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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

NATIVE ECOSYSTEMS COUNCIL,
ALLIANCE FOR THE WILD ROCKIES, and
WILDLANDS DEFENSE,

Plaintiffs,

vs.

JON STANSFIELD, in his official capacity as
forest supervisor of the Humboldt-Toiyabe
National Forest, and UNITED STATES
FOREST SERVICE,

Defendants.

Case No. 26-331

**COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

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INTRODUCTION

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2 1. Plaintiffs Native Ecosystems Council (“NEC”), Alliance for the Wild Rockies (“the
3 Alliance”), and WildLands Defense (“WD”) seek judicial review of Defendant United States
4 Forest Service’s (“Forest Service”) decision to authorize the Humboldt-Toiyabe National Forest
5 Forestwide Prescribed Fire Restoration Project (“Thinning Project” or “Project”).

6 2. On September 24, 2025, Forest Supervisor for the Humboldt-Toiyabe National
7 Forest, Jon Stansfield, signed the Decision Notice authorizing unrestricted tree-cutting, chipping,
8 slashing, and burning of trees up to 16 inches in diameter, including in a 3 million acres of roadless
9 areas where logging must be infrequent and limited to generally small diameter trees.

10 3. This Project area is massive: over *five million acres* of Nevada forest, woodlands,
11 and sagebrush. The Decision Notice authorizes 30,000 acres per year of logging and burning over
12 the next fifteen to twenty years. The Project is likely to adversely affect nine species currently
13 listed under the Endangered Species Act (“ESA”), their associated critical habitat, and two species
14 proposed for listing under the ESA.

15 4. Despite the Project’s vast scale, the final environmental assessment (“Final EA”),
16 Decision Notice, and Finding of No Significant Impact prepared by the Forest Service contains
17 minimal details about where, when, and how the pre-fire tree-cutting, chipping, and slashing will
18 occur.

19 5. The vague, landscape-level discussion in the Final EA especially misses the mark
20 when it comes to wildlife species at the tipping point toward listing under the ESA, where a site-
21 specific understanding of on-the-ground conditions is critical to their survival. For example, the
22 Project includes over a million acres of pinyon-juniper woodland that the Forest Service could cut,
23 slash, and burn, which further contributes to the demise of the pinyon-jay, one of the fastest
24 declining bird species in the Western United States that the United States Fish and Wildlife Service

1 (“FWS”) recently determined may be warranted for ESA-listing because of projects like the one
2 challenged here. Contrary to FWS’s findings for the pinyon jay, the Forest Service concluded that
3 the 5.1-million-acre project challenged here will not contribute to the pinyon jay’s downward trend
4 toward ESA listing.

5 6. As the Forest Service’s approval of the Thinning Project violates the National
6 Environmental Policy Act (“NEPA”), 42 U.S.C. § 4331 *et seq.*, National Forest Management Act
7 (“NFMA”), 16 U.S.C. § 1600 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. §
8 701 *et seq.*, Plaintiffs request the Court set aside and enjoin the implementation of the Decision
9 Notice – and specifically enjoin any ground disturbing activities authorized by the Decision Notice
10 – pursuant to 5 U.S.C. § 706(2)(A) and (D).

11 7. Because NEPA and NFMA do not include a citizen suit provision, this case is
12 brought in part pursuant to the APA, 5 U.S.C. §§ 551-559, 701-706. The APA allows persons and
13 organizations to challenge final agency actions in the federal courts. 5 U.S.C. §§ 702, 704. The
14 APA declares that a court shall hold unlawful and set aside agency actions found to be arbitrary,
15 capricious, an abuse of discretion, or otherwise not in accordance with law. *Id.* § 706(2)(A).

16 8. Plaintiffs seek a declaratory judgment, injunctive relief, the award of costs and
17 expenses of suit, including attorney and expert witness fees pursuant to the Equal Access to Justice
18 Act, 28 U.S.C. § 2412, and such other relief as this Court deems just and proper.

19 9. In addition, Plaintiffs bring this action under the Freedom of Information Act
20 (“FOIA”), 5 U.S.C. § 552 *et seq.* for declaratory, injunctive and other appropriate relief to enjoin
21 Defendants from withholding requested documents regarding Plaintiffs’ November 18, 2025
22 FOIA request for the Thinning Project’s project file. Defendants violated FOIA by failing to
23 respond to Plaintiffs’ FOIA request with a determination within the deadline established by the
24 FOIA, as well as by failing to produce requested documents.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. §§ 2201-2202 (declaratory and injunctive relief); and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706. This Court may order relief pursuant to 28 U.S.C. § 2201 (declaratory judgment) and § 2202 (further relief), and 5 U.S.C. §§ 702 and 706.

11. Venue is proper in the U.S. District for the District of Nevada, unofficial Southern Division, because a substantial portion of the Project will occur and a substantial amount of property that is subject to this action is in the Humboldt-Toiyabe National Forest in Clark, Lincoln and Nye Counties within the Southern Division. 28 U.S.C. § 1391(e)(1); LR IA 11-6.

PARTIES

12. Plaintiff NATIVE ECOSYSTEMS COUNCIL is a non-profit corporation with its principal place of business in Three Forks, Montana. Native Ecosystems Council is dedicated to the conservation of wildlife and public lands in the Northern Rockies and the western United States, including Nevada. Its members observe, enjoy, and appreciate Nevada’s native wildlife, water quality, and terrestrial habitat quality, and expect to continue to do so in the future, including in the Project area. Its members’ professional and recreational activities are directly affected by Defendants’ failure to perform their duties. Native Ecosystems Council brings this action on its own behalf and on behalf of its adversely affected members.

13. Plaintiff ALLIANCE FOR THE WILD ROCKIES is a tax-exempt, non-profit public interest organization dedicated to the protection and preservation of the native biodiversity of the Northern Rockies Bioregion, its native plant, fish, and animal life, and its naturally functioning ecosystems. Its registered office is located in Missoula, Montana. The Alliance has over 2,000 individual members. Members and staff of the Alliance observe, enjoy, and appreciate the Humboldt-Toiyabe’s native wildlife, water quality, and terrestrial habitat quality, and expect

1 to continue to do so in the future, including in the Project area. The Alliance's members'
2 professional and recreational activities are directly affected by Defendants' failure to perform their
3 lawful duty to protect and conserve these ecosystems. The Alliance brings this action on its own
4 behalf and on behalf of its adversely affected members.

5 14. Plaintiff WILDLANDS DEFENSE is non-profit public interest organization
6 dedicated to protecting and improving the ecological and aesthetic qualities of the wildlands and
7 wildlife communities of the western United States for present and future generations. Wildlands
8 Defense does so by fostering the natural enjoyment and appreciation for wildlands habitats and
9 wildlife by means of legal and administrative advocacy; wildland and wildlife monitoring; and by
10 supporting and empowering active public engagement. Wildlands Defense has offices in Boise
11 and Hailey, Idaho. Wildlands Defense works to protect sensitive plant and animal species,
12 migratory birds, functioning watersheds and natural processes in wildlands, including in the
13 Project area. Wildlands Defense brings this action on its own behalf and on behalf of its adversely
14 affected members whose recreational and professional interests will be harmed by the Project.

15 15. The members and/or staff of the Alliance, NEC and WD, (collectively,
16 "Conservation Groups") include individuals who use (and intend to continue to use) the Humboldt-
17 Toiyabe National Forest, including the lands that are now planned for logging and burning as part
18 of the Project. These members and staff use, and have plans to use, the Project area for observation,
19 research, aesthetic enjoyment, and other recreational, scientific, spiritual, and educational
20 activities. Conservation Groups' members and staff use, and plan to use, the Project area to enjoy
21 its character and to observe or study imperiled species. These members' interests will be
22 irreparably harmed by the planned logging in the Project area, as they will not be able to enjoy this
23 area in its unlogged state any longer, nor will they be able to observe or attempt to observe the
24 species which use and are dependent on these areas in their unlogged state. Logging and tree

1 cutting in these areas for the Thinning Project in violation of the NEPA and the APA will
2 undermine the Conservation Groups' mission of protecting wild places and wildlife.

3 16. Conservation Groups participated extensively in the Forest Service's process for
4 approvals of the Project, including submitting comments on the Forest Service's initial proposal
5 in November 2020, commenting on the draft environmental assessment ("Draft EA") in January
6 2022, and filing objections to the Project in May 2025. In September 2025 the Forest Service
7 denied Conservation Groups objections by authorizing the Decision Notice. Conservation Groups
8 have exhausted all legally required administrative remedies before bringing this action.

9 17. The Forest Service's violation of NEPA and the APA in approving the Project have
10 already and will continue to injure the interests of Conservation Groups and their members. The
11 relief sought herein would redress these injuries. Plaintiffs have no other adequate remedy at law.

12 18. This suit is brought by the Conservation Groups on behalf of themselves and their
13 adversely affected members and staff. The Conservation Groups and their members' collective
14 present and future interests in and use of the Project areas are and will be directly and adversely
15 affected by the challenged decision. Those adverse effects include, but are not limited to: (1)
16 impacts to native plants and wildlife and their habitats within and around the Project areas from
17 logging; (2) reduction and impairment of recreation opportunities; (3) impaired aesthetic value of
18 forest lands, trails, and landscapes caused by the Forest Service's logging; and (4) loss of scientific
19 study and viewing opportunities with regard to wildlife in areas proposed for logging. In addition,
20 the Conservation Groups and their members and staff have an interest in ensuring that the Forest
21 Service complies with all applicable laws, regulations, and procedures pertaining to the
22 management of national forest lands.

23 19. Defendant JON STANSFIELD is sued in his official capacity as the Supervisor of
24 the Humboldt-Toiyabe National Forest. He is directly responsible for forest management in the

1 Humboldt-Toiyabe National Forest and for ensuring that all resource management decisions
2 comply with applicable laws and regulations. Supervisor Stansfield signed the September 24, 2025
3 Decision Notice for the Project challenged here.

4 20. Defendant UNITED STATES FOREST SERVICE is a federal government agency
5 within the Department of Agriculture, which holds the National Forests in trust for the American
6 people and is responsible for federal agency actions in the Project area.

7 **FACTUAL BACKGROUND**

8 **A. Project Background**

9 21. The Project encompasses the entire Humboldt-Toiyabe National Forest, which is
10 the largest national forest in the lower 48 states at 6.3 million acres. Because the Project excludes
11 congressionally designated wilderness areas and research natural areas, the Project's total area is
12 5.1 million acres.

13 22. The Forest Service can implement the Project across all six ranger districts on the
14 Humboldt-Toiyabe, which are primarily located in Nevada with one district partially in California.
15 The Project will simultaneously adversely affect multiple habitats and ecosystems across the entire
16 state of Nevada and eastern California.

17 23. The Forest Service first proposed the Project in November 2020, issued a draft EA
18 in January 2022, offered a pre-decisional objection period in May 2025, and finalized the decision
19 in September 2025.

20 24. The Decision Notice authorizes 30,000 acres a year of pre-fire site preparation in
21 the form of thinning with chainsaws and masticating (chewing trees with chains) with heavy
22 machinery over a 5.1 million acres project area. Then the Forest Service would burn the area after
23 removing the live, green vegetation.

24 25. The Project would last 15 to 20 years.

1 26. The Decision Notice authorizes implementation of the project immediately. No
2 other site-specific NEPA analysis will occur with this Project.

3 27. The Final EA does not identify site-specific units or their timing.

4 28. The Final EA does not identify the maximum possible effects of the action.

5 29. The Final EA includes initial treatment areas in each ranger district on the Forest,
6 which totals over 650,000 acres of potential logging and burning.

7 30. The Final EA uses the initial treatment areas to “help illustrate the need for this
8 project and how this project would likely be implemented.” The Forest Service mapped the initial
9 treatment areas using a geographic information system (“GIS,” that is, a computer-based mapping,
10 not on-the-ground marking of trees).

11 31. In addition to prioritizing these initial treatment areas, the Forest Service may
12 propose secondary areas for treatment as they implement the initial areas.

13 32. During implementation, the Final EA states that the Forest Service is required to
14 follow design elements, terms and conditions, and the implementation plan.

15 **B. Pinyon Jay**

16 33. The Project includes over a million acres of pinyon jay habitat.

17 34. The pinyon jay is a bird that primarily inhabits pinyon-juniper woodlands in
18 Nevada and throughout the greater American West, feeding mostly on pinyon pine seeds.

19 35. The pinyon jay is one of the fastest declining bird species in the United States,
20 declining from 5 million to 755,000 pinyon jays in the United States in the last 50 years and
21 continue to lose 3-4% of the range-wide population per year.

22 36. The State of Nevada recognizes the pinyon jay as a species of greatest conservation
23 need.

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1 37. In 2023, in response to a petition for listing, FWS found substantial scientific and/or
2 commercial information in its 90-Day Finding to indicate that listing pinyon jays under the ESA
3 may be warranted.

4 38. In this 90-day Finding, FWS concluded that “certain habitat treatments in piñon-
5 juniper woodlands are potentially having negative effects on pinyon jay occupancy and nesting
6 colony sites and that they are occurring at a species level such that a listing may be warranted[.]”

7 39. The 90-day Finding also specifically recognized that conversion from pinyon-
8 juniper woodland to a landscape dominated by non-native species, like cheatgrass, results in
9 permanent removal of pinyon-jay habitat. FWS concluded that “increased invasive annual grasses
10 can increase wildfire frequency and loss of piñon-juniper woodlands that provide habitat for
11 pinyon jays and that this threat is occurring at a species level such that a listing may be
12 warranted[.]”

13 40. Climate change is also adversely impacting pinyon jay habitat. In the 90-day
14 Finding, FWS concluded that “[a]ccumulated effects of climate change, specifically drought and
15 tree mortality, can lead to increased wildfire risk, resulting in loss of piñon-juniper woodlands per
16 interaction of Wildfire and Invasives Threats under Factor A and this threat is occurring at a species
17 level such that a listing may be warranted.”

18 41. The 90-Day Finding also concluded that listing under the ESA may be warranted
19 because of extensive pinyon-juniper habitat manipulation by federal agencies like the Forest
20 Service and a lack of environmental analysis under NEPA.

21 42. The Project’s pinyon jay analysis does not mention invasive grasses like cheatgrass
22 impacting pinyon jay nor does it mention increased fire intensity because of those invasive grasses.
23 Thus, the Project’s Final EA and project documents do not use the best available science and/or
24 take a hard look at impacts to pinyon jay.

1 43. The Project's biological evaluation recognizes that the Project will prevent
2 establishment and development of new pinyon pine habitat. It also recognizes that habitat may be
3 damaged or lost during treatment and for a period of time post-treatment.

4 44. The Project area contains non-native and invasive annual grasses (for example,
5 cheatgrass) in many pinyon-juniper woodlands. These non-native grasses are increasing in
6 abundance according to the Forest Service. Where present, cheatgrass and other invasive annual
7 grasses can prevent establishment of pinyon and juniper following fire by reducing establishment
8 of nurse shrubs and increasing fire frequency.

9 45. Increasing cheatgrass invasion due to favorable climatic and ecological conditions
10 can contribute to increased fire activity.

11 46. Despite the conclusions in the 90-day Finding regarding non-native grasses and fire
12 intensity in pinyon-juniper woodlands, the Final EA and project documents fail to consider how
13 proliferation of cheatgrass after the Project implementation will impact pinyon jays and their
14 habitat.

15 47. Despite the conclusions in the 90-day Finding regarding climate change and its
16 impacts to pinyon jay, the Final EA and project documents fail to analyze how climate change will
17 impact pinyon jay in the Project area in combination with the Project.

18 48. These glaring omissions from the Final EA and supporting documentation
19 demonstrate that the Forest Service has not adequately examined and identified the relevant data
20 and best available science, which is especially grave given the twenty-year timeline for the Project
21 implementation and how quickly the pinyon jay's population is declining.

22 49. By ignoring the impacts to pinyon jay and its habitat, the Forest Service fails to take
23 a hard look in violation of NEPA and defeats the "look before you leap" mandate of NEPA through
24 informed decision-making and public comment.

C. Management Indicator Species

50. Both the Humboldt Forest Plan and the Toiyabe Forest Plan require population trend monitoring for management indicator species (“MIS”).

51. MIS are meant to represent all wildlife species that use a specific vegetative type. MIS are sensitive to changes in habitat and act as a barometer to the condition and trend of vegetative types.

52. The Humboldt Forest Plan selected mule deer, sage grouse, goshawk, and trout as its MIS. The Humboldt Forest Plan and governing forest planning regulations at the time require the Forest Service to manage the Forest to ensure it maintains minimum viable populations of these MIS.

53. In 1986 when the Forest Service issued the Humboldt Forest Plan, expected MIS minimum populations were:

- a. Mule deer: 11,247.
- b. Sage grouse: 3,900.
- c. Goshawk: 500 pairs.
- d. Trout: 2,470 pounds.

54. For goshawks, the Humboldt Forest Plan recognized that the goshawk current population was also the minimum population, and therefore any subsequent decrease in goshawk population falls below the minimum viable population required by the forest plan.

55. The Humboldt Forest Plan includes a mandatory monitoring plan that is required to be made available to the public on an annual basis as an evaluation report. This includes MIS population trend monitoring on an annual basis and reporting every five years. This also includes the variation or amount of change that would require further evaluation or change in management

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1 direction for the Forest Service, which for MIS would be a 20% change for mule deer and sage
2 grouse and 10% change for trout and goshawk.

3 56. All MIS have specific monitoring and/or surveying techniques the Forest Service
4 must use.

5 57. The Toiyabe Forest Plan also requires the Forest Service maintain viable
6 populations of MIS and monitor them. The Toiyabe Forest Plan includes numerous MIS,
7 including:

- 8 e. Goshawk.
- 9 f. Pine Marten.
- 10 g. Paiute Cutthroat Trout.
- 11 h. Lahontan Cutthroat Trout.
- 12 i. Williamson's Sapsucker.
- 13 j. Hairy Woodpecker.
- 14 k. Mule Deer.
- 15 l. Sage Grouse.
- 16 m. Yellow Warbler.
- 17 n. Palmers Chipmunk.
- 18 o. Yellow-bellied Sapsucker.
- 19 p. Yellow-rumped Warbler.

20 58. Like the Humboldt Forest Plan, the Toiyabe Forest Plan requires specific
21 monitoring techniques, like surveys, and population trend monitoring for MIS to be compiled into
22 annual reports and evaluation reports every five years.

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59. The Final EA does not disclose the population trend data for MIS on the Humboldt-Toiyabe National Forest and whether the MIS populations are below the minimum viable population required by the forest plans.

60. The Final EA does not disclose whether the Forest Service has been monitoring MIS on the forest and compiling annual reports and the required evaluation report every five years.

61. The Final EA does not reference evaluation reports or annual monitoring.

62. The Final EA does not disclose whether the Project area has been surveyed for MIS as required by the forest plans.

63. The Final EA does not disclose impacts from the Project on all MIS species, as required by the forest plans, even though the Project will occur on nearly every acre of the Humboldt-Toiyabe National Forest.

64. The Forest Service has not compiled its evaluation and monitoring reports, including how forest plan components are affecting MIS.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

The Thinning Project violates NEPA and the APA because the EA is too vague to take a hard look at the impacts of the project.

65. All previous paragraphs are incorporated by reference.

66. Congress enacted NEPA, 42 U.S.C. §§ 4321–4370h, to, among other things, “encourage productive and enjoyable harmony between man and his environment[.]” and to promote government efforts “that will prevent or eliminate damage to the environment[.]” *Id.* § 4321.

67. As a general matter, NEPA requires that federal agencies analyze and disclose to the public the environmental impacts of their actions. *Id.* § 4332(C).

68. NEPA serves two purposes: first, “[i]t ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). Second, it “guarantees that the relevant information will be made available” to the public so it may play a role in the decision-making process. *Id.*

69. The Project’s reliance on condition-based management violates NEPA and the APA because it prevents the Forest Service from taking a hard look at the environmental impacts and stifles the public’s ability to provide meaningful comment. *See Tri-Valley CAREs v. U.S. Dept. of Energy*, 671 F.3d 1113, 1128 (9th Cir. 2012) (EA must provide sufficient information to ensure an agency’s hard look and the public’s ability to comment). The Ninth Circuit has expressed concerns about “excessive reliance on condition-based management.” *North Cascades Conservation Council v. U.S. Forest Service*, 136 F.4th 816, 829 (9th Cir. 2025). Nevertheless, the court has approved condition-based management when the area subject to condition-based management is “fairly small” and the Forest Service provided “extensive mapping” which consisted of “unit-by-unit maps of the maximum effects of each treatment” type. *Id.*

70. This Project violates NEPA because the Final EA is too vague to comply with NEPA’s hard look requirement. The Project’s size, and its minimal environmental analysis, fail to pass muster under Ninth Circuit condition-based management precedent.

SECOND CAUSE OF ACTION

The Project violates NEPA and the APA by failing to prepare an EIS.

71. All previous paragraphs are incorporated by reference.

72. NEPA requires the Forest Service to prepare 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). To determine whether an action is significant, agencies

1 shall analyze the potentially affected environment and degree of the effects of the action. 40 C.F.R.
2 § 1501.3(b).

3 73. In challenging an agency decision not to prepare an EIS, plaintiffs need not prove
4 that significant environmental effects will occur; they need only raise a substantial question that
5 they might. This is a low standard.

6 74. Significant Adverse Impacts to ESA-Listed Species: The Forest Service must
7 prepare an EIS because the Project may have significant impacts to ESA-listed species. A full EIS
8 is necessary for the Project because it is likely to adversely affect eight listed species and two
9 proposed-to-be-listed species, including:

- 10 • Threatened bull trout and critical habitat,
- 11 • Threatened Lahontan cutthroat trout,
- 12 • Endangered Sierra Nevada yellow-legged frog and critical habitat,
- 13 • Threatened Yosemite toad and critical habitat,
- 14 • Endangered Mount Charleston blue butterfly and critical habitat,
- 15 • Endangered Sierra Nevada bighorn sheep and critical habitat,
- 16 • Endangered Sierra Nevada red fox,
- 17 • Proposed threatened California spotted owl,
- 18 • Proposed threatened Greater sage grouse and proposed critical habitat, and
- 19 • Threatened whitebark pine.

20 Because there are substantial questions as to whether the Project may cause significant
21 adverse effects to eight ESA-listed species and their habitat, an EIS is required.

22 75. Adverse Cumulatively Significant Impacts: A full EIS is necessary for the Project
23 because there are substantial questions that it may have a cumulatively significant impact based
24 on the 5.1 million acres Project area and the effects of other past, present, and reasonably

foreseeable projects in the Project area. Under this factor, the Forest Service must evaluate whether the actions “with individually minor but collectively significant effects taking place over a period of time.” 40 C.F.R. §1508.1(i)(3); *Kern v. BLM*, 284 F.3d 1062, 1078 (9th Cir. 2002) (the purpose is to avoid “the tyranny of small decisions”). Because the EA does not adequately address the cumulative impacts of past, present, and reasonably foreseeable future actions, a full EIS is required.

76. In sum, the Forest Service violated NEPA and the APA by failing to prepare an EIS for this massive project that will adversely affect numerous ESA-listed species.

THIRD CAUSE OF ACTION

The Final EA violates NEPA and the APA by failing to take a hard look at the direct, indirect, and cumulative impacts.

77. All previous paragraphs are incorporated by reference.

78. NEPA requires the Forest Service to disclose and analyze all the environmental impacts of its actions. 42 U.S.C. § 4332(2)(C). NEPA sets forth “a set of ‘action-forcing’ procedures that require that agencies take a ‘hard look’ at environmental consequences.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989).

79. “*Effects or impacts* means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and include the following: (1) Direct effects, which are caused by the action and occur at the same time and place. (2) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. (3) Cumulative effects, which are effects on the environment that result from the incremental effects of the action when added to

1 the effects of other past, present, and reasonably foreseeable actions regardless of what agency
2 (Federal or non-Federal) or person undertakes such other actions. Cumulative effects can result
3 from actions with individually minor but collectively significant effects taking place over a period
4 of time.” 40 C.F.R. § 1508.1(i)

5 80. A cumulative impacts analysis must be more than perfunctory; it must provide a
6 useful analysis of the cumulative impacts of past, present, and future projects. *Klamath-Siskiyou*
7 *Wildlands Ctr. v. BLM*, 387 F.3d 989, 993-94 (9th Cir. 2004). In the Ninth Circuit, the Forest
8 Service is permitted to exercise its discretion and incorporate the expected cumulative impact of
9 such a project into the environmental baseline against which the incremental impact of a proposed
10 project is measured. *Cascadia Wildlands v. Bureau of Indians Affs.*, 801 F.3d 1105, 1112 (9th Cir.
11 2015). However, this must be clear in the record. *Id.*

12 81. The Project violates NEPA by failing to take a hard look at cumulative impacts of
13 past, present, and reasonably foreseeable projects in the Project area. This includes mining projects
14 that will impact similar resources, like the Newcrest Jarbidge Mining Project that is likely to
15 adversely affect bull trout and bull trout critical habitat in the Project area. But the Forest Service
16 fails to disclose this project or its impacts to bull trout in conjunction with the Project challenged
17 here.

18 82. The Final EA fails to discuss past projects and does not adequately aggregate their
19 effects. The Final EA does not discuss or demonstrate how the Forest Service aggregated the
20 cumulative impacts of the noted projects, only citing to its catalogue of projects and not even
21 making perfunctory conclusions.

22 83. The Final EA does not contain an adequate discussion of impacts from past, present,
23 or reasonably foreseeable projects on resources in the project area.

24 ///

84. The Final EA fails to take a hard look at impacts to pinyon jay and the Project's impacts to its habitat for foraging, nesting, and roosting in the context of replacing pinyon jay habitat with non-native species like cheatgrass and adverse effects from climate change. The Final EA fails to analyze the effects prescribed burning will have on the proliferation of cheatgrass in the Project area and how that will impact pinyon jay, even though the 90-day Finding recognized this is one reason that listing under the ESA may be warranted. This violates NEPA and the APA.

FOURTH CLAIM FOR RELIEF

Defendant violated FOIA by failing to issue a determination for Plaintiff's FOIA Request by the statutory deadline, and/or by failing to make requested records available to Plaintiff.

85. All previous paragraphs are incorporated by reference.

86. Plaintiffs submitted a FOIA request on November 18, 2025 to the Humboldt-Toiyabe National Forest for "an electronic copy of the project file for the Humboldt Toiyabe Forestwide Prescribed Fire Restoration Project."

87. Plaintiffs contacted Defendant on January 5, 2026 to request an update. Plaintiffs again contacted Defendant on January 26, 2026 to request an update on the FOIA. As of the filing of this Complaint, Defendant has not yet provided Plaintiffs with the requested records.

88. Defendant violated FOIA's requirement that an administrative agency must respond to a FOIA request within 20 business days with a substantive determination that notifies the requester whether the agency will comply with the request, the scope of the documents the agency will produce, whether any exemptions are being claimed to deny any part of the request, and how to appeal an adverse determination. 5 U.S.C. § 552(a)(6)(A)(I).

89. Alternatively, if the 10-day extension for mis-directed requests applies, Defendants have also violated that deadline.

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90. Defendant violated FOIA because its failure to provide the documents requested by Plaintiff violated the FOIA requirement that every administrative agency “make the records promptly available to any person” who requests records from an administrative agency. 5 U.S.C. § 552(a)(3)(A).

FIFTH CLAIM FOR RELIEF

The Forest Service's analysis and monitoring of MIS violate NEPA, NFMA, and the APA.

91. All previous paragraphs are incorporated by reference.

92. NFMA requires that each National Forest develop a “Land and Resource Management Plan,” that is, a forest plan. 16 U.S.C. § 1604(a).

93. All site-specific projects must be consistent with the governing forest plan. *Id.*

§ 1604(i). “A project is consistent [with NFMA] if it conforms to the applicable ‘components’ of the forest plan, including the standards, guidelines, and desired conditions that are set forth in the forest plan and that collectively establish the details of forest management.” *All. for the Wild Rockies v. U.S. Forest Serv.*, 907 F.3d 1105, 1110 (9th Cir. 2018). The “Forest Service’s failure to comply with the provisions of a Forest Plan is a violation of NFMA.” *Native Ecosystem Council v. U.S. Forest Service*, 418 F.3d 953, 961 (9th Cir. 2005).

94. The forest plans require the Humboldt-Toiyabe National Forest to maintain minimum viable populations of MIS. These forest plans also require the Forest Service to monitor MIS populations.

95. The 2012 Planning Rule also requires the Forest Service prepare monitoring and evaluation reports: “The responsible official shall conduct a biennial evaluation of new information gathered through the plan monitoring program and relevant information from the broader-scale strategy, and shall issue a written report of the evaluation and make it available to the public.”

96. The monitoring evaluation report was not available for public review or comment during the public notice or objection process for the revised Forest Plan in violation of the NFMA and the 2012 Planning Rule.

97. Here, the Forest Service violates NFMA, NEPA, and the APA by failing to take a hard look at the Project's impacts to MIS species, including but not limited to, the MIS habitat impacted, their minimum viable populations, and how the project will impact MIS. The Forest Service also failed to adequately monitor MIS species under the requirements of the forest plans and the 2012 Planning Rule.

PRAYER FOR RELIEF

For the above-stated reasons, Plaintiffs request that this Court award the following relief:

- A. Declare that the Project violates the law, and either vacate the Project decision or enjoin implementation of the Project;
- B. Order Defendants to immediately provide the requested records to Plaintiffs;
- C. Award Plaintiffs their costs, expenses, expert witness fees, and reasonable attorney fees under the Equal Access to Justice Act and/or FOIA; and/or
- D. Grant Plaintiffs any such further relief as may be just, proper, and equitable.

February 10, 2026

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