

WASHINGTON COURT OF APPEALS, DIVISION ONE

Center for Sustainable Economy, Legacy Forest Defense Coalition,
and Save the Olympic Peninsula v. Washington State Department of
Natural Resources, Board of Natural Resources, Washington State
Department of Ecology, and Hilary Franz

No. 86667-2-I · No. 86667-2-I · Decided February 17, 2026

SUMMARY

The Washington Court of Appeals, Division One, reviews a challenge to the Washington State Department of Natural Resources’ determination of nonsignificance and approval of the Wishbone Timber Sale. The court holds that the determination was not clearly erroneous and rejects the requirement for a site-specific climate impact assessment, but concludes that DNR must comply with RCW 43.21C.030(2)(e) before approving any future sale. The court reverses in part, affirms in part, and remands.

CASE DETAILS

COURT	Washington Court of Appeals, Division One
WRITING FOR THE COURT	Coburn, J.
JURISDICTION	Washington Court of Appeals, Division One
DECIDED	February 17, 2026
DOCKET	86667-2-I
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State agencies appealed a King County Superior Court order reversing a determination of nonsignificance for the Wishbone Timber Sale and requiring site-specific climate-impact analysis and an alternatives analysis under RCW 43.21C.030(2)(e).
STANDARD OF REVIEW	The Court of Appeals reviewed the SEPA decision in the same position as the superior court. It reviewed the determination of nonsignificance under the clearly erroneous standard, reviewed questions of law and the agency's application of law to facts de novo, and gave substantial weight and appropriate deference to agency environmental expertise and decisions.
PRECEDENTIAL VALUE	Published Washington Court of Appeals opinion

PARTIES

Washington State Department of Natural Resources, Board of Natural Resources, Washington State Department of Ecology, Hilary Franz, in her official capacity v. Center for Sustainable Economy, Legacy Forest Defense Coalition, Save the Olympic Peninsula

TOPICS

environmental impact review

judicial review of agency action

administrative law

trust administration

appellate procedure

PRACTICE AREAS

environmental law

administrative law

trust administration

appellate procedure

QUESTIONS PRESENTED

1. Whether DNR's determination of nonsignificance was clearly erroneous because it relied on a landscape-level FEIS rather than conducting a site-specific analysis of the Wishbone Timber Sale's climate impacts.
2. Whether DNR's reliance on the 2019 FEIS, rather than the 2020 Washington Forest Ecosystem Carbon Inventory and the Hudiburg 2019 letter, was clearly erroneous.
3. Whether DNR failed to take a hard look at greenhouse-gas emissions, lost carbon-sequestration capacity, and climate-change vulnerability.
4. Whether RCW 43.21C.030(2)(e) required DNR to study, develop, and describe alternatives because the Wishbone Timber Sale involved unresolved conflicts concerning alternative uses of available resources.
5. Whether the Coalition was entitled to attorney fees under Washington's Equal Access to Justice Act.

HOLDINGS

1. DNR's reliance on the landscape-level climate analysis in the 2019 FEIS, together with its environmental checklist and threshold determination, was not clearly erroneous. SEPA did not require DNR to conduct a separate project-level climate-impact assessment before issuing the DNS.
2. The Coalition did not establish that DNR clearly erred by relying on the 2019 FEIS rather than the 2020 carbon inventory or the Hudiburg 2019 letter.
3. The Coalition failed to show that DNR did not take the required hard look at greenhouse-gas emissions, carbon-sequestration capacity, or climate-change vulnerability.
4. RCW 43.21C.030(2)(e) required DNR to study, develop, and describe appropriate alternatives to the Wishbone Timber Sale because the proposal involved an unresolved conflict between harvesting the subject trees and using them as carbon reserves. An environmental checklist or consideration of mitigation measures alone did not satisfy that obligation.
5. The Coalition was not entitled to attorney fees under RCW 4.84.350 because the challenged action was a proprietary decision in the management of public lands and therefore was excluded from the statutory definition of agency action.

KEY QUOTATIONS

“We hold that an alternatives analysis under subsection (2)(e) is required because the Wishbone Timber Sale presents a situation involving a choice between uses.” (86667-2-I/24-25)

“Certainly, cutting down the trees precludes their use as carbon reserves, which is not just a theoretical use.” (86667-2-I/25)

“DNR’s DNS was not clearly erroneous.” (86667-2-I/27)

FACTUAL BACKGROUND

DNR proposed selling timber from approximately 100 acres of state-managed forest land in King County as part of a sustainable harvest-level plan for western Washington trust lands. DNR relied principally on a 2019 Final Environmental Impact Statement addressing climate impacts at the landscape level, issued a determination of nonsignificance, and stated that the site would be replanted after harvest. The environmental organizations argued that DNR was required to conduct site-specific climate analysis, consider newer carbon data, take a hard look at climate impacts, and analyze alternatives including preserving the mature forest as a carbon reserve.

PROCEDURAL HISTORY

The Department of Natural Resources issued a determination of nonsignificance after reviewing the approximately 100-acre Wishbone Timber Sale under SEPA. The Board authorized the sale, and the environmental organizations appealed under the Public Lands Act and SEPA to King County Superior Court. The superior court reversed and ordered site-specific climate analysis and development of reasonable alternatives. The Court of Appeals reversed in part, affirmed in part, reinstated the DNS, struck the site-specific climate-assessment requirement, and remanded for an alternatives analysis under RCW 43.21C.030(2)(e).

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reinstate the DNS and strike the superior court's directive requiring a site-specific climate-change assessment. Before the Board may approve the Wishbone Timber Sale, DNR must comply with RCW 43.21C.030(2)(e) by studying, developing, and describing appropriate alternatives, including the Coalition's proposed alternative uses. The court may consider information previously relied on for other purposes when conducting the required alternatives analysis.

CASES CITED

- Conservation Northwest v. Commissioner of Public Lands, 199 Wn.2d 813, 514 P.3d 174 (2022)
- Norway Hill Preservation & Protection Ass'n v. King County Council, 87 Wn.2d 267, 552 P.2d 674 (1976)
- Wenatchee Sportsmen Ass'n v. Chelan County, 141 Wn.2d 169, 4 P.3d 123 (2000)
- King County v. Washington State Boundary Review Board for King County, 122 Wn.2d 648, 860 P.2d 1024 (1993)

- King County v. Friends of Sammamish Valley, 3 Wn.3d 793, 556 P.3d 132 (2024)
- PT Air Watchers v. Department of Ecology, 179 Wn.2d 919, 319 P.3d 23 (2014)
- Wild Fish Conservancy v. Washington Department of Fish & Wildlife, 198 Wn.2d 846, 502 P.3d 359 (2022)
- Stempel v. Department of Water Resources, 82 Wn.2d 109, 508 P.2d 166 (1973)
- International Longshore & Warehouse Union, Local 19 v. City of Seattle, 176 Wn. App. 512, 309 P.3d 654 (2013)
- Kleppe v. Sierra Club, 427 U.S. 390, 410 n.21, 96 S. Ct. 2718, 49 L. Ed. 2d 576 (1976)
- National Resources Defense Council v. Morton, 458 F.2d 827, 838 (D.C. Cir. 1972)
- Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1211 (9th Cir. 1998)
- Cornelius v. Washington Department of Ecology, 182 Wn.2d 574, 344 P.3d 199 (2015)
- Marine Environmental Consortium v. State, Nos. 96-257 through 96-266 & 97-110, 1998 WL 933353 (Wash. Pollution Control Hr'gs Bd. Nov. 30, 1998)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/washington-court-of-appeals-division-one-washington-court-of-appeals-division-one/2026/center-for-sustainable-economy-legacy-forest-defense-99k5mnc0>