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13 *Attorneys for Plaintiffs*

14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF OREGON**

16 FOREST SERVICE EMPLOYEES FOR )  
17 ENVIRONMENTAL ETHICS, )  
18 )  
19 Plaintiff, ) **COMPLAINT**  
20 vs. )  
21 DAVID WARNACK, Willamette National )  
22 Forest Supervisor, and U.S. FOREST )  
23 SERVICE, )  
24 Defendants. )  
25 )

26  
27 Plaintiff alleges as follows:  
28

## NATURE OF THE CASE

- 1  
2 1. This is an action for declaratory judgment and injunctive relief challenging  
3  
4 Defendants' failure to analyze in an environmental assessment ("EA") or  
5  
6 environmental impact statement ("EIS") their decision to log about 20,000  
7  
8 acres in western Oregon's Willamette National Forest. *See* Willamette 2020  
9  
10 Fires Roadside Danger (sic) Tree Reduction Project Decision Memo, August  
11  
12 14, 2021, attached here as Exhibit 2 ("Tree Reduction Project"). Instead of  
13  
14 completing an environmental review required by the National  
15  
16 Environmental Policy Act ("NEPA"), the Forest Service deemed the logging  
17  
18 to be "road maintenance" and excluded it from review in an EA or EIS. *See*  
19  
20 36 CFR § 220.6(d)(4) (listing grading and resurfacing of roads, cleaning  
21  
22 culverts, "pruning" vegetation, and clearing roadside "brush" without  
23  
24 herbicides as activities excluded categorically from environmental review).  
25  
26 2. This action also challenges Defendant Warnack's decision to log in Riparian  
27  
28 Reserves where logging is banned by the Northwest Forest Plan unless 1)  
fire has "degraded riparian conditions" and, 2) logging is "required" to meet  
Aquatic Conservation Strategy Objectives. Defendants have failed to

1 demonstrate that either condition has been met, in violation of the  
2 National Forest Management Act (“NFMA”), 16 U.S.C. § 1604(i).

3  
4 **JURISDICTION AND VENUE**

5 3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), §  
6 2201 (declaratory judgment), § 2202 (further relief), and the Administrative  
7 Procedures Act (“APA”), 5 U.S.C. § 701-06.

8  
9  
10 4. Venue is appropriate in this judicial district and in this Court under 28 U.S.C.  
11 § 1391(e) because Defendants and Plaintiff reside in this judicial district and  
12 a substantial part of the events or omissions giving rise to the claims herein  
13 occurred in this district.

14  
15  
16 **PARTIES**

17 5. Plaintiff FOREST SERVICE EMPLOYEES FOR ENVIRONMENTAL ETHICS is a  
18 national environmental organization founded in 1989, incorporated in  
19 Oregon, with its headquarters in Eugene, Oregon. FSEEE has 8,000  
20 members nationwide, including members in Oregon. FSEEE’s mission is to  
21 protect national forests and to reform the U.S. Forest Service by advocating  
22 environmental ethics, educating citizens, and defending whistleblowers.  
23  
24  
25  
26 FSEEE and its members have long-standing interest and expertise in  
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28

1 national forest management. FSEEE's members live, work, recreate, and  
2 engage in other activities that have been, are being, and will continue to be  
3 adversely impacted by the proposed logging. See Exhibit 1, Declaration of  
4 Andy Stahl. In addition, the aesthetic, conservation, recreational, economic,  
5 scientific, informational, and procedural interests of FSEEE and its members  
6 have been, are being, and, unless the relief prayed for herein is granted,  
7 will continue to be adversely affected and irreparably injured by the U.S.  
8 Forest Service's failure to comply with federal law as described below.  
9

10  
11  
12  
13 6. Defendant DAVID WARNACK is Forest Supervisor of the Willamette  
14 National Forest and made the decision to log challenged in this Complaint.  
15 He is sued in his official capacity

16  
17 7. Defendant U.S. FOREST SERVICE, an agency of the U.S. Department of  
18 Agriculture, manages the land on which the logging challenged in this  
19 Complaint will occur.  
20

21  
22 **FACTS RELEVANT TO PLAINTIFF'S CLAIMS**

23 8. During the summer and fall of 2020, three fires (Holiday Farm, Beachie  
24 Creek, and Lionshead fires) burned vegetation affecting about 176,000  
25 acres of the Willamette National Forest. The fires generally burned in a  
26  
27  
28

1 mosaic pattern with a majority of the national forest area burning at a low  
2 to moderate severity. Such fires are relatively infrequent in western  
3 Oregon's Cascade mountains with a mean fire return interval of about 150  
4 years. Some locations, such as ridgetops and dry south-facing slopes acres  
5 burn more frequently than the average, while others, such as moist valley  
6 bottoms and north-facing slopes burn less frequently.  
7  
8

9  
10 9. The three 2020 fires burned in a manner consistent with past scientific  
11 studies of the area's fire ecology. Fire influences and shapes the natural  
12 growth and development of this area's forests. For example, fires are the  
13 predominant method by which dead trees, called "snags," are created.  
14 Fires play a major role in how nutrients are cycled from trees to soil. Fires  
15 create habitat niches for many wildlife species, such as woodpeckers, that  
16 are adapted to the environmental conditions that fires create. Fire is a  
17 common disturbance in streamside, riparian areas, too. Fish species are  
18 well-adapted to wildfires. Fires deposit logs, gravel, and nutrients in  
19 streams that fish rely upon.  
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24  
25 10. Logging after a forest fire is not a natural ecological process. Logging  
26 removes biomass that would otherwise remain in the forest. Logging  
27  
28

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