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

FRIENDS OF THE CLEARWATER,

Plaintiff,

v.

CHERYL F. PROBERT, in her official  
capacity as Forest Supervisor of the Nez  
Perce-Clearwater National Forests; and  
U.S. FOREST SERVICE,

Defendants.

Case No. 3:21-cv-189-CWD

**PLAINTIFF’S RESPONSE IN  
OPPOSITION TO FEDERAL  
DEFENDANTS’ MOTION TO  
DISSOLVE INJUNCTION [ECF 79]**

Plaintiff Friends of the Clearwater files this response opposing Defendants’ (hereafter, the Forest Service) Motion to Dissolve Injunction (ECF 79). The Forest Service has failed to meet its burden to show it has satisfied this Court’s June 24, 2022 order (ECF 48), which granted partial summary judgment to Plaintiff and reversed, remanded, and enjoined the Hungry Ridge and End of the World logging projects due to defects in the agency’s old growth analyses. On remand, the Forest Service updated its old growth analyses and issued new records of decision approving slightly modified versions of each project. However, the Forest Service fails to show that it now “satisfies its obligations under the NFMA [National Forest Management Act] and NEPA [National Environmental Policy Act]” with respect to old growth forest. *Id.* at 67.

## **BACKGROUND**

The Hungry Ridge and End of the World projects are massive logging projects on the Nez Perce National Forest. The project areas lie adjacent to each other on the Salmon-Clearwater Divide, a forested ridgeline separating the Salmon River from the South Fork Clearwater River. As originally authorized in 2021, the projects included a combined about 26,000 acres (over 40 square miles) of logging, including over 7,000 acres (over 11 square miles) of clearcutting.

In 2021, Plaintiffs filed this action, challenging the Forest Service's original authorizations of the two projects. Following briefing and a hearing on the merits, on June 24, 2022, this Court issued an order granting partial summary judgment to Plaintiff and reversing, remanding, and enjoining the project approvals. ECF 48. This Court found that the Forest Service had violated the NFMA and NEPA because the agency failed to comply with its forest plan direction to inventory and protect old growth and failed to meaningfully analyze the cumulative effects of the two logging projects on old growth habitats. *See id.* at 14–21, 54–59, 68.<sup>1</sup>

Through its December 2024 and January 2025 records of decision (*see* ECF 79-2, ECF 79-6), the Forest Service has reapproved slightly modified versions of the two projects, based on new old growth assessments, and now seeks relief from this Court's judgment. Combined, the reapproved projects authorize over 25,000 acres of logging, including over 6,000 acres of clearcut (ECF 79-2 at 8; ECF 79-6 at 10) and still threaten significant detrimental effects to the environment (*see* Second Declaration of Jeff Juel ("2<sup>nd</sup> Juel Decl.") (attached hereto), ¶ 5). And the projects continue to rest on faulty old growth inventories and analyses and, thus, still fail to comply with NFMA, NEPA, and this Court's order.

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<sup>1</sup> Page citations to ECF documents refer to the pagination in the ECF header.

## ARGUMENT

### **I. THE INJUNCTION SHOULD STAY IN PLACE BECAUSE THE FOREST SERVICE FAILED TO MEET ITS BURDEN TO SHOW THAT THE PROJECTS NOW COMPLY WITH NFMA AND NEPA.**

“A party seeking modification or dissolution of an injunction bears the burden of establishing that a significant change in facts or law warrants revision or dissolution of the injunction.” *Sharp v. Weston*, 233 F.3d 1166, 1170 (9th Cir. 2000). Here, the Forest Service asserts that its new actions approving the Hungry Ridge and End of the World projects fulfill Federal Rule of Civil Procedure 60’s criterion that a judgment has been “satisfied, released, or discharged” and claims that “the basis for the injunction no longer exists.” ECF 79-1 at 5. But the Forest Service’s surface-level assurances fail to meet its burden to show that the new project approvals “satisf[y] [the agency’s] obligations under the NFMA and NEPA,” ECF 48 at 67.

Although the Forest Service invokes Rule 60 relief from judgment as a means to review its renewed agency actions, such review is no surface-level task and carries equivalent rigor to typical Administrative Procedure Act standards. *See, e.g., Swan View Coal. v. Barbouletos*, No. CV 06-73-M-DWM, 2010 WL 11530904, at \*5 (D. Mont. Jan. 27, 2010) (“There is no basis for the Defendants’ unilateral declaration that the new biological opinion complies with the Court’s Order . . . The new biological opinion is not shielded from ‘a thorough, probing, in-depth review.’”); *see also Colo. Envtl. Coal. v. Off. of Legacy Mgt.*, 302 F. Supp. 3d 1251, 1254 (D. Colo. 2018) (considering motion to dissolve injunction based on “a new administrative record and new briefing,” after denying motion to dissolve the injunction solely on the basis that the agency had generated new documents and “touched upon all of the subjects missing from its previous round of documents”). Part of the basis for this Court’s 2022 judgment was concern that, “other than its bare assurances,” the Forest Service’s record lacked sufficient evidence

demonstrating the compliance required of the relevant statutes and the applicable Forest Plan. ECF 48 at 20. The same problem persists in the Forest Service’s new explanation and the partial record it submitted in support of its motion to dissolve the injunction.<sup>2</sup>

This Court’s 2022 judgment recognized that the Forest Service had taken “liberties outside of a reasonable interpretation of the Forest Plan to meet the minimum old growth requirements.” ECF 48 at 21. The applicable Forest Plan requires that at least 10% of the forested acreage across the Nez Perce-Clearwater National Forest be maintained as old growth, specifically as that term is defined in Appendix N of the Forest Plan—referred to as “Forest Plan Old Growth.” The Forest Plan also requires that at least 5% of the area in each of a series of identified “old growth analysis areas” be composed of Forest Plan Old Growth.

In the prior project approvals, the Forest Service had tallied the acres of areas it identified as Forest Plan Old Growth *plus* the acres of other categories of forest—North Idaho Old Growth and Management Area 20—without verifying whether those other categories of forest actually met the Forest Plan Appendix N old growth criteria. This Court held that the Forest Service violated NFMA by failing to follow the Forest Plan. ECF 48 at 21. This Court also held that the Forest Service’s failure to properly inventory for old growth meant it had failed its obligation

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<sup>2</sup> In support of its motion, the Forest Service submitted just five new documents: the Hungry Ridge ROD; the Hungry Ridge EIS; the End of the World ROD; the End of the World EIS; and the End of the World Updated Old Growth Analysis. ECF 79-2–79-6. The Forest Service did not submit a Supplemental Administrative Record, which would include presumably much more, including the underlying documents, information, and data upon which these five new documents are based. *See Blue Mountains Biodiversity Project v. Jeffries*, 99 F.4th 438, 444 (9th Cir. 2024) (“The Administrative Procedure Act (“APA”) requires us to ‘review the whole record,’ 5 U.S.C. § 706, including ‘all documents and materials directly or indirectly considered by the agency decision-makers’”).

Relatedly, Friends of the Clearwater is still waiting for the Forest Service to respond to a Freedom of Information Act request it submitted seeking such documents and information. *See* 2<sup>nd</sup> Juel Decl.”, ¶ 14.

under NEPA to consider the “cumulative and synergistic impact of the two projects on old growth,” ECF 48 at 53, particularly given the Forest Plan’s requirement to maintain at least 10% old growth across the entire national forest.

On remand, the Forest Service took some steps in the right direction. The Forest Service undertook new analyses to identify Forest Plan Old Growth in each project area, and it stopped lumping other categories (North Idaho Old Growth and Management Area 20) together with Forest Plan Old Growth. However, as explained below, the Forest Service has reapproved the two projects while still failing to demonstrate adherence to the specific forest plan direction (provided in the plan’s “Appendix N”) regarding what counts as Forest Plan Old Growth.

**A. The Forest Service Fails to Show Its Inventories of Existing Old Growth in the Project Areas Comply with NFMA and NEPA.**

The Forest Service asserts that, based on updated old growth inventories undertaken during remand, there is at least 5% Forest Plan Old Growth in each old growth analysis area affected by the projects. ECF 79-1 at 6, 8. However, the Forest Service has failed to show that it utilized all the relevant criteria set forth in Forest Plan Appendix N for identifying old growth.

Appendix N defines an “old-growth stand” as generally meeting six criteria:

1. At least 15 trees per acre > 21 inches diameter at breast height (DBH) . . . .
2. Two or more canopy layers.
3. At least .5 snags per acre >21 inches DBH and at least 40 feet tall.
4. Signs of rot and decadence present.
5. Overstory canopy closure of 10-40 percent; understory canopy closure of at least 40 percent; total canopy closure at least 70 percent.
6. Logs on the ground.

C\_027489.

Friends of the Clearwater submitted comments on the draft EISs for both projects as the Forest Service proceeded toward the present reapprovals, and submitted an administrative

objection on Hungry Ridge. In each of those submissions, Friends of the Clearwater warned that, based on available information, it appeared that the Forest Service was utilizing just some of these Appendix N old growth criteria while ignoring others. *See* 2<sup>nd</sup> Juel Decl. Ex. 2 at 38–39, Ex. 3 at 8, Ex. 5 at 58, 77.

For example, Friends of the Clearwater pointed to Forest Service meeting notes from August 30, 2022, which state that in response to this Court’s remand, the Forest Service had proceeded to “pull existing stand exam data from FSVeg and run it through FVS, via the R1 Depot, to determine stand tree growth from time of exam to present day. Data was examined for number of trees per acre greater than 21" dbh and snags per acre greater than 15" dbh.” 2<sup>nd</sup> Juel Decl. Ex. 8 at 1. Notably, the Forest Service further explained that in so doing: “Determination of OG, or not, is based on only 2 factors out of the Appendix N that are listed in the Forest Plan. The factors are number of trees per acre greater than 21” dbh and number of snags per acre greater than 15” dbh. Factors such as DWD [(downed woody debris)], canopy closure, etc were not used in this evaluation.” *Id.* (emphases added).

If the Forest Service focused only a small subset of the six factors in Appendix N for determining whether something counts as old growth, the Forest Service may have vastly inflated the amount of Forest Plan Old Growth in both project areas. This is because even if an area contains sufficient numbers of large trees and large snags per acre under two of the Appendix N criteria, the area might nevertheless lack sufficient features to meet the other four Appendix N criteria and therefore not qualify as Forest Plan Old Growth. Thus, if the Forest Service did not utilize all six Appendix N criteria in its new old growth assessments, then the agency cannot accurately or rationally support its conclusions that there is at least 5% Forest Plan Old Growth in each Old Growth Analysis Area.

Despite Friends of the Clearwater raising this concern, the Forest Service never directly addressed it in its response to comments for either project or in its *two page* response to Friends of the Clearwater's extensive Hungry Ridge objections. *See* 2<sup>nd</sup> Juel Decl. Ex. 2, Ex. 4, Ex. 6. Based on these non-responses, and based on the partial supplemental record filed by the Forest Service in support of its pending motion, the agency has failed to make a sufficient showing that its new inventories of old growth utilized all six criteria from Appendix N.

Without an accurate accounting of Forest Plan Old Growth following the requirements in Appendix N, there is no way to know whether the projects comply with the Forest Plan. This violates NFMA. *See* ECF 48 at 21; *Alliance for the Wild Rockies v. USFS*, 907 F.3d 1105, 1116–17 (9th Cir. 2018) (Forest Service “decision to adopt a new definition of ‘old forest habitat’” that deviated from definition in forest plan held arbitrary and capricious); *Idaho Sporting Cong. v. Rittenhouse*, 305 F.3d 957, 970–71 (Forest Service violated NFMA when it relied on a “new definition for old growth that is different from the Forest Plan definition”).

This also violates NEPA, because the Forest Service has failed to provide accurate baseline information and analysis to the public, and thus failed to take a hard look at the direct impacts of each project and the cumulative impacts of both projects on old growth. *See* ECF 48 at 48–49, 53–54; *Lands Council v. Cottrell*, 731 F. Supp. 2d 1074, 1090 (D. Idaho 2010) (failure to properly assess impacts on species as mandated by forest plan and NFMA “serves to establish a violation of NEPA”). *See also* *N. Plains Res. Council v. Surface Transp. Bd.*, 668 F.3d 1067, 1084 (9th Cir. 2011); *Or. Natural Desert Ass’n v. Jewell*, 840 F.3d 562 (9th Cir. 2016) (both reversing where agency failed to establish baseline conditions or identify sensitive resources affected by project in violation of NEPA).

The injunction should remain in place unless and until the Forest Service can show it followed Appendix N to inventory old growth in both project areas.

**B. The Forest Service Fails to Show Its Assessments of Project Impacts to Old Growth Comply with NFMA and NEPA.**

The Forest Service made a similar error on remand when it concluded that neither project will cause the loss of any Forest Plan Old Growth. Like with its inventory of existing old growth discussed above, the agency's evaluation of each project's effects to old growth fails to properly consider all Appendix N criteria by again focusing on two of the six criteria (the number of large trees and snags per acre) while ignoring the other four criteria.

In support of its motion to dissolve the injunction, the Forest Service argues that neither project will cause the loss of any Forest Plan Old Growth because there will be no longer be any "regeneration" logging in old growth. ECF 79-1 at 6, 8. Regeneration logging includes clearcutting and similar logging techniques that the Forest Service admits, when conducted in old growth, alter the forest such that it no longer qualifies as old growth. *See* ECF 27-1, ¶ 17. When re-approving Hungry Ridge, the Forest Service made a slight change to the project: removing all "regeneration" logging previously approved to occur in Forest Plan Old Growth. ECF 79-6 at 9–10, 34. And when re-approving End of the World, based on the Forest Service's new old growth inventory, the Forest Service determined there will no longer be any regeneration logging within Forest Plan Old Growth there either. ECF 79-3 at 25. Friends of the Clearwater does not dispute that the projects no longer authorize regeneration logging in areas the agency identified as Forest Plan Old Growth.<sup>3</sup>

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<sup>3</sup> To be clear, both projects still authorize extensive regeneration logging outside of Forest Plan Old Growth areas. End of the World includes 1,528 acres of regeneration logging, including 12 supersized clearcuts, ranging from 44 acres to 230 acres in size each. ECF 79-2 at 8. Hungry



The Forest Service’s argument, however, relies on the false assumption that regeneration logging is the only activity it authorized that can alter a forest stand such that it no longer qualifies as Forest Plan Old Growth. At End of the World, the Forest Service authorized 1,075 acres of intermediate harvest and 393 acres of prescribed burning in Forest Plan Old Growth. ECF 79-3 at 25–26. At Hungry Ridge, the Forest Service’s EIS considered authorizing 409 acres of regeneration harvest,<sup>4</sup> 188 acres of intermediate harvest, and 902 acres of prescribed burning in Forest Plan Old Growth. ECF 79-5 at 33, 40. Altogether, this amounts to *at least 2,558 acres* (and up to 2,967 acres) of Forest Plan Old Growth that will be logged or burned.

Intermediate logging and prescribed burning can alter forested areas in ways that affect the Appendix N old growth criteria. For example, in the wildlife reports for Hungry Ridge, the Forest Service acknowledged that intermediate logging causes reductions in canopy closure and concluded that post-intermediate logging canopy closures will be in the range of 55% to 75%. *See* B\_023929, B\_023944. Appendix N requires a total canopy closure of *at least 70%* for an area to qualify as old growth. C\_027489. A canopy closure of 55% is well below the 70% minimum in Appendix N. But when it concluded that neither project will eliminate any Forest Plan Old Growth, the Forest Service failed to consider this and never explained how areas it expects to fall as low as 55% closure after intermediate logging will somehow still qualify.

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Ridge includes 4,776 acres of regeneration logging, including 29 super-sized clearcuts each ranging from 40 to 405 acres in size. *See* B\_000717–20 at Table B- 1; ECF 27-1 ¶ 9; ECF 79-6 at 9; ECF 79-5 at 33.

<sup>4</sup> In the ROD approving Hungry Ridge, the Forest Service said it was approving the project with the exception that it was not allowing the 409 acres of regeneration logging in Forest Plan Old Growth; however the ROD does not specify whether intermediate logging or other treatments are still authorized in those 409 acres of Forest Plan Old Growth. *See* ECF 79-6 at 9–10, 34.

As another example, one method of intermediate logging authorized at Hungry Ridge and End of the World is “variable density thinning.” *See* A\_019140 at Table 2; B\_000651 at Table 3-51; B\_000198. This method allows 5-acre clearcut gaps to be cut on up to 30% of the total area being logged. A\_000070–71, A\_018783, B\_023980, B\_000654. But again, the Forest Service does not explain—nor can it—how an area of forest will still satisfy all six Appendix N old growth criteria after nearly a third of the forest has been riddled with 5-acre clearcuts.

Prescribed burning also can alter forested areas in ways that they might no longer qualify as Forest Plan Old Growth. For example, the Forest Service admits in the EISs for both projects that “existing canopy closure would be reduced as a result of treating the understory” with prescribed fire. ECF 79-4 at 15; ECF 79-5 at 40. But the agency never considered whether such reductions in canopy closure would render areas no longer qualifying as Forest Plan Old Growth based on the Appendix N canopy closure criteria. Nor does the Forest Service ever address whether prescribed burning will eliminate other Appendix N criteria, like the number of canopy layers, presence of rot and decadence, and existing of logs on the ground. Instead, it again focused on the number of large trees and snags per acre, while ignoring the rest of the criteria.

Without an accurate accounting of how much old growth will be lost due to intermediate logging, prescribed burning, and other approved activities in Forest Plan Old Growth, there is no way to know whether the projects comply with the Forest Plan. This violates NFMA. *See* ECF 48 at 21; *Alliance for the Wild Rockies*, 907 F.3d at 1116–17 (9th Cir. 2018); *Idaho Sporting Cong.*, 305 F.3d at 970–71. This also violates NEPA, as the Forest Service has failed to take a hard look at the impacts from each Project, and their cumulative impact, on old growth. *See* ECF 48 at 48–49, 53–54; *Lands Council*, 731 F. Supp. 2d at 1090. The injunction should remain in

place unless and until the Forest Service can show it followed Appendix N to evaluate both projects' impacts to old growth.

**C. The Forest Service Fails to Show Its Forest-Wide Old Growth Estimate Complies with NFMA and NEPA.**

The Forest Service asserts that it has reassessed to determine that the total forest-wide old growth acreage is “well above the Forest Plan 10% minimum.” Dkt. 79-1 at 7. But there are two fatal problems with the agency's forest-wide old growth assessment.

First, the Forest Service again considered only two of six relevant Forest Plan Appendix N criteria. The “Updated Old Growth Analysis” describes the forest-wide estimate as follows (emphasis added):

The data shows approximately 14.7 percent of the Nez Perce National Forest meets the Forest Plan Appendix N definition of old growth (minimum of 15 trees per acre greater than 21 inches dbh, and vertical structure) (90 percent confidence interval: 12.4 – 17.0 percent). The Nez Perce National Forest is above the Forest Plan minimum standard of 10 percent old growth forest wide.

ECF 79-4 at 8; *see also* 2<sup>nd</sup> Juel Decl. Ex. 10 at 3 (also considering only two factors for old growth: the number of large trees per acre and vertical structure). Again, Appendix N includes six criteria of old growth, including the following four criteria which, based on the Forest Service's description above, were not considered in the forest-wide inventory: signs of rot and decadence; minimum canopy closure percentages; the presence of logs on the ground; and a minimum number of large snags.<sup>5</sup> Without an accurate forest-wide accounting of old growth

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<sup>5</sup> Regarding snags, the study upon which the Updated Old Growth Analysis relies contains a separate, abstract forest-wide extrapolation of snags per acre (of several sizes) across the entire forest, but it does not incorporate detail in line with the Appendix N criteria for snags greater than 21 inches in diameter that are greater than 40 feet tall. *See* 2<sup>nd</sup> Juel Decl. Ex. 10 at 5–6. The forest-wide snag estimate is also detached from and cannot meaningfully be overlaid with the separate purported old growth estimate.

following the specific requirements in Appendix N, there is no way to know whether the Forest Service is complying with the Forest Plan. This violates NFMA and NEPA, and fails to satisfy the Court's order. *See* ECF 48 at 21, 48–49, 53–54.

Second, Appendix N makes clear that old growth stands must be “identified” through such methods as stand exams, aerial photos, and field reconnaissance. C\_027490. Yet the Forest Service's purported new inventory of forest-wide old growth included no geographic identification at all. The agency cannot specify *where* the purported 14.7% of the forest that is old growth is situated, even though this is a necessary to conform management actions to preserve old growth, and necessary to show the public and the Court how it is complying with the Forest Plan.

This lack of geographic specificity is the result of the agency's estimate being an attenuated mathematical extrapolation, not an inventory. The “Updated Old Growth Analysis” refers to a 2022 study, authored by Reyes and Morgan, as the estimate's source. *See* ECF 79-4 at 8; 2<sup>nd</sup> Juel Decl. Ex. 10. According to that study, the researchers extrapolated a forest-wide figure from data derived through only 357 scattered and undisclosed field plots about an acre in size each. 2<sup>nd</sup> Juel Decl. Ex. 10 at 2–3.<sup>6</sup> In other words, the Forest Service has taken a dataset containing a mere 357 *acres* of surveyed forest—which it declines to geographically identify—and has estimated 14.7% of those plots contain old growth. Based on this, the agency leaps to the

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<sup>6</sup> *See also* 2<sup>nd</sup> Juel Decl. Ex. 5 at 60 (comments on End of the World DEIS), noting the confidentiality of forest inventory analysis data locations, undisclosed even to the staff at the Forest. Each FIA sample location consists of four quarter-acre plots in which trees are tallied. *Id.* at 62. Notably, Forest Plan Appendix N directs the agency that for its inventories, individual old growth “stands should be at least 300 acres.” C\_027490. Thus, the agency's approach to inventorying forest-wide old growth has been to deploy field data for an amount of purported old growth that if aggregated in one spot would only constitute a small fraction of a single old growth stand pursuant to the Forest Plan.

conclusion that throughout the entire 2.2-million-acre Nez Perce National Forest there is also 14.7% old growth.

This secretive, highly attenuated, and overly theoretical approach does not satisfy Appendix N's old growth inventory standards and thus fails to comply with the Forest Plan, in violation of NFMA. *See Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 961–64 (9th Cir. 2005) (the Forest Service violates NFMA when court is “unable to determine from the record that the agency is complying with the forest plan standard”). Additionally, the failure to “present complete and accurate information to decision makers and to the public” violates NEPA. *Natural Resources Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 813–14 (9th Cir. 2005). *See also N. Plains Res. Council*, 668 F.3d at 1083 (“NEPA requires that the agency provide the data on which it bases its environmental analysis”); *Idaho Conservation League v. Lannom*, 200 F. Supp. 3d 1077, 1088 (D. Idaho 2016) (Forest Service violated NEPA when it concluded “internally” that mining proposal complied with law but where agency’s calculus “was not shared with the public in any written analysis”).

Plaintiff raised these issues with the Forest Service in its comments and objections during the renewed Hungry Ridge and End of the World review processes. *See* 2<sup>nd</sup> Juel Decl. Ex. 1 at 39–42, Ex. 3 at 11–12, Ex. 5 at 56–64. In its responses to comments, the Forest Service repeatedly failed to address the detailed methodological and other issues Plaintiff put forward, instead simply referring back, without elaboration, to the same Old Growth Analysis and referenced study about which Plaintiff’s comments had raised serious questions. *See* 2<sup>nd</sup> Juel Decl. Ex. 2 at 24, 29, Ex. 6 at 313, 447–455. The Forest Service’s written response to Plaintiff’s objection on the Hungry Ridge project contained no discussion of these issues. *See* 2<sup>nd</sup> Juel Decl. Ex. 4.

The injunction should remain in place unless and until the Forest Service meets its burden to show it followed Appendix N to inventory forest-wide old growth.

**II. THE COURT SHOULD ALSO KEEP THE INJUNCTION IN PLACE TO PRESERVE THE STATUS QUO WHILE FRIENDS OF THE CLEARWATER FILES A SUPPLEMENTAL COMPLAINT.**

In due course, Friends of the Clearwater intends to file a motion for leave to file a Supplemental Complaint under Fed. R. Civ. P. 15(d) to challenge the Forest Service's issuance of the new Hungry Ridge and End of the World RODs and EISs. *See, e.g., Habitat Educ. Ctr., Inc. v. Kimbell*, 250 F.R.D. 397, 400 (E.D. Wis. 2008) (permitting, in a similar context, a supplemental complaint to raise claims that the agency's renewed records of decision "violate federal law in ways that the [original] RODs did not"). While the Forest Service made minor modifications on remand, substantial legal issues remain with each project, and the reapproved projects combined authorize over 25,000 acres of logging, including over 6,000 acres of clearcutting, among other extensive activities, which threaten irreparable harm to Friends of the Clearwater due to adverse effects the projects will have on old growth, other mature forest habitat, wildlife, water quality, and fish.

Adjudicating Plaintiff's supplemental claims against the new decisions will also afford the parties and this Court the opportunity to more fulsomely consider the facts and legal issues with the benefit of a complete administrative record and time for substantive briefing. *See Colo. Env'tl. Coal.*, 302 F. Supp. 3d at 1254–55 (noting how an injunction dissolution motion warranted consideration on a full administrative record). In the meantime, this Court should preserve the status quo and leave the injunction in place until it considers the merits of the new project approvals.

**CONCLUSION**

For the above-stated reasons, this Court should deny Defendants’ motion for relief from judgment.

Respectfully submitted this 21<sup>st</sup> day of February, 2025.

*/s/ Bryan Hurlbutt*  
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