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**FEDERAL COURT INVALIDATES RULES ON DEVELOPMENT  
IN ENDANGERED SPECIES HABITAT, SAYING THAT  
FEDERAL GOVERNMENT HAS “FLAGRANTLY” VIOLATED THE LAW**

Washington, D.C. -- A federal court has ruled that the federal government committed “flagrant” violation of federal law in the course of issuing regulations concerning the controversial “No Surprises” policy, under which the government guaranteed developers and timber companies that they could have decades-long permits to destroy endangered species habitat, even if new information demonstrated that the species would go extinct. The policy has been relied on by the Interior Department to approve hundreds of “Incidental Take Permits” – sometimes known as Habitat Conservation Plans – encompassing millions of acres of endangered species habitat throughout the country.

The 47-page ruling – issued by Judge Emmet Sullivan of the United States District Court for the District of Columbia – declares that, to the detriment of endangered species, the government fundamentally violated the public’s rights to participate in the process under which the regulations were adopted. The Court held that: “The history of the two regulatory provisions challenged in this action has indeed been full of surprises. The public has consistently been denied the opportunity, absent a court order, to be notified of substantive changes to regulations enforcing the [Endangered Species Act], and to weigh in on decisions likely to have significant effects on public resources.”

The Court specifically invalidated regulations issued in 1999 that made it extremely difficult for the government to rescind ITPs/HCPs, even when they are preventing the recovery of endangered and threatened species. The Court also ordered the government to reconsider its entire approach to the No Surprises issue, after fully taking into account public comment on all of the pertinent regulations.

According to Leeona Klippstein, Executive Director of the lead plaintiff, Spirit of the Sage Council, which was led the fight on No Surprises for ten years, “this ruling is a huge victory for imperilled animals and plants, as well as the public’s basic right to have a say in how public resources are managed. . . .”

The case was brought by Eric Glitzenstein of the Washington, D.C. public-interest law firm Meyer & Glitzenstein, on behalf of Spirit of the Sage Council, the Mountaineers, the Humane Society of the United States, the Shoshone Gabrielino Nation, the Biodiversity Legal Foundation, the National Endangered Species Network, and the Klamath Forest Alliance.