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IN SUPERIOR COURT  
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SUPERIOR COURT OF WASHINGTON  
FOR JEFFERSON COUNTY

LEGACY FOREST DEFENSE COALITION, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 WASHINGTON STATE DEPARTMENT OF )  
 NATURAL RESOURCES, BOARD OF )  
 NATURAL RESOURCES, and )  
 COMMISSIONER OF PUBLIC LANDS )  
 HILARY FRANZ, in her official capacity, )  
 )  
 Respondents, )  
 )  
 AND )  
 )  
 MURPHY COMPANY dba MURPHY )  
 COMPANY OF OREGON, )  
 )  
 Intervenor. )  
 )  
 )  
 )  
 )  
 )

NO. 23-2-00251-16

ORDER GRANTING APPELLANT'S  
MOTION FOR PRELIMINARY  
INJUNCTION

Legacy Forest Defense Coalition, appellant herein, has moved the Court for a preliminary injunction. Appellant has met the standard for issuance of a preliminary injunction and the motion is GRANTED.

The Court therefore ORDERS that:

- The Department of Natural Resources is enjoined from carrying out, either directly or through a contractor, any logging operations (including but not

*Enclosed parts 1/22/24  
1/5/24*

1 limited to tree harvest and road building, or pre-haul maintenance) in the areas  
2 described as Unit 1 and Unit 2 of the “Last Crocker Sorts” timber sale with the  
3 following exception. If necessary to gain access and haul from the other Units  
4 in the Last Crocker Sorts, the court does authorize road improvements of the  
5 existing road that passes through Unit 1 – PT O 3000.

- 6 • The Court determines as an exercise of its equitable discretion that the bond  
7 already provided by Appellants to DNR pursuant to RCW 79.20.030 is  
8 adequate.  
9

10 The reasons for issuance are as follows:

11 The court finds the appellants have met their burden under CR 65 for a preliminary  
12 injunction and have shown it has a clear legal or equitable right, a well-grounded fear of  
13 immediate invasion of that right, and that if the injunction is not granted there would be actual  
14 and substantial injury to the appellants. The court finds this action to be authorized under  
15 RCW 79.02.030 and concludes at this early stage, without a full record from the Board of  
16 Natural Resources, that the Board’s approval of the timber sale of Units 1 and 2 of the Last  
17 Crocker Sorts was arbitrary and capricious.  
18

19 The appellants have demonstrated how DNR’s approval of the timber sale for Units  
20 and 1 and 2 is contrary to its General Silvicultural Strategy policy, PR 14-004-046, which has  
21 a goal of “[achieving] functional older forest structures across 10 to 15 percent of each  
22 Western Washington HCP<sup>1</sup> planning unit within 70 to 100 years.”<sup>2</sup> This policy states that a  
23 forest land plan will be created to meet the desired goals, and:  
24  
25

26 <sup>1</sup> Habitat Conservation Plan.

27 <sup>2</sup> Docket #18, at p.32, Exhibit C to the Wyatt Golding Declaration.

1 Prior to development of a forest land plan, proposed harvest activities in FMUs<sup>3</sup>  
2 that are considered structurally complex forests must be accompanied by the  
3 following information: a) an assessment of forest conditions using readily available  
4 information, b) an analysis of the known landscape management strategies and, c)  
5 *role of the structurally complex stand in meeting older forest targets.*<sup>4</sup>

6 The record before this court is that the forest land plan has not been established for the Straits  
7 Planning Unit, and that Units 1 and 2 of the Last Crocker Sorts are structurally complex  
8 forests. DNR's SEPA<sup>5</sup> checklist does not adequately explain the role Units 1 and 2 play in  
9 meeting the "older forest target."

10 The General Silviculture Strategy states:

11 If a proposed forest management unit is determined to be in one of the three  
12 structurally complex stages, [DNR is to] assess and describe the landscape  
13 conditions. Information provided by Land Management Division may be helpful.  
14 Field verification may determine different conditions than the provided datasets.  
15 Identify acres of existing structurally complex stands managed for older forest  
16 conditions. ...

17 Based on the assessment above determine if 10 to 15 percent or more of the HCP  
18 planning unit contains structurally complex forest prioritized to meet older forest  
19 targets. If yes, stands managed for structural complexity will be designated in a  
20 department lands data base. Structurally complex forests in addition to the amount  
21 identified and designated may be subject to harvest activities designed to meet  
22 other objectives. If no, ...

23 designate in a department lands database additional suitable structurally complex  
24 forest stands or acreage to equal 10 to 15 percent of the HCP planning unit  
25 managed for older forest targets. Once those stands designated as suitable  
26 constitute at least 10 percent of the HCP planning unit, other (not otherwise  
27 withdrawn) stands are available for the full spectrum of timber harvests.<sup>6</sup>

28 The record reflects that DNR has identified about 5 percent of the planning unit to be  
29 protected as structurally complex forests. DNR does not provide a rational basis for not  
30 following its own policy in the SEPA checklist.<sup>7</sup>

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31 <sup>3</sup> Forest management unit.

32 <sup>4</sup> *Id.* at p.33, emphasis added.

33 <sup>5</sup> State Environmental Policy Act.

34 <sup>6</sup> Docket #18, at p.33-34, Exhibit C to the Wyatt Golding Declaration

35 <sup>7</sup> While informative, the court is not persuaded by the evidence provided to the contrary, including the Estep-  
36 Buffo memo at docket #18, p.100, Exhibit F of the Wyatt Golding Declaration.

1 The court denies the appellant's motion for a site visit, as judicial review of the  
2 Board's decision is based on the record before the Board.

3 For the reasons stated herein, the motion for preliminary injunction is granted with the  
4 modifications provided herein. The court will consider requests for an expedited hearing on  
5 the merits in recognition of the challenges the injunction presents to the Murphy Company  
6 and its employees. The court has considered the Company's arguments and seeks to minimize  
7 disruptions as much as possible.  
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11 IT IS SO ORDERED, this 22 day of Jan, 2024.

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15 BRANDON MACK,  
16 SUPERIOR COURT JUDGE  
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