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Biodiversity Project

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION

**LEAGUE OF WILDERNESS  
DEFENDERS/BLUE MOUNTAINS  
BIODIVERSITY PROJECT,**  
an Oregon nonprofit corporation,

Plaintiff,

vs.

**SLATER R. TURNER**, District Ranger, Crooked  
River National Grassland and Lookout Mountain,  
Ochoco National Forest, in his official capacity;  
and **UNITED STATES FOREST SERVICE**, an  
agency of the United States Department of  
Agriculture,

Defendants.

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Case No.

**COMPLAINT FOR VACATUR OF  
ILLEGAL AGENCY DECISION,  
INJUNCTIVE AND DECLARATORY  
RELIEF**

## INTRODUCTION

1. Plaintiff League of Wilderness Defenders/Blue Mountains Biodiversity Project challenges the Defendant United States Forest Service's ("USFS") Decision Memorandum ("Decision Memo" or "DM"), approving the Walton Lake Restoration Project ("Walton Lake Project" or "the Project") in the Ochoco National Forest ("the Ochocos" or "ONF"). Defendant District Ranger Slater Turner ("Turner") signed that Decision Memo on December 15, 2015. Defendants USFS and Turner are collectively referred to herein as "defendants" or "Forest Service." The Decision Memo violates the National Forest Management Act ("NFMA") and its implementing regulations and violates the National Environmental Policy Act ("NEPA") and its implementing regulations.

2. The Decision Memo approves the commercial logging of hundreds of large trees, and numerous very large old growth trees, in the dense, mixed conifer forest in the project area, which includes Walton Lake and its developed campgrounds. Walton Lake is the most popular recreation site in the ONF. The defendants illegally used a "categorical exclusion" to avoid publicly documenting the environmental impacts of their proposed action. The defendants' public scoping notice regarding the proposed project promised that the "natural appearance" of the area would be "maintained." However defendants' subsequent internal analysis, which the public did not see and had no opportunity to comment on before the defendants approved the project, found that the effects of the approved logging would be "extremely noticeable" and would convert much of the forest around Walton Lake into "an open, park like dry pine forest environment."

3. The specific categorical exclusion cited in the Decision Memo allows the Forest Service to address insects or disease by logging infected trees and adjacent uninfected trees. There are in fact some fir trees in the project area that are infected with laminated root rot. The approved project, however, authorizes the commercial logging of many large healthy fir trees that are not even arguably adjacent to infected trees. The Project's approved commercial logging also extends to large fir trees in parts of the forest where the defendants acknowledge there is currently no disease or pest infestation present.

4. The Decision Memo's approval of the logging of hundreds of large trees is also significant and illegal under NFMA and NEPA because it violates certain mandatory provisions of the Ochoco National Forest Management Plan ("ONF Forest Plan"). The national forests in eastern Oregon, including the Ochoco National Forest, were significantly over-logged in prior decades, resulting in degraded forest conditions, including far less old forest and far fewer large trees than should be present to maintain forest health and ecological diversity. Recognizing the lack of old forest and big trees in the Ochoco National Forest due to past logging practices, the ONF Forest Plan was amended to prohibit logging in old forests that are outside of their historical range or variability and, for areas outside of old forests, prohibiting the logging of trees over 21 inches diameter at breast height (dbh). These amendments are known as the Eastside Screens and apply throughout the ONF. The Eastside Screens, along with more recent scientific findings, reinforce the importance of retaining and recruiting large, old trees, which provide essential habitat for many wildlife species.

5. Although the Eastside Screens contain limited exceptions, none of those exceptions can rationally be construed to allow the Forest Service's decision to authorize the logging of hundreds of large fir trees throughout the project area's dense mixed conifer forest

and in the parts of the project area that are not close to any developed campground, trail, or road. Moreover, the Forest Service's public scoping notice did not even mention that the Forest Service intended to rely upon the exceptions to the Eastside Screens to authorize the logging of hundreds of large, old fir trees.

6. In order to prevent the Forest Service from logging in ways that will degrade old forest and trees and result in violations of the Forest Service's duties under NFMA and NEPA, Plaintiff seeks from this Court declaratory and injunctive relief, including if necessary preliminary injunctive relief, and an order setting aside the USFS's illegal Decision Memo to prevent such violations of law and irreparable harm from occurring.

#### **PARTIES**

7. Plaintiff **LEAGUE OF WILDERNESS DEFENDERS/BLUE MOUNTAINS BIODIVERSITY PROJECT** is a nonprofit environmental advocacy organization dedicated to the conservation of the natural ecosystems of the Pacific Northwest and the native flora and fauna they harbor. League of Wilderness Defenders/Blue Mountains Biodiversity Project and its supporters actively participate in governmental decision-making processes on public lands, including National Forests, throughout Oregon.

8. Blue Mountains Biodiversity Project ("BMBP") is a project of the League of Wilderness Defenders ("LOWD") (collectively "LOWD/BMBP") with its office located near Spray, Oregon. BMBP was established by LOWD, a non-profit corporation, to further LOWD's goals throughout the Blue Mountains. The mission of LOWD/BMBP is to protect and restore the biodiversity of the Blue Mountains region of Oregon and Washington and to educate the public about threats to forest ecosystems in Eastern Oregon. In order to further its mission and protect the interests of LOWD/BMBP's supporters in preserving the biodiversity of the Pacific

Northwest forests, LOWD/BMBP monitors timber sales and other Forest Service activities in the Malheur, Umatilla, Wallowa-Whitman, and Ochoco National Forests.

9. LOWD/BMBP's supporters, officers, and staff hike, camp, bird watch, view wildlife, photograph scenery and wildlife, and engage in other vocational, educational, scientific observation, and recreational activities within the Ochocos, including the Walton Lake Project area and adjacent lands.

10. LOWD/BMBP's officers, staff, and supporters reside near and/or regularly visit the Walton Lake Project area. LOWD/BMBP's officers, staff, and supporters derive recreational, inspirational, religious, scientific, and aesthetic benefit from their activities within the Ochocos, including the area in and around the project area, and intend to continue to use and enjoy these areas frequently and on an ongoing basis in the near and distant future. Specifically, at least one of LOWD/BMBP's supporters is an avid bird watcher who uses the project area for bird watching. If the Forest Service implements the Walton Lake Project as described in the Decision Memo, the logging will negatively affect the bird-watching opportunities in the area, which will cause LOWD/BMBP's supporters to avoid the project area.

11. LOWD/BMBP has an organizational interest in the proper and lawful management of the Ochocos. LOWD/BMBP's aesthetic, recreational, scientific, and religious interests have been and will be adversely affected and irreparably injured if Defendants continue to act as alleged herein, and affirmatively implement the decision that Plaintiff challenges. These are actual, concrete injuries caused by Defendants' failure to comply with mandatory duties under NEPA and other federal laws. The injuries would be redressed by the relief sought.

12. LOWD/BMBP has participated extensively in administrative actions to protect plaintiffs' interests within the Ochocos. LOWD/BMBP actively participated in the limited

administrative process for the Walton Lake Project, including submitting substantive comments on the scoping notice. LOWD/BMBP has exhausted any and all available administrative remedies. Reviewable final agency action exists that is subject to this Court's review under 5 U.S.C. §§ 702 & 704.

13. Defendant **FOREST SERVICE** is an agency of the United States and is a division of the Department of Agriculture, and is charged with managing the public lands and resources of the ONF, in accordance and compliance with NEPA and NFMA and their implementing regulations.

14. Defendant **SLATER R. TURNER**, District Ranger for the Crooked River National Grassland and Lookout Mountain, Ochoco National Forest, signed the Decision Memo challenged in this case. The Decision Memo was the Forest Service's final agency action regarding the Walton Lake Project. Defendant Turner is sued only in his official capacity. Defendants Forest Service and Turner are collectively referred to as "Forest Service."

### **JURISDICTION AND VENUE**

15. This Court has jurisdiction over this action pursuant to 5 U.S.C. §§ 701-706 (APA) and 28 U.S.C. §§ 1331 (federal question), 2201 (declaratory relief), 2202 (injunctive relief), and 2412 (costs and fees). Plaintiff has challenged a final agency action as defined by the Administrative Procedure Act ("APA"), 5 U.S.C. § 704. Plaintiff has exhausted all administrative remedies and is seeking judicial review of a final administrative action of the USFS which was not subject to administrative appeal pursuant to 36 C.F.R. § 215.12(f) (certain decisions applying categorical exclusions not subject to administrative appeal) and 5 U.S.C. §704.

16. Venue is properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Defendant District Ranger Slater R. Turner resides in this district, and the events or omissions giving rise to the claims occurred in Oregon.

17. This case is properly filed in Pendleton, Oregon and properly before the Pendleton Division of this District pursuant to Local Rules 3-2 and 3-3 because the District Ranger who signed the Decision Memo is headquartered in Prineville, Crook County, Oregon.

### **STATUTORY AND REGULATORY FRAMEWORK**

#### **National Environmental Policy Act (42 U.S.C. §§ 4321-4370(h))**

18. The primary purposes of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4370(h), are to ensure fully informed decision-making and to provide for public participation in environmental analysis and decision-making. 40 C.F.R. § 1500.1(b), (c). The Council on Environmental Quality (“CEQ”) promulgates regulations implementing NEPA. CEQ’s regulations are binding on all federal agencies. 40 C.F.R. §§ 1500-1518.4. Agency actions taken pursuant to NEPA are reviewable by this Court under the APA. 5 U.S.C. §§ 702, 704, 706.

19. NEPA requires an Environmental Impact Statement (“EIS”) for all “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b). Alternatively, an agency may also choose to begin by preparing an Environmental Assessment (“EA”) to gauge whether an EIS is even necessary, under CEQ regulations. 40 C.F.R. § 1501.3, 1501.4, 1508.9. An agency may also do neither if it can properly employ a categorical exclusion (“CE”), which is a category of actions “which do not individually or cumulatively have a

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significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal agency in implementation of these regulations ... and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.” 40 C.F.R. § 1508.4.

20. A categorical exclusion is, however, inappropriate where its use is precluded by the presence of extraordinary circumstances. *See* 40 C.F.R. § 1508.4. If evidence indicates that extraordinary circumstances *may* be present, the agency must also offer an explanation of why they do not apply and why they can still apply the CE.

21. Consequently, to avoid preparation of either an EA or EIS, the agency must employ a CE which actually covers the proposed action, conduct any necessary scoping, and determine that no extraordinary circumstances preclude use of the CE.

22. Forest Service CEs appear in agency regulations at 36 C.F.R. § 220.6, adopted in implementation of 40 C.F.R. § 1507.3. For the Walton Lake Project, the Decision Memo cites only to 36 CFR § 220.6(e)(14) (the “sanitation harvest” CE) as excluding from NEPA review “[c]ommercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 1/2 mile of temporary road construction, including removal of infested/infected trees and adjacent live uninfested/uninfected trees as determined necessary to control the spread of insects or disease.” Examples given include “[f]elling and harvest of trees infested with southern pine beetles and immediately adjacent uninfested trees[,]” and “[r]emoval and/or destruction of infested trees affected by a new exotic insect or disease[.]” 36 CFR § 220.6(e)(14)(i) and (ii). The Decision Memo states that the Walton Lake Project fits under the above-described “sanitation harvest” CE, and is thus exempt from NEPA.



23. Additionally, the Forest Service's CE regulations require "scoping" prior to the use of a CE in the NEPA context. *See* 40 CFR § 1501.7 (defining NEPA scoping). "Scoping is required for all Forest Service proposed actions, including those that would appear to be categorically excluded from further analysis and documentation in an EA or an EIS." 36 CFR § 220.4(e). The Forest Service's scoping for a proposal that it believes is covered by a CE contains the only information that the general public receives regarding that project before the Forest Service makes its decision. The public's comments on that scoping are thus also the only opportunity for public input regarding a proposal that the Forest Service believes it can categorically exclude from further public analysis under NEPA. The Forest Service's scoping for the Walton Lake Project needed to be reasonably thorough. It had to provide the interested public with sufficient information regarding the proposed action so the public could submit informed comments and meaningfully participate in the NEPA scoping process.

24. If the scoping leads the responsible official to determine that the effects of the proposed action are uncertain or may impact the environment significantly, the Forest Service should prepare an EA or EIS, respectively. *See* 36 CFR § 220.6(c). Consequently, during scoping the agency must consider all relevant factors, consider whether there may still be significant environmental impacts, and consider whether there may be extraordinary circumstances related to the proposal, even though the proposed action initially appears appropriate for a categorical exclusion. *See* 40 CFR § 1508.4; 36 CFR § 220.4(e)(1). During scoping, the lead agency invites interested persons, among others, to participate in the decision-making process. 40 CFR § 1501.7(a).

25. Finally, in determining whether extraordinary circumstances preclude the application of Forest Service CEs established by 36 C.F.R. § 220.6(d) and (e), the Forest Service

must consider resource conditions in determining whether extraordinary circumstances apply, which appear in 36 C.F.R. § 220.6(b). The list includes “Forest Service sensitive species” as one condition to consider. 36 C.F.R. § 220.6(b)(1)(i). The test for determining whether an extraordinary circumstance precludes the use of a CE is one of degree of potential effect, not whether an extraordinary circumstance is merely present.

**National Forest Management Act (16 U.S.C. §§ 1600-1614)**

26. The National Forest Management Act (“NFMA”), 16 U.S.C. §§ 1600-1614, is the primary statute governing the administration of national forests. Agency actions taken pursuant to NFMA are reviewable under the APA. 5 U.S.C. §§ 702, 704, 706.

27. NFMA requires the Forest Service to develop and implement a land and resource management plan (“LRMP” or “Forest Plan”) for each unit of the National Forest System. 16 U.S.C. §1604. Forest Plans guide natural resource management activities forest-wide, setting standards, management area goals and objectives, and monitoring and evaluation requirements. A Forest Plan must provide for multiple uses for the forest, including: recreation, range, wildlife, fish, timber, and wilderness.

28. Under NFMA all permits, contracts, and other instruments for the use of National Forest System lands “shall be consistent with the land management plans.” *Id.* 1604(i). Therefore, after a forest plan is developed, all subsequent agency action, including site-specific actions, must comply with NFMA and the governing Forest Plan.

29. Among its Forest Management Goals, Objectives, and Desired Future Condition goals for its Recreation areas such as the Walton Lake area, the Ochoco National Forest Plan lists the goal to “[p]rotect unique natural and recreational features[.]” Ochoco LRMP 4-22. More

specifically, for Management Area 13, which includes Walton Lake, logging is only authorized for safety and visual enhancement. Ochoco LRMP 4-71.

30. The Land and Resource Management Plan governing all of the ONF (“Forest Plan”) was adopted in 1989. During the 1990s, the Forest Service amended this and every other forest plan in Oregon and Washington east of the Cascade Mountains by adopting the “Eastside Screens.” The Eastside Screens were designed to address the Forests’ deficiency of large trees resulting from decades of over-logging. The Screens prohibit logging in old forests that are below their historical range of variability, and outside old forests, prohibit logging trees over 21 inches in diameter at breast height (dbh).

31. The Eastside Screens do contain limited exceptions including for “sales to protect health and safety” or “sales to modify vegetation within recreation special uses areas.” *Eastside Screens* at 1. As with all exceptions to more generally applicable rules, such exceptions should be construed narrowly in order to avoid swallowing the general rule itself and to preserve and uphold the rationale underlying the general rule.

32. In the Decision Memo, the Forest Service construed the “health and safety” and “recreation special uses areas” exceptions overbroadly and, as a result, improperly found that the logging limitations of the Eastside Screens do not apply to the entire Walton Lake Project. Under this impermissible and unnecessary interpretation the Forest Service authorized the commercial logging of old growth fir trees and hundreds of large trees over 21 inches dbh in a national forest that already has too little old forest and too few large trees.

**Administrative Procedure Act (5 U.S.C. §§ 701-706)**

33. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, authorizes courts to review final agency actions and hold unlawful and set aside final agency actions, findings, and conclusions that are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). The APA also authorizes courts to compel agency action unlawfully withheld. 5 U.S.C. § 706(1). The APA provides a cause of action to challenge any final agency action where there is no other adequate remedy in a court. 5 U.S.C. § 704.

34. NEPA and NFMA do not contain specific judicial review provisions, and the Forest Service’s actions governed by those statutes, such as the Walton Lake Project Decision Memo, are therefore subject to judicial review under the APA.

**ADDITIONAL FACTS GIVING RISE TO THE PLAINTIFF’S CAUSES OF ACTION**

35. Located near the geographic center of Oregon, the Ochoco National Forest covers approximately 850,000 acres of land. The forests, grasslands, and rivers of the ONF provide important habitat for fish and wildlife.

36. The Walton Lake Project is 176 acres in size. It is located within the Camp/Cady Creek watershed and the project area includes Walton Lake and the Walton Lake Campground.

37. Where old growth exists in the project area, it includes ponderosa pine up to 61” dbh, Douglas firs up to 60” dbh, and Grand firs up to 57” dbh. That is, old growth trees are not limited to ponderosa pine.

38. The Walton Lake Campground is an extremely popular and much cherished site in the Ochoco National Forest and is responsible for bringing many visitors to the Ochoco, to recreate and to enjoy the natural beauty of the area.

39. As alleged above, to properly use a categorical exclusion, the agency must choose one which actually covers the proposed action, conduct any necessary scoping, and explain why the categorical exclusion still applies in the face of any evidence that extraordinary circumstances may be present.

40. The Decision Memo only cites the “sanitation harvest” CE as exempting the Walton Lake Project from NEPA, an exclusion which permits logging to control infestation or disease. The proposed logging in the Walton Lake Project, however, encompasses eight units, and the actual disease is only present in a few of them. In other parts of the project area, there is no evidence of existing or imminent disease or infestation of any kind. Moreover, within the units with laminated root rot, the Decision Memo designates some areas for logging despite there being no infected trees or adjacent uninfected trees in those areas. As a result, much of the proposed logging for the Walton Lake Project has nothing to do with beetle infestation or laminated root rot (the reasons cited in the Decision Memo as justifying the “sanitation harvest”).

41. Despite seeking public input on the proposed action, the Forest Service did not notify the public in their scoping notice that they were fundamentally changing the nature of the Walton Lake project area, from a heavily forested site to “an open, park-like dry pine forest environment[,]” as the internal Recreation Resource Report phrases it. Rather, their scoping notice indicates that the character of the area would be preserved. The use of a CE for such a significant transformation of the forested areas around Walton Lake, which is in fact a type-conversion, is inappropriate and illegal. And that is especially true when the public scoping notice did not disclose actual extent and nature of the changes to the public.

42. The Forest Service's analysis and consideration of extraordinary circumstances also is incomplete and therefore illegal. As one example, the Forest Service has not conducted a thorough analysis to see whether certain sensitive species are present in the project area. The Forest Service did not acknowledge any omissions in its analysis, but simply stated in its Decision Memo that no extraordinary circumstances preclude their application of the "sanitation harvest" CE.

43. In terms of complying with the mandatory provisions of the Forest Plan, in the Decision Memo the Forest Service misconstrued the "health and safety" and "recreation special uses areas" exceptions in the Eastside Screens so as to exclude the Walton Lake Project from the limitations imposed by the Screens. This allowed the District Ranger to approve the commercial logging of hundreds of large trees, including old growth Douglas fir and grand fir, and also including the complete removal of all large firs from several of the Project's units. Significantly, nothing in the scoping notice mentioned that the Forest Service would be applying any exceptions to the Eastside Screens to allow the logging of so many large fir trees and the complete removal of large and old growth fir trees from certain portions of the project area.

44. The Forest Service's unreasonable and overbroad interpretation of the exceptions to the Eastside Screens is flatly inconsistent with the underlying purposes of the Eastside Screens and ignores the degraded forest conditions and overall shortage of large trees that still exist in the ONF. Moreover, that overbroad interpretation is not necessary to address any actual direct threats to public safety or to enhance recreational opportunities in the project area. Instead, much of the authorized logging would have immediate adverse impacts on visual resources, and would eliminate many of the old growth trees that make the forest around Walton Lake such a special and popular recreation site.

## **CLAIMS FOR RELIEF**

### **Plaintiff's First Claim for Relief**

#### **(Violations of NEPA and APA by the Forest Service)**

45. Plaintiff realleges and incorporates all preceding paragraphs into each of the counts set forth below.

#### COUNT ONE

46. The “sanitation harvest” categorical exclusion from NEPA does not apply to most of the proposed logging in the project area. Accordingly, the Decision Memo unlawfully relies on that CE to exclude the entire project from more complete NEPA analysis and public involvement.. The Forest Service’s failure to properly apply the “sanitation harvest” CE is arbitrary, capricious, an abuse of discretion, and not in accordance with NEPA, in violation of 5 U.S.C. § 706(2)(A).

#### COUNT TWO

47. The “sanitation harvest” categorical exclusion also cannot be applied to the proposed logging in the project area because the Forest Service’s scoping and internal analysis contained omissions regarding factors like the potential presence of sensitive species, which render its extraordinary circumstances analysis incomplete and arbitrary. Consequently, the Forest Service cannot justifiably state that extraordinary circumstances are not present, and the Decision Memo’s failure to account for this incomplete analysis is arbitrary, capricious, an abuse of discretion, and not in accordance with NEPA, in violation of 5 U.S.C. § 706(2)(A).

COUNT THREE

48. The public did not receive adequate notice of the true scope of the Walton Lake Project. Consequently, interested persons were not able to meaningfully participate in the scoping process. The Forest Service's scoping for the Walton Lake Project is inadequate under NEPA, rendering its subsequent application of the cited CE arbitrary, capricious, an abuse of discretion, and not in accordance with NEPA, in violation of 5 U.S.C. § 706(2)(A).

COUNT FOUR

49. Because the "sanitation harvest" CE does not apply to the entire Walton Lake Project area, the Forest Service was required to prepare an EA or an EIS for the Walton Lake Project, pursuant to NEPA and applicable CEQ regulations.

50. The Forest Service's failure to follow NEPA by preparing an EA or an EIS for the Walton Lake Project is arbitrary, capricious, an abuse of discretion, and not in accordance with NEPA, in violation of 5 U.S.C. § 706(2)(A).

**Plaintiff's Second Claim for Relief**

**(Violations of NFMA and APA by the Forest Service)**

51. Plaintiff realleges and incorporates all preceding paragraphs into each of the counts set forth below.

COUNT ONE

52. The "health and safety" exception to the Screens does not apply to most of the proposed logging in the Walton Lake Project area. Accordingly, the Decision Memo unlawfully relies on that exception to justify the proposed logging in the project area. The Forest Service's



failure to properly apply the Screens is arbitrary, capricious, an abuse of discretion, and not in accordance with NFMA, in violation of 5 U.S.C § 706(2)(A).

### COUNT TWO

53. The “recreation special uses areas” exception to the Screens does not apply to most of the proposed logging in the Walton Lake Project area. Accordingly, the Decision Memo unlawfully relies on that exception to justify the proposed logging in the project area. The Forest Service’s failure to properly apply the Screens is arbitrary, capricious, an abuse of discretion, and not in accordance with NFMA, in violation of 5 U.S.C § 706(2)(A).

### COUNT THREE

54. Logging in the Walton Lake project area conflicts with the Ochoco National Forest Plan’s Forest Management Goals, Objectives, and Desired Future Condition for Recreation areas of the forest, including for example its goal to “[p]rotect unique natural and recreational features[.]” Ochoco LRMP 4-22. The Forest Service’s failure to adhere to its own Forest Plan is arbitrary, capricious, an abuse of discretion, and not in accordance with NFMA, in violation of 5 U.S.C § 706(2)(A).

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court:

A. Declare that the Forest Service’s Decision Memo for the Walton Lake Project violates NEPA and/or NFMA and is arbitrary, capricious, an abuse of discretion, and/or not in accordance with law under the APA, 5 U.S.C. § 706(2)(A);

B. Vacate and set aside the Decision Memo for the Walton Lake Project as illegal agency action under the APA;

C. Preliminarily and permanently enjoin the Forest Service from implementing the Walton Lake Project until the agency has complied with NEPA and NFMA;

D. Enter appropriate injunctive relief to ensure that Defendants comply with NEPA and NFMA, and specifically to ensure that Defendants and their agents take no further actions toward proceeding with the challenged Walton Lake Project until they have complied with NEPA and NFMA;

E. Award Plaintiff its reasonable costs, litigation expenses, and attorney fees associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.*; and

F. Grant such further relief as the Court deems just and proper.

Dated this 15th day of August 2016.

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