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8

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11

12 AMY GRANAT, CORKY LAZZARINO, SIERRA)
ACCESS COALITION; CALIFORNIA OFF-ROAD)
13 VEHICLE ASSOCIATION; THE COUNTY OF)
PLUMAS; AND THE COUNTY OF BUTTE,)

14 Plaintiffs,)
15)

16 v.)

17 UNITED STATES DEPARTMENT OF)
AGRICULTURE, a federal agency; TOM VILSACK,)
in his official capacity as Secretary of the UNITED)
18 STATES DEPARTMENT OF AGRICULTURE;)
UNITED STATES FOREST SERVICE, a federal)
19 agency; THOMAS L. TIDWELL, in his official)
capacity as Chief of the UNITED STATES FOREST)
20 SERVICE; RANDY MOORE, in his official capacity)
as PACIFIC SOUTHWEST REGIONAL FORESTER;)
21 ALICE CARLTON, in her official capacity as the)
former PLUMAS NATIONAL FOREST)
22 SUPERVISOR; AND EARL FORD, in his official)
capacity as PLUMAS NATIONAL FOREST)
23 SUPERVISOR,)

24 Defendants.)
25)
26)
27)
28)

No. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

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INTRODUCTION

1
2 1. Plaintiffs challenge Federal Defendants’ decision to prohibit motorized travel on
3 thousands of unclassified routes in Plumas National Forest that had been historically and lawfully
4 used by the public for recreation, thereby preventing human access to a vast portion of the Forest.

5 2. That decision is based on a flawed implementation of the Forest Service’s 2005
6 Travel Management Rule as reflected in the Plumas National Forest Public Motorized Travel
7 Management Record of Decision, which is the final decision document setting forth the actual
8 action taken by the Forest Service, and the Final Environmental Impact Statement, which sets forth
9 the environmental impacts of the action taken by the Service. The denial of public lands access
10 should be declared unlawful and enjoined because Defendants issued the decision in derogation
11 of the National Environmental Policy Act and the Administrative Procedure Act.

12 3. Plumas National Forest has long provided the public with diverse opportunities for
13 motorized recreation and access within the Forest through forest-wide cross country travel and an
14 interconnected system of routes that includes individual roads and trails, many of which link to
15 Butte County and Plumas County public roads. Before the Forest Service took the action at issue
16 in this lawsuit, some of the roads and trails in Plumas National Forest had been part of the
17 officially designated National Forest Transportation System. However, a substantial number of
18 additional roads and trails, numbering approximately 3,236 individual routes and representing
19 approximately 1,107 miles, had been used for motorized travel for years by the public, including
20 Petitioners Amy Granat and Corky Lazzarino, members of Petitioners Sierra Access Coalition and
21 California Off-Road Vehicle Association, and the citizens of Petitioners Butte County and Plumas
22 County. Although those unclassified routes had never been officially designated as part of the
23 National Forest Transportation System, it was lawful to use them for motorized travel. This
24 lawsuit challenges the closure to motorized travel of thousands of unclassified but previously
25 lawfully used roads and trails, representing hundreds of miles of recreational and access
26 opportunities in Plumas National Forest. Plaintiffs Granat and Lazzarino, the members of
27 Plaintiffs Sierra Access Coalition and California Off-Road Vehicle Association, and the citizens
28 of Plaintiffs Butte County and Plumas County would use motorized vehicles on the now-closed

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1 roads and trails but for the limitations prescribed in the Record of Decision and the Final
2 Environmental Impact Statement. As a disabled individual, Plaintiff Granat is particularly
3 impacted by the Forest Service’s action because her only practicable means of access to her
4 favorite parts of the Forest is by motorized vehicle.

5 4. The Record of Decision and the Final Environmental Impact Statement fail to
6 adequately account for the extent to which closure of hundreds of miles of routes to motorized
7 vehicle access in the Plumas National Forest would significantly affect the quality of the human
8 environment. The Forest Service failed to adequately consider the human toll that results from
9 denying Californians and others the ability to continue cherished and family-friendly recreational
10 activities that have been taking place in the Forest for generations. Particularly egregious is the fact
11 that the Record of Decision and the Final Environmental Impact Statement deprive disabled
12 persons, who require motorized vehicle transport, to enjoy many parts of Plumas National Forest.
13 The Forest Service’s decision also negatively impacts residents of Plumas and Butte Counties who
14 depend upon access to the Forest for low-cost sources of food and fuel, and it adversely affects
15 numerous commercial interests in Plumas and Butte Counties that derive income from providing
16 services related to motorized vehicle use and recreation in the Forest, including for county
17 residents and tourists attracted by the recreational opportunities afforded by the Forest.

18 5. The decision to prohibit motorized vehicle use on hundreds of miles of existing
19 unclassified roads and trails previously available for use was made on the basis of the unexamined
20 assumption that continued motorized access on many of the historically used routes would cause
21 an unacceptable level of environmental harm. That conclusion was reached without the benefit
22 of site-specific environmental impacts analysis, as required by the National Environmental Policy
23 Act (“NEPA”).

24 **JURISDICTION**

25 6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question
26 jurisdiction) because this action arises under the laws of the United States, including without
27 limitation the NEPA of 1969, 42 U.S.C. §§ 4321-4370h, and the National Forest Management Act
28 of 1976, 16 U.S.C. §§ 1600-1614, and various federal implementing regulations and guidance.

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1 7. This Court also has jurisdiction pursuant to 5 U.S.C. § 551, *et seq.* (the
2 Administrative Procedure Act or “APA”), which provides a private right of action for persons
3 aggrieved by the final actions of federal agencies.

4 8. This Court also has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)
5 under the Freedom of Information Act (“FOIA”), to compel the production of records.

6 9. An actual controversy exists between the parties within the meaning of 28 U.S.C.
7 § 2201(a). This Court may grant declaratory relief, injunctive relief, and any additional relief
8 available under 28 U.S.C. §§ 2201, 2202, and 5 U.S.C. §§ 705, 706.

9 10. Following the issuance of the Record of Decision and the Final Environmental
10 Impact Statement, the Plaintiffs timely filed administrative appeals to the Regional Forester, Randy
11 Moore. SAC and CORVA filed a joint administrative appeal on or about December 26, 2010. The
12 Regional Forester denied SAC and CORVA’s appeal on or about February 10, 2011. Butte County
13 filed an administrative appeal on or about December 20, 2010. The Regional Forester denied Butte
14 County’s appeal on or about February 10, 2011. Plumas County filed an administrative appeal on
15 or about December 21, 2010. The Regional Forester denied Plumas County’s appeal on or about
16 February 10, 2011.

17 11. There has been final agency action within the meaning of the APA and therefore the
18 issuance of the Record of Decision and the Final Environmental Impact Statement, as well as their
19 review pursuant to NEPA, are judicially reviewable under the APA. 5 U.S.C. §§ 702, 704.

20 **VENUE**

21 12. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because a
22 substantial number of the events or omissions giving rise to these claims occurred, or a substantial
23 part of the property that is the subject of these claims is situated, within the Eastern District of
24 California. The Record of Decision and the Final Environmental Impact Statement were issued
25 from the Forest Service’s office in Quincy, California. The records sought under the Freedom of
26 Information Act are also located within the Eastern District of California.

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PARTIES

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2 13. Plaintiff Sierra Access Coalition is a regional group composed of more than 1,450
3 individuals, user groups, and local businesses that work to protect access to public lands for a
4 multitude of diverse uses including, but not limited to, cutting and retrieving firewood, hunting,
5 fishing, camping, hiking, viewing wildlife and plants, rockhounding, horseback riding, driving
6 jeeps and trucks, riding bicycles, motorcycles, and off-road vehicles, and other recreational and
7 aesthetic activities. Sierra Access Coalition works to protect access primarily to Plumas National
8 Forest and other national forests in northern California, including but not by way of limitation,
9 Lassen National Forest and Tahoe National Forest. The Coalition's mission is to preserve
10 environmentally sound roads and trails for public use. Sierra Access Coalition supports all
11 environmentally appropriate access to Plumas National Forest and nearby national forests, whether
12 motorized or non-motorized.

13 14. Members of Sierra Access Coalition have enjoyed, and hope for themselves and
14 future generations to enjoy, a variety of recreational, aesthetic, and commercial activities within
15 Plumas National Forest. These activities include riding off-road vehicles and motorcycles, driving
16 jeeps and trucks, hunting, fishing, camping, hiking, viewing wildlife and plants, rockhounding,
17 photography, cutting and retrieving firewood, and travel associated with and necessary to such
18 activities via motorized vehicles. Members have enjoyed in the past, and have concrete plans to
19 enjoy in the future should they again be authorized, numerous activities prohibited by the Record
20 of Decision, including motorized recreation on unclassified routes that were not designated by the
21 Forest Service, access via motorized vehicle to dispersed camping sites, and for retrieving game,
22 cutting firewood, and other activities.

23 15. Plaintiff Sierra Access Coalition, as an organization and through individual
24 members, attended public meetings regarding Motorized Travel Management, the Draft and Final
25 Environmental Impacts Statements; submitted input to the Forest Supervisor, the Regional
26 Forester, and the Forest Service, and otherwise participated in the process that generated the
27 Record of Decision and the Final Environmental Impact Statement. Sierra Access Coalition and
28 its members have suffered legal wrong because of the Forest Service's action, and they have been

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1 adversely affected or aggrieved by such action within the meaning of the APA, NEPA, and the
2 National Forest Management Act.

3 16. Plaintiff Corky Lazzarino is the Executive Director of Sierra Access Coalition.
4 Ms. Lazzarino resides in Quincy, California, within Plumas County. Plumas National Forest is a
5 significant part of Ms. Lazzarino's life. Her past and present uses of the Forest include riding her
6 jeep on Forest roads, rockhounding, cutting firewood, fishing, driving to trailheads to go hiking,
7 camping, exploring new places in the Forest, and enjoying viewing wildlife, historical sites, and
8 scenic forest areas. Ms. Lazzarino has great respect for, and wishes to continue her family heritage
9 of diverse activities in, Plumas National Forest, including fishing, hiking, motorcycling, and
10 wildlife watching, many of which require the ability to access the forest by motorized vehicle.

11 17. Ms. Lazzarino's husband formed Sierra Access Coalition in 2006 to protect access
12 to public lands. He passed away in 2010, when Ms. Lazzarino decided to continue his legacy by
13 taking on the role of Executive Director, to fight for the membership's right to access Plumas
14 National Forest and other public lands in appropriate ways, including by the use of motor vehicles,
15 to enjoy the pleasures afforded by such areas, including their deepest scenic and recreational
16 wonders. In addition, the action of the Forest Service deprives Ms. Lazzarino of the ability to
17 access remote areas of Plumas National Forest which she had accessed in the past solely by motor
18 vehicle.

19 18. Plaintiff California Off-Road Vehicle Association is a statewide nonprofit California
20 Corporation with approximately 3,000 members comprising individuals and organizations
21 throughout California. The association advocates for responsible recreation on public lands,
22 promotes community involvement in the land use planning process, and maintains an educational
23 program for responsible outdoor recreation. Association members have provided thousands of
24 volunteer man hours maintaining Plumas National Forest unclassified trails and roads.

25 19. Members of California Off-Road Vehicle Association have enjoyed, and hope for
26 themselves and future generations to enjoy, a variety of recreational, aesthetic, and commercial
27 activities within Plumas National Forest. These activities include riding off-road vehicles and
28 motorcycles, driving jeeps and trucks, hunting, fishing, camping, hiking, viewing wildlife and

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1 | plants, rockhounding, photography, cutting firewood, and travel associated with and necessary to
2 | such activities via motorized vehicles. Members have enjoyed in the past, and have concrete plans
3 | to enjoy in the future should they again be authorized, numerous activities prohibited by the
4 | Record of Decision and Final Environmental Impact Statement, including motorized recreation on
5 | unclassified existing roads and trails that have not been designated by the Forest Service and
6 | access via motorized vehicle to dispersed camping sites, and for retrieving game, cutting firewood,
7 | and other activities affecting the lives and livelihoods of association members.

8 | 20. Plaintiff California Off-Road Vehicle Association, as an organization and through
9 | individual members, attended public meetings regarding Motorized Travel Management, the Draft
10 | and Final Environmental Impacts Statements; submitted input to the Forest Supervisor, the
11 | Regional Forester, and the Forest Service, and otherwise participated in the process that generated
12 | the Record of Decision and Final Environmental Impact Statement. The California Off-Road
13 | Vehicle Association and its members have suffered legal wrong because of the Forest Service's
14 | action and have been adversely affected or aggrieved by such action within the meaning of the
15 | APA, NEPA, and the National Forest Management Act

16 | 21. Plaintiff Amy Granat is the Managing Director of the California Off-Road Vehicle
17 | Association. She has an autoimmune disease known as *pemphigus vulgaris*, which required her
18 | to undergo chemotherapy, causing infections in her legs and limiting her ability to walk. As a
19 | disabled person, Amy Granat uses multiple forms of motorized recreation to enjoy a myriad of
20 | activities in Plumas National Forest. The ability to access areas in the backcountry has been a key
21 | part of her medical rehabilitation, and has additionally contributed to her overall sense of
22 | well-being. She has been visiting Plumas National Forest for many years, enjoying the freedom
23 | that motorized access gives her to experience the beauty of the Forest with her family. Camping,
24 | fishing, and viewing wildlife have been very important priorities for Ms. Granat and have been her
25 | principal ways of spending quality time with her children. Because of her walking disability, she
26 | is now foreclosed from accessing the parts of Plumas National Forest that were accessible to her
27 | only by motor vehicle in the past. She cannot access those areas on crutches, by wheelchair, by
28 | cane, or by using braces on her legs, even with the help of her long-time service dog.

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1 22. Because of the Forest Service's action, Plaintiff Granat is no longer able to legally
2 use numerous unclassified routes in Plumas National Forest for motorized travel and access to
3 remote areas, thereby depriving her of the pleasures afforded by some of her favorite parts of the
4 Forest.

5 23. Plaintiff Plumas County is a political subdivision of the State of California. Citizens
6 of Plumas County have enjoyed, and hope for themselves and future generations to enjoy, a variety
7 of recreational, aesthetic, and commercial activities within Plumas National Forest. These
8 activities include riding off-road vehicles and motorcycles, driving jeeps and trucks, hunting,
9 fishing, camping, hiking, viewing wildlife and plants, rockhounding, photography, cutting
10 firewood, and travel associated with and necessary to such activities via motorized vehicles. Some
11 citizens of the County are dependent on revenue associated with recreational visitation to Plumas
12 National Forest. Approximately 975,000 acres of Plumas National Forest are located within
13 Plumas County. Because of the Forest Service's action, the citizens of Plumas County will no
14 longer be able to enjoy unclassified routes for those purposes. Further, revenues from tourism
15 attracted by the formerly open unclassified routes are and will continue to be lost. In addition, the
16 loss of logging road infrastructure will adversely impact the economy of Plumas County.

17 24. Plaintiff Butte County is a political subdivision of the State of California. Citizens
18 of Butte County have enjoyed, and hope for themselves and future generations to enjoy, a variety
19 of recreational, aesthetic, and commercial activities within Plumas National Forest. These
20 activities include riding off-road vehicles and motorcycles, driving jeeps and trucks, hunting,
21 fishing, camping, hiking, viewing wildlife and plants, rockhounding, photography, cutting
22 firewood, and travel associated with and necessary to such activities via motorized vehicles. Some
23 citizens of the County are dependent on revenue associated with recreational visitation to Plumas
24 National Forest. Approximately 100,000 acres of Plumas National Forest are located within Butte
25 County. Because of the Forest Service's action, the citizens of Butte County will no longer be able
26 to enjoy undesignated, user-created routes for those purposes. Further, revenues from tourism
27 attracted by the formerly open user-created routes are and will continue to be lost. In addition, the
28 loss of logging road infrastructure will adversely impact the economy of Butte County.

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1 25. Defendant United States Department of Agriculture is the federal agency responsible
2 for the activities of the United States Forest Service.

3 26. Defendant United States Forest Service is a federal agency within the United States
4 Department of Agriculture and is responsible for the lawful management of National Forest System
5 lands.

6 27. Defendant Tom Vilsack is Secretary of the United States Department of Agriculture,
7 is responsible for that Department's activities, and is sued in his official capacity.

8 28. Defendant Thomas L. Tidwell, Chief of the United States Forest Service, is
9 responsible for that agency's activities, and is sued in his official capacity.

10 29. Defendant Randy Moore, Regional Forester for the Pacific Southwest Region of the
11 United States Forest Service ("Region 5"), is responsible for Forest Service activities in that region
12 and is sued in his official capacity. He was the Appeal Deciding Officer for Plaintiffs' appeals of
13 the Record of Decision and Final Environmental Impact Statement.

14 30. Defendant Alice Carlton was the Forest Supervisor of the Plumas National Forest
15 at the time of the Travel Management planning and designation process and the issuance of the
16 Record of Decision and Final Environmental Impact Statement. As Forest Supervisor, Ms. Carlton
17 was charged with ensuring activities and decisions concerning Plumas National Forest comply with
18 applicable law. She was the supervisor for the Forest at all times relevant to this Complaint and
19 was the authority for actions, procedures, and decisions related to the Forest. She was the
20 Responsible Official for the Record of Decision and Final Environmental Impact Statement.
21 Defendant Alice Carlton is sued in her official capacity.

22 31. Defendant Earl Ford is the current Forest Supervisor of the Plumas National Forest.
23 As the current Forest Supervisor, Mr. Ford is charged with ensuring activities and decisions
24 concerning Plumas National Forest comply with applicable law. Mr. Ford is the authority for
25 actions, procedures, and decisions related to the Forest. Defendant Earl Ford is sued in his official
26 capacity.

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LEGAL FRAMEWORK

ADMINISTRATIVE PROCEDURE ACT

32. The APA regulates the function of Executive Branch administrative agencies within our system of open government. Among such functions, the APA represents a waiver of sovereign immunity by the United States and outlines the circumstances in which “final agency action” may be subject to judicial review, as well as the standards of review to be applied in such challenges. Since many statutes and regulations do not provide for a private right of action, the APA provides the jurisdictional basis for judicial review of administrative decisions by federal land management agencies applying statutes like NEPA, and the National Forest Management Act to public lands like Plumas National Forest.

NATIONAL ENVIRONMENTAL POLICY ACT

33. NEPA represents “our basic national charter for protection of the environment.” 40 C.F.R. § 1500.1. It establishes a national policy whereby federal agencies are “to use all practicable means and measures . . . in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. § 4331(a). Federal procedures under NEPA “must insure [sic] that environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b). NEPA is “intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” *Id.* at § 1500.1(c).

34. For major federal actions significantly affecting the quality of the human environment, NEPA requires that federal agencies provide a detailed statement of the environmental impact of a proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, alternatives to the proposed action, the relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity, and any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. 42 U.S.C. § 4332(2)(C)(i)-(v).

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1 Further, federal agencies are required, to the fullest extent possible, to “[u]se the NEPA process
2 to identify and assess [all] reasonable alternatives to proposed actions that will avoid or minimize
3 adverse effects of [major federal] actions upon the quality of the human environment,” and to
4 “[u]se all practicable means, consistent with the requirements of the Act and other essential
5 considerations of national policy, to restore and enhance the quality of the human environment and
6 avoid or minimize any possible adverse effects of their actions upon the quality of the human
7 environment.” 40 C.F.R. § 1500.2(e)-(f).

8 35. As the culmination of the NEPA process, an administrative agency issues a Final
9 Environmental Impact Statement, which, among other things, evaluates the environmental impacts
10 of several possible alternative actions and identifies a “preferred alternative” from among them.
11 The final action taken by the agency is documented in a Record of Decision, which also
12 summarizes the alternative actions considered. 40 C.F.R. § 1505.2.

13 NATIONAL FOREST MANAGEMENT ACT

14 36. The National Forest Management Act establishes the statutory framework for
15 management of the National Forest System. In the National Forest Management Act and other
16 statutes, “Congress has consistently acknowledged that the Forest Service must balance competing
17 demands in managing National Forest System lands, since Congress’ early regulation of the
18 national forests, it has never been the case that ‘the national forests were . . . to be set aside for
19 non-use.’” *The Lands Council v. McNair*, 537 F.3d 981, 990 (9th Cir. 2008) (citations omitted).

20 37. Additional guidance, incorporated expressly within the Act, is offered in the
21 Multiple-Use Sustained Yield Act, which provides that the various surface resources be managed
22 “so that they are utilized in the combination that will best meet the needs of the American people”
23 and to “achieve[] and maintain[] in perpetuity [] a high-level annual or regular periodic output
24 of the various renewable resources of the national forests without impairment of the productivity
25 of the land.” 16 U.S.C. § 531(a) (definition of “multiple use”) and (b) (definition of “sustained
26 yield”); 16 U.S.C. § 1604(g) (incorporating Multiple-Use Sustained Yield Act provisions into the
27 National Forest Management Act).

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1 38. The National Forest Management Act mandates that the Forest Service develop land
2 and resource management plans for “units” of the National Forest System, such as Plumas National
3 Forest. 16 U.S.C. § 1604(a). The Forest Service has promulgated guidelines for land management
4 plans in accordance with the National Forest Management Act to achieve the goals of the
5 renewable resource program, including “insure[ing] consideration of the economic and
6 environmental aspects of various systems of renewable resource management, including the related
7 systems of silviculture and protection of forest resources, to provide for outdoor recreation
8 (including wilderness), range, timber, watershed, wildlife, and fish.” *Id.* at (g)(3)(A).

9 39. Under the National Forest Management Act, the development of land and resource
10 management plans must be “coordinated with the land and resource management planning process
11 of State and local governments . . .”. 16 U.S.C. § 1604(a). Specifically, the Forest Service “shall
12 engage . . . State and local governments . . . early and throughout the planning process” for input
13 into decisionmaking regarding national forests. 36 C.F.R. § 219.4. *See* 36 C.F.R. § 219.16
14 (requirements for public notification regarding plan development, amendment, or revision).

15 **ALLEGATIONS REGARDING THE**
16 **TRAVEL MANAGEMENT RULE**

17 40. On November 9, 2005, the Forest Service published in the Federal Register the final
18 Travel Management Rule. 70 Fed. Reg. 68,264 - 68,291 (Nov. 9, 2005). The Travel Management
19 Rule was issued following publication and receipt of public comment on a proposed travel
20 management rule and was otherwise promulgated in accordance with notice-and-comment
21 rulemaking procedures of the APA. As such, the Travel Management Rule carries force and effect
22 of law and the procedures and provisions therein are binding upon the Forest Service.

23 41. The Travel Management Rule “requires designation of those roads, trails, and areas
24 that are open to motor vehicle use” and “will prohibit the use of motor vehicles off the designated
25 system, as well as use of motor vehicles on routes and in areas that is not consistent with the
26 designations.” 70 Fed. Reg. 68,264 (Nov. 9, 2005). Under the rule, only roads and trails that are
27 designated by the Forest Service as part of a National Forest Transportation System on a
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1 forest-by-forest basis may be used for motorized travel, regardless of the extent to which they had
2 been used for such travel in the past.

3 42. The Travel Management Rule requires each national forest to identify the minimum
4 road system needed for safe and efficient travel and for administration, utilization, and protection
5 of National Forest System lands. 36 C.F.R. § 212.5(b). In determining a minimum road system,
6 the responsible official must incorporate a science-based roads analysis at the appropriate scale.
7 *Ibid.* The minimum system is the road system determined to be needed to meet resource and other
8 management objectives adopted in the forest land and resource management plan, to meet statutory
9 and regulatory requirements, to reflect long-term funding expectations, and to ensure that the
10 system minimizes environmental impacts associated with road construction, reconstruction,
11 decommissioning, and maintenance. *Ibid.*

12 43. The Travel Management Rule provides “general criteria” for designating roads,
13 trails, and areas for motor vehicle use on forest lands. 36 C.F.R. § 212.55(a). The responsible
14 official must consider effects on natural and cultural resources, public safety, provision of
15 recreational opportunities, access needs, conflicts among uses of National Forest System lands, the
16 need for maintenance and administration of roads, trails and areas, and the availability of resources
17 for maintenance and administration. *Ibid.* The Travel Management Rule also provides “specific
18 criteria” which must be considered for the designation of trails and areas. *Id.* at (b). The
19 responsible official must consider effects on specified resources, with the objective of minimizing
20 damage to soil, watershed, vegetation, and other forest resources; harassment of wildlife and
21 significant disruption of wildlife habitats; conflicts between motor vehicle use and other
22 recreational uses; and conflicts among different classes of motor vehicle use. *Ibid.*

23 44. The Travel Management Rule requires the Forest Service to “coordinate with
24 appropriate . . . county, and other local governmental entities . . . when designating National Forest
25 System roads, National Forest System trails, and areas on National Forest System lands pursuant
26 to [the Travel Management Rule].” 36 C.F.R. § 212.53.

27 45. In the Travel Management Rule, the Forest Service noted that “many National
28 Forests contain user-created roads and trails,” 70 Fed. Reg. at 68,264, concluding that a

1 “designated and managed system of roads, trails, and areas for motor vehicle use is needed,” and
2 that such a system, “established with public involvement, will enhance public enjoyment of the
3 National Forests while maintaining other important values and uses on [National Forest System]
4 lands.” *Id.* at 68,265.

5 **ALLEGATIONS REGARDING PLUMAS NATIONAL**
6 **FOREST AND IMPLEMENTATION OF THE**
7 **TRAVEL MANAGEMENT RULE**

8 46. Plumas National Forest lies in northeastern California, encompassing portions of five
9 California counties, Plumas, Butte, Lassen, Sierra, and Yuba Counties, and approximately
10 1,146,000 acres.

11 47. Plumas National Forest has long provided outstanding and diverse opportunities for
12 both motorized and nonmotorized recreation.

13 48. Nonmotorized uses are emphasized on certain areas within Plumas National Forest,
14 including the congressionally designated wilderness in the Bucks Lake Wilderness. Multiple use,
15 including motorized vehicle use, has long occurred and been enjoyed by the public in many areas
16 of the Forest, including user-created roads and trails that were historically lawfully used for a
17 variety of purposes, including commercial uses (such as logging) and recreational uses. In addition
18 to the intrinsic enjoyment associated with this access, motorized travel has long facilitated safe and
19 efficient backcountry experiences for many different recreationists, including campers, hunters,
20 the disabled, the elderly, and physically challenged individuals.

21 49. A Land and Resource Management Plan for Plumas National Forest, adopted in
22 1988, includes goals and policies for a variety of uses, such as recreation, rangeland, timber, and
23 mineral development, and for resources such as visual resources, cultural resources, wildlife, fish
24 and sensitive plants, air quality, water quality, and soils. Plumas National Forest Land and
25 Resource Management Plan, USDA Forest Service, Pacific Southwest Region, 1988, p. 4-3 - 4-11.
26 Recreation goals include providing for a variety of forest-related recreation, improving and
27 expanding developed facilities and trails to meet demand while reducing unit costs and protecting
28 other resources, and allowing use of off-road vehicles whenever user conflicts or unacceptable
resource damage are unlikely. *Id.* at 4-3. In relation to Plumas National Forest facilities, the plan

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1 includes a policy to provide roads and trails necessary to achieve the goals of the plan and to
2 reduce new road impact by the use of former roadways and disturbed areas and by revegetation
3 and other sediment control where appropriate. *Id.* at 4-10.

4 50. Prior to the adoption of the Travel Management Rule, the Forest Service regulated
5 motorized vehicle use and other uses of Plumas National Forest. In 1989, the Forest Service
6 published an Off-Road Vehicle Travel Plan as part of the Plumas National Forest Land
7 Management Plan, which is often referred to by forest professionals as the “Forest Plan.” The
8 Forest Plan is generally deemed to be one of the most important plans governing the use of a
9 national forest.

10 51. On January 12, 1997, the Forest Service published an updated Off-Road Vehicle
11 Travel Plan. While Sierra Access Coalition requested a copy of the updated Off-Road Vehicle
12 Plan from the Forest Service for Plumas National Forest, the Forest Service did not provide one,
13 indicating that it could not find the document. Therefore, Plaintiffs cannot specifically allege
14 herein the motorized vehicle use provided for in that updated Plan.

15 52. On August 11, 2003, Region 5 entered into a Memorandum of Intent with the
16 California Off-Highway Motor Vehicle Recreation Commission and the Off-Highway Motor
17 Vehicle Recreation Division of the California Department of Parks and Recreation. The
18 Memorandum commenced an effort in the Forest Service’s Region 5 (with authority for Plumas
19 National Forest) to “[i]nventory and designate [off-road vehicle] roads and trails, and any
20 specifically defined open areas for motor vehicles on maps of the 18 National Forests in California
21 by 2007.”

22 53. Prior to the Forest Service’s approval of the Record of Decision and Final
23 Environmental Impact Statement, challenged here, 999,521 acres of Plumas National Forest were
24 open to cross-country travel by motorized vehicles. In 2005, the Forest Service completed an
25 extensive inventory of existing roads in the Forest, finding approximately 1,109 miles of
26 unclassified roads and trails that were not part of the National Forest Transportation System. Even
27 though the unclassified routes were historically lawfully used, the Forest Service characterized
28 these routes as “unauthorized.” DEIS, p. 2.

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1 54. The Plumas National Forest Public Motorized Travel Management Draft
2 Environmental Impact Statement was issued on December 29, 2008.

3 55. Plaintiffs Sierra Access Coalition and California Off-Road Vehicle Association
4 provided extensive comments on the draft on March 5, 2009. Butte County provided comments
5 on the draft on February 3, 2009. Plumas County provided comments on the draft on March 10,
6 2009.

7 56. Plumas National Forest Public Motorized Travel Management Record of Decision
8 and Final Environmental Impact Statement were released on October 27, 2010. The Record of
9 Decision closed 918 miles of existing unclassified roads and trails to motorized vehicle use and
10 banned cross country travel across the more than 1.14-million acres of the Forest. A 36-acre area
11 open for motorized traffic, which was included as part of the preferred alternative in the Draft
12 Environmental Impact Statement, was also eliminated in the decision, without any public
13 comment, ostensibly due to Forest Service's concerns regarding species protection.

14 57. On December 7, 2010, the Forest Service published a Motor Vehicle Use Map
15 identifying the routes designated in Plumas National Forest for motorized vehicle use, as
16 determined in the Record of Decision.

17 58. In December of 2013 the Forest Service released an updated Motor Vehicle Use Map
18 identifying designated routes.

19 **SPECIFIC ALLEGATIONS THAT**
20 **SUPPORT DECLARATORY RELIEF**

21 59. Plaintiffs hereby incorporate by reference each statement and allegation previously
22 made as though fully set forth herein.

23 60. An actual and substantial controversy exists between Plaintiffs and Defendants over
24 Defendants' duty to comply with NEPA, the APA, and the Travel Management Rule in issuing the
25 Record of Decision and Final Environmental Impact Statement for the Plumas National Forest
26 Motorized Travel Management Project.

27 61. The case is presently justiciable because Defendants' failure to comply with these
28 mandatory requirements is the direct result of final agency action that has caused and will cause

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1 immediate and concrete injury to Plaintiffs through a loss of motorized access to roads and trails
2 within the Plumas National Forest. Plaintiffs have a vital interest in knowing whether the Record
3 of Decision and Final Environmental Impact Statement are legally valid.

4 62. Declaratory relief is therefore appropriate to resolve this controversy.

5 **SPECIFIC ALLEGATIONS THAT**
6 **SUPPORT INJUNCTIVE RELIEF**

7 63. Plaintiffs hereby incorporate by reference each statement and allegation previously
8 made as though fully set forth herein.

9 64. If an injunction does not issue enjoining Defendants from effectuating and executing
10 the Record of Decision and Final Environmental Impact Statement, Plaintiffs will be irreparably
11 harmed through the illegal loss of motorized access to roads and trails within Plumas National
12 Forest, which they have previously enjoyed.

13 65. Likewise, if an injunction does not issue enjoining Defendants from enforcing the
14 prohibitions at the Plumas National Forest, Plaintiffs will be irreparably harmed by being subject
15 to immediate and concrete injury through the loss of motorized access to roads and trails within
16 the Plumas National Forest in violation of federal law.

17 66. Plaintiffs have no plain, speedy, and adequate remedy at law.

18 67. If not enjoined by this Court, Defendants will enforce the Travel Management Rule's
19 prohibition of motor vehicle use off the designated system of roads and trails at the Plumas
20 National Forest and will act in reliance upon the Record of Decision and Final Environmental
21 Impact Statement in derogation of the rights and interests of Plaintiffs.

22 **CLAIMS FOR RELIEF**

23 **FIRST CLAIM FOR RELIEF**

24 **(Illegal Application of Substantive Criteria of Travel Management Rule)**

25 68. Plaintiffs hereby incorporate by reference each statement and allegation previously
26 made.

27 ///

28 ///

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1 69. Under the Travel Management Rule, the Forest Service is required to incorporate
2 a science-based roads analysis at the appropriate scale when determining the minimum road system
3 needed for the protection of NFS lands and for other goals. 36 C.F.R. § 212.5(b).

4 70. In designating roads, trails, and areas for motor vehicle use on forest lands, the
5 Forest Service must consider effects on natural resources, along with the provision of recreational
6 opportunities, access needs, and other criteria. 36 C.F.R. § 212.55(a). In designating trails and
7 areas for motor vehicle use, the Forest Service must consider damage to soil, watershed,
8 vegetation, and other forest resources. 36 C.F.R. § 212.55(b).

9 71. The Record of Decision contains numerous prohibitions and restrictions on
10 motorized vehicles which fail to acknowledge or apply these criteria of the Travel Management
11 Rule.

12 72. The Region 5 Route Designation Guidebook for National Forests in California
13 (“Route Designation Guidebook”) provides that “Forest Service policy applies the minimum
14 restrictions to protect resources and provide for user safety while continuing to provide recreation
15 opportunities.” USDA Forest Service Route Designation Guidebook, National Forests in
16 California, June 2004, revised September 2006, p. 4.

17 73. The Record of Decision’s restrictions on motorized vehicle use do not meet the
18 standards outlined in the Route Designation Guidebook.

19 74. The Forest Service inventoried 1,107 miles of non-system National Forest Trails
20 System routes. Only 410 miles of the 1,107 miles of inventoried routes were analyzed by the
21 Forest Service in its motorized vehicle use route designation under the Travel Management Rule.
22 Final Environmental Impact Statement 2.4.1 p.31.

23 75. The Forest Service eliminated 597 miles of routes from any analysis based on
24 irrelevant factors, that ignored the Travel Management Rule criteria and the directives of the Route
25 Designation Handbook. FEIS 2.4.1 p. 31.

26 76. The Forest Service eliminated from further consideration numerous existing routes
27 because the roads were less than one-half mile in length or because the roads were dead-end spur
28 off of county or state roads.

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1 77. The Forest Service eliminated, without analysis, roads leading to or from private land
2 even when the landowner specifically requested consideration of the routes. The Forest Service's
3 decision to eliminate motor vehicle use on these routes was not based on scientific analysis of
4 effects to natural resources from motorized vehicles on such roads (Final Environmental Impact
5 Statement Frequently Asked Questions page 3 of 11).

6 78. The Forest Service also eliminated from consideration for designation numerous
7 routes based solely on flawed Geographic Information Systems data. When Sierra Access
8 Coalition and California Off-Road Vehicle Association informed the Forest Service that it was
9 relying on inaccurate data and in fact possessed more accurate information, which was collected
10 during the Storrie Fire Rehab Project in the Meadow Valley area, the Forest Service declined to
11 use this information. (2010 SAC/CORVA Appeal Document, pp. 3, 17, 18, 45.)

12 79. The Forest Service did not employ a science-based roads analysis to designate routes
13 for vehicle use under the Travel Management Rule according to the potential impacts to natural
14 resources, soils, watersheds, or vegetation. (Forest Service Spreadsheets for Beckworth (OHV RA
15 03_08_07.xls), Feather River (OHA RA 03_14_07.xls), and Mount Hough (OHV RA
16 03_07_07.xls) areas.

17 80. Defendants' actions described above are made reviewable through the APA and are
18 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
19 power, privilege or immunity; in excess of statutory jurisdiction, authority, or limitations; without
20 observance of procedure required by law; short of statutory right; or otherwise in violation of the
21 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

22 81. Plaintiffs have exhausted all administrative remedies required by law in order to seek
23 relief from Defendants' actions addressed in this claim for relief.

24 82. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
25 interests arising from and associated with their use and enjoyment of the Forest as a result of the
26 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
27 relief.

28 ///

SECOND CLAIM FOR RELIEF

(Failure To Coordinate with Local Governments Under Travel Management Rule)

83. Plaintiffs hereby incorporate by reference each statement and allegation previously made.

84. The Travel Management Rule requires that “[t]he responsible official shall coordinate with appropriate Federal, State, County, and other local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands pursuant to this subpart.” 36 C.F.R. § 212.53.

85. Forest Service directives on implementation of the Travel Management Rule provide the objectives of managing the forest transportation system and motor vehicle use on National Forest System roads and trails, and in areas on National Forest System lands. These objectives include coordinating travel planning and analysis on National Forest System lands with national, regional, State, local, and tribal government transportation needs and to allow the public to participate in the designation of National Forest System roads, trails, and areas for motor vehicle use. Forest Service Manual 7700—Travel Management (“FSM 7700”) § 7702. Forest Service Policy on Travel Planning also provides direction to “coordinate with federal, state, and local governmental entities and tribal governments when designating National Forest System roads, National Forest System trails, and areas on National Forest System lands. FSM 7700 § 7710.3.

86. Similarly, Forest Service Manual provisions on Travel Management Decisions provide for coordination with governmental entities, including coordinating with appropriate federal, state, county, and other local governmental entities and tribal governments when making travel management decisions. FSM 7700 § 7715.3.

87. Butte County and Plumas County each have county roads leading to and connecting with roads and trails in Plumas National Forest. Many of these county roads are designated by the Counties for shared use by highway legal and non-highway legal vehicles and act as loop access between existing roads and trails within the Forest.

88. Concurrent with Forest Service motorized travel management planning, Plumas County developed an ordinance allowing “green sticker” off-road vehicles on county roads. The

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1 Forest Service stated that Recreation Use Maps would incorporate this information to help identify
2 off-road vehicles riding opportunities, however, this was not done.

3 89. On November 18, 2008, the Butte County Board of Supervisors sent a letter to
4 Randy Moore, Regional Forester, requesting that the Forest Service maintain and provide public
5 access to non-paved Forest Service Maintenance Level 3 and 4 roads in Plumas National Forest.
6 The Butte County Board relayed to the Forest Service that it supports mixed vehicle use on County
7 maintained non-paved roads leading to and connecting with roads in the Forest. Butte County
8 provided a list of non-paved County-maintained roads leading to and connecting with the Forest,
9 such that these County routes could be incorporated into the Forest Service's analysis of routes to
10 maintain or add to the National Forest Transportation System. The Butte County Board requested
11 that the Forest Service, in its considerations of alternatives contained in the Draft Environmental
12 Impact Statement, consider these non-paved County maintained roads as being mixed use and as
13 loop access connectors to designated National Forest Transportation System roads and areas open
14 to the public for motorized vehicle use. These Butte County policies were again presented to the
15 Forest Service in Butte County's comments on the Draft Environmental Impact Statement.

16 90. On October 21, 2008, the Plumas County Board of Supervisors adopted Resolution
17 08-7514 to establish the Plumas County Coordinating Council to represent the County in
18 coordinating the management plans and actions of federal and state agencies, including in
19 coordinating with the Forest Service in accordance with the National Forest Management Act. The
20 Resolution made note of the expectation that federal agency actions be made consistent with the
21 County's land use plans, and other management plans affecting the natural environment, economic
22 stability, or the public health and safety of the citizens of Plumas County

23 91. The Forest Service did not coordinate directly with the Counties, nor did the Draft
24 Environmental Impact Statement and Final Environmental Impact Statement reflect consideration
25 of the connection between Plumas National Forest routes and the road system of the Counties, or
26 consider the opportunities for County roads to serve as connectors between Plumas National Forest
27 routes for motorized vehicle use.

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1 92. The Forest Service instituted an across-the-board ban on off-road vehicle use on
2 Maintenance Level 3 roads in the Forest, even though the Counties allow off-road vehicle use on
3 County roads of a similar design, surface type, and maintenance level that join with Maintenance
4 Level 3 roads in the Forest. The Counties' decision to allow off-road vehicle use on these roads
5 was based on engineering studies. The Forest Service did not conduct any independent
6 engineering studies in making the determination to ban off-road vehicle use on Maintenance Level
7 3 roads.

8 93. The Forest Service, the Counties' particular policies relevant to off-road vehicle use,
9 and the importance of motorized vehicle access for the Counties' citizens were brought to the
10 Forest Service's attention in comments on the Draft Environmental Impact Statement, and in the
11 two years preceding the issuance of the Draft Environmental Impact Statement, the Forest Service
12 failed to coordinate with Butte County or Plumas County on the Counties' local policies related
13 to the interrelated County and Forest Service road systems as the Forest Service designated
14 motorized vehicle routes. Many existing roads and trails were eliminated from consideration in
15 the designation process, and closed to motorized vehicle use, because they intersected with county
16 roads. This is in direct opposition to Plumas and Butte County policies and their requests.

17 94. The Final Environmental Impact Statement does not describe the consistency, or
18 conflicts, of the Forest Service's preferred alternative with other regional or local plans, policies,
19 or controls. On the contrary, the Final Environmental Impact Statement demonstrates a lack of
20 communication and coordination with Plumas County and Butte County, in violation of Forest
21 Service regulations and policy directives. The Final Environmental Impact Statement noted under
22 "Consultation and Coordination" that letters were sent to local governments announcing the
23 posting of the Environmental Impact Statement on the Forest website and that local governments
24 were encouraged to provide substantive comments. FEIS, p. 438. The letters do not satisfy the
25 coordination requirements mandated by law.

26 95. The proposed action alternative presented to the Counties was substantially changed
27 after circulation of the Draft Environmental Impact Statement. The changes to the selected
28 alternative adopted as part of the Record of Decision and Final Environmental Impact Statement

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1 were never presented to the Counties prior to the release of the Final Environmental Impact
2 Statement, and were made without coordination efforts with the Counties.

3 96. The Forest Service’s failure to abide by its regulations and directives has resulted
4 in the unnecessary loss of access to roads and trails that were previously available to Plaintiffs.

5 97. Defendants’ actions described above are made reviewable through the APA and are
6 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
7 power, privilege or immunity; in excess of statutory jurisdiction, authority, or limitations; without
8 observance of procedure required by law; short of statutory right; or otherwise in violation of the
9 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

10 98. Plaintiffs have exhausted all administrative remedies required by law in order to seek
11 relief from Defendants’ actions addressed in this claim for relief.

12 99. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
13 interests arising from and associated with their use and enjoyment of the Forest as a result of the
14 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
15 relief.

16 **THIRD CLAIM FOR RELIEF**

17 **(Inadequate Analysis Under NEPA of Inconsistency with Local Laws)**

18 100. Plaintiffs hereby incorporate by reference each statement and allegation previously
19 made.

20 101. The Forest Service failed to comply with NEPA requirements to cooperate and
21 coordinate with local governments in analyzing motorized vehicle use in the Final Environmental
22 Impact Statement.

23 102. NEPA provides that “it is the continuing policy of the Federal Government, in
24 cooperation with State and local governments, and other concerned public and private
25 organizations, to use all practicable means and measures, including financial and technical
26 assistance, in a manner calculated to foster and promote the general welfare, to create and maintain
27 conditions under which man and nature can exist in productive harmony, and fulfill the social,
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1 economic, and other requirements of present and future generations of Americans.” 42 U.S.C.
2 § 4331(a).

3 103. NEPA regulations provide that “Agencies shall cooperate with State and local
4 agencies to the fullest extent possible to reduce duplication between NEPA and comparable State
5 and local requirements . . . [¶] To better integrate environmental impact statements into State or
6 local planning processes, statements shall discuss any inconsistency of a proposed action with any
7 approved State or local plan and laws (whether or not federally sanctioned). Where an
8 inconsistency exists, the statement should describe the extent to which the agency would reconcile
9 its proposed action with the plan or law.” 40 C.F.R. § 1506.2(c), (d).

10 104. NEPA regulations also require that an Environmental Impact Statement include a
11 discussion of “[p]ossible conflicts between the proposed action and the objectives of Federal,
12 regional, State, and local . . . land use plans, policies and controls for the area concerned.”
13 40 C.F.R. § 1502.16(c).

14 105. The Final Environmental Impact Statement failed to include any discussion of
15 Plumas County or Butte County plans and policies in relation to motorized vehicle use on County
16 roads, and the relation of these plans and policies to the Forest Service’s proposed restrictions on
17 motorized vehicle use.

18 106. The Forest Service failed to assess possible conflicts between the goals, policies, and
19 standards of the Butte County General Plan and the Plumas County General Plan, including, but
20 not limited to:

21 A. Butte County General Plan Goal to coordinate with Plumas National Forest
22 to designate additional shared use trails along unpaved County roads, access roads and fire roads.

23 B. Plumas County General Plan Goal to maintain an equitable and quality
24 system of parks, recreation areas, multi-use trail systems, and access to local, state, and federal
25 recreation opportunities within Plumas County.

26 C. Plumas County General Plan Road Standard that all developments have
27 legal access by means of Forest Service Roads or private road easements.

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1 107. The Plumas County Regional Transportation Plan incorporates the Forest Highway
2 Program, which provides funding to resurface, restore, rehabilitate, or reconstruct designated
3 public roads that provide access to or are within a National Forest. The Forest Service failed to
4 consider those roads that are being improved under the Forest Highway Program, to ensure that
5 the Forest Service does not close Forest roads connecting to County roads that are being improved
6 specifically to provide continued access to the Forest.

7 108. Defendants' actions described above are made reviewable through the APA and are
8 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
9 power, privilege or immunity; in excess of statutory jurisdiction, authority, or limitations; without
10 observance of procedure required by law; short of statutory right; or otherwise in violation of the
11 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

12 109. Plaintiffs have exhausted all administrative remedies required by law in order to seek
13 relief from Defendants' actions addressed in this claim for relief.

14 110. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
15 interests arising from and associated with their use and enjoyment of the Forest as a result of the
16 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
17 relief.

18 **FOURTH CLAIM FOR RELIEF**

19 **(Failure To Identify, Evaluate, and Disclose the Environmental Impacts**
20 **of Motorized Travel on Thousands of Unclassified but Historically**
21 **and Lawfully Used Routes in Plumas National Forest)**

22 111. Plaintiffs hereby incorporate by reference each statement and allegation previously
23 made.

24 112. The Forest Service inventoried approximately 3,236 existing unclassified routes in
25 Plumas National Forest at the beginning of the EIS process, representing approximately 1,107
26 miles of roads and trails.

27 113. No environmental impacts analysis whatsoever was conducted with regard to
28 approximately 659 of those routes, representing approximately 445 miles, and they were

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1 | summarily dismissed by the Forest Service from any further consideration for designation in the
2 | National Forest Trails System.

3 | 114. The remaining routes were reviewed by the Forest Service through a process in
4 | which each route received designations of High (“H”), Medium (“M”) or Low (“L”), for two
5 | criteria developed by the Service: “Benefits and Access,” on the one hand, and “Concerns and
6 | Risks,” on the other hand. These designations were completed in the office based on a paper
7 | evaluation, without on-site visit, review, or analysis.

8 | 115. During the summary paper evaluation, the Forest Service designated each route as
9 | either Yes (“Y”) or No (“N”). A “Y” designation indicated that a site would be further evaluated
10 | for possible inclusion in the National Forest Transportation System, while a “N” designation
11 | indicated that no further evaluation would be conducted and the site would not be included in the
12 | National Forest Transportation System.

13 | 116. At the end of the summary paper evaluation process, only approximately 200
14 | unclassified routes, out of a total of approximately 3,236 inventoried unclassified routes, received
15 | a “Y” designation, and only those 200 routes were set aside for any on-site visits.

16 | 117. Approximately 3,036 unclassified routes of the originally inventoried 3,236 routes
17 | received no on-site environmental impacts analysis before being summarily dismissed by the
18 | Forest Service from any further consideration for inclusion in the National Forest Transportation
19 | System.

20 | 118. Of the 3,036 routes that were summarily rejected, approximately 1,528 routes had
21 | been requested by the Petitioners or other members of the public for inclusion in the National
22 | Forest Transportation System.

23 | 119. Defendants’ actions described above are made reviewable through the APA and are
24 | arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
25 | power, privilege or immunity; in excess of statutory jurisdiction, authority, or limitations; without
26 | observance of procedure required by law; or otherwise in violation of the APA, 5 U.S.C. § 706 (2),
27 | and should therefore be declared unlawful and set aside by this Court.

28 | ///

1 120. Plaintiffs have exhausted all administrative remedies required by law in order to seek
2 relief from Defendants' actions addressed in this claim for relief.

3 121. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
4 interests arising from and associated with their use and enjoyment of the Forest as a result of the
5 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
6 relief.

7 **FIFTH CLAIM FOR RELIEF**

8 **(Inadequate Range of Alternatives)**

9 122. Plaintiffs hereby incorporate by reference each statement and allegation previously
10 made.

11 123. NEPA imposes a mandatory procedural duty on federal agencies to rigorously
12 explore and objectively evaluate in an Environmental Impact Statement all reasonable alternatives.
13 42 U.S.C. §§ 4332(2)(C)(iii), 4332(E); 40 C.F.R. § 1502.14 (a), (d). An EIS shall inform
14 decisionmakers and the public of the reasonable alternatives which would avoid or minimize
15 adverse impacts or enhance the quality of the human environment. 40 C.F.R. § 1502.1. The
16 alternatives section is considered the "heart" of an Environmental Impact Statement. 40 C.F.R.
17 § 1502.14. A NEPA analysis is invalidated by the existence of a viable but unexamined
18 alternative.

19 124. An agency must, to the fullest extent possible, use the NEPA process to identify and
20 assess the reasonable alternatives to a proposed action that will avoid or minimize adverse effects
21 of these actions upon the quality of the human environment. 40 C.F.R. § 1500.2(e).

22 125. Defendants violated NEPA and its implementing regulation by failing to consider
23 alternatives that would have resulted in less than a total ban on cross-country motorized travel,
24 including allowing cross-country travel within 100 feet of National Forest Transportation System
25 roads and trails for purposes of dispersed camping, game retrieval, and firewood cutting and
26 retrieval. The Forest Service's refusal to consider alternatives to an across-the-board ban on
27 cross-country travel was not supported by surveys, studies, or analyses, related to potential
28 resource damage, environmental impacts, or any other supporting evidence.

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1 126. Defendants also violated NEPA and its implementing regulations because they failed
2 to consider a reasonable range of alternatives regarding unclassified routes. The range of
3 alternatives that was analyzed in a detailed manner by the Defendants in the Final Environmental
4 Impact Statement is impermissibly narrow because there were numerous unclassified routes that
5 were summarily dismissed from on-site environmental review without adequate impacts analyses.
6 This skewed the results in favor of routes that were pre-determined by the Forest Service, and it
7 arbitrarily limited the number of miles added to the National Forest Transportation System, thereby
8 constraining a full review of potentially viable alternatives that may have added a greater number
9 of miles with lesser overall environmental impacts.

10 127. Defendants' failure to include one or more viable alternatives to the proposed action
11 precluded full and proper public review and comment upon those alternatives.

12 128. Defendants' actions described above are made reviewable through the APA and are
13 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
14 power, privilege or immunity; in excess of statutory jurisdiction, authority, or limitations; without
15 observance of procedure required by law; or otherwise in violation of the APA, 5 U.S.C. § 706 (2),
16 and should therefore be declared unlawful and set aside by this Court.

17 129. Plaintiffs have exhausted all administrative remedies required by law in order to seek
18 relief from Defendants' actions addressed in this claim for relief.

19 130. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
20 interests arising from and associated with their use and enjoyment of the Forest as a result of the
21 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
22 relief.

23 **SIXTH CLAIM FOR RELIEF**

24 **(Failure To Provide the Public With the Scientific Basis for the Record**
25 **of Decision and Final Environmental Impact Statement)**

26 131. Plaintiffs hereby incorporate by reference each statement and allegation previously
27 made.

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1 132. Numerous NEPA regulations relate to the fundamental principle that agencies
2 provide an accurate, science-based analysis in environmental impact statements.

3 133. “NEPA procedures must insure that environmental information is available to public
4 officials and citizens before decisions are made and before actions are taken. The information
5 must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny
6 are essential to implementing NEPA.” 40 C.F.R. § 1500.1(b). NEPA requires the disclosure of
7 information to the public and demands that this information includes high quality, accurate
8 scientific analysis.

9 134. The NEPA process, including the disclosure and analysis of accurate, high quality
10 information, is intended to help public officials make decisions that are based on understanding
11 of environmental consequences. 40 C.F.R. § 1500.1(c).

12 135. “Environmental impact statements . . . shall be supported by evidence that agencies
13 have made the necessary environmental analyses.” 40 C.F.R. § 1500.2(b); 40 C.F.R. § 1502.1
14 (“Statements . . . shall be supported by evidence that the agency has made the necessary
15 environmental analyses.”).

16 136. In applying NEPA “[a]gencies shall insure the professional integrity, including
17 scientific integrity, of the discussions and analyses in environmental impacts statements.”
18 40 C.F.R. § 1502.24. This includes a requirement that agencies disclose the scientific
19 methodologies used, references relied upon, and any hard data from scientific or technical analysis.

20 *Id.*

21 137. The Route Designation Guidebook states that critical field information should be
22 collected to “provide key information on assessing roads,” to “provide the basis for environmental
23 analysis and NEPA documentation,” and to “facilitate public involvement, review, and
24 communication.” While the purpose and need statement of the Draft Environmental Impact
25 Statement contemplates management of travel on “unplanned, unauthorized” roads and trails, the
26 Forest Service did not actually collect accurate information on these roads and trails to analyze the
27 impacts to the environment of their continued use.

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1 138. The Environmental Impact Statement must also succinctly describe the environment
2 of the area or areas to be affected by the alternatives under consideration. 40 C.F.R. § 1502.15.

3 139. The Draft Environmental Impact Statement and Final Environmental Impact
4 Statement fail to present scientific data and information supporting the Forest Service’s decision
5 to eliminate motorized vehicle access to hundreds of miles of roads and trails based on a need to
6 protect species and habitat and prevent degradation of the environment, such as soil erosion into
7 water courses.

8 140. The analysis and conclusions of the Draft Environmental Impact Statement and Final
9 Environmental Impact Statement are based on inaccurate or flawed data, including but not limited
10 to:

11 A. The Forest Service fails to provide evidence to support the “Purpose and
12 Need” statement of the Final Environmental Impact Statement that “. . . there is a need for
13 regulation of unmanaged motor vehicle travel by the public. The proliferation of unplanned,
14 unauthorized, non-sustainable roads, trails and areas created by cross-country travel adversely
15 impacts the environment.” FEIS, p. 5-6. By failing to conduct any site-specific impacts analysis
16 on hundreds of routes, there is no way that the Forest Service could know the extent to which
17 motorized travel on such routes is either unsustainable or has created or will create adverse
18 impacts. Accordingly, the Forest Service has itself created a knowledge gap. NEPA was intended
19 to fill knowledge gaps, not create them.

20 B. The Forest Service closed certain roads and trails to motorized vehicle use
21 specifically to avoid potential impacts to the red-legged frog and its habitat. However, the Record
22 of Decision was issued before an analysis of the California red-legged frog was completed for
23 Plumas National Forest. Roads and trails were closed for species protection, without any evidence
24 that vehicle use on these roads would actually impact the red-legged frog. Further, Forest Service
25 biologists admitted that several roads that were eliminated from consideration for vehicle use
26 because of species protection were actually in areas that are unsuitable habitat for the red-legged
27 frog.

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1 C. The Forest Service’s decision to restrict trail use to certain seasons of use
2 was not supported by any red-legged frog population trendlines or habitat residency studies.

3 D. The Forest Service automatically eliminated from consideration hundreds
4 of routes without support based on site specific field-based scientific survey or analysis and based
5 on inaccurate GIS data.

6 E. In contradiction to the Forest Service’s statement that field surveys were
7 made on all sites proposed for inclusion to the National Forest Transportation System, field
8 surveys were actually only made on the 410 miles of routes that remained under consideration after
9 approximately 650 miles of roads and trails were eliminated based on inaccurate data or irrelevant
10 criteria, such as roads that were less than one-half mile long or roads that were dead-end spurs or
11 roads that intersected County roads.

12 F. As explained in the Draft Environmental Impact Statement, the Forest
13 Service has banned off-road vehicle use on all Maintenance Level 3 roads, because it considers
14 these roads “highways” within the meaning of the California Vehicle Code and has therefore
15 concluded that mixed vehicle use on these roads is unsafe. The Forest Service’s ban of off-road
16 vehicle use on all Maintenance Level 3 roads is based on an incorrect interpretation of state law
17 and alleged safety issues unsubstantiated by any data.

18 G. The Forest Service has produced no reports of accidents between cars and
19 trucks and motorcycles and quads in Plumas National Forest, on Maintenance Level 3 roads or
20 otherwise, in the past 10 years to support elimination of roads and trails from use.

21 H. Data such as average daily traffic counts and the proportion of different
22 classes of vehicles using the roads is relevant to evaluating potential safety issues on Maintenance
23 Level 3 roads with combined off-road vehicle, motorcycle, and passenger vehicle use. However,
24 the Forest Service has no traffic count data to rely on average daily traffic use as a basis for closing
25 roads based on levels of use. The maintenance level of the roads specifies the typical use, surface
26 type, and width of the road, but does not provide information related to potential safety hazards.

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1 I. The Route Designation Guidebook states that “Forest Service policy applies
2 the minimum restrictions required to protect resources and provide for user safety while continuing
3 to provide recreation opportunities.” Route Designation Guidebook p. 4. Banning off-road
4 vehicles from Maintenance Level 3 roads does not align with this policy, as the Forest Service has
5 failed to provide data that demonstrates that the Maintenance Level 3 ban is the minimum
6 restriction required to provide for user safety. Forest Service Manual 7700 and EM-7700-30 allow
7 off-road vehicles on any National Forest System road, following an appropriate engineering
8 analysis. Here, the Forest Service declined to perform appropriate engineering analyses to
9 determine appropriate restrictions on Maintenance Level 3 roads, and instead simply placed a
10 blanket ban on off-road vehicle use on Maintenance Level 3 roads.

11 J. The Forest Service has made assumptions for an entire class of roads in
12 Plumas National Forest based solely on the historical maintenance level of the road, rather than
13 on accident levels, road use data, or information on the design of individual roads or the design of
14 Maintenance Level 3 roads in general. The Forest Service’s decision to eliminate off-road vehicles
15 from all Maintenance Level 3 roads based on alleged unsafe conditions for mixed vehicle use was
16 arbitrary and capricious and unsupported by evidence.

17 141. Defendants’ actions described above are made reviewable through the APA and are
18 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
19 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
20 observance of procedure required by law; short of statutory right; or otherwise in violation of the
21 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

22 142. Plaintiffs have exhausted all administrative remedies required by law in order to seek
23 relief from Defendants’ actions addressed in this claim for relief.

24 143. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
25 interests arising from and associated with their use and enjoyment of the Forest as a result of the
26 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
27 relief.

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SEVENTH CLAIM FOR RELIEF

(Failure To Sufficiently Analyze Impacts to the Human Environment)

144. Plaintiffs hereby incorporate by reference each statement and allegation previously made.

145. NEPA’s protections of the “environment” refer to the “human environment,” 42 U.S.C. § 4332(2)(C), (E), which “shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment.” 40 C.F.R. § 1508.14. Thus, the agency’s duty to analyze impacts does not end with impacts to the physical environment, because “[w]hen an [E]nvironmental [I]mpact [S]tatement is prepared and economic or social and natural or physical environmental effects are interrelated, then the [E]nvironmental [I]mpact [S]tatement will discuss all of these effects on the human environment.” *Ibid.*

146. The Forest Service travel management decision has significant impacts on human use of Plumas National Forest, particularly for dispersed recreational opportunities accessed by motor vehicle, such as camping, cutting firewood, aesthetic appreciation, and retrieving game.

147. The Travel Management Rule allows cross-country travel within a certain distance of roads and trails for the purpose of dispersed camping and game retrieval. 36 C.F.R. § 212.51(a)(8)(b).

148. The Forest Service Record of Decision prohibits any cross-country travel by motorized vehicles in the Forest, allowing for motorized vehicles within one-car length of roads, allowing vehicles to park adjacent to National Forest Transportation System roads, and this prohibition has a significant impact on the human environment.

149. The Forest Service failed to take into account the fact that many Forest users cannot access Forest areas for hiking and otherwise enjoying the deeper Forest recesses without first using motorized vehicles to reach those areas. Closing so many routes to motorized travel in the *physical* environment ignores NEPA’s mandate to analyze impacts of decisions on the *human* environment, including social and economic impacts.

150. Where the Forest Service does discuss dispersed recreation in the NEPA documents, there is incomplete or contradictory information and a lack of analysis. For example, the Forest

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1 Service fails to accurately acknowledge a change regarding vehicle use for firewood retrieval and
2 improperly avoids analysis of the impact of travel management restrictions on individuals who rely
3 on firewood from the Forest as a source of fuel. The Forest Service’s decision not to evaluate the
4 proposed alternative of allowing a 100-foot zone for vehicle use for retrieving cut firewood is
5 based on its inaccurate and misleading statements, as well as an admitted lack of scientific
6 analysis, discussed supra. *See* FEIS, p. 33 (“ . . . 100-foot buffers on each side of a road would add
7 a huge area where motorized use and potential resource damage would occur The extent of
8 the analysis required for this additional area is beyond the capability of the Forest, considering
9 timeframes, cost and personnel.”).

10 151. The Draft Environmental Impact Statement and Final Environmental Impact
11 Statement do not acknowledge that (1) the travel management decision to restrict motor vehicle
12 access also acts to restrict historic legal uses of the Forest, with a major effect to the public,
13 including members of Sierra Access Coalition and California Off-Road Vehicle Association, and
14 the citizens of Butte and Plumas Counties, and (2) these effects must be analyzed under NEPA.

15 152. Defendants’ actions described above are made reviewable through the APA and are
16 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
17 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
18 observance of procedure required by law; short of statutory right; or otherwise in violation of the
19 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

20 153. Plaintiffs have exhausted all administrative remedies required by law in order to seek
21 relief from Defendants’ actions addressed in this claim for relief.

22 154. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
23 interests arising from and associated with their use and enjoyment of the Forest as a result of the
24 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
25 relief.

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EIGHTH CLAIM FOR RELIEF

(Deficient Socioeconomic Impacts Analysis)

155. Plaintiffs hereby incorporate by reference each statement and allegation previously made.

156. The term “effects” is defined broadly in NEPA to include not only effects on natural resources, but also “aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative.” 40 C.F.R. § 1508.8. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial. *Ibid.* “Cumulative impact” is also a defined term, referring to “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.* § 1508.7.

157. Many citizens of Butte and Plumas Counties and members of Sierra Access Coalition and California Off-Road Vehicle Association rely on access within Plumas National Forest for food and fuel. The Final Environmental Impact Statement failed to take into account the impacts that the drastic reduction in motorized vehicle access would have on the ability of the public, including members of Sierra Access Coalition and California Off-Road Vehicle Association and Butte and Plumas County citizens, to undertake these activities.

158. The travel management decisions will have effects not only on natural resources, but also direct, indirect, and cumulative social and economic effects, and such effects were not analyzed in the Motorized Travel Management Draft Environmental Impact Statement and Final Environmental Impact Statement in violation of NEPA. For example, the Draft Environmental Impact Statement and Final Environmental Impact Statement failed to analyze how the closure of approximately 745 miles of existing roads and trails previously available for motorized vehicle use could impact tourism and recreational opportunities in Plumas and Butte Counties, significantly decreasing the purchase of food, fuel, and overnight accommodations from visitors, and whether this would result in significant effects.

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1 159. These present and cumulative socioeconomic effects, in conjunction with potential
2 effects to the physical environment and/or other aspects of the human environment, constitute
3 “significant” effects that should have been analyzed in the Final Environmental Impact Statement.

4 160. The Record of Decision and Final Environmental Impact Statement fail to adequately
5 disclose and analyze these socioeconomic effects and impacts, both as tied to Motorized Travel
6 Management itself and in light of past, present, and reasonably foreseeable future actions.

7 161. Defendants’ actions described above are made reviewable through the APA and are
8 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
9 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
10 observance of procedure required by law; short of statutory right; or otherwise in violation of the
11 APA, 5 U.S.C. § 706 (2), and should therefore be declared unlawful and set aside by this Court.

12 162. Plaintiffs have exhausted all administrative remedies required by law in order to seek
13 relief from Defendants’ actions addressed in this claim for relief.

14 163. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
15 interests arising from and associated with their use and enjoyment of Plumas National Forest as
16 a result of the allegations contained in this claim for relief, and these injuries will go unredressed
17 absent judicial relief.

18 **NINTH CLAIM FOR RELIEF**

19 **(Inadequate Responses to Comments)**

20 164. Plaintiffs hereby incorporate by reference each statement and allegation previously
21 made.

22 165. Federal agencies must, to the fullest extent possible, “encourage and facilitate public
23 involvement in decisions which affect the quality of the human environment.” 40 C.F.R. §
24 1500.2(d).

25 166. NEPA requires that final environmental impact statements “shall respond to
26 comments as required” in section 1503.4, Title 40, Code of Federal Regulations. 40 C.F.R.
27 § 1502.9(b). Section 1503.4 requires that an agency preparing a Final Environmental Impact
28 Statement shall assess and consider comments both individually and collectively and respond to

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1 | comments by one or more of the following means by stating its response in the Final
2 | Environmental Impact Statement: “(1) modify alternatives including the proposed action; (2)
3 | develop and evaluate alternatives not previously given serious consideration by the agency; (3)
4 | supplement, improve, or modify its analyses; (4) make factual corrections” or “(5) explain why the
5 | comments do not warrant further agency response, citing the sources, authorities, or reasons which
6 | support the agency’s position and, if appropriate, indicate those circumstances which would trigger
7 | agency reappraisal or further response.” 40 C.F.R. § 1503.4(a).

8 | 167. The Forest Service failed to adequately respond to several of Sierra Access
9 | Coalition’s comments on the Draft Environmental Impact Statement, in violation of NEPA,
10 | including but not limited to the following:

11 | A. Sierra Access Coalition commented that the Forest Service’s proposed
12 | action would have negative impacts on the variety of motorized vehicle riding experiences, i.e.,
13 | easy, moderate, and difficult, routes available, and with the continuity of the motorized experience
14 | with the elimination of loop roads. Comment 81 of Sierra Access Coalition’s Draft Environmental
15 | Impact Statement comments requested that the Forest Service show the benefits of each alternative
16 | under the Draft Environmental Impact Statement methodologies related to resource recreation
17 | opportunities proposed by the Forest Service in Draft Environmental Impact Statement section
18 | 3.2.3.3. The Forest Service’s response does not address the changes each alternative would have
19 | on the variety and continuity of the motorized experience. They do not address the rated difficulty
20 | of the routes or delineate route continuity by difficulty and by class and license of vehicle. The
21 | Forest Service did not adequately respond to Sierra Access Coalition’s comments related to the
22 | variety and continuity of motorized riding experiences that would be available under the proposed
23 | action alternative.

24 | B. Sierra Access Coalition comment 82 requested that the Forest Service
25 | provide the location of dispersed recreation opportunities in the Forest, how these opportunities
26 | would change under the Forest Service alternatives, including the locations of dispersed campsites
27 | that would no longer be accessible by vehicle, and how the travel management plan contributes
28 | to positive or negative changes to dispersed recreation opportunities. The Forest Service response

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1 did not provide information on dispersed recreational opportunities, other than camping, that would
2 no longer be accessible by motorized vehicle under the Forest Service’s alternatives. In fact, the
3 response was contradictory and confusing.

4 C. Sierra Access Coalition comment 83 addressed deficiencies in Draft
5 Environmental Impact Statement Table 5 and addressed the National Visitor Use Monitoring report
6 data provided to support Forest Service conclusions that most driving for pleasure and motorized
7 travel to areas for non-motorized recreation occurred on National Forest Transportation System
8 roads. (DEIS, p. 41, Table 5.) The Forest Service did not adequately respond to Sierra Access
9 Coalition’s comments. The Forest Service did not provide support for its conclusion that the
10 National Visitor Use Monitoring report accurately represents the most popular motorized and
11 non-motorized recreation activities and did not address the validity of the survey. The Final
12 Environmental Impact Statement did not adequately respond to Sierra Access Coalition comments
13 regarding how visitors would be affected by the changes to motorized vehicle access on existing,
14 undesignated roads. The Forest Service statement “[m]ost non-motorized uses travel to their
15 chosen recreation area on system roads” was not supported with data.

16 D. Sierra Access Coalition comment 85 commented on the lack of clarity about
17 whether Alternative 2 or Alternative 5 provides the greatest amount of access to dispersed use
18 areas. The Forest Service did not adequately respond regarding the location of dispersed use areas.
19 This deficiency precluded the public from commenting on the accuracy of the access to these
20 dispersed use areas.

21 E. Sierra Access Coalition comment 87 addressed the Forest Service’s
22 contradictory statements that dispersed recreation activities are not part of the scope of the
23 proposed action, while also stating that motorized vehicle access to dispersed recreation
24 opportunity is reduced in all action alternatives. (DEIS, p. 33, #10, p. 44.) The Forest Service
25 failed to adequately address SAC’s comments on dispersed recreation opportunities that are clearly
26 affected by the Forest Service’s proposed action.

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1 F. Sierra Access Coalition commented that there was inadequate support for
2 the Forest Service's prohibition of off-road vehicles on Maintenance Level 3 roads based on safety
3 concerns. The Forest Service, in citing to Center for Disease Control and Prevention statistics on
4 teen drivers in its response, failed to provide data that is relevant to the safety of mixed vehicle use
5 on roads, or even to the safety of teen drivers on rural or Forest roads. The Forest Service failed
6 to adequately respond to Sierra Access Coalition comments on the issue of off-road vehicle use
7 on Maintenance Level 3 roads, in violation of NEPA.

8 168. The Forest Service failed to adequately respond to several of California Off-Road
9 Vehicle Association's comments on the Draft Environmental Impact Statement, in violation of
10 NEPA, including but not limited to the following:

11 A. California Off-Road Vehicle Association commented on the potential
12 negative effects of concentrating motorized vehicle use in a smaller area of the Forest, including
13 overuse and degradation of routes and potential safety issues. The Forest Service failed to respond
14 to these particular comments and stated only that "4500 miles of Plumas National Forest System
15 roads and trails will be available for public use following implementation of this project."

16 B. The majority of comments made by California Off-Road Vehicle
17 Association were not responded to at all; the Final Environmental Impact Statement stated that the
18 comments were acknowledged and did not provide new information.

19 169. The Forest Service failed to adequately respond to several of Butte County's
20 comments on the Draft Environmental Impact Statement, in violation of NEPA, including but not
21 limited to the following:

22 Butte County asked the Forest Service to consider non-paved County maintained
23 roads as mixed use roads that could act as loop access connectors with Plumas National Forest
24 roads. Butte County also provided a map and table to the Forest Service of non-paved County
25 roads leading to and connecting with Forest roads. The Forest Service summarily responded that
26 County roads are not within the agency's jurisdiction and that the travel management proposed
27 action does nothing to affect vehicle use of County roads. This missed the point. The counties
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1 asked the Forest Service to take into account existing conditions before deciding which routes to
2 prohibit. The Forest Service's response was simply that it need not do so, which is untrue.

3 170. The Forest Service failed to adequately respond to several of Plumas County's
4 comments on the Draft Environmental Impact Statement, in violation of NEPA, including but not
5 limited to the following:

6 A. Plumas County noted in its comments that the Forest Service has authority
7 to allow limited use of motor vehicles within a specified distance of National Forest Transportation
8 System routes and should exercise this discretion to allow long-established uses of the Forest to
9 continue in a reasonable manner. The Forest Service failed to address how or why it concluded
10 that limited vehicle use near designated routes should be prohibited; the Forest Service responded
11 only that such use would not be allowed and that dispersed camping would continue to be allowed.

12 B. When Plumas County questioned whether the Forest Service adequately
13 coordinated its road designation with access needed across the Forest to private land or with
14 wildland fire suppression projects, the Forest Service responded that it is not proposing any system
15 road closures or decommissioning and that there are 4,200 miles of system roads. Pointing to the
16 continued availability of National Forest Transportation System roads ignores the Forest Service's
17 primary objective in travel management, to close existing non-system roads to motorized vehicle
18 use. The impacts of this action in relation to the County's comments were not addressed in the
19 Forest Service's comments.

20 C. Plumas County noted that the Forest Service's comprehensive plan for travel
21 management should be coordinated with the land and resource management planning of local
22 government. The Forest Service disagreed that the travel management action constituted an
23 amendment to the Plumas National Forest Land and Resource Management Plan, but did not
24 comment on its duty under the Travel Management Rule to coordinate with local governments.

25 D. Plumas County commented that the Draft Environmental Impact Statement
26 does not adequately coordinate uses between Plumas National Forest roads and the County road
27 system or consider the opportunities for County roads to serve as connectors between Forest roads
28 for off-road vehicle use. While the Forest Service responded that it would use County roads as

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1 connectors as it developed user maps that make recommendations for off-road travel, it is clear
2 from the Record of Decision and Motor Vehicle Use Map that the Forest Service did not do so.

3 E. Plumas County questioned the administrative abandonment of short dead
4 end roads based on the roads' short length. The Forest Service responded that trails being
5 designated are intended for recreation use and should provide some sort of recreational experience.
6 The Forest Service did not support its statement that such roads did not provide a recreational
7 opportunity, considering they are of a type appropriate for off-road vehicle use and could provide
8 access to dispersed camping and other recreational uses.

9 171. Defendants' actions described above are made reviewable through the APA and are
10 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
11 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
12 observance of procedure required by law; or otherwise in violation of the APA, 5 U.S.C. § 706 (2),
13 and should therefore be declared unlawful and set aside by this Court.

14 172. Plaintiffs have exhausted all administrative remedies required by law in order to seek
15 relief from Defendants' actions addressed in this claim for relief.

16 173. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
17 interests arising from and associated with their use and enjoyment of the Forest as a result of the
18 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
19 relief.

20 **TENTH CLAIM FOR RELIEF**

21 **(Failure To Prepare Supplement To Draft Environmental Impact Statement)**

22 174. Plaintiffs hereby incorporate by reference each statement and allegation previously
23 made.

24 175. NEPA requires an agency to prepare a supplement to either a draft or final
25 Environmental Impact Statement if the agency makes substantial changes in the proposed action
26 that are relevant to environmental concerns. 40 C.F.R. § 1502.9(c)(1)(i).

27 176. The Forest Service made substantial changes to its proposed action alternative after
28 circulation of the Draft Environmental Impact Statement, which were relevant to environmental

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1 concerns described in the draft. The Forest Service failed to prepare a supplement to the Draft
2 Environmental Impact Statement and therefore Plaintiffs and the public were deprived of the
3 opportunity to comment on these changes.

4 177. Changes made to the proposed action alternative, presented for the first time in the
5 Final Environmental Impact Statement, include:

- 6 A. Restrictions on routes according to season of use;
- 7 B. Implementation of a one-fourth mile buffer for wildlife nests;
- 8 C. Implementation of a one-half mile buffer for private land “quiet zones”;
- 9 D. The closure of additional roads and trails because the analysis of potential
10 impacts to the California red-legged frog from the continued use of these roads was not completed
11 in a timely manner;
- 12 E. 47% of single-track routes in the French Creek area were closed;
- 13 F. Nine National Forest Transportation System roads were eliminated from the
14 map of available routes in the Granite Basin area;
- 15 G. Thirteen National Forest Transportation System routes were eliminated
16 from the map of available routes in the French Creek area;
- 17 H. The Law Enforcement Section (Appendix I) was added.

18 178. These, and other changes, found in the Final Environmental Impact Statement,
19 constitute substantial changes in the Forest Service’s proposed action that are relevant to
20 environmental concerns. The Forest Service failed to prepare a Supplement to the Draft
21 Environmental Impact Statement to analyze these changes and make this analysis available for
22 public comment.

23 179. Defendants’ actions described above are made reviewable through the APA and are
24 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
25 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
26 observance of procedure required by law; or otherwise in violation of the APA, 5 U.S.C. § 706 (2),
27 and should therefore be declared unlawful and set aside by this Court.

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1 180. Plaintiffs have exhausted all administrative remedies required by law in order to seek
2 relief from Defendants' actions addressed in this claim for relief.

3 181. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
4 interests arising from and associated with their use and enjoyment of the Forest as a result of the
5 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
6 relief.

7 **ELEVENTH CLAIM FOR RELIEF**

8 **(Failure To Adequately Consider Cumulative Impacts)**

9 182. Plaintiffs incorporate by reference each statement and allegation previously made.

10 183. A Final Environmental Impact Statement must include a hard look at the cumulative
11 impacts and effects of the proposed action and other actions on the human environment. 42 U.S.C.
12 § 4332(2)(C); 40 C.F.R. § 1508.25; *Tennakee Springs v. Clough*, 915 F.2d 1308, 1312 (9th Cir.
13 1990) ("NEPA requires that where several actions have a cumulative or synergistic effect, this
14 consequence must be considered in an EIS.").

15 184. A cumulative impact is "the impact on the environment which results from the
16 incremental impact of the action when added to other past, present, and reasonably foreseeable
17 future actions regardless of what agency (Federal or non-Federal) or person undertakes such other
18 actions. 40 C.F.R. § 1508.7. "Cumulative Impacts can result from individually minor but
19 collectively significant actions taking place over a period of time." *Id.*

20 185. Under NEPA, a cumulative impacts analysis "must be more than perfunctory, it must
21 provide a useful analysis of the cumulative impacts of past, present, and future projects." *N. Plains*
22 *Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1076 (9th Cir. 2011) (internal quotations
23 and citations omitted). Further in order to "insure that environmental information is available to
24 public officials and citizens before decisions are made and before actions are taken," 40 C.F.R.
25 § 1500.1(b), the cumulative impact analysis must include "some quantified or detailed information;
26 . . . general statements about possible effects and some risk do not constitute a hard look absent a
27 justification regarding why more definitive information could not be provided." *N. Plains Res.*
28 *Council*, 668 F.3d at 1076 (internal quotations and citations omitted).

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1 186. While the Forest Service nominally conducted a cumulative impacts analysis in the
2 Final Environmental Impact Statement, it did not consider the cumulative impacts resulting from
3 past, current, and future loss of recreational road and trail access in Plumas National Forest on
4 nearby National Forests, which are also subject to the Travel Management Rule and which are, or
5 will be, subject to route designations and closures. By its terms, the cumulative impacts analysis
6 is limited to Plumas National Forest, without explanation as to why. *See* FEIS at 39-40.

7 187. Defendants did not adequately consider the cumulative effects of the action at
8 Plumas National Forest in conjunction with past, present, and reasonably foreseeable future actions
9 at nearby National Forests or to address the effects of similar losses of recreational road and trail
10 access for forests near Plumas National Forest.

11 188. Defendants' failure to conduct an adequate cumulative impacts analysis violates
12 NEPA. *See* 42 U.S.C. § 4332(2)(C); *See also*, 40 C.F.R. § 1508.25.

13 189. Defendants' actions described above are made reviewable through the APA and are
14 arbitrary, capricious, or otherwise not in accordance with law; contrary to constitutional right,
15 power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations; without
16 observance of procedure required by law; or otherwise in violation of the APA, 5 U.S.C. § 706 (2),
17 and should therefore be declared unlawful and set aside by this Court.

18 190. Plaintiffs have exhausted all administrative remedies required by law in order to seek
19 relief from Defendants' actions addressed in this claim for relief.

20 191. Plaintiffs have suffered, and will continue to suffer, harm and injury to their legal
21 interests arising from and associated with their use and enjoyment of the Forest as a result of the
22 allegations contained in this claim for relief, and these injuries will go unredressed absent judicial
23 relief.

24 **TWELFTH CLAIM FOR RELIEF**

25 **(Violation of the Freedom of Information Act)**

26 192. Plaintiffs hereby incorporate by reference each statement and allegation previously
27 made.

28 ///

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1 193. The Forest Service is an agency of the United States, and has possession of and
2 control over the records that Plaintiffs seek.

3 194. Pursuant to the Freedom of Information Act (“FOIA”), by letter dated November 21,
4 2010, Sierra Access Coalition requested, from the Forest Service, a copy of the Mixed Use
5 Analysis for the routes that were being reclassified from Level 3 to Level 2 roads. Sierra Access
6 Coalition also requested expedited processing of this request in order to allow it time to analyze
7 the documents prior to the Travel Management Plan appeal deadline.

8 195. The Forest Service failed to acknowledge receipt of this request, and failed to
9 respond to this FOIA request within the statutory time limit, and has continually failed to respond
10 to this FOIA request.

11 196. Pursuant to FOIA, by letter dated November 24, 2010, Sierra Access Coalition
12 requested, from the Forest Service, the following records: (1) a copy of the consultations with the
13 U.S. Fish and Wildlife Service regarding the red-legged frog, and a copy of the peer review
14 document written by the Plumas N.F.; (2) backup data for the Visitor Survey (Table 12, Sec.
15 3.2.4.1 in the FEIS for the Plumas N.F. Public Motorized Travel Management) including where
16 the surveys were taken and the protocol used for the surveys; and (3) a map of the R.S.2477 roads
17 on the Plumas N.F. SAC also requested expedited processing of this request in order to allow it
18 time to analyze the documents prior to the Travel Management Plan appeal deadline.

19 197. The Forest Service failed to acknowledge receipt of this request, failed to respond
20 to this FOIA request within the statutory time limit, and has continually failed to respond to this
21 FOIA request.

22 198. Pursuant to FOIA, by letter dated September 2, 2011, Sierra Access Coalition
23 requested, from the Forest Service, all contacts, warnings, and citations issued in the Sly Creek
24 Reservoir area between August 17, 2011, and August 31, 2011, that relate to OHV use.

25 199. The Forest Service failed to acknowledge receipt of this request, failed to respond
26 to this FOIA request within the statutory time limit, and has continually failed to respond to this
27 FOIA request.

28 ///

1 200. Plaintiffs have a statutory right to the records that they seek, and there is no legal
2 basis for Defendants' refusal to disclose them.

3 201. Plaintiffs have performed all conditions precedent to the filing of this action and
4 otherwise exhausted all administrative remedies available and/or Plaintiffs are not required to
5 exhaust administrative remedies because Defendants have failed to comply in a timely fashion with
6 Plaintiffs' FOIA requests.

7 **PRAYER FOR RELIEF**

8 Wherefore, Plaintiffs respectfully request that the Court rule, adjudge, and grant relief
9 as follows:

10 1. Declare the Record of Decision and Final Environmental Impact Statement unlawful
11 and void;

12 2. Declare that the Forest Service violated NEPA and the APA by issuing a Final
13 Environmental Impact Statement that failed to: (a) evaluate a reasonable range of alternatives;
14 (b) adequately analyze those alternatives included in the Final Environmental Impact Statement;
15 (c) respond adequately to public comments; (d) rely upon and support its conclusions with
16 accurate, science-based data; (e) adequately analyze the effects of the proposed action on the
17 human environment; (f) take into account local policies and plans of Plumas and Butte Counties;
18 (g) conduct site-specific environmental review and analysis on hundreds of routes summarily
19 dismissed from impacts evaluation; and (h), conduct any cumulative impacts analysis outside the
20 boundary of Plumas National Forest;

21 3. Declare that the Forest Service violated the National Forest Management Act, Forest
22 Service Policies, and the APA by not applying the substantive criteria of the Travel Management
23 Rule in designating roads, trails, and areas for motorized vehicle use and by failing to coordinate
24 Plumas National Forest Motorized Travel Management with the plans and policies of local
25 governments;

26 4. Set aside the Record of Decision and Final Environmental Impact Statement and
27 direct the Forest Service to prepare an EIS for Plumas National Forest Motorized Travel
28 Management that resolves the violations of law complained of herein;

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1 5. Declare that Defendants' refusal to disclose the records requested by Plaintiffs is
2 unlawful;

3 6. Order Defendants to make the requested records available to Plaintiffs;

4 7. Award Plaintiffs their reasonable fees, costs, expenses, and disbursements, including
5 attorneys' fees associated with this litigation; and

6 8. Grant Plaintiffs such further and additional relief as the Court may deem just and
7 proper.

8 DATED: March 18, 2015.

9 Respectfully submitted,

10 M. REED HOPPER
11 THEODORE HADZI-ANTICH

12 By s/THEODORE HADZI-ANTICH
13 THEODORE HADZI-ANTICH

14 Attorneys for Plaintiffs
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