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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

CASCADIA WILDLANDS, an Oregon non-profit corporation; **OREGON WILD**, an Oregon non-profit corporation; and **WILLAMETTE RIVERKEEPER**, an Oregon non-profit corporation;

Plaintiffs,

v.

DAVID WARNACK, in his official capacity as Willamette National Forest Supervisor; and the **UNITED STATES FOREST SERVICE**,

Defendants.

Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

(5 U.S.C. § 706(2))

(Environmental Matters –
National Forest Management Act,
National Environmental Policy Act, and
Administrative Procedure Act)

NATURE OF ACTION

1. Plaintiffs Cascadia Wildlands, Oregon Wild, and Willamette Riverkeeper (collectively, “Cascadia”) bring this challenge under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, to the final administrative actions of David Warnack and the United States Forest Service (collectively “Forest Service” or “Defendants”). In approving the Decision Memorandum (“DM”) for the Willamette 2020 Fires Roadside Danger Tree Reduction Project (“2020 Roadside Project” or “Project”) on the Willamette National Forest (“Forest”), Defendants acted arbitrarily, capriciously, and contrary to the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370h, and the National Forest Management Act (“NFMA”), 16 U.S.C. §§ 1600–1614.

2. The DM authorizes the cutting of “danger” trees along approximately 404 miles of National Forest System roads within the footprint of the 2020 Holiday Farm, Beachie Creek, and Lionshead fires. Most of the identified roads receive very low traffic volumes (if any), and most of the trees targeted for cutting pose no immediate risk (if any). The DM simply states, without specific support, that there is an urgency to act, but does not explain why a more searching and careful analysis could not be completed that balances ecological and social trade-offs. Instead, the Forest Service rushed to authorize logging operations, including commercial “salvage” logging, across thousands of acres of the Forest.

3. Under NEPA, the Forest Service did not prepare an Environmental Impact Statement (“EIS”) or even a less intensive Environmental Assessment (“EA”), and instead approved the Project pursuant to a Categorical Exclusion (“CE”). CEs apply to categories of actions that the Forest Service has determined pose no significant environmental effects, either

individually or cumulatively. The Forest Service approved the Project pursuant to a CE applicable to “repair and maintenance” of roads: 36 C.F.R. § 220.6(d)(4).

4. Cascadia challenges the Forest Service’s reliance on the road “repair and maintenance” CE for this Project. The Forest Service proposes to salvage log, through numerous individual timber sales, thousands of acres across the Project area. The Forest Service has failed to articulate a rational explanation as to why such a major salvage logging project constitutes routine road “repair and maintenance” when the Project targets tens of thousands of trees. Before approving a project of this magnitude, the Forest Service is obligated to prepare an EIS or EA.

5. Proper review under an EIS or EA would force the Forest Service to take the required “hard look” at the Project’s environmental impacts, including impacts to ESA-listed northern spotted owls and salmonids, and important habitat classified as “Riparian Reserves.” In fact, the Forest Service concedes that the Project is “likely to adversely affect” northern spotted owls, but failed to inform the public and decisionmaker of the scope and magnitude of the impacts or consider any alternatives that would lessen such impacts.

6. Cascadia respectfully requests this Court to vacate the DM and remand to the Forest Service for preparation of an EIS or EA for a full and fair analysis of the Project’s impacts.

7. If necessary, Cascadia intends to seek narrowly tailored injunctive relief during the pendency of this litigation to protect sensitive species and their habitats.

8. Should it prevail, Cascadia will seek attorneys’ fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and/or any other applicable authorities.

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JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Cascadia's claims present a federal question. A present, actual, and justiciable controversy exists between the parties. The requested relief for a declaratory judgment is proper under 28 U.S.C. § 2201, and the requested injunctive relief is proper under 28 U.S.C. § 2202.

10. Cascadia exhausted its administrative remedies by submitting scoping comments. The challenged agency action is subject to this Court's review under 5 U.S.C. §§ 702, 704, and 706. Defendants have waived sovereign immunity in this action pursuant to 5 U.S.C. § 702.

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the Project area is located within this judicial district. Defendants maintain an office in this judicial district. Plaintiffs Cascadia Wildlands, Oregon Wild, and Willamette Riverkeeper maintain offices in this District.

12. This case is properly filed in the Eugene Division pursuant to Local Rule 3-2 because a substantial part of the Project area, and Defendants' office where the decision was signed, are located in Lane County. A substantial part of the events or omissions giving rise to this claim occurred and the property that is subject to this action is situated in the Eugene Division.

PARTIES

Plaintiffs

13. Plaintiff CASCADIA WILDLANDS is a non-profit corporation headquartered in Eugene, Oregon, with approximately 12,000 members and supporters throughout the United States. Cascadia Wildlands educates, agitates, and inspires a movement to protect and restore wild ecosystems in the Cascadia Bioregion, extending from Northern California up into Alaska.

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 have used and will continue to use the Project area for activities such as hiking, bird watching, camping, swimming, fishing, foraging, photography, and other recreational and professional pursuits.

14. Plaintiff OREGON WILD is a non-profit corporation with approximately 20,000 members and supporters throughout the state of Oregon and the Pacific Northwest. Oregon Wild is headquartered in Portland, Oregon and maintains field offices in Bend, Eugene, and Enterprise, Oregon. Oregon Wild's mission is to protect and restore Oregon's wildlands, wildlife, and waters as an enduring legacy. Oregon Wild's wilderness, old-growth forest, and clean rivers/watersheds programs protect pristine drinking water, unparalleled recreation opportunities, and fish and wildlife habitat across Oregon.

15. Plaintiff WILLAMETTE RIVERKEEPER is a non-profit corporation headquartered on the Willamette River in Portland, Oregon. Willamette Riverkeeper serves as the eyes, ears, and voice of the Willamette River. For more than 20 years, the organization's sole mission has been to protect and restore the Willamette River's water quality, habitats for wildland and aquatic species, and resources. Willamette Riverkeeper believes that a river with good water quality and abundant natural habitat, safe for fishing and swimming, is a basic public right. Willamette Riverkeeper engages in public outreach and education, advocacy with agencies, agency administrative processes, habitat restoration, Superfund cleanup, Clean Water Act compliance, and where necessary, litigation. Here, where the Project's impacts will negatively affect basin water quality, essential water quality functions, and fish and wildlife habitat, Willamette Riverkeeper joins as a Plaintiff to protect the organization's and its members'

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