

Court Dismisses Sierra Club Challenge to Forest Management Grants

The United States District Court for the Western District of Michigan has granted judgment before trial to the Michigan Department of Natural Resources (MDNR) and the United States Fish and Wildlife Service (USFWS) under the doctrines of mootness and standing.

FACTS

MDNR had applied for, and received, several forest management grants from USFWS under the authority of the federal Pittman-Robertson Act. The Sierra Club filed suit to force MDNR and USFWS to comply with the proper regulatory procedures concerning four grants: the Operations and Maintenance Grant, the Hunting Access Grant, the Planning Grant, and the Habitat Management Grant.

Specifically, the Sierra Club alleged that MDNR and/or USFWS had: (1) violated the National Environmental Policy Act (NEPA) by segmenting grant requests according to the activities the grants would support, rather than applying for one grant covering all activities; (2) violated NEPA by applying a categorical exclusion to the Operations and Maintenance Grant, so that an assessment of the environmental impacts of the grant would not be required; (3) violated NEPA by failing to prepare other environmental assessments; (4) violated the Endangered Species Act (ESA) by failing to perform an intra-agency consultation as to impacts on endangered species; and (5) violated the Pittman-Robertson Act by inadequately specifying the activities to be performed with funds from some of the grants.

The court observed that in order to prove its case under these statutes, the Sierra Club had to show that the USFWS's decisions were "arbitrary, capricious, an abuse of discretion, or

otherwise not in accordance with law.” MDNR and USFWS moved for judgment before trial on all of the Sierra Club’s claims.

Before entertaining the merits of a party’s arguments, however, a court must answer the threshold question of whether the court has the power to hear the suit. Article III of the United States Constitution limits the jurisdiction of federal courts to actual “cases and controversies.” This limitation encompasses the doctrines of “standing,” “justiciability,” and “mootness.” The court here found that it did not have the power to hear any of the Sierra Club’s claims, based on the doctrines of standing and mootness.

MOOTNESS

To pass the test for mootness, the relief sought, if granted, must “make a difference to the legal interests of the parties....” In other words, a claim must be dismissed if “subsequent events make it absolutely clear that the allegedly wrongful behavior cannot reasonably be expected to recur and interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.”

MDNR had stopped applying for the Habitat Management Grant after 2000, and was no longer receiving those funds, so any relief the court might order for that grant would not have any effect on the parties. Thus, the court held that the Sierra Club’s claims concerning the Habitat Management Grant were moot, and could not be heard by the court.

STANDING

The court observed that, to have standing, a claimant must show: (1) a “concrete” and “particularized” injury; (2) a causal connection between the injury and the conduct complained of; and (3) that the injury is redressable.

The Sierra Club claimed that two types of injuries were caused by MDNR and USFWS's violations. First were "aesthetic injuries," which are potential effects on plants and wildlife. Second were "informational injuries," caused by failures to perform the studies required under the various statutes underlying the Sierra Club's claims.

Aesthetic injuries are "concrete" and "particularized." However, the Sierra Club failed to show a causal connection between the injuries and the alleged violations and how the court's requiring compliance with various regulations would compensate for those injuries. The court noted that harm to plants and wildlife, if it occurs, is caused by actual forest mismanagement practices, not by procedural regulatory violations. Furthermore, forcing MDNR and USFWS to comply with the proper procedures for grant issuance would not necessarily affect actual forest management activities that occur after the grants are issued, and, thus, would not redress the injuries complained of. Therefore, the court held that the Sierra Club lacked standing to bring any claims on the basis of aesthetic injuries.

Following its earlier decision in *Heartwood, Inc. v. U.S. Forest Service*, the court held that "informational injuries" in the context of violations of environmental regulatory procedures are insufficient to confer standing. Because the Sierra Club did not claim any injuries that passed the test for standing, it lacked standing to bring any of its claims. Thus, all of the Sierra Club's claims were dismissed.

ARBITRARY AND CAPRICIOUS CONDUCT

In closing, the court summarily observed, "for the purpose of providing a complete record for appeal," that the Sierra Club failed to show that MDNR or USFWS engaged in "arbitrary and capricious" conduct.

The Sierra Club v. U.S. Fish and Wildlife Service, 2002 WL 376959 (W.D. Mich. March 6, 2002)

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