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## Michigan Forest Plan Doesn't Cut It, Court Says

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(CN) - A Michigan attorney successfully challenged the U.S. Forest Service's management plan for the Huron-Manistee National Forests, which he argued favored hunters and snowmobile users over hikers and birdwatchers.

The 6th Circuit agreed with Kurt Jay Meister that the agency had disregarded its own regulations by failing to consider the quality of recreation opportunities for hikers, backpackers and cross-country skiers, not just the quantity of land required.

Meister argued that, for example, "cross-country skiers desire a quiet recreation experience" far from snowmobile trails.

The Forest Service argued that it's only required to assess the demand for various activities and come up with a plan that meets that demand.

Though courts usually defer to an agency interpretation, the 6th Circuit noted that the agency's demand-supply analysis missed a critical point.

The Forest Service must supply lands "needed to provide *quality* recreation opportunities" (emphasis added by the court).

"It is not enough, therefore, for the Service merely to identify the supply of lands on which an activity can occur. It must instead identify the supply of lands on which participants in that activity are afforded a 'quality recreation opportunity[y],' " Judge Raymond Kethledge wrote. "So Meister has a point after all."

The Cincinnati-based court agreed with Meister that the agency overestimated snowmobile use and underestimated cross-country ski activity in the forests.

In its demand analysis, the Forest Service had adjusted its estimated snowmobile visits from zero to 120,000 for 2000, and 138,000 for 2010. The agency left its estimates of cross-country visitors at zero for the next 50 years.

Meister claimed this methodology amounts to "everything imaginable short of making up the data about snowmobile use."

The 6th Circuit agreed that the numbers were shaky, as they were based on a single, speculative email exchange between the Forest Service and a professor at Michigan State University.

"[T]here is scarcely any basis for the snowmobile estimate," Kethledge wrote, and the agency never explained its disparate treatment of the cross-country estimate.

"Meister quite reasonably asks why snowmobile visits received an upward adjustment, but cross-country visits did not."

The court concluded that the agency's plan is not entitled to deference, which "must be earned."

"An agency is not entitled to deference simply because it is an agency," Kethledge wrote.

The court also agreed with Meister that the Forest Service failed to coordinate its recreational planning with the state, arbitrarily kept certain trails open to snowmobiles, and failed to consider closing other non-motorized areas to gun hunting and snowmobile use, as Meister had proposed.

However, the panel affirmed the district court's ruling for the agency on the remaining allegations, including the claim that the management plan should have designated much more "semi-primitive non-motorized" areas.

The federal appeals court gave the Forest Service 90 days to adopt a management plan that complies with federal law. [📄](#)

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