

JUN 26 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ECOLOGY CENTER, INC.;
ALLIANCE FOR THE WILD
ROCKIES, INC.; WILDWEST
INSTITUTE,

Plaintiffs - Appellants,

v.

TOM TIDWELL, Regional Forester of
Region One of the U.S. Forest Service;
DEBORAH AUSTIN, in her official
capacity as Forest Supervisor for the
Lolo National Forest; UNITED
STATES FOREST SERVICE, an
agency of the U.S. Department of
Agriculture,

Defendants - Appellees.

No. 06-36019

D.C. No. CV-05-00037-DWM

MEMORANDUM*

ALLIANCE FOR THE WILD
ROCKIES, INC.; WILDWEST
INSTITUTE,

Plaintiffs - Appellants,

v.

No. 07-35106

D.C. No. CV-05-00037-DWM

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

**TOM TIDWELL, Regional Forester of
Region One of the U.S. Forest Service;
DEBORAH AUSTIN, in her official
capacity as Forest Supervisor for the
Lolo National Forest; UNITED
STATES FOREST SERVICE, an
agency of the U.S. Department of
Agriculture,**

Defendants - Appellees.

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, Chief District Judge, Presiding

Argued and Submitted November 19, 2008
Seattle, Washington

Submission Vacated February 25, 2009

Resubmitted June 26, 2009

Before: **KOZINSKI**, Chief Judge, **B. FLETCHER** and **RAWLINSON**,
Circuit Judges.

Plaintiffs lack standing because they have not identified an application of the
Forest Service regulations that threatens their interests with “imminent harm.”

Summers v. Earth Island Inst., 129 S. Ct. 1142, 1150 (2009). Although projects
existed at the pleading stage that potentially afforded standing, settlement and other
dispositions of claims have removed any ongoing threat to plaintiffs’ interest. The

Juel declaration appears for the first time in the reply brief, and we therefore don't consider it. Fed. R. App. P. 10(a); Summers, 129 S. Ct. at 1150 n.*.

DISMISSED.