

Provisional Remedies Assessment Exercise

The United States Forest Service (USFS) manages public lands in national forests, including the Scenic National Forest. Without conducting an environmental evaluation or preparing an environmental impact statement, the USFS approved a development project in the Scenic National Forest that required the clearing of 5,000 acres of old-growth forest. The trees in the forest are hundreds of years old, and the forest is home to a higher concentration of wildlife than can be found anywhere else in the western United States.

The USFS solicited bids from logging companies to harvest the trees on the 5,000 acres of forest targeted for clearing, and it ultimately awarded the logging contract to the company that had submitted the highest bid for the trees. However, the USFS has not yet issued the company a logging permit. Once it does so, the company intends to begin cutting down trees immediately.

A nonprofit organization whose mission is the preservation of natural resources has filed suit in federal district court against the USFS. The nonprofit alleges that the USFS violated the National Environmental Policy Act (NEPA) by failing to prepare an environmental impact statement for the proposed logging project. Among other remedies, the nonprofit seeks a permanent injunction barring the USFS from issuing a logging permit to the logging company until an adequate environmental impact statement is completed. The nonprofit believes that the logging project would destroy important wildlife habitat and thereby cause serious harm to wildlife in the Scenic National Forest, including some endangered species.

What types of relief could the nonprofit seek to stop the USFS from issuing a logging permit during the pendency of the action, what must the nonprofit demonstrate to obtain that relief, and is the federal district court likely to grant that relief? Explain.