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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

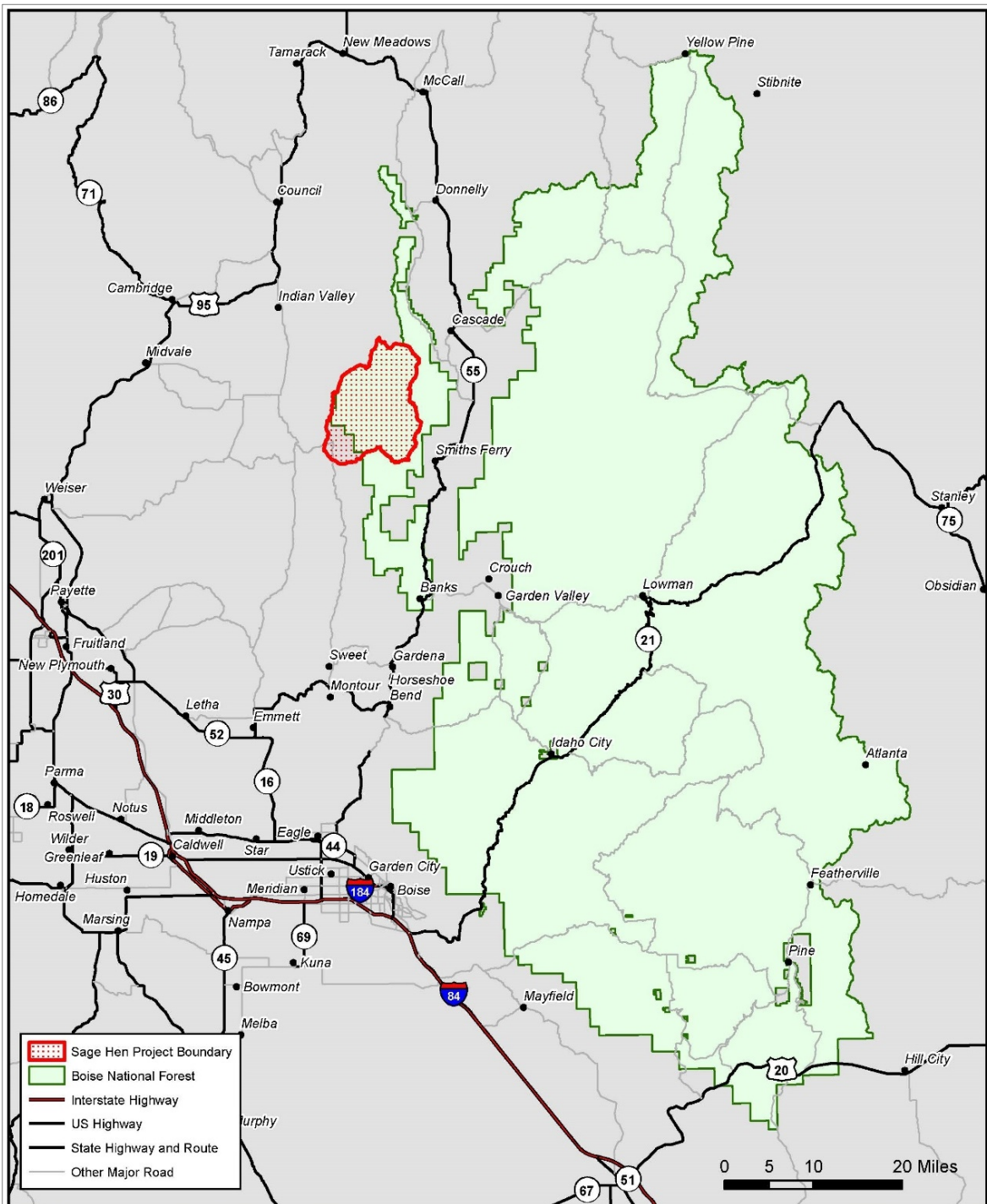
IDAHO CONSERVATION LEAGUE	)	No. 1:21-cv-504
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	<b>COMPLAINT</b>
	)	
U.S. FOREST SERVICE, and	)	
U.S. FISH AND WILDLIFE	)	
SERVICE,	)	
	)	
<i>Defendants.</i>	)	

**NATURE OF THE ACTION**

1. This action challenges Defendants’ approval of the “Sage Hen Integrated Restoration Project”—a twenty-year, landscape-scale project that includes extensive logging, prescribed burns, and road construction on public lands in the Boise National Forest—for violations of the National Environmental Policy Act (NEPA), National Forest Management Act (NFMA), Endangered Species Act (ESA), and Administrative Procedure Act (APA).

2. The Sage Hen Project area covers 67,800 acres in the West Mountains, west/northwest of Smith Ferry, Idaho, as shown in Figure 1 below.

**Fig. 1 – Sage Hen Vicinity Map**  
 (reproduction of Fig. 1 in the Forest Service’s Environmental Assessment)



3. The Project area includes Sage Hen Reservoir, parts of the Snowbank Mountain Inventoried Roadless Area, and multiple tributaries to Squaw Creek<sup>1</sup>, a tributary to the Payette River. The Project includes 19,900 acres of commercial timber harvest, 11,200 acres of fuels reduction, 35,000 to 45,000 acres of prescribed burning, and up to 83.1 miles of road construction over the next twenty years.

4. Plaintiff Idaho Conservation League (ICL) is the largest state-based conservation group in Idaho. ICL is also a founding member of the Boise Forest Coalition, which is a citizen-led coalition formed in 2010 to bring together diverse interests to craft recommendations for forest restoration projects in the Boise National Forest. Through its involvement in the Boise Forest Coalition and other similar groups, ICL regularly partners with the U.S. Forest Service, local governments, communities, and other stakeholders to support well-planned forest restoration projects on National Forest lands. Both ICL and the Boise Forest Coalition filed objections critical of the Sage Hen Project, and neither objection was resolved.

5. Unlike other forest projects ICL has supported, the Forest Service rushed the Sage Hen Project to approval, cut out the public, failed to consider alternatives, refused to prepare an Environmental Impact Statement, and deferred analyzing important effects to fish, plants, and wildlife until after the Project is underway, in violation of the core tenets of NEPA.

6. Not only does this “approve first, study later” approach violate NEPA, but it also violates NFMA because the Forest Service failed to follow the Forest Plan for the Boise National Forest, which requires surveying and developing protections for “sensitive species” of wildlife, plants, and their habitat during project planning, not after project approval.

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<sup>1</sup> In November 2021, Secretary of the Interior Haaland formally declared “squaw” to be a derogatory term and ordered a task force to find replacement names for sites on federal lands that use the term. Hereafter, the Complaint avoids using the term when possible.

7. Many of these errors flow from the Forest Service’s decision to do as little up-front planning as possible by using “conditions-based management” for the Sage Hen Project. Under this approach, the Forest Service set maximum amounts of logging, road work, and other activities now but gave itself a blank check to decide later—outside of the pre-decisional and public NEPA process—the specifics of when, where, and how to conduct Project activities. As a result, important details of the Project are largely unknown, and the true extent of its adverse environmental impacts are highly uncertain.

8. Because the Sage Hen Project is so large in scale and duration, the maximum authorized logging and road construction will likely have significant adverse impacts on the area’s fish, wildlife, and plants. But the Forest Service ignored and downplayed these effects and erroneously concluded there will be no significant environmental effects, again violating NEPA.

9. The Forest Service also violated the ESA by relying on a flawed Biological Opinion prepared by the U.S. Fish and Wildlife Service (FWS), which fails to protect “threatened” bull trout. Local bull trout are isolated, their population numbers are dangerously small, and they are particularly susceptible to further loss due to climate change. Yet the Forest Service and FWS ignored this and other important information to conclude—incorrectly—that harm and habitat degradation caused by the Project will have minimal effect on bull trout.

10. Based on these and other violations of law, Plaintiff ICL requests that the Court hold unlawful, set aside, and vacate the Forest Service’s approval of the Sage Hen Project, and FWS’s Biological Opinion, and enter other relief as prayed for below.

#### **JURISDICTION AND VENUE**

11. Jurisdiction is proper in this Court under 28 U.S.C. §§ 1346 and 1331 because this action involves the United States as a defendant and arises under the laws of the United States,

including NEPA, 42 U.S.C. § 4321 *et seq.*; NFMA, 16 U.S.C. § 1600 *et seq.*; the ESA, 16 U.S.C. § 1531 *et seq.*; the APA, 5 U.S.C. § 701 *et seq.* (APA); the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; the Equal Access to Justice Act, 28 U.S.C. §§ 2212, 2214; and applicable regulations.

12. As required by the ESA, 16 U.S.C. § 1540(g)(2), Plaintiff provided notice of its intent to bring the ESA claims in this action to the U.S. Forest Service, FWS, and Secretary of the Interior more than 60 days prior to bringing this action.

13. An actual, justiciable controversy exists between Plaintiff and Defendants. The requested relief is therefore proper under 5 U.S.C. §§ 701–706, 28 U.S.C. §§ 2201–2202, and 16 U.S.C. § 1540(g).

14. Venue is properly vested in this Court pursuant to 28 U.S.C. § 1391 and 16 U.S.C. § 1540(g)(3)(A) because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district, Plaintiff and Defendants are located in this district, and the public lands and resources in question are in this district.

15. The federal government has waived sovereign immunity in this action pursuant to 5 U.S.C. § 702 and 16 U.S.C. § 1540(g)(1).

### **PARTIES**

16. Plaintiff IDAHO CONSERVATION LEAGUE is a non-profit conservation organization founded in 1973. ICL is based in Boise, Idaho, and has three field offices around the state, including one in McCall, Idaho. ICL works on behalf of over 35,000 members and supporters to protect public lands, water quality, fish, and wildlife throughout Idaho, including in the Boise National Forest.

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