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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

**WILD WILDERNESS,
WINTER WILDLANDS ALLIANCE, and
BEND BACKCOUNTRY ALLIANCE,**

Plaintiffs,

v.

**JOHN ALLEN and
UNITED STATES FOREST SERVICE,**

Defendants,

And

**OREGON STATE SNOWMOBILE
ASSOCIATION and
AMERICAN COUNSEL OF SNOWMOBILE
ASSOCIATIONS.**

Defendant-Intervenors.

Case No.: 6:13-cv-00523-TC

**DECLARATION OF ERIK
JOHNSON IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

DECLARATION OF ERIK JOHNSON

1. My name is Erik Johnson. I am over the age of eighteen and I make this declaration based on my own personal knowledge.

2. I am the founder and a member of Bend Backcountry Alliance (BBA) in Bend, Oregon, a group dedicated to advocating for backcountry skiers, cross-country skiers, and snowshoers. Our membership includes approximately 800 members in the Bend area, plus roughly 100 members who live outside the region but visit the area for winter recreation. The BBA is supported by the Winter Wildlands Alliance, a national non-profit organization with an identical advocacy mission.

3. I have been a resident of Bend since 2007 and regularly backcountry ski along the Century Drive Corridor, including in the Dutchman Flat, Tumalo Mountain and Todd Lake areas. I recreate in these areas of the Deschutes National Forest (DNF) to have a solitary, holistic experience skiing. It is the only way to downhill ski without paying for a lift ticket and it provides a way to access untracked snow without having any set runs by which to abide.

4. During my regular visits to the DNF to recreate, I always experience the impacts of snowmobilers on the area. I see or hear snowmobilers every single time while I am out in the snow. There are no buffer zones between users, creating dangerous conditions for pedestrian recreationists who are recreating in close proximity to high-powered machines. Even when the snowmobiles are not in close physical proximity to me, the loud noise they create and the smell of their exhaust are inescapable. Instead of having the quiet, peaceful experience of snowshoeing or skiing alone in the backcountry, I hear the undesirable soundtrack of snowmobile engines roaring in the background. The noise of these machines is antithetical to my purpose of recreating alone in the peaceful wilderness. There is a place for high-powered

motorized recreation, but the Forest Service needs to create that place away from where non-motorized users ski and snowshoe.

5. If the Forest Service goes through with building its proposed Kapka Sno-park, I will be far less interested in pursuing any of my outdoor recreation activities in the entire area because I know I will run into more snowmobilers and experience a much higher volume of snowmobile traffic both on the road and in the forest, which will reduce my enjoyment of skiing.

Additionally, if the Forest Service goes through with this project, I am concerned that the Service will expend all of its resources for the area on it, leaving no funds to go towards separation of users, expanding the Dutchman Sno-park, or taking other actions that will minimize user conflict.

6. I have educated myself about the public participation process with the Forest Service and have actively advocated for the Service to address user conflicts between motorized and non-motorized users in the Century Drive corridor and in the Kapka area. BBA has been encouraging the Forest Service to better separate non-motorized users from the motorized users. However, we have been met with the frustrating response that the Service cannot make major changes without a Winter Travel Management Plan in place. This, I have found, is simply not true because the Kapka Sno-park was approved without any such plan in place and will create increased user conflicts in the Kapka, Dutchman, and Tumalo area. This is disheartening because the Forest Service is picking and choosing whose interests to listen to, and those interests are clearly not those of non-motorized recreationists. The Forest Service has the obligation to minimize user conflict and to create separate areas for various uses. The Service, however, has not made any accommodations for non-motorized users, nor have they taken any action that would make anyone believe they are keeping the interests of non-motorized users in

mind at all. Instead, it has approved the Kapka Sno-park, which will increase motorized use in the area, without addressing the user conflict issue.

7. Little has been done to manage the increase in winter recreation users that is largely the result of Bend's dramatic population growth over the past two decades. The Forest Service has failed to adequately define boundaries of closure areas or take steps that would help reduce user conflicts and disruption, such as better signage and user education. The increase in user traffic will not be resolved simply by adding a giant parking lot, designated in large part for vehicles with trailers (a strong indication that the proposed Kapka Sno-park is aimed towards benefitting snowmobilers). Putting in this new sno-park without accompanying methods for mitigating the user conflicts will only exacerbate the issues between motorized and non-motorized users in this area. As I explain below, the Forest Service's proposed sno-park would displace non-motorized recreationists, including myself, from the area.

8. Current land management practices do not reflect the new capabilities (and the corresponding uses) of today's generation of snowmobiles. Off-trail, these machines are able to go places that would have been impassable for snowmobiles just 10 years ago. As a result, non-motorized winter travellers like myself are seeing machines in places that have previously been untouched. I am also seeing an increase in activities like "high-marking" and general off-trail play in areas that are uncomfortably close to designated non-motorized areas. This is especially frustrating to non-motorized users because once the snow has been driven over, skiers can no longer use that area; we go to the wilderness to find untracked snow.

9. The construction of the Kapka Butte Sno-park would damage my outdoor experience in the following ways: first, it would increase the overall number of motorized users in the Century Drive corridor by adding capacity for over 70 more snowmobile trailers. Every year the area has

become more crowded; parking has been one of the only limitations on the area's capacity and building an enormous sno-park will enable hundreds more snowmobilers to access the area.

Even without immediate physical proximity, the impact of motorized over-the-snow traffic can be felt at ALL designated recreation areas along Century Drive in the form of noise (this includes Virginia Meissner, Wanoga, Edison, Swampy, and Dutchman Sno-parks). Non-motorized users like myself, whether we are Nordic skiing or backcountry skiing, would directly experience an increase in noise and air pollution as a result of the increased capacity of the sno-park, which impairs our ability to recreate in a clean, quiet environment.

10. Plus, the addition of more motorized users into the area will increase the number of snowmobiles using trails and terrain adjacent to the off-trail areas frequented by myself and other backcountry winter travellers. It is a lot like having jet skis being used next to a swimming beach. Creating additional parking with the Kapka Sno-park will not solve any problems; instead, it will add more users to an already crowded area without providing any separation.

11. The significant increase in trailer-specific parking provided by the new sno-park would not reduce the parking demand, congestion, and occasional conflicts that occur at Dutchman Sno-park. As the highest elevation sno-park in the Century Drive corridor, Dutchman provides the most ready access to Elk Lake and the open areas above treeline, provides the best quality snow, and has the most early- and late-season snowpack. This means I will continue to struggle to find parking at Dutchman Sno-park on most weekend mornings even with construction of the Kapka Sno-park. However, Kapka will funnel more snowmobile users to this same area, increasing the noise and air pollution and motorized traffic that I experience as I make my way to nearby destinations like Todd Lake, Tumalo Mountain, or the edges of Broken Top Mountain. The range of a non-motorized backcountry traveller moving through untracked snow is very

limited. Therefore, reaching beyond these destinations to escape motorized users is extremely difficult for most skiers; further travel would require an overnight trip.

12. Because of limited parking at Dutchman, the most desirable area of high-country, snowmobilers already travel over eight miles to the high country from the lower Wanoga parking lot. If the proposed Kapka Sno-park comes to fruition, all of the snowmobilers that currently park at Wanoga and drive their snowmobiles to Dutchman will logically park at Kapka, which is 3.5 miles closer to their desired destination. Therefore, building the Kapka Sno-park nearly guarantees an enormous influx of snowmobilers to the Dutchman Flat and Tumalo Mountain area. But not all snowmobilers who park at Kapka Sno-park will ride to Dutchman. Some will stay at the lower elevations, which will increase noise and pollution levels for Nordic skiers and snowshoers at both Virginia Meissner and Swampy Sno-parks.

13. The Forest Service has the ability and the affirmative obligation to address and resolve the user conflicts present in the DNF all along the Century Drive corridor. The proposed Kapka Sno-park does not resolve any of the user conflict issues; instead, it will make the conflict exponentially worse and it threatens to ruin the future use and enjoyment of non-motorized users in the whole region. I have been regularly recreating in the Century Drive corridor, as have the other members of BBA, for years. The Forest Service's lack of action to protect the natural environment that we so deeply value and enjoy is diminishing our experience and forcing us to find other, less desirable places to recreate. The Kapka Sno-park will cause even more snowmobile use and further impair our enjoyment of this area, which will increase my own displacement and that of other members of BBA to less desirable recreation locations.

14. If the Kapka Sno-park is built, the Service will make it evident that it is not willing to follow its own mandates to protect the interests of non-motorized users in the DNF. I hope that

the Forest Service addresses the conflicts in the Kapka Butte region that it has acknowledged for years. The problems of user conflict will not go away simply because the Service made the arbitrary announcement that building the new sno-park will not have any significant impact on the human environment or the human experience. We have been trying to tell this to the Forest Service for years and we want to be heard.

15. The Bend Backcountry Alliance, in conjunction with the Winter Wildlands Alliance, submitted comments on the draft Environmental Impact Statement and an administrative appeal on the Kapka decision, including specific suggestions for addressing conflict and better accommodating all users. If the Forest Service had provided an opportunity to comment on the EA, we would have submitted comments explaining why the Kapka Sno-park would have significant effects and offering further alternatives to mitigate the increased snowmobile use in the area that the Forest Service would hopefully adopt to address our concerns and injuries from the increased snowmobile use.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

September 25, 2013

Date

s/ Erik Johnson

Erik Johnson