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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

CASCADIA WILDLANDS; and OREGON  
WILD,

Plaintiffs,

vs.

ALICE CARLTON, in her official capacity as  
Umpqua National Forest Supervisor; and  
UNITED STATES FOREST SERVICE, an  
administrative agency of the United States  
Department of Agriculture,

Defendant.

Civ. Case No. 6:16-cv-1095

COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF

(Violation of Administrative Procedure Act  
and National Environmental Policy Act)

## INTRODUCTION

1. Plaintiffs Cascadia Wildlands and Oregon Wild respectfully file this suit challenging the actions of Defendants Alice Carlton, in her official capacity as Umpqua National Forest Supervisor, and the United States Forest Service, whose authorization of the Loafer Timber Sale Project is unlawful, and otherwise arbitrary and capricious.
2. This is a civil action for declaratory and injunctive relief, arising under the Administrative Procedure Act (APA), 5 U.S.C. §§ 701 *et seq.*, and alleging violations of the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*
3. Plaintiffs seek a declaration that Defendants' authorization of the Loafer Timber Sale Project (Loafer) is unlawful and otherwise arbitrary and capricious.
4. Plaintiffs additionally seek injunctive relief to redress the injuries caused by this violation of the law.
5. Should Plaintiffs prevail, Plaintiffs will seek an award of costs and attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412.

## JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. § 1331. Final agency action exists that is subject to judicial review pursuant to 5 U.S.C. § 704. An actual, justiciable controversy exists between Plaintiffs and Defendants. The Court has authority to issue declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 & 2202 and 5 U.S.C. §§ 705 & 706.
7. Venue in this Court is proper under 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district. The Forest Service official who authorized the decision is headquartered in Roseburg, Oregon, and that office is located within this district. The Environmental Assessment at issue in this litigation was prepared within this judicial district. Plaintiffs have offices within this judicial district.

8. This case is properly filed in Eugene, Oregon, pursuant to Local Rule 3.2 because the Loafer Timber Sale Project is located in Douglas County, Oregon.

9. Plaintiffs have exhausted any and all available and required administrative remedies.

### **PARTIES**

10. Plaintiff CASCADIA WILDLANDS is an Oregon non-profit corporation with approximately 10,000 members and supporters throughout the United States. Cascadia Wildlands educates, agitates, and inspires a movement to protect and restore Cascadia's wild ecosystems. Cascadia Wildlands envisions vast old-growth forests, rivers full of salmon, wolves howling in the backcountry, and vibrant communities sustained by the unique landscapes of the Cascadia Bioregion. Cascadia Wildlands' members use the Loafer Timber Sale Project area for hiking, recreation, observing and attempting to observe wildlife such as northern spotted owls, gray wolves, and wolverine, bird watching, solitude, nature appreciation, and other recreational and professional pursuits. The interests of Cascadia Wildlands' members will be irreparably impaired if the Loafer Timber Sale Project is allowed to proceed without compliance with our federal environmental laws.

11. Plaintiff OREGON WILD is a non-profit corporation with approximately 15,000 members and supporters throughout the state of Oregon and the Pacific Northwest. Oregon Wild and its members are dedicated to protecting and restoring Oregon's wildlands, wildlife, and waters as an enduring legacy. Oregon Wild members use the Loafer Timber Sale Project area for hiking, recreation, observing and attempting to observe wildlife such as northern spotted owls, gray wolves, and wolverine, bird watching, solitude, nature appreciation, and other pursuits. The interests of Oregon Wild and its members will be irreparably impaired if the Loafer Timber Sale Project is allowed to proceed without compliance with our federal environmental laws.

12. The aesthetic, recreational, scientific, educational, and other interests of Plaintiffs and their members have been and will continue to be adversely affected and irreparably injured if Defendant continues to act and fails to act as alleged, and affirmatively implements the action that Plaintiffs challenge with this litigation. These are actual, concrete, particularized injuries caused by Defendant's failure to comply with mandatory duties under the APA and NEPA. The relief sought in this litigation would redress Plaintiffs' and their members' injuries.

13. Defendant ALICE CARLTON is named in her official capacity as the Umpqua National Forest Supervisor. As the Umpqua National Forest Supervisor, Ms. Carlton is the federal official with responsibility for all Forest Service officials' actions and inactions challenged in this complaint.

14. Defendant UNITED STATES FOREST SERVICE is an agency of the United States and is a division of the Department of Agriculture. The Forest Service is charged with managing the lands and resources within the Umpqua National Forest in accordance and compliance with NEPA and other federal laws and regulations.

### **FACTUAL BACKGROUND**

#### **The Northern Spotted Owl (*Strix occidentalis caurina*)**

15. The northern spotted owl (*Strix occidentalis caurina*) (spotted owl) is "a medium-sized, dark brown owl with a barred tail, white spots on the head and breast, and dark brown eyes surrounded by prominent facial disks." The spotted owl occupies late-successional and old-growth forest habitat from southern British Columbia through Washington, Oregon, and California as far south as Marin County.

16. Spotted owls rely on older forest habitats because such habitats generally contain the structures and characteristics required for the owl's essential biological functions of nesting,

roosting, foraging, and dispersal. These structures include: a multi-layered and multi-species tree canopy dominated by large overstory trees; moderate to high canopy closure; a high incidence of trees with large cavities and other types of deformities; numerous large snags; an abundance of large, dead wood on the ground; and open space within and below the upper canopy for owls to fly. Forested stands with high canopy closure also provide thermal cover as well as protection from predation.

17. Due to concerns over its widespread habitat loss and habitat modification, and the lack of regulatory mechanisms to protect the species, the FWS listed the northern spotted owl as a threatened species under the Endangered Species Act on June 26, 1990.

18. Since the owl was listed in 1990, its population continues to decline on a range-wide basis. The latest demographic data shows a three percent decline in the overall spotted owl population every year.

19. The HJ Andrews Central Cascades Demography Study Area is located just north of the Loafer Timber Sale Project area. In the HJ Andrews Central Cascades Demography Study Area, the spotted owl population declined 20 to 30 percent between 1988 and 2008.

20. The South Cascades Demographic Study Area is located just south of the Loafer Timber Sale Project area. In the South Cascades Demographic Study Area, the spotted owl population showed substantial declines throughout the decade preceding 2011.

21. Critical habitat was designated for the northern spotted owl in 1992 and revised in 2008. A second revision of northern spotted owl critical habitat was finalized in 2012.

22. In April 1992, the FWS issued a draft recovery plan for the northern spotted owl. In 2008, the FWS issued a revised final recovery plan. That recovery plan was challenged in court, and the FWS subsequently published a final revised recovery plan for the owl on July 1, 2011.

23. The northern spotted owl revised recovery plan identifies competition with barred owls as one of the most pressing threats to the northern spotted owl.

24. The northern spotted owl revised recovery plan identifies ongoing loss of spotted owl habitat as a result of timber harvest as one of the most pressing threats to the northern spotted owl.

25. The northern spotted owl revised recovery plan identifies loss or modification of habitat from uncharacteristic wildfire as one of the most pressing threats to the northern spotted owl.

26. The northern spotted owl revised recovery plan identifies loss of amount and distribution of spotted owl habitat as a result of past activities and disturbances as one of the most pressing threats to the northern spotted owl.

27. The Umpqua National Forest Land and Resource Management Plan (LRMP) requires that sites occupied by species listed as threatened or endangered comply with those species' recovery plans.

28. The spotted owl recovery plan recommends conservation of high-quality spotted owl habitat as stated in Recovery Actions 32 and 10.

29. Recovery Action 32 states: "Because spotted owl recovery requires well distributed, older and more structurally complex multi-layered conifer forests on Federal and non-federal lands across its range, land managers should work with the Service as described below to maintain and restore such habitat while allowing for other threats, such as fire and insects, to be addressed by restoration management actions. These high-quality spotted owl habitat stands are characterized as having large diameter trees, high amounts of canopy cover, and decadence components such as broken-topped live trees, mistletoe, cavities, large snags, and fallen trees."

30. Recovery Action 10 instructs the Forest Service to “conserve spotted owl sites and high value spotted owl habitat to provide additional demographic support to the spotted owl population.”

**The Loafer Timber Sale Project**

31. The Loafer Timber Sale Project is located in the Diamond Lake Ranger District of the Umpqua National Forest.

32. On March 1, 2012, the Forest issued a notice describing the Loafer Timber Sale Project and soliciting scoping comments on the proposed action.

33. On March 14, 2012, Plaintiffs submitted scoping comments on the Loafer Timber Sale Project. On May 28, 2012, Plaintiffs submitted additional scoping comments on the Loafer Timber Sale Project.

34. On March 30, 2012, Oregon Wild submitted scoping comments on the Loafer Timber Sale Project.

35. On May 24, 2012, the Forest Service conducted a public field tour of the Loafer Timber Sale Project area.

36. On June 16, 2012, the Forest Service submitted a Biological Assessment related to the Loafer Timber Sale Project to the United States Fish and Wildlife Service (FWS).

37. On July 11, 2012, the Forest Service submitted a request for initiation of formal consultation and conferencing to the FWS.

38. On August 22, 2012, the FWS released a Biological Opinion on the effects of the Loafer Timber Sale Project.

39. The Biological Opinion concluded that the Loafer Timber Sale Project was likely to adversely affect the northern spotted owl. The Biological Opinion concluded that the Loafer

Timber Sale Project was likely to adversely affect northern spotted owl critical habitat. The proposed revised critical habitat referenced in the Biological Opinion was designated as revised critical habitat on December 4, 2012.

40. The Incidental Take Statement in the Biological Opinion for the Loafer Timber Sale Project allows for the take of one pair and two juvenile northern spotted owls during the implementation of the Loafer Timber Sale Project.

41. On March 12, 2013, the Forest Service announced the availability of an Environmental Assessment (EA) related to the Loafer Timber Sale Project and the commencement of a thirty-day public review and comment period.

42. On April 18, 2013, Plaintiffs submitted comments on the Loafer Timber Sale Project EA. On April 25, 2013, Plaintiffs submitted additional comments on the Loafer Timber Sale Project EA.

43. On April 18, 2013, Oregon Wild submitted comments on the Loafer Timber Sale Project EA.

44. The Forest Service published a final EA for the Loafer Timber Sale Project on May 8, 2013.

45. The Forest Service issued a Decision Notice and Finding of No Significant Impact (DN/FONSI) approving the Loafer Timber Sale Project on May 10, 2013.

46. Plaintiffs filed an administrative appeal regarding the Loafer Timber Sale Project on June 24, 2013.

47. On August 1, 2013, the Forest Service denied Plaintiffs' administrative appeal.

48. Plaintiffs filed a lawsuit challenging the Loafer Timber Sale Project on December 3, 2013.

49. On April 10, 2014, Defendants withdrew the May 8, 2013 Decision Notice and Finding of No Significant Impact. As a result of this withdrawal, the Parties filed a stipulation voluntarily dismissing the litigation without prejudice on April 18, 2014.

50. The April 18, 2014 stipulation states: “The parties further stipulate that if and when the Forest Service issues a new Decision Notice pertaining to the Loafer Timber Sale Project, the Forest Service will provide written notice of such action to all parties to the present action and their attorneys.” The Forest Service did not provide written notice of such action to counsel for Plaintiffs that were a party to the April 18, 2014 stipulation.

51. In May 2015, the Forest Service released a new Environmental Assessment for the Loafer Timber Sale Project. The Forest Service did not provide the public with an additional comment period on the Loafer Timber Sale Project.

52. On July 2, 2015, Plaintiffs filed objections to the Loafer Timber Sale Project with the U.S. Forest Service Regional Forester in Portland, Oregon.

53. On August 6, 2015, Plaintiffs and Defendants met for a formal objection resolution meeting.

54. On October 16, 2015, the Forest Service responded to Plaintiffs’ objections to the Loafer Timber Sale Project.

55. Alice Carlton signed the Decision Notice and Finding of No Significant Impact (DN/FONSI) for the Loafer Timber Sale on February 22, 2016.

56. The Loafer Timber Sale Project Planning area encompasses approximately 22,614 acres located on the Diamond Lake District of the Umpqua National Forest.

57. The DN/FONSI authorizes logging, road construction, fuels-treatment work, and prescribed burning within the Loafer Timber Sale Project Planning area. The DN/FONSI authorizes logging on approximately 1,397 acres of the Umpqua National Forest.

58. The Loafer Timber Sale Project would result in the removal of up to 908 acres of northern spotted owl nesting, roosting, and foraging habitat. The Loafer Timber Sale Project would degrade 522 acres of northern spotted owl nesting, roosting, and foraging habitat. The Loafer Timber Sale Project would remove 563 acres of northern spotted owl dispersal habitat.

59. The Loafer Timber Sale Project area includes eight potential northern spotted owl home ranges. Some of the Loafer Timber Sale Project will be implemented within established disturbance zones for resident owl nesting sites. Thinning activities from the Loafer Timber Sale Project is expected to result in population declines for the flying squirrel. The flying squirrel is a prey base species for the northern spotted owl.

60. The logging authorized by the DN/FONSI would be conducted in designated critical habitat for the northern spotted owl. The Forest Service did not conduct surveys for the northern spotted owl for the Loafer Timber Sale Project.

61. The Loafer Timber Sale Project DN/FONSI authorizes thinning in fifty-four acres of riparian reserves along perennial non-fish bearing and intermittent streams outside no-cut buffers. The fifty-four acres of thinning in riparian reserves will take place in native, never-before-logged mature forests.

62. A purpose and need for the Loafer Timber Sale Project is to restore the species and structural composition consistent with natural disturbance regimes. This purpose and need includes the creation of meadow habitat. Evidence to support the presence of historic meadow habitat in the Loafer Timber Sale Project area is based on aerial photographs taken of the project

area in 1933 and 1936. The project area was burned by ranchers for grazing purposes in 1928 and 1932. The consideration of anthropogenic, or human-caused, fire as a natural fire regime and as a natural forest dynamic process is controversial. Some of the historic meadows have been recolonized by conifers and now provide suitable habitat for the threatened northern spotted owl. The Loafer Project proposes to restore meadow conditions by removing most of the trees that currently provide owl habitat.

63. The Loafer Timber Sale Project Planning area contains 625 acres of wolverine seclusion habitat. The Loafer Timber Sale Project Planning area contains potential wolverine habitat. The Forest excluded information about wolverine seclusion habitat contained in the 2013 Loafer Timber Sale Project EA from the 2015 Loafer Timber Sale Project EA. The 2015 Loafer Timber Sale Project EA included additional information about habitat needs for wolverine that were not included in the 2013 Loafer Timber Sale Project EA. The public was not allowed to comment on this new information related to wolverine habitat. The wolverine is a species proposed for listing as threatened under the Endangered Species Act.

64. The Loafer Timber Sale Project DN/FONSI authorizes the construction of 5.6 miles of temporary roads. The Loafer Timber Sale Project DN/FONSI authorizes the reconstruction of 3.0 miles of temporary roads.

65. The Loafer Timber Sale Project contains areas that are a part of the citizen wilderness proposal known as the Crater Lake Wilderness Proposal.

66. The Loafer Timber Sale Project Planning area contains approximately 14,176 acres of undeveloped areas. Undeveloped areas are areas that have received little or no previous management such as roads and logging.

67. The Loafer Timber Sale Project would decrease the total amount of undeveloped area in the project area by 1,077 acres.

68. The Dread and Terror unroaded area would decrease in size by approximately 432 acres. The Dread and Terror unroaded area would decrease in size from 1,906 acres to 1,474 acres. This represents an approximately 23% decrease in the size of the Dread and Terror unroaded area.

69. The Thorn Prairie unroaded area would decrease in size by approximately 66 acres. The Thorn Prairie unroaded area would decrease in size from 1,063 acres to 997 acres.

70. The Dread and Terror and Thorn Prairie unroaded areas meet the criteria for designation as wilderness under the Wilderness Act. Undeveloped areas that are treated as part of the Loafer Timber Sale Project will no longer be eligible for wilderness designation.

71. The Loafer Timber Sale Project involves logging in and around mature forest. The Loafer Timber Sale Project involves logging in old growth forest. The EA does not disclose the existing stand age for treatment units in the Loafer Timber Sale Project area. The EA does not disclose the amount of old growth forest within the Loafer Timber Sale Project.

72. The Regional Forester's response to Plaintiffs' objection states that the Forest Service identified stands in the project area meeting the northern spotted owl recovery action 32 definitions and removed those stands from treatment. The EA does not disclose the location of these recovery action 32 stands. The EA does not disclose the age of these recovery action 32 stands.

**FIRST CLAIM FOR RELIEF  
(NEPA VIOLATION)**

**Failure to Disclose Environmental Information  
and Consequences of the Proposed Action**

73. Plaintiffs incorporate by reference all preceding paragraphs.

74. The regulations implementing NEPA require the Forest Service to disclose and analyze the environmental effects of the proposed action. 40 C.F.R. § 1500.1(b). Specifically, the regulation explains that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” *Id.* The Forest Service must also disclose and analyze the no action alternative. 40 C.F.R. § 1502.14(d).

75. In order to adequately consider the environmental consequences of a proposed action, the Forest Service must consider the direct, indirect, and cumulative effects of the proposed action. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8, 1508.25.

76. The Loafer Timber Sale Project EA and DN/FONSI fail to disclose a number of key pieces of information, which makes assessment of the environmental consequences of the proposed project impossible. For example (but not limited to):

- A. The EA and DN/FONSI fail to disclose important information about the existing condition of units proposed for treatment by the Loafer Timber Sale Project Timber Sale, including, but not limited to, stand age, number of trees per acre over thirty inches diameter at breast height (DBH), size of old-growth forest areas, age of riparian reserves, whether riparian reserves are native forests or

plantations, and what aspects of the riparian reserves are degraded and therefore require treatment; and

- B. The EA and DN/FONSI fail to disclose information regarding the use of explosives to remove boulders during road construction in Unit 302, the effect of logging in Unit 302 on the hydrology of the area, including the area below Unit 302, and the effects of logging in Unit 302 on the North Umpqua Trail.

77. The Forest Service has failed to disclose environmental information and consequences as required by NEPA, which is arbitrary, capricious, and not in accordance with the APA. 5 U.S.C. § 706(2)(A).

**SECOND CLAIM FOR RELIEF  
(NEPA VIOLATION)**

**An Environmental Impact Statement is Required**

78. Plaintiffs incorporate by reference all preceding paragraphs.

79. NEPA requires the Defendant to prepare an Environmental Impact Statement (EIS) when a proposed major federal action may significantly affect the quality of the environment. 42 U.S.C. § 4332(2)(C).

80. In determining whether a proposed action may “significantly” impact the environment, both the context and the intensity of the action must be considered. 40 C.F.R. § 1508.27.

81. In evaluating intensity, the agency must consider numerous “significance” factors, including impacts that may be both beneficial and adverse; the unique characteristics of the geographic area such as proximity to ecologically critical areas; the degree to which the effects on the quality of the human environment are likely to be highly controversial; the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; the degree to which the action may establish a precedent for future actions with

significant effects or represents a decision in principle about a future consideration; the degree to which the action may adversely affect an endangered or threatened species or its habitat; and whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. 40 C.F.R. § 1508.27(b).

82. If the agency's action may be environmentally significant according to any of the criteria, the agency must prepare an EIS.

83. The Loafer Timber Sale Project EA and DN/FONSI authorize federal action that would have a significant effect on the environment. The authorized action implicates a number of the significance factors that individually require the preparation of an EIS. The authorized action implicates a number of the significance factors that cumulatively require the preparation of an EIS. The authorized action would have significant adverse impacts. The authorized action would be carried out in geographic areas with unique characteristics, including in geographic areas in proximity to ecologically critical areas. The effects of the authorized action are highly controversial. The effects of the authorized action are highly uncertain or involve unique or unknown risks. The authorized action may establish a precedent for future actions. The authorized action may adversely affect an endangered or threatened species or its habitat. The authorized action threatens a violation of federal and state law.

84. For example (but not limited to):

- A. The Loafer Timber Sale Project EA and DN/FONSI authorize logging that will result in significant adverse effects on the environment. 40 C.F.R. § 1508.27(b)(1). To the extent that the Forest Service asserts that the Loafer Timber Sale Project EA and DN/FONSI authorize logging that will result in beneficial impacts, those too are significant. *Id.*

- B. The Loafer Timber Sale Project EA and DN/FONSI authorize logging that would irreversibly degrade undeveloped areas, reducing the size of the ecologically critical Dread and Terror and Thorn Prairie undeveloped areas, and likely preclude their future designation as wilderness areas, a decision that is likely to be highly controversial. 40 C.F.R. § 1508.27(b)(4).
- C. The Loafer Timber Sale Project EA and DN/FONSI authorize logging within Riparian Reserves, which are ecologically critical areas for water quality, aquatic ecosystems, wildlife habitat, and recreation. These riparian reserves are forests with little or no prior management. 40 C.F.R. § 1508.27(b)(3).
- D. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in Riparian Reserves, an activity that is highly controversial scientifically, may have highly uncertain effects, or involves unique or unknown risks. 40 C.F.R. § 1508.27(b)(4), (b)(5).
- E. Authorizing logging in Riparian Reserves is an agency decision that may establish a precedent for future actions with significant effect or represent a decision in principle about a future consideration (i.e., Riparian Reserve logging). 40 C.F.R. § 1508.27(b)(6).
- F. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in Riparian Reserves that is likely to retard recruitment of wood needed to meet ACS objectives, and without demonstrating that the logging is “needed to attain Aquatic Conservation Strategy Objectives.” Consequently, the proposed action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. 40 C.F.R. § 1508.27(b)(10).

- G. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in mature forests over 80 years old, an activity that is highly controversial, may have highly uncertain effects, or involves unique or unknown risks. 40 C.F.R. § 1508.27(b)(4), (b)(5).
- H. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in designated critical habitat for the northern spotted owl, a species listed as threatened under the Endangered Species Act. Logging in designated critical habitat for the northern spotted owl will adversely affect this threatened species. Because the revised critical habitat designation was finalized during the planning period for the Loafer Timber Sale Project, the DN/FONSI could set a precedent for future forest management in the newly designated critical habitat. 40 C.F.R. § 1508.27(b)(6).
- I. The Loafer Timber Sale Project EA and DN/FONSI authorize logging that would remove and degrade nesting, roosting, and foraging habitat for the northern spotted owl, and remove dispersal habitat for the northern spotted owl. Logging in suitable nesting, roosting, and foraging habitat for the northern spotted owl within the Loafer Timber Sale Project area may affect interspecies competition between the barred and northern spotted owl, and would have effects that are controversial scientifically, may have highly uncertain effects, or involve unique or unknown risks. 40 C.F.R. § 1508.27(b)(4), (b)(5), (b)(9).
- J. The Loafer Timber Sale Project EA and DN/FONSI will adversely affect nesting, roosting, and foraging habitat for the northern spotted owl, which will adversely affect this threatened species. 40 C.F.R. § 1508.27(b)(9).

- K. The Loafer Timber Sale Project EA and DN/FONSI will adversely affect critical habitat for the northern spotted owl, and is aimed at maintaining parts of the project area in a meadow state, which will preclude them from ever again providing suitable nesting, roosting, and foraging habitat for the northern spotted owl.
- L. The Incidental Take Statement in the Biological Opinion associated with the Loafer Timber Sale Project authorizes the take of up to four northern spotted owls, which will adversely affect this threatened species. 40 C.F.R. § 1508.27(b)(9).
- M. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in potential wolverine habitat, a species proposed for listing as threatened under the Endangered Species Act.
- N. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in mature forest stands containing old growth. The logging of mature forest stands that contain old growth is highly controversial. 40 C.F.R. § 1508.27(b)(4).
- O. A purpose and need for the Loafer timber sale is to create naturally historic conditions. The Forest Service claims parts of the project area are naturally historic meadow habitat. The meadow habitat in the project area documented by aerial photographs from the 1930s was created by humans. According to the Forest Service, the consideration of anthropogenic fire regimes as part of the “natural disturbance regime” is highly controversial. 40 C.F.R. § 1508.27(b)(4).
- P. The Loafer Timber Sale Project EA and DN/FONSI authorize logging in an area near and immediately above the popular North Umpqua Trail and Umpqua Hot

Springs. Logging near these areas, and its effects on hydrology and aesthetics, are likely to be highly controversial. 40 C.F.R. § 1508.27(b)(3), (b)(4).

85. The Forest Service has not prepared an EIS for the Loafer Timber Sale Project. The significance factors implicated by the authorized action are significant individually. The significance factors implicated by the authorized action are significant when considered cumulatively.

86. The Forest Service's decision to implement and proceed with the Loafer Timber Sale Project without first preparing an EIS is arbitrary, capricious, and not in compliance with NEPA. 5 U.S.C. § 706(2)(A).

#### **PLAINTIFFS' PRAYER FOR RELIEF**

Plaintiffs respectfully request that this Court:

1. Declare that the Forest Service violated the National Environmental Policy Act, the Administrative Procedure Act, and their implementing regulations in designing, analyzing, and implementing the Loafer Timber Sale Project Environmental Assessment and Decision Notice/Finding of No Significant Impact (DN/FONSI);
2. Vacate the Loafer Timber Sale Project Environmental Assessment and DN/FONSI;
3. Order the Forest Service to withdraw the Loafer Timber Sale Project Environmental Assessment and DN/FONSI until such time as the agency demonstrates to this Court that it has adequately complied with the law;
4. Enjoin the Forest Service and its agents from proceeding with the Loafer Timber Sale Project, or any portion thereof, unless and until the violations of federal law set forth herein have been corrected to the satisfaction of this Court;
5. Award Plaintiffs their costs of suit and attorneys fees; and

6. Grant Plaintiffs such other and further relief as the Court deems just and equitable.

Respectfully submitted and dated this 16th day of June, 2016.

/s/ John R. Mellgren

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**CORPORATE DISCLOSURE STATEMENT**

Pursuant to FRCP 7.1, Plaintiffs state that they have not issued shares to the public and have no affiliates, parent companies, or subsidiaries issuing shares to the public.

Respectfully submitted and dated this 16th day of June, 2016.

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