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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

FLATHEAD-LOLO-BITTERROOT CITIZEN)
TASK FORCE,)
)
Plaintiff,)
vs.)
)
UNITED STATES FISH AND WILDLIFE)
SERVICE and UNITED STATES FOREST)
SERVICE,)
)
Defendants.)

COMPLAINT

1. This is a civil action for judicial review under the citizen suit provision of the Administrative Procedure Act (APA) regarding the U.S. Forest Service’s Environmental Assessment and Decision Notice and Finding of No Significant Impact for the Soldier-Butler Project (Project) on the Lolo National Forest (Forest).
2. Task Force Flathead-Lolo-Bitterroot Citizen Task Force (“Task Force”) attests that the decisions approving the Project are arbitrary and

capricious, an abuse of discretion, and/or otherwise not in accordance with law.

3. Defendants' actions or omissions violate the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4331 *et seq.*, the National Forest Management Act (NFMA), 16 U.S.C. § 1600 *et seq.*, and the Administrative Procedure Act (APA), 5 U.S.C. §§ 701 *et seq.*
4. Task Force requests that the Court set aside the Project pursuant to 5 U.S.C. §706(2)(A) and enjoin implementation of the Project.
5. Task Force seeks a declaratory judgment, injunctive relief, the award of costs and expenses of suit, including attorney and expert witness fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and such other relief this Court deems just and proper.

I. JURISDICTION

6. This action arises under the laws of the United States and involves the United States as a Defendant. Therefore, this Court has subject matter jurisdiction over the claims specified in this Complaint pursuant to 28 U.S.C. §§ 1331, 1346.
7. An actual controversy exists between Task Force and Defendants. Task Force's members use and enjoy the Lolo National Forest for

hiking, fishing, hunting, camping, photographing scenery and wildlife, and engaging in other vocational, scientific, spiritual, and recreational activities. Task Force's members intend to continue to use and enjoy the area frequently and on an ongoing basis in the future.

8. The aesthetic, recreational, scientific, spiritual, and educational interests of Task Force's members have been and will be adversely affected and irreparably injured if Defendants implement the Project. These are actual, concrete injuries caused by Defendants' failure to comply with mandatory duties under NEPA, NFMA, and the APA. The requested relief would redress these injuries and this Court has the authority to grant Task Force's requested relief under 28 U.S.C. §§ 2201 & 2202, and 5 U.S.C. §§ 705 & 706.
9. Task Force submitted timely written comments and objections concerning the Project in the available administrative review process, thus it has exhausted administrative remedies. Therefore, the Court has jurisdiction to review Task Force's APA claims.

II. VENUE

10. Venue in this case is proper under 28 U.S.C. § 1391(e) and Local Rule 3.3(a)(1). The Soldier-Butler Project is located in the Missoula

Division of the United States District Court for the District of Montana.

III. PARTIES

11. Task Force is an incorporated Montana non-profit public interest organization based in Missoula, Montana. Task Force brings this action on its own behalf and on behalf of its adversely affected members. Task Force works to protect the natural features and primitive aspects of the Northern Rockies and specifically the Flathead, Lolo and Bitterroot National Forests, the native fish and wildlife and habitat for Threatened and Endangered Species – including the grizzly bear – for our continued use and enjoyment. Task Force educates the public on issues affecting our area of concern and participates in the development of long term plans for National Forests and grizzly bear recovery.
12. Defendant UNITED STATES FOREST SERVICE (USFS) is an administrative agency within the U.S. Department of Agriculture.
13. Defendant UNITED STATES FISH AND WILDLIFE SERVICE (FWS) is an administrative agency within the U.S. Department of Interior.

IV. FACTUAL ALLEGATIONS

14. USFS issued its Final Environmental Assessment for the Soldier-Butler Project (Soldier-Butler Environmental Assessment) in October 2019.
15. The Forest Service signed the Soldier-Butler Final Decision Notice and Finding of No Significant Impact (Decision Notice) authorizing the Project on April 17, 2020.
16. On June 9, 2020, Task Force filed a 60-Day Notice of Intent to Sue under the ESA's citizen suit provision, alleging violations of the ESA related to open road density and survival standards for female grizzly bears; the Forest Service's failure to base its decision on the "best scientific and commercial data;" violations of ESA § 9 prohibitions on taking; its failure to analyze the nexus between the Ninemile DCA and the Grizzly Bear Recovery Plan and Conservation Strategy; and the Forest Service's failure to consider other important aspects of the problem, such as the impact of illegal motorized use of administratively closed roads and a history of road closure violations.
17. USFS reinitiated consultation with FWS on August 10, 2020.
18. FWS issued a Revised Biological Opinion on October 2, 2020.

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