away Cascadia Wildlands’ ability to advocate for its members and supporters through the administrative process. Frequently, issues are raised and addressed through these protests and ultimately resolved and/or further agency explanation in addressing and responding to administrative protests resolves many community concerns about impending projects. The elimination of the administrative protest moves administrative review from the BLM to federal district courts. The elimination of the administrative protest will and has increased the urgency with which these matters are brought before district courts, increasing the likelihood that temporary restraining orders and preliminary injunctions will need to be sought to prevent the logging of projects before their legality can be determined. The elimination of the administrative protest harms Cascadia Wildlands and its members and supporters by reducing their opportunities to improve federal land-management projects. The burden shift of this protest elimination further harms the organization by greatly increasing the expensive legal burden on Cascadia Wildlands and the communities it supports.

13. Cascadia Wildlands provided timely comments on the Row River Timber Management Project Environmental Assessment (“Row River EA”), through which Mine your Manners was analyzed.

14. Plaintiff KLAMATH-SISKIYOU WILDLANDS CENTER (“KS Wild”) is a domestic nonprofit corporation organized and existing under the laws of the State of Oregon. KS Wild’s primary office is in Ashland, Oregon. KS Wild has over 3,500 members and supporters in more than 10 states, with most members concentrated in southern Oregon and northern California. On behalf of its members, KS Wild advocates for the forests, wildlife, and waters of the Rogue and

Klamath Basins and works to protect and restore the extraordinary biological diversity of the Klamath- Siskiyou region of southwest Oregon and northwest California. KS Wild uses environmental law, science, education, and collaboration to help build healthy ecosystems and sustainable communities. Through its campaign work, KS Wild strives to protect the last wild areas and vital biological diversity of the Klamath-Siskiyou region. KS Wild is a leader in protecting Oregon's public lands and forests, and routinely participates in monitoring and commenting on and challenging in court actions affecting public lands in Oregon. KS Wild is a membership organization and has members who would be irreparably injured by the BLM's elimination of the timber sale administrative protest process.

15. For several decades, KS Wild and its members have utilized the administrative timber sale protest process as a means of increasing the transparency and efficacy of BLM public lands management. In particular, the BLM's timber sale protest process has afforded KS Wild and its members with a meaningful opportunity to voice legal concerns to the agency and to potential timber purchasers without needing to file litigation. This has been particularly important for proposed BLM timber sales that contain "regeneration harvesting" in which fire hazard in treated stands is increased for decades through the establishment of flammable, dense young timber plantations.

16. By eliminating the timber sale administrative protest process the BLM, and the automatic stay of operations associated with a timber sale appeal the Interior Board of Land Use Appeals (IBLA), the BLM has created a perverse incentive in which the only opportunity for KS Wild to meaningfully object to illegal timber sale proposals that increase fire hazard is to file litigation in federal court immediately after a project Decision Record is signed. The BLM's attempts to stifle meaningful administrative review of its timber sale program will adversely impact KS Wild, its



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.