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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CRAIG SMALLWOOD,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>UNITED STATES ARMY CORPS OF ENGINEERS; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-16730

D.C. No. 1:08-cv-00512-DAE-
KSC

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
David Alan Ezra, District Judge, Presiding

Submitted March 8, 2011**

Before: FARRIS, O'SCANNLAIN, and BYBEE, Circuit Judges.

Craig Smallwood appeals pro se from the district court's judgment dismissing his action alleging various environmental claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *AlohaCare v. Haw. Dep't of Human*

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Servs., 572 F.3d 740, 744 n.2 (9th Cir. 2009), and we affirm.

The district court properly dismissed as time-barred Smallwood’s National Environmental Policy Act (“NEPA”) challenges to the federal agency actions that occurred in 1993 and 2002. *See Wind River Mining Corp. v. United States*, 946 F.2d 710, 712 (9th Cir. 1991) (six-year statute of limitations).

The district court properly dismissed Smallwood’s NEPA claim concerning the 2005 permit amendment and the Clean Water Act claim because Smallwood failed to allege facts showing that the U.S. Army Corps of Engineers’ decisions were arbitrary or capricious. *See* 5 U.S.C. § 706(2)(A) (standard for reviewing agency decisions).

The district court properly dismissed Smallwood’s Endangered Species Act (“ESA”) claim because Smallwood did not comply with the statutory notice requirement. *See* 16 U.S.C. § 1540(g)(2)(A); *Save the Yaak Comm. v. Block*, 840 F.2d 714, 721 (9th Cir. 1988) (the ESA notice requirement is jurisdictional).

Smallwood’s remaining contentions are unpersuasive.

AFFIRMED.