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## Environmental groups blast ODOT, Forest Service over pesticide error

Weedkiller that killed trees near Sisters should never have been applied, they say



Dozens of ponderosa trees that are dead or dying line U.S. Highway 20 just west of Sisters on Wednesday, May 2, 2018. The Oregon Department of Transportation applied herbicide to kill brush along the highway from 2013-2015 and accidentally killed the trees in the process. (Ryan Brennecke/Bulletin photo)

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After an improperly applied herbicide killed hundreds of ponderosa pine trees near Sisters, a number of environmental advocates are arguing that the Oregon Department of Transportation, or its contractors, should have known better than to apply the weedkiller in the first place.

“Had a private company done that, every entity in the country would have been on their doorstep,” said Dan Harshbarger, a La Pine resident who lost trees on his property in a similar incident.

During the comment period for a U.S. Forest Service project to remove dead and dying trees along a 12-mile stretch of U.S. Highway 20 to the northwest of Sisters, the agency received comments from environmentalists arguing that the various agencies involved in

the project didn't abide by instructions from the Environmental Protection Agency posted on the chosen herbicide label.

Representatives from the Oregon Department of Transportation and the Forest Service argued that the agencies didn't violate instructions on the label, but acknowledged that there had been a serious mistake.

"We just collectively dropped the ball on that, and it's unfortunate," said Ian Reid, Sisters district ranger for the Deschutes National Forest.

In 2012, ODOT, the Forest Service and Jefferson County Public Works, which was selected to apply the herbicide, began planning a three-year effort to kill flammable roadside plants along Highway 20, according to Peter Murphy, spokesman for the state transportation agency. Reid added that the group ultimately selected the weedkiller Perspective over a rival product, known as Throttle.

At the time, Perspective was produced by DuPont USA, and EPA's product label contained instructions that damage to "desirable trees or other plants" may occur if the product is used nearby.

However, Reid said the label did not include specific instructions about use on ponderosa pines at the time.

In 2013, when the project was slated to begin, the label was updated to include a list of plant species that may be particularly sensitive to the weedkiller, which includes ponderosa pines. Murphy noted that the language of the label was precautionary, and doesn't explicitly prohibit using Perspective near ponderosa pines. He did not provide a reason why the project continued despite the precaution.

"We're looking at it with hindsight now, and that colors things," Murphy said.

The Forest Service noticed tree damage in the area in 2014, but it wasn't linked to Perspective until later. By then, hundreds of mature ponderosas were dead or dying.

Lisa Arkin, executive director for Beyond Toxics, which focuses on environmental and human health issues across Oregon, said the organization applying the weedkiller — Jefferson County Public Works, in this case — is responsible for reading the instructions and determining that it is being used appropriately.

“They are required by law to read the label extensively,” Arkin said.

Harshbarger and Arkin worked together on a similar project in the past, when herbicides used near La Pine accidentally killed hundreds of trees and contaminated the drinking water in the area. Harshbarger, who had 23 of his own trees killed by the toxins, sued Klamath County and won in 2016.

Harshbarger and Arkin noticed similarities between the two cases, and filed a report of loss for the more than 1,000 dead trees.

Harshbarger said the combination of cautioning applicators not to use the product near ponderosa pines and restrictions on using it near sensitive trees more generally should have been enough to encourage them to use a different product.

“None of them read the label,” Harshbarger said.

A letter from Central Oregon Landwatch, a Bend-based environmental watchdog group, further criticizes the project for harming trees that were saved more than a decade prior, when an attempt to widen the highway to four lanes was rejected after opposition from local community members.

“Many people fought to save these trees that ultimately ended up getting killed,” said Rory Isbell, staff attorney for Central Oregon Landwatch.

Reid said the public comment period ended on May 31, although the path to resolve the issue remains an open question. Among other requests, Landwatch’s letter asks the Forest Service to consider removing just the tops of the trees to keep them from impacting the highway if they fall, among other requests.

Isbell said the approach would retain habitat for birds and other animals while maintaining the scenic character of the roadway.

“Our primary concern right now is just to mitigate the situation,” Isbell said.

Reid said the Forest Service will take that, and other advice, into consideration as it weighs its options. Any technique used to remove the trees would need to avoid reintroducing the weedkiller to the environment.

Ultimately, the project will remove up to 2,000 trees, the majority of which are ponderosas, he said.

The project is likely to begin in the fall or next spring, although Reid added that the Forest Service is looking at removing trees that pose a significant risk to cars on the highway before that.

“I think, overall, there’s a sense that the public trust was betrayed,” he said.

— Reporter: 541-617-7818, [shamway@bendbulletin.com](mailto:shamway@bendbulletin.com)