

Supreme Court to hear Sierra Nevada forest case

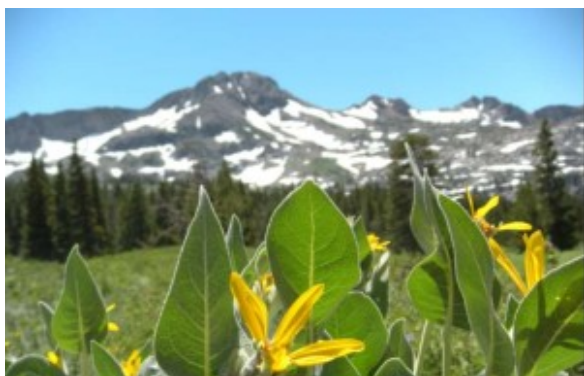
By Michael Doyle, Miami Herald

WASHINGTON – A long-running Sierra Nevada forest planning dispute will now be settled by the Supreme Court in what could shape up as a crucial public lands case.

On Monday, the court agreed to referee the dispute pitting environmentalists with the Portland-based Pacific Rivers Council against the U.S. Forest Service over decision-making that dates back to the second Bush administration. While the specific case involves 11 Sierra Nevada forests, the eventual outcome could shape everything from who gets to file lawsuits to the scope of future environmental studies.

“Definitely, throughout the West, this could have huge impacts on the moving of projects forward,” Dustin Van Liew, executive director of the conservative Public Lands Council in Washington, D.C., said in an interview Monday.

One key question confronting the court will be whether environmentalists have the “standing” to sue against a general forest plan, as opposed to a specific project proposal, by virtue of their making recreational use of the national forests. To gain standing in federal court, individuals must show they’ve been injured or face imminent injury.



The court case involves the
Eldorado National Forest.
Photo/LTN file

A second major question is how extensively detailed the Forest Service must be when preparing overarching management plans, such as the one governing the 11 Sierra Nevada forests.

“The only role for a court is to insure that the agency has taken a ‘hard look’ at the environmental consequences of its proposed action,” Pacific Rivers Council’s attorneys said in a legal brief, adding that “agencies cannot take a ‘hard look’ unless they have reasonably identified the consequences of their actions.”

Underscoring the case’s potential significance, the Public Lands Council and the affiliated National Cattlemen’s Beef Association secured Supreme Court permission Monday to file a brief opposing the environmental group. Many more briefs, from both sides, are sure to come.

The court’s decision to hear the Sierra Nevada case, sometime during the 2013 term that starts in October, means that at least four of the court’s nine justices agreed to reconsider a 9th Circuit Court of Appeals decision from last year in which environmentalists prevailed.

In that 2-1 appellate court decision, the 9th Circuit panel concluded the Forest Service in 2004 failed to adequately study the effect of dramatically revised forest plans on Sierra Nevada fish populations.

“The Forest Service provided no analysis despite the fact that the 2004 (plan) allows much more logging, burning, road construction and grazing,” Judge William A. Fletcher wrote for the appellate panel.

The planning, and required federal environmental impact statements, cover nearly 11.5 million acres of Forest Service

land stretching from Southern California to the California-Oregon border. Taken together, the Sequoia, Inyo, Sierra, Stanislaus, Humboldt-Toiyabe, Eldorado, Tahoe, Plumas, Lassen and Modoc national forests, and the Lake Tahoe Basin Management Unit, encompass more than 5 percent of all land managed by the Forest Service nationwide.

“My first Sierra Nevada backpacking trip was to the Mineral King area in 2000, during which time I also fished,” Pacific Rivers Council Chairman Bob Anderson, a South Lake Tahoe resident, said in a court declaration used to establish injury and standing. “I plan to continue these activities as long as the management of Sierra Nevada national forests does not prevent me from doing so.”

When presidents have changed, so have the Sierra Nevada forest plans.

The Clinton administration issued one Sierra Nevada plan in January 2001, about a week before President Bill Clinton left office. The George W. Bush administration then scrapped that plan, and issued another in 2004.

The 2004 Bush plan called for harvesting 4.9 billion more board-feet of timber than under the 2001 Clinton plan. The Bush plan also called for constructing 90 more miles of new roads, reconstruction of 855 more miles of existing roads and a loosening of restrictions on grazing. Bush’s supporters in the timber and cattle industries, among others, supported the changes, while environmentalists warned of the dangers.