

## **Ninth Circuit Upholds Analysis of Narrow Range of Alternatives in EIS**

An alternatives analysis under NEPA may be valid even though only two very similar alternatives to the project are considered. In *League of Wilderness Defenders-Blue Mountains Biodiversity Project v. United States Forest Service*, the Ninth Circuit upheld an Environmental Impact Statement for an experimental forest thinning project in Oregon. The court rejected the claim that the EIS used an overly narrow statement of purpose and need. Based on that ruling, the court upheld the EIS' alternative analysis, even though the two alternatives considered were virtually identical. The ruling reiterated the NEPA principles that an EIS need only evaluate alternatives that are reasonably related to the purpose and need for the proposed project, and that courts afford agencies "considerable deference" in defining the purpose and need. In upholding the Forest Service's EIS, the court noted that the identified purpose and need for the project – to conduct research on lowering fire and insect infestation risks by reducing forest stand densities – was directly tied to the agency's statutory authority to manage national forest lands. The court then upheld the EIS' alternative analysis, even though it acknowledged the narrow scope of the analysis. Emphasizing the experimental nature of the project, the court ruled that the EIS did not have to consider in detail alternatives that would not provide the research data the Service was seeking to obtain. The ruling is part of an important line of Ninth Circuit cases deferring to an agency's statement of the project's purpose and need under NEPA.

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