

FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 28 2004

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

GIFFORD PINCHOT TASK FORCE, an Oregon non-profit organization; CASCADIA WILDLANDS PROJECT, an Oregon non-profit organization; NORTHWEST ENVIRONMENTAL DEFENSE CENTER, an Oregon non-profit organization; OREGON NATURAL RESOURCES COUNCIL FUND, an Oregon non-profit organization; AMERICAN LANDS ALLIANCE, an Oregon non-profit organization; BARK, an Oregon non-profit organization; KLAMATH-SISKIYOU WILDLANDS CENTER, an Oregon non-profit organization; NORTHWEST ECOYSTEM ALLIANCE, a Washington non-profit organization; PACIFIC CREST BIODIVERSITY PROJECT, a Washington non-profit organization,

Plaintiffs - Appellants,

v.

U.S. FISH & WILDLIFE SERVICE,;

Defendant - Appellee,

AMERICAN FOREST RESOURCE COUNCIL,

Defendant-intervenor - Appellee.

No. 03-35279

D.C. No. CV-00-05462-FDB
Western District of Washington,
Tacoma

ORDER

Before: BRUNETTI, McKEOWN, and GOULD, Circuit Judges.

The Appellants' Motion for Technical Correction of Language in the Opinion is hereby GRANTED.

The opinion filed on August 6, 2004 and published at 378 F.3d 1059, is AMENDED as follows.

The final sentence of Subsection I.A. on page 1063 states:

If jeopardy or adverse modification cannot be avoided, the BiOp would exempt the action agency from Section 9's prohibition on taking and the strict civil and criminal penalties associated with such unlawful takings.

That final sentence of Subsection I.A. on page 1063 is deleted in its entirety and replaced with the following sentence:

If the BiOp concludes that jeopardy or adverse modification cannot be avoided, Section 7(g) of the ESA provides that the action agency may apply for an exemption from Section 9's prohibition on taking and the strict civil and criminal penalties associated with such unlawful takings.

IT IS SO ORDERED.