

I'm Yelling Timber

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Plaintiffs, Dennis and Kimberly Beard, are the former owners of Dinkey Creek Inn, a seasonal resort located in the Sierra National Forest. The Beards operated their resort under a special use permit issued by the U.S. Forest Service in 1981, which granted the Beards long-term use of the land in exchange for an annual fee.

In 1993, the Forest Service approved the Beards' site development plan, which permitted the Beards to construct and operate a restaurant and up to ten chalet cabins on the property. In 2001, the Beards advised the Forest Service that they had abandoned their proposal to build a restaurant and advised the government that they had constructed six chalets. The Beards claimed, however, that they had not abandoned their plans to build the chalets.

In 2011, the Forest Service removed trees from a portion of the permitted area, which the Beards argued impeded their ability to build any new chalets. They ultimately sued in the U.S. Court of Federal Claims, alleging that the Forest Service violated the terms of their permit by authorizing a logging contractor to harvest timber in a manner that unduly interfered with the rights and privileges conferred on the Beards by the permit, seeking an array of damages (including lost profits and compensation for aesthetic harm).

Both parties cross-moved for summary judgment. The Government argued that the timbering was consistent with its statutory duty to reduce the risk of forest fire, by conducting thinning operations and removing undergrowth.

The Court agreed with the Government, concluding that "the forest service has authority to sell timber by contracting with private timber harvesting companies." In addition, the Court found that because the Beards could establish no basis for a damages award they could not establish "a prima facie claim of breach of contract." Read Judge Campbell-Smith's full decision [here](#).