

Brenna Bell (OSB # 01519)
Bark
P.O. Box 12065
Portland, OR 97212
(503) 331-0374
brenna@bark-out.org

David H. Becker (OSB # 081507)
Law Office of David H. Becker, LLC
833 SE Main Street # 302
Portland, OR 97214
(503) 388-9160
davebeckerlaw@gmail.com

Attorneys for Plaintiff

ROBERT G. DREHER
Acting Assistant Attorney General
Environment and Natural Resources
Division

BEVERLY F. LI
Trial Attorney, Natural Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Tel: (202) 353-9213
Facsimile: (202) 305-0506
Email: beverly.li@usdoj.gov

Attorney for Federal Defendants

Scott W. Horngren, Ore. Bar #880604
Robert Molinelli, Ore. Bar #134319
American Forest Resource Council
5100 S.W. Macadam, Suite 350
Portland, Oregon 97239
Telephone: (503) 222-9505
Fax: (503) 222-3255
Email: shorngren@amforest.org
Email: rmolinelli@amforest.org

Attorneys for Defendant-Intervenor

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

BARK,

Plaintiff

v.

LISA NORTHROP, Forest Supervisor

Case No. 3:13-cv-1267-HZ

STATUS REPORT

STATUS REPORT

of the Mt. Hood National Forest, and
U.S. FOREST SERVICE, a federal agency,

Defendants

and

INTERFOR U.S., INC.,

Defendant-Intervenor.

On November 15, 2013, Plaintiff Bark and Defendant U.S. Forest Service entered into a stipulation that indicated that Defendant-Intervenor Interfor U.S., Inc. (“Interfor”) had represented that it would not conduct ground-disturbing activity in the Bass and Drum Thin Stewardship sale units that implement the Jazz Thinning Project until March 31, 2014. ECF No. 36. As that stipulated agreement has now lapsed, the Court has yet to issue an opinion in the case, and Interfor has provided notice that it will begin helicopter yarding, the parties have further conferred about the status of Defendant-Intervenor’s proposed operations.

The stipulation noted that under the contract, helicopter yarding could begin on April 1 in certain units. On March 26, 2013, Interfor filed with the Court a Notice of Status of Operations (ECF No. 72), in which it stated it would meet with the Forest Service on or around April 2, 2014 to discuss beginning operations pursuant to the terms of its contracts. Based on Interfor’s meeting with the Forest Service, Interfor plans to begin some non-ground disturbing activities associated with some helicopter units this week; including leave-tree marking and helicopter landing site inspection and preparation.

Interfor expects to begin felling trees in the units on or around April 15, 2014. Interfor will not use ground-disturbing equipment for its felling operations, but instead will hand fell trees using chainsaw crews. Interfor hopes to conduct the helicopter yarding which lifts the logs

off the ground without the need for ground disturbing activities except for expansion of a few landings. There are approximately 16 landings in the Bass and Drum Sales that would be used for the logs yarded by the helicopter this spring. Approximately 2–3 landings would need to be expanded to some degree, which, depending on the timing and nature of the expansion, may require prior review and approval of the Forest Service. Interfor anticipates that some activities at certain landings would involve ground disturbance and rock placed on the disturbed area to keep the dust down for operation of the helicopter.

Interfor will defer operations on its helicopter units that are subject to seasonal restrictions for the northern spotted owl until later in the year, so that it may conduct helicopter yarding on those units after the seasonal restrictions have been lifted.

Plaintiff Bark does not oppose operations that do not involve ground disturbance. To that end, Bark will not move to extend the stipulation to prevent Interfor from hand felling and helicopter yarding trees.

However, there is a dispute between the parties regarding ground disturbing operations required to expand helicopter landings. It is Bark's position that no ground disturbing activities should occur prior to a decision by this Court. Interfor does not share this position. Because the exact nature of the expansions Interfor seeks to conduct on certain landings is not clear at this time, the Forest Service cannot yet determine whether those activities will require waivers. Interfor and the Forest Service are scheduled to meet in the field early next week regarding the scope of the expansion of the landings.

In light of Interfor's plans to begin operations, the parties have been discussing the nature and conduct of those operations, during the pendency of the Court's deliberations. Since helicopter yarding is 3 to 4 times more expensive than ground-based yarding, Interfor has

determined that it will incur a significant loss if it is unable to also remove some of the ground-based units this season along with the more expensive helicopter units. Bark does not oppose the helicopter yarding (subject to its concerns that no ground-disturbing activities be conducted). However, Interfor has agreed that it will not raise an argument that the expense of the helicopter yarding justifies harvest of the ground based units if there is a remedy phase of this case.

In light of Interfor's plans to begin operations, and the disagreement between the parties regarding initiation of ground disturbing activities, all parties respectfully request that the Court advise as to the status of the Court's merits ruling and whether Bark may need to re-initiate proceedings for temporary injunctive relief. The Court's merits ruling will help Interfor make a final decision on whether to proceed with the helicopter units.

Respectfully submitted this 10th day of April 2014.

s/ Brenna Bell

Brenna Bell (OSB # 01519)
Bark
P.O. Box 12065
Portland, OR 97212
(503) 331-0374
brenna@bark-out.org

Attorneys for Plaintiff

s/ Beverly F. Li

Beverly F. Li
Trial Attorney, Natural Resources Section
Environment & Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Tel: (202) 353-9213
Facsimile: (202) 305-0506
Email: beverly.li@usdoj.gov

Attorney for Federal Defendants

s/ Dave Becker

David H. Becker (OSB # 081507)
Law Office of David H. Becker, LLC
833 SE Main Street # 302
Portland, OR 97214
(503) 388-9160
davebeckerlaw@gmail.com

s/ Robert Molinelli

Robert Molinelli, Ore. Bar #134319
American Forest Resource Council
5100 SW Macadam, Suite 350
Portland, Oregon 97239
Telephone: (503) 222-9505
Fax: (503) 222-3255
Email: rmolinelli@amforest.org

Of Attorneys for Defendant-Intervenor