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**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF IDAHO**

IDAHO RIVERS UNITED, and)	No. 3:16-cv-102-CWD
FRIENDS OF THE CLEARWATER,)	
)	
<i>Plaintiffs,</i>)	DECLARATION OF GARY
)	MACFARLANE
v.)	
)	
NEZ PERCE-CLEARWATER FOREST)	
SUPERVISOR CHERYL F. PROBERT;)	
UNITED STATES FOREST SERVICE;)	
NOAA FISHERIES; and U.S. FISH AND)	
WILDLIFE SERVICE,)	
)	
<i>Defendants.</i>)	

I, Gary Macfarlane, hereby declare and state as follows:

1. My name is Gary Macfarlane and I am a resident of Troy, Idaho. The following facts are personally known to me, and if called as a witness I would and could truthfully testify thereto.

2. I am the Ecosystem Defense Director of Plaintiff Friends of the Clearwater (FOC). I have held this position for nearly 15 years. In my work, I oversee other FOC staff and development and implementation of our program to protect the wild lands and biodiversity of the national forests and other public lands in and immediately adjacent to the Clearwater Basin.

3. Friends of the Clearwater is a non-profit organization dedicated to protecting the national forests and public lands of the Clearwater Basin. FOC works to ensure protection for the region's land, air, water, and wildlife. Members of FOC include individuals that reside in Idaho and other states who regularly use and enjoy the National Forest public lands, including the Nez Perce-Clearwater National Forests, and the Selway and Middle Fork Clearwater River watersheds that will be affected by the Johnson Bar Fire Salvage Project's proposed logging and road building.

4. I, along with other staff and members of the Friends of the Clearwater who I personally know, use and enjoy the Nez Perce-Clearwater National Forests, including the Johnson Bar area, for hiking, wildlife viewing, and engaging in other aesthetic, vocational, scientific, and recreational activities.

5. I personally visit and recreate in the Middle Fork Clearwater, Lochsa, and Selway River Wild and Scenic River corridors and surrounding areas several times per year. Beginning with a trip to the Middle Fork Clearwater in about 1990 and a multi-day backpacking trip around 1994 to the Selway-Bitterroot Wilderness, I have made multiple extended trips into the Selway, Lochsa and Middle Fork Clearwater country nearly every year for over twenty years. I intend to return to the area in coming years just as I have been visiting the area over the past many years.

6. I have plans to visit the area later this spring with my wife. We have camped at the Johnson Bar Campground in the past and plan to again this spring. I also visit the area a few times per year for my professional work, including visiting the Johnson Bar Fire Salvage Project Area. Most recently, I visited the area in February of 2016 with my wife and a friend, traveled through the area in early March of 2016, and overflowed the area at the end of March 2016.

7. On my visits to the Selway, Lochsa and Middle Fork Clearwater Wild and Scenic River corridor, I use the river and the surrounding area for recreational, aesthetic, and conservation purposes. I have enjoyed camping, hiking, backpacking, photography, relaxing and connecting with nature within the Wild and Scenic River corridor.

8. Another recent visit to the Johnson Bar was during the fall of 2015. My wife and I camped at the campground. The noise of the helicopters logging the nearby state and private land was particularly bothersome and negatively affected our vacation. Aside from the noise of the helicopters, the logging created a stark visual contrast to the natural surroundings that is inappropriate in the Wild and Scenic River corridor. Unlike the natural mosaic created by fire, logging is clearly unnatural and detracts from the scenic views along the Selway and Middle Fork Rivers and their environs.

9. The Johnson Bar Fire Salvage Project as approved by the Forest Service threatens me, Friends of the Clearwater, and its members and staff with imminent injury to our esthetic, recreational, scientific, spiritual, and educational interests in important species and habitat in the Nez Perce National Forest, including the Johnson Bar Fire Project area. Project activities, including logging and road building, will irreparably harm our interests because the Wild and Scenic River values will be diminished. Further,

building roads, landings and logging, particularly in steep areas like the Selway and Middle Fork Clearwater drainages, have risks that include increased sedimentation from accelerated erosion in the post-fire environment and from mass wasting events such as landslides, which do occur in the area. These can have serious negative impacts on fish habitat through deposition of sediment into tributary streams. Removal of logs diminishes wildlife habitat including that of cavity nesting birds and removes woody structure that helps watershed function in the decades to come. Fires perform an important function by creating pulse disturbances that are necessary for long-term ecological functioning. Salvage logging impedes those processes through the removal of woody biomass.

10. Logging will have a definite negative impact on the Wild and Scenic River values. Objectives for management, according to the Forest Service, are to, “Protect and enhance aesthetic, scenic, historic, fish and wildlife and other values that will contribute to public use and enjoyment of this free-flowing river and its immediate environs.” (River Plan: Middle Fork of the Clearwater including the Lochsa and Selway, page 4). In particular, the scenic views along the river will be negatively affected by logging.

11. The attached photos, taken on a recent overflight I was on, document effects from the state and private land logging in and around the Selway River corridor. The negative visual and scenic impacts associated with this logging are evident in the photos.

12. Attached hereto as Exhibit 1 are true and correct copies of photos that were taken on my recent overflight of the area (3/31/16), which accurately depict the following locations where state and private land logging has already seriously marred the landscape and scenic beauty of the lower Selway Wild and Scenic River corridor:

- Photo 1: Overview from the northeast of the State and private land logging.
- Photo 2: Another overview from the northeast of the State and private land logging, a bit further away from photo 1.
- Photo 3: A closer overview from the northeast encompassing most of the State and private land logging.
- Photo 4: Another closer overview from the northeast encompassing the most upstream logging units of the State and private land logging.
- Photo 5: View looking down the Selway River from the southeast encompassing the State and private land logging.
- Photo 6: An overview from the west encompassing the most downstream logging units of the State and private land logging along the Selway River.
- Photo 7: An overview from the west encompassing the most of the logging units of the State and private land logging along the Selway River.
- Photo 8: An overview from the west encompassing the most upstream of the logging units of the State and private land logging along the Selway River.

13. Exhibit 1 also contains true and correct copies of photos that were taken on my prior overflight of the area (5/4/15), which accurately depict the following locations where state and private land logging had just begun to affect the landscape and scenic beauty of the lower Selway Wild and Scenic River corridor:

- Photo 9: Overview from the northeast of the State and private land logging. Compare with Photos 1 and 2.
- Photo 10: View looking down the Selway River from the southeast. Compare with photo 5.
- Photo 11: Idaho Department of Transportation photo of Highway 14 landslide blocking access to Elk City.

13. I personally visited the Clearwater basin numerous times in the middle and late 1990's, when several series of landslides and other mass erosion events occurred in

numerous watersheds and drainages of the basin. The slides contributed sometimes huge amounts of sediment into tributary streams of high importance to the salmonoid and native fisheries.

14. Following these events, Forest Service specialists documented that landslides in the Clearwater Basin recur regularly, and thus should be expected to occur again in the near future, particularly after wet years and rain-on-snow events. Their report on the landslides (McClelland et al. 1997) showed that most of the landslides were associated with managed areas containing roads and logging. The report indicates 70% of the landslides in the events of 1995 and 1996 were associated with roads or logging--58% were associated with roads and another 12% with logging. While landslides are natural under certain conditions, the Forest Service report suggests that roads and logging greatly increase the incidence of these mass erosion events that seriously affect water quality. A true and correct copy that report, (McClelland et al. 1997) is attached hereto as Exhibit 2.

15. Illustrating the real risks of landslides and other mass erosion events in the Clearwater basin, a well-publicized landslide on the South Fork of the Clearwater River blocked access highway to the town of Elk City (see Exhibit 1, Photo 11, taken from the Internet, photo credit, the Idaho Transportation Department).

16. If the Johnson Bar Fire Salvage Project is allowed to proceed as planned, the ecology of the area will be irreparably degraded to the point that the Project area, and potentially the Forest as a whole, can no longer contribute to our interests in esthetic, recreational, scientific, spiritual, and educational pursuits.

17. I, and other members of Friends of the Clearwater, have also suffered procedural harm linked to these concrete interests, by the Forest Service's failure to

engage in an adequate NEPA review to protect these concrete interests. We and the public were denied the opportunity to comment on the revised final EIS, which came about after the objections period was completed. This revised final EIS contained information about the fires of 2015, which was not presented in the final EIS or the draft EIS.

18. Indeed, the fires of 2015 were large; according to the Forest Service BAER reports, the Wash and Slide Fires burned about 46,000 acres in the Selway drainage. The Woodrat Fire burned partially in the Middle Fork Clearwater drainage, and several fires encompassing thousands of acres burned in the Selway drainage in the Selway-Bitterroot Wilderness. Other fires burned in the Lochsa drainage. (The confluence of the Lochsa and Selway Rivers forms the Middle Fork Clearwater.)

19. Following the 2015 fires, the Forest Service has proposed more salvage logging in the Selway and Middle Fork Clearwater drainages, which would have only minimal public input due to the fact the agency considers these timber sales emergencies. Attached hereto as Exhibits 3 through 6 are true and correct copies of Forest Service documents and announcements concerning these proposed salvage logging projects within the Selway, Lochsa and Middle Fork Clearwater Rivers area. Exhibit 3 is a true and correct copy of joint Forest Service documents entitled *Idaho Roadless Rule Briefing Paper: 2015 Post-fire Road Maintenance*, dated 10/10/2015 and *Idaho Roadless Rule Briefing Paper: 2015 Fire Management*, dated 10/15/2015. The first part of the joint document deals with additional salvage logging in the Selway drainage and elsewhere on the Nez Perce-Clearwater National Forests. Exhibits 4 and 5 respectively are true and correct copies of the official scoping letter announcement and 30-day notice and

comment letter for the Nez Perce-Clearwater National Forests Road, Administrative and Recreation Site Maintenance Project, which takes the form of an environmental assessment for this additional proposed salvage logging. Exhibit 6 is a true and correct copy of the scoping letter for the Woodrat Salvage and Upper Lolo Salvage projects. A portion of the Woodrat project is in the Middle Fork drainage basin.

20. The cumulative impacts from the 2015 fires and the additional salvage logging that is being proposed have not been evaluated in connection with the Johnson Bar Project. These factors also constitute changed conditions requiring supplementation of the EIS, including adequate public input.

21. The 2015 fire fighting also created impacts that were not anticipated. The 1998 *Biological Opinion: Land and Resource Management Plans for National Forests and Bureau of Land Management Resource Areas in the Upper Columbia River Basin and Snake River Basin Evolutionarily Significant Units* requires that machine or dozer lines be avoided in the Selway drainage (unless near communities) in order to protect the unique steelhead habitat. A true and correct copy of the Biological Opinion is attached as Exhibit 7. However, the Forest Service created dozer lines in the Selway drainage along Horse Ridge), which is in Meadow Creek (the main tributary to the Selway River, as well as lower down the Selway itself around Stillman Point. Both of these areas are far from communities or private land. These cumulative impacts have not been adequately assessed. (See attached Exhibit 3, which is a true and correct copy of joint Forest Service documents entitled *Idaho Roadless Rule Briefing Paper: 2015 Post-fire Road Maintenance*, dated 10/10/2015 and *Idaho Roadless Rule Briefing Paper: 2015 Fire Management*, dated 10/15/2015). The second part of this joint document deals with the

issue of dozer fire lines.

22. The Selway and Middle Fork Clearwater Rivers are two of the original rivers designated under the Wild and Scenic Rivers Act. The Selway is noted for its steelhead, which have not been affected by hatchery fish. This is a rarity anywhere. I have a longstanding interest in protecting and enjoying the wilderness character of the Selway-Bitterroot Wilderness and the surrounding lands in the Wild and Scenic River corridor.

23. The Johnson Bar area is not just a destination in the largely undeveloped Selway and Middle Fork Clearwater Wild and Scenic Rivers corridors; it is also a portal to the Selway-Bitterroot Wilderness and Meadow Creek. Travel up the still scenic and largely undeveloped Selway River corridor enhances any trip that embarks from the Race Creek or Big Fog Trailheads into the Selway Bitterroot Wilderness or from the Slims Trailhead into the Meadow Creek Roadless Area. The Johnson Bar Project as approved by the Forest Service would negatively affect that experience.

24. The future of the Selway and Middle Fork Clearwater Wild and Scenic River corridor is in serious jeopardy now, from the direct adverse and cumulative impacts of the Johnson Bar Fire Salvage Project logging, road construction and reconstruction, and helicopter landings, along with the logging that has occurred on private and state lands burned in the Johnson Bar, the 2015 fires and fire-fighting activities, and the additional salvage logging that is being undertaken on private, state and federal lands affected by the 2015 wildfires. Yet the Forest Service is not following its duties to protect the Wild and Scenic River corridor and adjacent lands; it is not adhering to the requirements of its Forest Plan, River Plan, and 1998 Biological Opinion; and it has

failed to accurately and fully disclose the true scope of the harms threatened by its Project activities. I personally, and Friends of the Clearwater and its member and staff, face irreparable and long-lasting harm to our uses and enjoyment of these special places. A judicial injunction is necessary to prevent or redress these injuries because it will forbid the Johnson Bar Project activities that will harm me, Friends of the Clearwater members' and staff's esthetic, recreational, scientific, spiritual, vocational, and educational interests. The protection of our wildlife and ecosystems is a public interest of the highest order, and injunctive and declaratory relief would protect this interest.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct. Executed this 5th day of April, 2016.

/s/ Gary Macfarlane
Gary Macfarlane