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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NATIVE ECOSYSTEMS COUNCIL, and
ALLIANCE FOR THE WILD ROCKIES;

Plaintiffs - Appellants,

v.

TOM TIDWELL, Regional Forester of
Region One of the United States Forest
Service, and UNITED STATES FOREST
SERVICE, an agency of the U.S.
Department of Agriculture;

Defendants - Appellees.

No. 09-35544

D.C. No. 9:08-cv-00121-DWM

MEMORANDUM*

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

Argued and Submitted February 2, 2010
Seattle, Washington

Before: W. FLETCHER and RAWLINSON, Circuit Judges, and MOSMAN,**
District Judge.

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

** The Honorable Michael W. Mosman, United States District Judge for
the District of Oregon, sitting by designation.

Appellants Native Ecosystems Council and Alliance for the Wild Rockies (collectively NEC) appeal the district court's grant of summary judgment in favor of Appellees Tom Tidwell and the United States Forest Service (collectively Forest Service).

The Forest Service met its NEPA obligation when it determined that the challenged project fell within two of its categorical exclusions. *See Bicycle Trails Council of Marin v. Babbitt*, 82 F.3d 1445, 1456 n.5 (9th Cir. 1996), *as amended* (“An agency satisfies NEPA if it applies its categorical exclusions and determines that neither an EA nor an EIS is required[.]”).

Contrary to NEC's assertion, general citations to General Accounting Office reports regarding the overall economic success of the Forest Service's timber sale program do not establish a violation of the National Forest Management Act (NFMA). Because “we are not free to impose on [an] agency our own notion of which procedures are best or most likely to further some vague, undefined public good[.]” *The Lands Council v. McNair*, 537 F.3d 981, 993 (9th Cir. 2008) (en banc) (citation, alterations and internal quotation marks omitted), we conclude that

the Forest Service's accounting methodology satisfied the requirements of the NFMA.

AFFIRMED.