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Judge limits late snowmobiling season

By JIM MANN/Daily Inter Lake

A federal judge has shot down extended-season snowmobiling on the Flathead National Forest, finding that the forest's road-density rules for grizzly bears apply to snowmobiling as well.

U.S. District Judge Donald Molloy found that the U.S. Fish and Wildlife Service's biological opinion for Amendment 24 to the Flathead Forest Plan was flawed.

The May 28 ruling backed the main argument in a lawsuit filed by the Swan View Coalition and Friends of the Wild Swan, two local environmental groups.

The judge upheld the Flathead Forest on other claims in the lawsuit.

Molloy ruled that Forest Plan Amendment 19, adopted in 1995, includes provisions that restrict motorized activity in grizzly bear habitat when bears are emerging from their dens. The Forest Service had maintained that Amendment 19 was never designed to manage snowmobile use but was intended to reduce road densities to improve grizzly bear habitat security.

Amendment 24 was adopted in 2005 to establish areas and seasons for snowmobiling, with allowances for snowmobiling to continue as late as May 31 in some areas.

Joe Krueger, the Flathead Forest's environmental coordinator, said the amendment was partly intended to separate snowmobiling from Amendment 19, which prohibits motorized activity in bear habitat after March 15.

The Forest Service had argued that Amendment 24 actually benefited bears because it reduced the overall acreage open to snowmobiling.

"We're glad the judge saw through the twisted logic claiming this was a benefit to bears," said Keith Hammer, chairman of the Swan View Coalition. "We hope the Forest Service will now do away with this unprecedented spring snowmobiling permanently so we don't end up right back in court again."

Krueger said the forest and the U.S. Fish and Wildlife Service may develop a procedural remedy to allow the extended seasons to continue.

The service's biological opinion found that the extended seasons have "no discernible effects" on grizzly bears emerging from their dens, Krueger said, and the federal government may have to better demonstrate to the court how that conclusion was reached.

Forest officials have yet to discuss the issue with the U.S. Fish and Wildlife Service, he said.

For now, the court ruling puts an end to extended snowmobiling beyond March 15. It applies to seasons ending May 15 in the Skyland-Challenge area, April 15 in the Canyon Creek area, April 30 in the Sixmile area and May 31 in the Doris and Lost Johnny areas.

This year, the ruling effectively shut down snowmobiling for two days in the Doris and Lost Johnny areas, Krueger said.

The ruling was the latest in a string of lawsuits filed by the same groups challenging how the Flathead Forest has implemented Amendment 19.

On Monday, Krueger was returning from a hearing before a 9th Circuit Court of Appeals panel in Seattle on an appeal of another Molloy ruling. That case involved a Flathead Forest decision to leave in place 10 culverts to maintain snowmobiling access on roads in the upper Big Creek drainage.

The forest deviated from Amendment 19 standards requiring culvert removal on the roads to reduce road densities following the 2001 Moose Fire.

Forest officials maintain that management flexibility is necessary in applying Amendment 19, while Hammer has sought a strict application of the amendment's road density standards.

Molloy recently upheld the forest's use of "site specific amendments" allowing road density deviations on the Robert-Wedge and the West Side Reservoir post-fire project areas.

The Swan View Coalition and Friends of the Wild Swan last week appealed both of those rulings to the 9th Circuit Court of Appeals.

"We feel Judge Molloy is mistaken in letting the government claim it is benefiting bears by reneging on the protections promised in Amendment 19," Hammer said. "We will continue to argue for the bears."

Krueger said the plaintiffs are attempting to compel the Flathead Forest to enforce Amendment 19 as an "inviolable" end-all policy for managing motorized use, despite new bear population information that has developed since the amendment was adopted 13 years ago.

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