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Subject: Judge: Bullock did not violate open meeting law with forest recommendations

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10 hours ago • [By ROB CHANEY For The Gazette](#)

Gov. Steve Bullock was not wrong to privately gather opinions before recommending 5 million acres of Montana forest for priority attention from the U.S. Forest Service, according to a district court judge.

Three environmental groups sued the governor last spring, claiming Bullock broke Montana's open meeting laws by not seeking public comment or review before making his recommendations.

Bullock contended that he had sole discretion to respond to a U.S. Forest Service request stemming from a provision in the 2014 Farm Bill.

Bullock spokesman Mike Wessler was pleased the judge agreed the decision was within the governor's discretion.

"The governor has made it a priority to hear from constituents and stakeholders on decisions he makes, and he will continue to do so," Wessler said. "He will also continue to reach out to folks with knowledge and expertise on topics before him to ensure he's making a decision that is in the best interest of Montanans, our state and our economy."

However, Wild West Institute director Matthew Koehler, one of the plaintiffs in the suit, said the decision allowed government officials to keep making decisions in secret.

"The governor, with no notice to anyone in Montana, and no opportunity for Montana citizens to participate or share their views, nominated 5 million acres for fast-track logging that's categorically excluded from the requirements of NEPA (the National Environmental Policy Act)," Koehler said on Wednesday. "The U.S. Forest Service basically rubber-stamped that nomination. And still we have our senators and congressman complaining there aren't enough public acres available for logging."

Intensive management

In April 2014, Bullock nominated priority lands in the Lolo, Bitterroot, Flathead, Helena-Lewis and Clark, Kootenai, Beaverhead-Deerlodge and Custer-Gallatin national forests for more intensive management.

His suggestions ranged from 54 percent of the Lolo's 2.1 million acres to 12 percent of the Custer-Gallatin's 2.9 million acres. While he noted no wilderness or wilderness study areas were included, his proposal did include some inventoried roadless areas.

The forest areas were chosen for a variety of different management actions, including removing hazardous fuels, commercial logging, habitat restoration, road repair and removal, fisheries improvements and recreation activity needs.

The lands chosen either have serious bug infestations, are at risk of infestation or have hazardous fire conditions threatening residential areas or infrastructure.

Weighing in

Bullock said he relied on local collaborative groups and lumber mills to suggest priority landscapes.

In the Lolo National Forest, that included the Southwest Crown of the Continent Collaborative, Trout Unlimited, Lolo Forest Restoration Committee, the Mineral and Sanders counties resource advisory committees, Tricon Timber Co., Thompson River Lumber Co., Roseburg Forest Products and Pyramid Mountain Lumber.

The Wild West Institute, Conservation Congress and Friends of the Bitterroot sued and asked that the recommendations be suspended until the general public could weigh in. District Judge Kathy Seeley agreed with Bullock in her June 15 decision.

She wrote that because the Forest Service's call for priority recommendations was a one-time request made directly to the governor, there was no formal or repeatable process for him to follow.

"There is simply no future window of opportunity for further recommendations, or a method for recalling or revising ones already made and acted upon by the Secretary of Agriculture," Seeley wrote. "The plaintiff's prayer for relief requests a determination that the defendants' meetings were held in violation of law, that the governor's recommendations be set aside and that a new process be ordered allowing for public participation 'before making any additional or new nominations as the governor may have an opportunity to make.'

"However, the court concludes that issues raised in plaintiffs' complaint are moot, and the court is therefore without jurisdiction to provide any of the requested relief."

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