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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ERIC NAVICKAS and JAY LININGER,

Case No.

Plaintiffs,

v.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

SCOTT CONROY, Forest Supervisor of the
Rogue River-Siskiyou National Forest; and
UNITED STATES FOREST SERVICE, a
federal agency,

(Violation of National Forest Management
Act, Healthy Forests Restoration Act,
National Environmental Policy Act, and
Administrative Procedure Act)

Defendants.

INTRODUCTION

1. Plaintiffs challenge the decision by defendants Scott Conroy and the United States Forest Service ("Forest Service") to authorize the Ashland Forest Resiliency Project ("AFR Project") in the Siskiyou Mountains Ranger District of the Rogue River-Siskiyou National Forest in southern Oregon.

2. The AFR Project proposes to conduct tree removal and prescribed fire operations,

road maintenance and helicopter landing development on 7600 acres in the Ashland Creek and adjacent Hamilton Creek, Neil Creek and Wagner Creek watersheds.

3. Defendants violated the National Forest Management Act ("NFMA") because the AFR Project does not comply with standards and guidelines of the Rogue River National Forest Land and Resource Management Plan or the Northwest Forest Plan. Defendants violated the Healthy Forests Restoration Act ("HFRA") because the AFR Project is not consistent with forest plans and will not maintain or restore old growth forest. Defendants violated the National Environmental Policy Act ("NEPA") in failing to examine direct, indirect and cumulative impacts or demonstrate that the AFR Project will meet the purpose and need for action in a Final Environmental Impact Statement ("EIS") and Record of Decision ("ROD").

4. Plaintiffs seek:

- a. a declaration that the AFR Project violates NFMA;
- b. a declaration that the AFR Project violates the HFRA; and
- c. a declaration that the Final EIS and ROD violate NEPA.

5. Plaintiffs may seek injunctive relief to enjoin defendants from implementing portions of the AFR Project pending defendants' compliance with law. However, plaintiffs would ask the Court to allow necessary and proper fire hazard mitigation work to proceed in the wildland-urban interface of the City of Ashland during the pendency of this litigation.

6. If plaintiffs prevail, they will seek an award of costs and fees, including reasonable attorneys' fees, pursuant to the Equal Access to Justice Act, 28 U.S.C. §§ 2412.

JURISDICTION

7. Jurisdiction is proper in this Court under 5 U.S.C. §§ 551, *et seq.*, 28 U.S.C. §§

1331, and 28 U.S.C. § 1346, because this action involves the United States as a defendant and arises under the laws of the United States, including NFMA, 16 U.S.C. § 1601, *et seq.*; the HFRA, 16 U.S.C. 6501, *et seq.*; NEPA, 42 U.S.C. §§ 4321, *et seq.*; and the APA, 5 U.S.C. §§ 551, *et seq.* An actual controversy exists between plaintiffs and defendants. The challenged agency action is final and subject to review under 5 U.S.C. §§ 702, 704 and 706. The requested relief is proper under 28 U.S.C. §§ 2201-02 and 5 U.S.C. §§ 705-06. Plaintiffs have exhausted all administrative remedies.

VENUE

8. Venue in this Court is proper under 28 U.S.C. § 1391.

PARTIES

9. Plaintiff Eric Navickas is an Ashland City Councilor and owner of a fine art gallery and local organic farm. He brings this action on his own behalf.

10. Plaintiff Jay Lininger is employed as an ecologist by the Center for Biological Diversity, a non-profit corporation based in Tucson, Arizona. He brings this action on his own behalf.

11. Plaintiffs use and enjoy the Siskiyou Mountains Ranger District of the Rogue River-Siskiyou National Forest, including the AFR Project area, for a variety of purposes, including hiking, running, biking, skiing, photography, wildlife viewing, botanical exploration, research and religion. Plaintiffs derive many benefits from their activities within this national forest including recreation, health, education and spirit. Plaintiffs will continue to use and enjoy the area on an ongoing basis in the future.

12. Plaintiffs' interests have been and will continue to be adversely affected and

irreparably injured as defendants implement the AFR Project. These are actual, concrete injuries caused by the defendants' violations of NFMA, HFRA, NEPA and APA. Plaintiffs' injuries will be redressed by the relief sought.

13. Defendant Scott Conroy is the official responsible for the AFR Project in his official capacity as Forest Supervisor of the Rogue River-Siskiyou National Forest.

14. Defendant Forest Service is a federal agency within the United States Department of Agriculture responsible for lawful management of national forest lands.

FACTUAL BACKGROUND

A. Municipal Drinking Water Source

15. Ashland Creek is the primary domestic water source for the City of Ashland, via Reeder Reservoir.

16. Reeder Reservoir is listed as impaired due to excessive sediment under section 303(d) of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*

17. Flooding in 1964, 1974, and 1997 deposited large quantities of sediment in the watershed.

18. In 2007, the Oregon Department of Environmental Quality established a natural background rate of soil erosion, 3.62 cubic yards per day, as the total maximum daily load for sediment capacity in Upper Ashland Creek.

19. Timber harvest is restricted in the Ashland Creek watershed to protect soil productivity and water quality.

20. Soil productivity, slope stability, sediment delivery and water quality are significant issues for the AFR Project.

21. The Forest Service analyzed sediment delivery that will result from the AFR Project using the "Water Erosion Prediction Project" model.

22. The AFR Project will increase sediment delivery to Upper Ashland Creek.

B. Rogue River National Forest Plan

23. In 1990, the Forest Service adopted the Rogue River National Forest Land and Resource Management Plan ("Rogue River Forest Plan"), which establishes standards and guidelines that govern activities in each of 26 land use zones called "Management Strategies."

24. The Rogue River Forest Plan designates Management Strategy 1, Minimum Management ("MS-1"), to maintain national forest lands in federal ownership and protect resources, life, health and safety of incidental uses.

25. The Rogue River Forest Plan designates Management Strategy 5, Special Interest Area ("MS-5"), to preserve unusual recreational, biological, cultural, geological and scenic values in a substantially natural condition.

26. The Rogue River Forest Plan designates Management Strategy 7, Foreground Partial Retention ("MS-7"), on lands visible from certain travel routes so that, to the casual observer, results of management activities are evident and are visually subordinate to the natural landscape.

27. The Rogue River Forest Plan designates Management Strategy 9, Middleground Partial Retention ("MS-9"), on lands visible from selected travel routes so that, to the casual observer, results of management activities are evident and are visually subordinate to the natural landscape.

28. The Rogue River Forest Plan designates Management Strategy 20, Timber

Suitable 1 ("MS-20"), on lands where the management emphasis is timber production.

29. The Rogue River Forest Plan designates Management Strategy 21, Timber Suitable 2 ("MS-21"), on extremely sensitive lands that require special management to maintain long-term productive capability of soil.

30. The Rogue River Forest Plan designates Management Strategy 22, Restricted Watershed ("MS-22"), on lands that provide water for domestic supply.

31. The Rogue River Forest Plan designates Management Strategy 23, Managed Watershed ("MS-23"), in sensitive watersheds that require special management to maintain water quality.

32. The Rogue River Forest Plan designates Management Strategy 25, Research Natural Area ("MS-25"), to provide for research, observation and study of undisturbed ecosystems.

33. The Rogue River Forest Plan designates Management Strategy 26, Restricted Riparian ("MS-26"), at perennial streams, lakes and wetlands including lands within 100 feet horizontal distance and the riparian vegetation associated with them to protect riparian habitats from detrimental changes in water temperature, blockages of water courses, and deposits of sediment.

C. Northwest Forest Plan

34. In 1994, the Forest Service amended the Rogue River Forest Plan with a region-wide Record of Decision commonly known as the Northwest Forest Plan ("NFP"), which sets forth standards and guidelines in addition to those in the Rogue River Forest Plan.

35. Where the local plan is more restrictive or provides greater benefits to late-

successional forest related species, its standards and guidelines remain in effect, and many standards and guidelines in the Rogue River Forest Plan were not amended by the NFP.

36. The NFP includes an Aquatic Conservation Strategy ("ACS") that establishes Riparian Reserves on lands adjacent to waterways and other lands necessary for protection of hydrologic, geomorphic and ecological processes associated with aquatic resources, including fish-bearing streams, permanently flowing non-fish-bearing streams, wetlands, lakes and natural ponds, seasonally flowing or intermittent streams, and unstable or potentially unstable areas (including earthflows).

37. Riparian Reserves are designed to protect the integrity of aquatic ecosystems, and the NFP prohibits the Forest Service from authorizing ground disturbance within a Riparian Reserve unless the agency can demonstrate that the activity is necessary to protect the ecological health of watersheds and aquatic ecosystems.

38. The Forest Service rates landslide hazard based on landscape sensitivity to mass wasting. Landslide Hazard Zone 1 is the highest debris flow hazard. Landslide Hazard Zone 2 is the second-highest debris flow hazard.

39. In 1995, the Forest Service completed the Bear Watershed Analysis.

40. In 2003, the Forest Service updated the Bear Watershed Analysis with the Upper Bear Ecosystem Assessment.

41. The NFP establishes a network of Late-Successional Reserves ("LSRs") to protect and enhance late-successional and old growth forest ecosystems that provide habitat for older forest related species, including threatened northern spotted owl.

42. The AFR Project is located in the Mount Ashland LSR (RO-248).

43. In 1996, the Forest Service produced the Mt. Ashland Late-Successional Reserve Assessment.

D. Northern Spotted Owl

44. Northern spotted owls exist in the AFR Project area.

45. The U.S. Fish and Wildlife Service ("FWS") has listed the northern spotted owl as "threatened" under the Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.*

46. The AFR Project is located in "critical habitat" for the northern spotted owl.

47. The AFR Project will downgrade 1292 acres of suitable nesting, roosting and foraging habitat for northern spotted owl to dispersal-only habitat.

48. Defendants initiated formal consultation with the FWS under Section 7 of the Endangered Species Act regarding effects of the AFR Project to northern spotted owl.

49. The FWS issued a Biological Opinion stating that the AFR Project is "likely to adversely affect" northern spotted owl and its critical habitat.

50. The Forest Service funds Oregon State University to study effects of timber harvest on northern spotted owl habitat use in connection with the AFR Project.

51. The barred owl is an invasive species that competes with northern spotted owl for habitat and prey, and is known to attack and kill spotted owls.

52. Barred owl invasion poses an existential threat to northern spotted owl.

53. Barred owls are present in the AFR Project area.

E. Pacific fisher

54. Pacific fishers exist in the AFR Project area.

55. The pacific fisher is a furbearing carnivore whose listing under the Endangered

Species Act as "endangered" is "warranted but precluded" by competing FWS priorities.

56. The Forest Service has designated Pacific fisher as a "sensitive species," meaning that its viability is of concern because of significant current or predicted downward trends in population numbers or density, or because there is a significant downward trend in current or predicted habitat that would reduce their distribution. As such, Pacific fisher is entitled to additional management protection and consideration.

57. Fuel management and timber harvest can degrade or remove Pacific fisher denning, resting and foraging habitat.

F. Research Natural Area

58. In 1970, the Forest Service established the Ashland Research Natural Area ("RNA") on 1641 acres to preserve the only representation of Pacific ponderosa pine/Douglas-fir and Pacific ponderosa pine forests in the federal natural area system.

59. The goal of the RNA is to provide an area for research, observation and study of undisturbed ecosystems.

60. The purposes of the RNA are to provide a baseline area against which effects of human activities can be measured, a site for study of natural processes in undisturbed ecosystems, and a gene pool preserve for all types of organisms.

61. The guiding management principle for the RNA is to prevent unnatural encroachments and activities.

62. The RNA contains late-successional and old growth forest that never has been subject to timber harvest.

G. Inventoried Roadless Area

63. In 1979, the Forest Service concluded its "Roadless Area Review and Evaluation," which inventoried national forest lands for suitability as wilderness areas under the Wilderness Act, 16 U.S.C. 1131, *et seq.*

64. Inventoried Roadless Areas ("IRAs") supply unique recreation opportunities and wildlife habitat that are affected by timber harvest.

65. In 2001, the Forest Service restricted timber harvest within IRAs.

66. The AFR Project allows timber harvest on more than 1000 acres in the McDonald Peak IRA.

CLAIMS FOR RELIEF

COUNT I

Violation of NFMA

Failure to Follow Standards and Guidelines for Effective Ground Cover

67. Plaintiffs incorporate by reference the foregoing paragraphs.

68. The National Forest Management Act ("NFMA") requires that defendants' activities carried out on national forest lands "shall be consistent with the land management plans." 16 U.S.C. § 1604(I); 36 C.F.R. § 219.10(e).

69. The Rogue River Forest Plan is a "land management plan."

70. On lands allocated by the Rogue River Forest Plan to MS-1, MS-5, MS-7, MS-9, MS-20, MS-21, MS-22 and MS-23, management activities must maintain effective ground cover. Mineral soil exposure should not exceed the following limits overall, based on the erosion hazard rating of the soil type, as defined in the Rogue River National Forest Soil Resource Inventory:

- a. Forty percent mineral soil exposed on soils classed as very slight, slight, low or moderate erosion hazard soils;
- b. Thirty percent exposure on high or severe erosion hazard soils;
- c. Fifteen percent exposure on very high or very severe erosion hazard soils.

71. On lands allocated to MS-26, mineral soil exposure resulting from management activities should not exceed the following limits overall, based on the erosion hazard rating of the soil type, as defined in the Rogue River National Forest Soil Resource Inventory:

- a. Twenty percent mineral soil exposed on soils classed as very slight, slight, low or moderate erosion hazard soils;
- b. Ten percent exposure on high or severe erosion hazard soils;
- c. Seven percent exposure on very high or very severe erosion hazard soils.

72. The AFR Project will expose mineral soil in excess of standards and guidelines for MS-1, MS-5, MS-7, MS-9, MS-20, MS-21, MS-22, MS-23 and MS-26, and defendants therefore violated NFMA.

73. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

74. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT II

Violation of NFMA

Failure to Follow Standards and Guidelines for Riparian Reserves

75. Plaintiffs incorporate by reference the foregoing paragraphs.

76. The National Forest Management Act ("NFMA") requires that defendants' activities carried out on national forest lands "shall be consistent with the land management plans." 16 U.S.C. § 1604(I); 36 C.F.R. § 219.10(e).

77. The Northwest Forest Plan is a "land management plan."

78. The Aquatic Conservation Strategy ("ACS") is a key component of the Northwest Forest Plan and is incorporated into the Rogue River Forest Plan.

79. The Forest Service is required to meet ACS Objectives to maintain and restore physical, chemical and biological features of aquatic ecosystems including hydrologic flows, temperature and sediment regime.

80. The NFP directs that, in order to find that a project meets the ACS Objectives, the Forest Service must describe the existing watershed condition, the natural range of variability of physical, chemical and biological components of a watershed, and how proposed activities would maintain the existing condition or move conditions within the natural range of variability.

81. Defendants allowed ground-disturbing activities in Riparian Reserves as part of the AFR Project.

82. Riparian Reserves that would be affected are properly functioning now.

83. Defendants failed to establish that proposed activities in Riparian Reserves are required to meet the ACS Objectives, and thereby violated NFMA.

84. Defendants failed to demonstrate how proposed activities in Riparian Reserves would maintain existing biological, chemical and physical watershed conditions or move conditions within the natural range of variability, and thereby violated NFMA.

85. Fire/Fuels Management Standard "FM-1" requires activities in Riparian Reserves to minimize disturbance of ground cover and vegetation.

86. Defendants failed to minimize disturbance of ground cover and vegetation in Riparian Reserves, in violation of FM-1, and thereby violated NFMA.

87. Watershed and Habitat Restoration Standard "WR-3" prohibits use of mitigation or planned restoration as a substitute for preventing habitat degradation in Riparian Reserves.

88. Defendants substituted mitigation and planned restoration for habitat protection in Riparian Reserves, in violation of WR-3, and thereby violated NFMA.

89. Defendants failed to ensure the effectiveness of mitigation measures and restoration activities proposed in Riparian Reserves, and thereby violated NFMA.

90. Defendants excluded potentially unstable areas from Riparian Reserve, and thereby violated NFMA.

91. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

92. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT III

Violation of NFMA

Failure to Follow Standards and Guidelines for Research Natural Area

93. Plaintiffs incorporate by reference the foregoing paragraphs.

94. The National Forest Management Act ("NFMA") requires that defendants'

activities carried out on national forest lands "shall be consistent with the land management plans." 16 U.S.C. § 1604(I); 36 C.F.R. § 219.10(e).

95. The Rogue River Forest Plan is a "land management plan."

96. Under the Forest Plan, timber harvesting is not allowed in the Ashland RNA.

97. Defendants allowed harvest of thousands of late-successional trees, destruction of coarse woody debris, and reduction of canopy cover to forty percent in the RNA as part of the AFR Project, and thereby violated NFMA.

98. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

99. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT IV

Violation of NFMA

Failure to Follow Standards and Guidelines for Late-Successional Reserve

100. Plaintiffs incorporate by reference the foregoing paragraphs.

101. The National Forest Management Act ("NFMA") requires that defendants' activities carried out on national forest lands "shall be consistent with the land management plans." 16 U.S.C. § 1604(I); 36 C.F.R. § 219.10(e).

102. The NFP is a "land management plan."

103. The NFP restricts timber harvest in LSR forest stands older than eighty years.

104. The NFP permits fire hazard reduction activities in LSR forest stands older than

eighty years if they:

- a. clearly result in greater assurance of long-term maintenance of late-successional forest habitat;
- b. clearly are needed to reduce risk; and
- c. will not prevent the LSR from meeting objectives for which it was established.

105. Defendants allowed harvest of thousands of late-successional trees, destruction or coarse woody debris, and reduction of canopy cover to forty percent in forest stands older than eighty years as part of the AFR Project, and thereby violated NFMA.

106. Defendants allowed timber harvest in mid-successional forest that will create edge effects in adjacent late-successional habitat, and thereby violated NFMA.

107. Timber harvest in the AFR Project would not result in greater assurance of long-term maintenance of late-successional habitat; is not needed to reduce risk; and may prevent the Mount Ashland LSR from meeting objectives for which it was established, and defendants therefore violated NFMA.

108. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

109. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT V

Violation of HFRA

Failure to Ensure Consistency With Forest Plans

110. Plaintiffs incorporate by reference the foregoing paragraphs.

111. The Healthy Forests Restoration Act ("HFRA") requires authorized projects to be consistent with forest plans. 16 U.S.C. § 6512(b).

112. Defendants applied HFRA authority to the AFR Project.

113. Defendants failed to follow standards and guidelines of the Rogue River Forest Plan, and thereby violated HFRA.

114. Defendants failed to follow standards and guidelines of the NFP, and thereby violated HFRA.

115. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

116. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT VI

Violation of HFRA

Failure to Maintain or Restore Old Growth Forest

117. Plaintiffs incorporate by reference the foregoing paragraphs.

118. The HFRA requires authorized projects to maintain or restore structure and composition of forest stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth

structure. 16 U.S.C. § 6512(e)(2).

119. Defendants failed to establish the structure and composition of pre-fire suppression old growth conditions to be maintained or restored.

120. Defendants allowed harvesting of old growth trees.

121. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

122. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT VII

Violation of NEPA

Failure to Take a Hard Look at Environmental Impacts

123. Plaintiffs incorporate by reference the foregoing paragraphs.

124. The National Environmental Policy Act ("NEPA") requires agencies of the United States to consider environmental impacts of major federal actions before decisions are made. 42 U.S.C. § 4331 *et seq.*

125. NEPA requires an environmental impact statement ("EIS") for a major federal action that may significantly affect the environment. 42 U.S.C. § 4332(2)(C).

126. The AFR Project is a major federal action, as defined by NEPA.

127. Agencies must ensure scientific integrity of an EIS, including identification of methods, reference to information and sources, and public scrutiny of underlying data from which agencies draw conclusions. 40 C.F.R. § 1502.24.

128. An EIS must consider responsible opposing views. 40 C.F.R. § 1502.9(b).

129. An EIS must consider indirect and cumulative effects. 40 C.F.R. § 1508.25.

130. Indirect effects are "caused by the action that are later in time or farther removed in distance but are still reasonably foreseeable." 40 C.F.R. § 1508.8(b).

131. Cumulative effects result from "past, present and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions." 40 C.F.R. § 1508.7.

132. On June 24, 2005, defendants issued a Draft EIS on the AFR Project.

133. Plaintiffs commented on the Draft EIS.

134. On September 19, 2008, defendants issued the Final EIS for the AFR Project. 73 Fed. Reg. 54397.

135. The Final EIS does not disclose the location of proposed activities, and thereby violates NEPA.

136. The Final EIS violates NEPA because it does not disclose direct, indirect or cumulative effects to:

- a. Riparian Reserves.
- b. slope stability.
- c. soil productivity.
- d. water quality.
- e. late-successional forest.
- f. northern spotted owl or its habitat.
- g. Pacific fisher or its habitat.

h. dispersed recreation.

137. The Final EIS violates NEPA because it does not disclose direct, indirect or cumulative effects of emergency fire suppression operations, even though the AFR Project is designed to increase their effectiveness.

138. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

139. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

COUNT VIII

Violation of NEPA

Failure to Meet the Purpose and Need

140. Plaintiffs incorporate by reference the foregoing paragraphs.

141. Primary goals of the AFR Project are to provide water for domestic supply to the City of Ashland and to enhance late-successional forest habitat.

142. The purpose of the AFR Project is to protect at-risk values, reduce hazardous fuels and crown fire potential, and promote fire resilient conditions.

143. The need for the AFR Project is urgent reduction of hazardous fuels and potential for large-scale, high-intensity wildland fire that could interrupt the supply of clean water and late-successional forest habitat.

144. The Final EIS does not answer responsible opposing views regarding the purpose and need for large tree removal, and therefore violates NEPA.

145. The Final EIS does not answer responsible opposing views regarding the spread of invasive weeds, and therefore violates NEPA.

146. Defendants did not ensure scientific integrity of sediment delivery models, and therefore violated NEPA.

147. Defendants' approval of the AFR Project is arbitrary, capricious, not in accordance with law, and without observance of procedures required by law, per the APA, 5 U.S.C. § 706.

148. Plaintiffs are entitled to their reasonable fees, costs and expenses associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

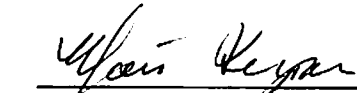
RELIEF REQUESTED

Plaintiffs seek an order:

- a. declaring that defendants violated NFMA and the APA by failing to comply with the Rogue River Forest Plan and the NFP in approving the AFR Project;
- b. declaring that defendants violated the HFRA and the APA by failing to comply with forest plans or to maintain or restore old growth forest in approving the AFR Project;
- c. declaring the defendants violated NEPA and the APA in issuing the Final EIS and ROD for the AFR Project;
- d. enjoining defendants from undertaking ground-disturbing activities, with the exception of necessary and proper fire hazard mitigation work in the wildland-urban interface of the City of Ashland, unless and until

- defendants comply with NFMA, HFRA, NEPA and APA;
- e. awarding plaintiffs their reasonable attorney fees and costs incurred in this action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
 - f. granting plaintiffs such additional relief as the Court deems just and equitable.

Dated January 14, 2010.


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