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12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

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16 CENTER FOR BIOLOGICAL
17 DIVERSITY, a non-profit corporation,

18 Plaintiff,

19 v.

20 MIKE CRAWLEY, in his official capacity as
District Ranger for the Bridgeport Ranger
21 District, and UNITED STATES FOREST
SERVICE, an agency of the Department of
22 Agriculture,

23 Defendants.

Case No.

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 **INTRODUCTION**

2 1. Through this action, Plaintiff Center for Biological Diversity challenges the travel
3 management planning decision and designation of Off Road Vehicle (“ORV”) routes on the Bridgeport
4 Ranger District in the Humboldt-Toiyabe National Forest, located on the border of California and
5 Nevada. Specifically, Plaintiff challenges the Bridgeport Ranger District and the United States Forest
6 Service’s (“Defendants” or “Forest Service”) decision to approve the Bridgeport Travel Management
7 Project Record of Decision (“ROD”) and Final Environmental Impact Statement (“FEIS”) and
8 Defendants’ denial of Plaintiff’s administrative appeal of the ROD and FEIS.

9 2. This action arises under, and alleges violation of, the National Environmental Policy Act
10 (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*; the National Forest Management Act (“NFMA”), 16 U.S.C. §§
11 1600 *et seq.*; the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 501 *et seq.*; Executive Order
12 11644, as amended by Executive Order 11989; and implementing regulations established pursuant to
13 these federal statutes and executive orders.

14 3. The challenged Bridgeport Travel Management Project decision authorizes the use of
15 motorized vehicles on 220 new miles of roads and trails across the Ranger District, in addition to the
16 1,290 miles of roads and trails that had previously been authorized for motorized use. Defendants’
17 decision designated 49 new miles of routes in Inventoried Roadless Areas and 79 miles within riparian
18 areas for perennial and intermittent streams with 241 stream crossings. The newly authorized routes
19 cross key habitat areas, including federally designated critical habitat for the endangered Sierra Nevada
20 bighorn sheep, habitat for the federally threatened Lahontan cutthroat trout, and habitat for several
21 federal candidate species including Yosemite toad, Sierra Nevada mountain yellow-legged frog, and
22 sage grouse.

23 4. The Forest Service’s decision relies upon inadequate documentation and NEPA analysis
24 and violates the Forest Service’s Travel Management Regulations, Roadless Rule, applicable forest
25 plans, and executive orders. Therefore, Plaintiff may seek temporary, preliminary, or permanent
26 injunctions against all or portions of the federally approved activities challenged herein to forestall
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1 irreparable injury to the environment and to Plaintiff’s interests, and any other such relief as the Court
2 deems appropriate.

3 **JURISDICTION**

4 5. Jurisdiction over this action is conferred by 28 U.S.C. §§ 1331 (federal question), 2201
5 (declaratory relief), and 2202 (injunctive relief). This cause of action arises under the laws of the United
6 States, including NEPA, NFMA, the APA, and Executive Order 11644, as amended by Executive Order
7 11989, and implementing regulations established pursuant to these federal statutes and executive orders.
8 An actual, justiciable controversy exists between Plaintiff and Defendants. The requested relief is proper
9 under 28 U.S.C. §§ 2201 & 2202, and 5 U.S.C. §§ 705 & 706.

10 **VENUE**

11 6. Venue in this Court is proper under 28 U.S.C §§ 1391 & 1392. The actions challenged in
12 this case, including the Record of Decision (“ROD”) and the Final Environmental Impact Statement
13 (“FEIS”), were developed and issued by Defendants in the Bridgeport Ranger District, which is
14 headquartered in Bridgeport, California, located in Mono County. Additionally, land subject to the
15 challenged decisions is located in this judicial district. Venue therefore properly vests in this district.

16 **RELATED CASES**

17 7. This case is related to *Center for Sierra Nevada, Center for Biological Diversity, et al. vs.*
18 *United States Forest Service, et al.*, 2:09-cv-2523 (filed Sept. 9, 2009), which is currently pending in the
19 United States District Court, Eastern District of California, before the Honorable Lawrence K. Karlton.

20 **PARTIES**

21 8. Plaintiff Center for Biological Diversity (“the Center”) is a non-profit corporation with
22 offices in San Francisco, Los Angeles, and Joshua Tree, California; Nevada; Oregon; Washington;
23 Arizona; New Mexico; Alaska; and Washington, D.C. The Center is actively involved in species and
24 habitat protection issues throughout North America and has more than 42,000 members, including many
25 members who reside and recreate in California and Nevada. One of the Center’s primary missions is to
26 protect and restore habitat and populations of imperiled species throughout North America.

27 9. The Center’s members and staff include individuals who visit the Bridgeport Ranger
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1 District on the Humboldt-Toiyabe National Forest and have recreational, health, educational, scientific
2 research, spiritual, and aesthetic interests in the Sierra Nevada mountains, high desert ecosystems, and
3 the species and habitats affected by the decisions at issue. The Center's members and staff regularly use
4 and intend to continue to use lands and waters throughout the Bridgeport Ranger District, including
5 areas that have been authorized for vehicle use by Defendants' ROD, for observation, research, aesthetic
6 enjoyment, and other recreational, scientific, spiritual, and educational activities. The Center's members
7 and staff have researched, studied, observed, and sought protection for many imperiled species that
8 inhabit the Bridgeport Ranger District and surrounding areas, including federal candidate species and
9 federally listed threatened and endangered species.

10 10. This suit is brought by the Center on behalf of itself and its adversely affected members
11 and staff. Plaintiff and its members' present and future interests in and use of the Bridgeport Ranger
12 District and the waters therein are and will be directly and adversely affected by the decisions and
13 actions challenged in this Complaint. Those adverse effects include, but are not limited to: (1) impacts to
14 native plants and wildlife and their habitats within the Bridgeport Ranger District; (2) impacts to
15 riparian areas and water quality; (3) reduction and impairment of recreation opportunities, including
16 increased user conflict and loss of opportunities for solitude and nature appreciation; and (4) impaired
17 aesthetic value of trails, landscapes, and other areas caused by Defendants' management of off road
18 vehicle ("ORV") use in the Bridgeport Ranger District. In addition, Plaintiff and its members and staff
19 have an interest in ensuring that Defendants comply with all applicable laws, regulations, and
20 procedures pertaining to the management of national forest lands.

21 11. The Record of Decision at issue herein approves motorized use and activities that have
22 and will continue to significantly degrade the natural values currently enjoyed by Plaintiff, its staff, and
23 its members. The decision creates an actual and imminent infringement of Plaintiff, its staff, and its
24 members' aesthetic, conservation, recreational, commercial, scientific, educational, spiritual, and
25 procedural interests, and that harm is directly traceable to Defendants' actions.

26 12. Because Defendants' actions approving the Bridgeport Travel Management Project
27 violate several procedural and substantive laws, a favorable decision by this Court will redress the actual
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1 and imminent injury to Plaintiff.

2 13. Plaintiff participated in each stage of the administrative process culminating in the
3 issuance of the FEIS and ROD challenged herein. Plaintiff submitted comments on the scoping
4 documents and Draft EIS for the Bridgeport Travel Management Project. Plaintiff submitted an appeal
5 of the FEIS and ROD, and that appeal was denied. Plaintiff has exhausted all administrative remedies
6 and has no further adequate remedy at law.

7 14. Defendant Mike Crawley is the District Ranger for the Bridgeport Ranger District in the
8 Humboldt-Toiyabe National Forest and is sued in his official capacity. Mr. Crawley is directly
9 responsible for properly managing vehicle, road, and trail use in the Ranger District and ensuring that
10 ORV route designation and use in the District complies with all applicable laws and regulations. Mr.
11 Crawley's predecessor, Grace Newell, Acting District Ranger in the Bridgeport Ranger District, signed
12 the ROD at issue here. Mr. Crawley officially resides in Bridgeport, California.

13 15. Defendant United States Forest Service is an agency of the United States Department of
14 Agriculture. The Forest Service is responsible for the administration and management of the federal
15 lands subject to this action, including the implementation of NEPA, NFMA, the APA, the executive
16 orders, implementing regulations, and the various laws and policies protecting the rights and interests of
17 Plaintiff in this matter.

18 **LEGAL BACKGROUND**

19 **A. The National Environmental Policy Act**

20 16. The National Environmental Policy Act ("NEPA") is "our basic national charter for
21 protection of the environment." 40 C.F.R. § 1500.1(a). NEPA's twin aims are to ensure that federal
22 agencies consider the environmental impacts of their proposed actions, and to ensure that agencies
23 inform the public that environmental concerns have been considered.

24 17. NEPA requires "responsible [federal] officials" to prepare an environmental impact
25 statement ("EIS") on all "major Federal actions significantly affecting the quality of the human
26 environment." 42 U.S.C. § 4332(2)(C)(i). A "Federal action" includes all activities "conducted,
27 regulated, or approved by federal agencies; new or revised agency rules, regulations, plans, policies or
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1 procedures.” 40 C.F.R. § 1408.18(a). The purpose of an EIS is to ensure that decisionmakers and
2 citizens are provided environmental information “before decisions are made and before actions are
3 taken.” *Id.* § 1500.1(b), (c).

4 18. An EIS must provide a description of the purpose and need for the action and “rigorously
5 explore” reasonable alternatives to the proposed action, including a “no action” alternative. *Id.* §
6 1502.14(a), (d). Alternatives must be presented in “comparative form . . . thus sharply defining the
7 issues and providing a clear basis for choice among options by the decision maker and the public.” *Id.*

8 19. In addition, an agency must take a hard look at the environmental consequences of a
9 proposed action in its EIS. *See* 42 U.S.C. § 4332(2)(C)(i); 40 C.F.R. §§ 1502.16; 1508.8; 1508.14. An
10 EIS must “succinctly describe the environment of the area(s) to be affected by the alternatives under
11 consideration,” and present a “full and fair discussion of significant environmental impacts.” 40 C.F.R.
12 § 1502.1. The EIS must analyze both the “direct effects, which are caused by the action and occur at
13 the same time and place,” and the “indirect effects, which are caused by the action and are later in time
14 or farther removed in distance.” *Id.* § 1508.8(a), (b). NEPA also requires agencies to consider
15 mitigation measures to minimize the environmental impacts of the proposed action. *Id.* §§ 1502.14;
16 1502.16.

17 20. NEPA also requires that an agency’s EIS evaluate and describe how the action will
18 comply with other laws and invite the participation of affected Federal, State, and local agencies, any
19 affected Indian tribe, the proponent of the action, and other interested persons. *See* 40 C.F.R. §§
20 1502.2(d); 1502.25(a); 1508.27(b); 1501.7(a)(1).

21 **B. The National Forest Management Act**

22 21. The National Forest Management Act (“NFMA”) establishes the statutory framework for
23 management of the National Forest System. 16 U.S.C. §§ 1600 *et seq.* NFMA requires the Forest
24 Service to develop a Land and Resource Management Plan (“Forest Plan”) for each national forest,
25 including the Humboldt-Toiyabe National Forest. A forest plan provides for multiple use management
26 of the national forest including recreation, range, timber, wildlife and fish, and wilderness. 16 U.S.C. §
27 1604(e)(1).

1 22. Pursuant to NFMA, all site-specific actions taken within a national forest must be
2 consistent with the applicable forest plan. *Id.* § 1604(i).

3 **C. The Roadless Rule**

4 23. In 2001, recognizing that roadless areas on national forests “provide clean drinking
5 water[,] function as biological strongholds for populations of threatened and endangered species,” and
6 provide other important resource values, the Forest Service promulgated the Roadless Area
7 Conservation Rule and regulations (“Roadless Rule”). *See* 66 Fed. Reg. 3244 (Jan. 12, 2001); 36 C.F.R.
8 Part 294.

9 24. The regulations prohibit road construction in Inventoried Roadless Areas within a
10 national forest. *Id.* § 294.12(a). A road is defined as a “motor vehicle travelway over 50 inches wide,
11 unless designated and managed as a trail.” *Id.* § 294.11. While road construction is prohibited,
12 “motorized . . . trails that are classified and managed as trails pursuant to existing statutory and
13 regulatory authority and agency direction (FSM 2350)” can be constructed. 66 Fed. Reg. at 3272.

14 25. The Roadless Rule does not define trail, but the referenced Forest Service Manual
15 defined a trail as “a pathway for travel by foot, stock, or trail vehicles.” FSM 2353.05 (2001). Trail
16 vehicles are “designed for trail use, such as bicycles, snowmobiles, trail bikes, trail scooters, and all
17 terrain vehicles (ATV).” *Id.* An ATV is a “type of off-highway vehicle that travels on three or more
18 low-pressure tires; has handle-bar steering; is less than or equal to 50 inches in width; and has a seat
19 designed to be straddled by the operator.” *Id.* Passenger cars, including four-wheel drive trucks, sport
20 utility vehicles (“SUVs”), and other vehicles associated with roads were clearly not intended for use on
21 “trails.”

22 26. In 2008, Regional Forester Harv Forsgren recognized that “it is important to ensure that
23 the routes” designated in Inventoried Roadless Areas “are in fact trails” and not roads, and issued
24 guidance for all forests and ranger districts in Region 4, including the Bridgeport Ranger District. *See*
25 May 30, 2008 Letter from Harv Forsgren to Intermountain Region Forest Supervisors Regarding Travel
26 Management in Roadless Areas. The directive states: “the use of the designation ‘trails open to all motor
27 vehicles’ is not limited enough for roadless areas” because it would “allow full sized vehicles including
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1 large 4x4 trucks, SUV and other vehicles associated with roads.” The Regional Forester emphasized that
2 “[i]t is imperative that the designation of ‘trails open to all motor vehicles’ not be used to allow back
3 door designation of roads in roadless areas.” *Id.*

4 **D. Travel Management Regulations and Executive Orders**

5 27. In 1972, in response to widespread and growing use of ORVs, President Nixon adopted
6 Executive Order (“EO”) 11644 to establish policies and procedures to “ensure that the use of off-road
7 vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to
8 promote the safety of all users of those lands, and to minimize conflicts among the various uses of those
9 lands.” Exec. Order No. 11644, § 1; 37 Fed. Reg. 2877 (Feb. 8, 1972).

10 28. Pursuant to EO 11644, the Forest Service must develop regulations that require Forest
11 Service officials to designate which areas and routes on each forest or ranger district will be either open
12 or closed to ORV use. *Id.* § 3. EO 11644 requires that the designation of areas and trails “shall”: (1)
13 “minimize damage to soil, watershed, vegetation, or other resources of the public lands;” (2) “minimize
14 harassment of wildlife or significant disruption of wildlife habitat;” and (3) “minimize conflicts between
15 off-road vehicle use and other existing or proposed recreational use of the same or neighboring public
16 lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking
17 into account noise and other factors.” *Id.* Further, agencies “shall ensure adequate opportunity for public
18 participation . . . in the designation of areas and trails” open to off-road vehicle use. *Id.*

19 29. In 1977, President Carter adopted Executive Order 11989, amending EO 11644. EO
20 11989 provides that federal agencies shall “immediately close” areas or trails to off-road vehicles
21 whenever the agency “determines that the use of off-road vehicles will cause or is causing considerable
22 adverse effects on the soil, vegetation, wildlife, wildlife habitat or cultural or historic resources of
23 particular areas or trails of the public lands.” Exec. Order No. 11989, § 2; 42 Fed. Reg. 26,959 (May 24,
24 1977).

25 30. The Forest Service first adopted regulations implementing EO 11644 and EO 11989 in
26 1974. The Forest Service has reorganized and amended the regulations several times, and the relevant
27 regulations are now found at 36 C.F.R. Part 212 (referred to as the “Travel Management Regulations”).
28

1 The Travel Management Regulations adopt standards for motor vehicle use on national forest lands,
2 including the use of ORVs.

3 31. Subpart A of the Travel Management Regulations requires each national forest or ranger
4 district to identify the “minimum road system needed for safe and efficient travel and for administration,
5 utilization, and protection of National Forest System lands.” 36 C.F.R. § 212.5(b)(1). The identified
6 minimum road system must “meet resource and other management objectives adopted in the relevant
7 land and resource management plan,” “meet applicable statutory and regulatory requirements,” “reflect
8 long-term funding expectations,” and “ensure that the identified system minimizes adverse
9 environmental impacts associated with road construction, reconstruction, decommissioning, and
10 maintenance.” *Id.* Further, Subpart A requires each forest or district to “identify the roads . . . that are
11 no longer needed to meet forest resource management objectives and that, therefore, should be
12 decommissioned or considered for other uses.” *Id.* § 212.5(b)(2).

13 32. In determining the minimum road system, Forest Service officials must use a “science-
14 based roads analysis at the appropriate scale and, to the degree practicable, involve a broad spectrum of
15 interested and affected citizens.” *Id.* § 212.5(b)(1). Specifically, the Forest Service must conduct a
16 “travel analysis,” resulting in a travel analysis report that “provides the basis for developing proposed
17 actions to implement the minimum road system.” FSH 7709.55, Chap. 20.2. Any proposed action to
18 implement the minimum road system is then “subject to appropriate public involvement and
19 environmental analysis under NEPA before travel management decisions are made.” *Id.* at Chap. 21.6.

20 33. The Forest Service promulgated the Subpart A regulations specifically to “ensure that
21 additions to the National Forest System network of roads are those deemed essential for resource
22 management and use [and] that unneeded roads are decommissioned and restoration of ecological
23 processes are initiated.” 66 Fed. Reg. 3206 (Jan. 12, 2001).

24 34. Subpart B of the Travel Management Regulations was promulgated in 2005. Subpart B
25 requires national forest officials to designate which National Forest System roads, trails, and areas may
26 be used by motorized vehicles. 36 C.F.R. § 212.51(a). The Forest Service must designate ORV trails in a
27 way that minimizes damage to soils, watersheds, and other resources; minimizes disruption of wildlife
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1 and wildlife habitat; and minimizes conflicts with other recreational uses. *Id.* § 212.55(b)(1)-(4). Once
2 designated, roads, trails, and areas “shall be identified on a motor vehicle use map” that specifies “the
3 classes of vehicles and, if appropriate, the times of year for which use is designated.” *Id.* The regulations
4 then restrict travel to designated routes and otherwise prohibit the possession or operation of a motor
5 vehicle on National Forest System lands not in accordance with the designations. *Id.* § 261.13.

6 **FACTUAL BACKGROUND**

7 **A. The Bridgeport Ranger District**

8 35. The Bridgeport Ranger District is one of the ten ranger districts in the Humboldt-Toiyabe
9 National Forest. The Bridgeport Ranger District spans the Nevada-California border south of Lake
10 Tahoe and north of Mono Lake, covering 1.2 million acres of land. The diverse landscape in the District
11 ranges from the high elevation Sierra Nevada mountains in the west to the high desert region in the east.

12 36. The District’s varying ecosystems provide habitat for numerous endangered, threatened,
13 and sensitive wildlife species, species of concern, and management indicator species. The species that
14 may be adversely impacted by the decision include: the federally endangered Sierra Nevada bighorn
15 sheep and threatened Lahontan cutthroat trout; federal candidate species including the sage grouse,
16 Sierra Nevada mountain yellow-legged frog, and Yosemite toad; and other sensitive species including
17 the northern goshawk and American marten. A variety of sensitive, rare, and state-listed endangered
18 plant species can also be found within the Bridgeport Ranger District.

19 37. Due to its striking natural features and native flora and fauna, the District is a popular
20 destination for recreation, particularly for recreationists from population centers in Nevada and
21 California. The majority of individuals who visit the District hike, camp, backpack, kayak, climb,
22 picnic, swim, fish, view wildlife and native vegetation, and otherwise quietly enjoy nature.

23 38. In addition to non-motorized use, the Bridgeport Ranger District is also used for off road
24 vehicle (“ORV”) recreation. ORVs are designed for and capable of cross-country travel over land or
25 other natural terrain. These vehicles include high-clearance jeeps, trucks, motorcycles, and off highway
26 vehicles (“OHVs”), including all-terrain vehicles (“ATVs”) and snowmobiles. Over the past few
27 decades, the availability and capability of ORVs have increased dramatically.

1 39. ORVs have significant, negative impacts on practically every aspect of the natural
2 environment wherever they are used. These impacts include, but are not limited to, temporary and
3 permanent damage to soils and vegetation, disturbance of wildlife and wildlife habitat; degradation of
4 air quality; degradation of water quality from sedimentation, damage to riparian areas; and harm to
5 cultural resources.

6 40. Former Chief of the Forest Service Dale Bosworth described the harm ORVs can cause
7 to forest resources: “Each year, the national forests . . . get hundreds of miles of unauthorized roads and
8 trails due to repeated cross-country use. We’re seeing more and more erosion, water degradation, and
9 habitat destruction. We’re seeing more and more conflicts between users.” Dale Bosworth, “We Need a
10 New National Debate,” Presentation to Izaak Walton League, 81st Annual Convention, July 17, 2003.
11 The Forest Service has identified unmanaged recreation, including ORV use, as one of four “key
12 threats” facing the nation’s forests.

13 41. The Bridgeport Ranger District encompasses hundreds of miles of roads and trails, some
14 of which are available for public motorized use. The “Forest Transportation System” is the official,
15 authorized system of motorized roads and trails (referred to together as “routes”). The Forest
16 Transportation System includes paved roads engineered for passenger cars, ORV trails, and single-track
17 motorcycle trails. Before the Bridgeport Travel Management process, the official Forest Transportation
18 System on the Bridgeport Ranger District contained 1,290 miles of authorized motorized vehicle routes.

19 42. The Bridgeport Ranger District also contains roads and trails that are not part of the
20 official Forest Transportation System. Many of the routes were created by ORV motorists traveling off-
21 route and, after years of unrestricted use, an unauthorized, unofficial system of routes developed. Before
22 the Bridgeport Travel Management process, the Bridgeport Ranger District contained 650 miles of
23 known, unauthorized motorized routes, in addition to the 1,290 authorized motorized routes.

24 43. The Bridgeport Ranger District also contains 45 separate Inventoried Roadless Areas.
25 Inventoried Roadless Areas are largely undeveloped areas exceeding 5,000 acres that typically provide
26 an excellent opportunity for recreation in solitude and expanses of connected wildlife habitat. The
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1 Inventoried Roadless Areas on the Bridgeport Ranger District include both forested areas and open
2 desert ecosystems.

3 **B. The Toiyabe National Forest Plan and the Sierra Nevada Forest Plan Amendment**

4 44. In 1986, the Forest Service adopted the Toiyabe National Forest Plan, which governs all
5 actions taken on the Bridgeport Ranger District. In 2004, the Forest Service adopted the Sierra Nevada
6 Forest Plan Amendment, which amended the forest plans for 11 national forests across the Sierra
7 Nevada mountains, including the Humboldt-Toiyabe National Forest. The Bridgeport Ranger District’s
8 decisions must comply with all requirements in both the Toiyabe National Forest Plan and the Sierra
9 Nevada Forest Plan Amendment.

10 45. Pursuant to these Plans, the Forest Service must maintain, protect, and, in some instances,
11 restore water quality, soil productivity, terrestrial and aquatic wildlife, plant species, habitats, and
12 riparian conditions. For example, the Sierra Nevada Forest Plan Amendment describes management
13 goals and strategies for aquatic and riparian ecosystems. Specifically, all designated riparian
14 conservation areas (“RCAs”) and critical aquatic refuges (“CARs”) on the District must be managed in
15 accordance with certain Riparian Conservation Objectives (“RCO”) and associated standards and
16 guidelines.

17 46. One RCO is to “maintain or restore the geomorphic and biological characteristics of
18 special aquatic features,” including streams and stream flows. The associated standard and guideline
19 requires the Forest Service to “maintain and restore the hydrologic connectivity of streams, meadows,
20 wetlands, and other special aquatic features by identifying roads and trails that intercept, divert, or
21 disrupt natural surface and subsurface water flow paths” and implement “corrective actions where
22 necessary to restore connectivity.” *See* Sierra Nevada Forest Plan Amendment, Standard & Guideline
23 (S&G) #100. The Sierra Nevada Forest Plan Amendment requires the Forest Service to conduct a site-
24 specific analysis to determine whether “proposed management activities” in both RCAs and CARs are
25 consistent with the RCOs. *Id.*, S&G #92.

26 47. The Sierra Nevada Forest Plan Amendment also requires the Forest Service to “mitigate
27 impacts where there is documented evidence of disturbance . . . from existing . . . off highway vehicle
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1 route[s]” to northern goshawk nest sites and marten den sites, and “evaluate proposals for new roads,
2 trails, off-highway vehicle routes, and recreational and other developments for their potential to disturb”
3 nests and dens. *Id.*, S&G #82.

4 48. Further, among other requirements, the Toiyabe National Forest Plan directs the Forest
5 Service to “[m]aintain desirable sagebrush habitat within two miles of [sage grouse] leks” and “[p]rotect
6 critical areas for sage grouse brood rearing.” *See* Toiyabe National Forest Plan, Forest Plan Direction at
7 IV-49.

8 **C. Bridgeport Travel Management Plan Process**

9 49. In July of 2009, the Bridgeport Ranger District issued a Draft EIS for the Bridgeport
10 Travel Management Project. The Forest Service identified that its purpose and need was to designate
11 trails and areas for motor vehicle use, as required by Subpart B of the Travel Management Regulations.
12 The DEIS specifically stated that the “decisionmaker has chosen to limit the purpose and need for this
13 project to” the Subpart B determination, and “[f]uture analyses will consider such actions as changing,
14 adding, closing, or otherwise eliminating routes” through the Subpart A minimum road system analysis.
15 DEIS at 6. The DEIS considered only three alternatives: a no action alternative, the current system
16 alternative, and the proposed action.

17 50. On March 5, 2010, the Forest Service issued its ROD for the Bridgeport Travel
18 Management Project. The Forest Service substantially changed its purpose and need for the project:
19 “[t]he purpose of this project is to implement provisions of the 2005 Travel Management Rule (36 CFR
20 Part 212, *Subpart A and B*).” ROD at 1 (emphasis added). Further, the Acting District Ranger concluded
21 in the ROD: “I have determined that the Proposed Action Alternative also represents the minimum road
22 system,” as required by Subpart A of the Travel Management Regulations. ROD at 4. The FEIS contains
23 no assessment of the environmental impacts of the Subpart A minimum road systems determination, nor
24 any review of reasonable alternatives to its decision.

25 51. The chosen alternative authorizes 220 new miles of motorized routes, adding to the 1,290
26 miles of already authorized motorized routes on the Bridgeport Ranger District. ROD at 4. Of these
27 newly authorized miles, 9 miles are located within 300 feet of perennial streams, with 10 new perennial
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1 stream crossings, and 70 new miles are authorized within 150 feet of intermittent streams, with 231 new
2 crossings.

3 52. Newly authorized routes are also located within key habitat areas, including routes in
4 federally designated critical habitat for endangered Sierra Nevada bighorn sheep, habitat for the
5 federally threatened Lahontan cutthroat trout, and habitat for several federal candidate species including
6 Yosemite toad, Sierra Nevada mountain yellow-legged frog, and sage grouse. In fact, the Forest Service
7 authorized 10.9 new miles of routes in sage grouse nesting habitat and 74 miles in potential foraging and
8 dispersal areas, including three trails that lead directly to or near sage grouse leks. In addition, the Forest
9 Service authorized 7 miles in potential nesting habitat for northern goshawk and 4 miles in marten
10 habitat.

11 53. Further, the ROD authorizes 49 new miles of motorized routes in Inventoried Roadless
12 Areas, including routes that “penetrate deep into” those roadless areas. FEIS at 47, 48; ROD at 6. All of
13 these routes will be designated as “trails open to all motor vehicles” in order “to allow for the wider
14 utility vehicles.” The Forest Service acknowledges that some of the new routes will “have impacts on
15 roadless characteristics or wilderness attributes.” FEIS at 46. The Forest Service also states that the
16 “majority” of routes “are only suitable for high-clearance, short wheel-based vehicles” and cannot be
17 navigated by “passenger cars.” However, the Forest Service does not identify which routes, how many
18 routes, or how many miles of routes *can* be navigated by passenger cars, including four wheel drive
19 trucks, SUVs, and other vehicles associated with roads.

20 CLAIMS FOR RELIEF

21 FIRST CLAIM FOR RELIEF

22 Violations of NFMA, Forest Plans, and the APA

23 54. Plaintiff hereby incorporates by reference the allegations presented in all preceding
24 paragraphs.

25 55. Pursuant to NFMA, all site-specific actions taken within the National Forest must be
26 consistent with applicable forest plans. 16 U.S.C. § 1604(i). The Bridgeport Ranger District’s decisions
27 must comply with both the Toiyabe National Forest Plan and the Sierra Nevada Forest Plan
28 Amendment, including all standards and guidelines associated with those plans.

1 56. Defendants violated NFMA because the Bridgeport Travel Management decision fails to
2 comply with the governing Forest Plans. Among many other requirements, the Sierra Nevada Forest
3 Plan Amendment requires the Forest Service to conduct a site-specific analysis to determine whether its
4 actions in Riparian Conservation Areas (“RCAs”) and Critical Aquatic Refuges (“CARs”) are consistent
5 with standard and guidelines, including requirements to “maintain and restore the hydrologic
6 connectivity of streams.” The Sierra Nevada Forest Plan Amendment also requires the Forest Service to
7 “evaluate proposals for new roads, trails, off-highway vehicle routes, and recreational and other
8 developments for their potential to disturb” goshawk nest sites and marten den sites. Further, the
9 Toiyabe National Forest Plan requires the Forest Service to “[m]aintain desirable sagebrush habitat
10 within two miles of [sage grouse] leks” and “[p]rotect critical areas for sage grouse brood rearing.”

11 57. However, the Forest Service failed to do the site-specific analysis required to ensure
12 project-level compliance with all standards and guidelines. The FEIS fails to evaluate site-specific
13 factors such as orientation, level of traffic, and design of each individual route within relevant riparian
14 areas, despite authorizing 79 new miles within riparian areas. The agency also failed to evaluate the
15 effects of routes in all RCAs, and instead only considers impacts of routes in CARs. Further, the agency
16 failed to identify which routes and how those routes will impact identified goshawk nest sites, marten
17 den sites, or sage grouse leks, as well as other management indicator species and listed, rare, and
18 sensitive species. The Forest Service fails to provide a rational explanation for its conclusion that the
19 route-specific decisions in the ROD are consistent with all Forest Plan requirements.

20 58. Defendants’ adoption of a decision that is inconsistent with the requirements of the
21 Forest Plans governing the Bridgeport Ranger District violates NFMA and is therefore arbitrary,
22 capricious, an abuse of discretion, in excess of statutory authority and limitations, and not in accordance
23 with the law and procedures required by law. 5 U.S.C. § 706(2).

24 **SECOND CLAIM FOR RELIEF**
25 **Violations of the Roadless Rule and the APA**

26 59. Plaintiff hereby incorporates by reference the allegations presented in all preceding
27 paragraphs.
28

1 60. The 2001 Roadless Rule prohibits the construction of “roads” within Inventoried
2 Roadless Areas. 36 C.F.R. § 294.12(a). While motorized trail construction is allowed, all trails must be
3 “managed as trails pursuant to . . . agency direction,” as provided in the 2001 Forest Service Manual.
4 The Manual defined a trail as “a pathway for travel by foot, stock, or trail vehicles,” and a trail vehicle is
5 a vehicle “designed for trail use, such as bicycles, snowmobiles, trail bikes, trail scooters, and all terrain
6 vehicles (ATV).” FSM 2353.05 (2001).

7 61. Defendants’ Bridgeport Travel Management ROD authorizes 49 new miles of motorized
8 routes in Inventoried Roadless Areas, including routes that Defendants admit will “have impacts on
9 roadless characteristics or wilderness attributes.” Each of these routes will be designated as “trails open
10 to all motor vehicles,” regardless of the size of vehicle, including passenger cars and full size vehicles.

11 62. By designating routes in Inventoried Roadless Areas that are accessible to all vehicles,
12 Defendants are constructing roads in violation of the Roadless Rule. 36 C.F.R. § 294.12(a). Further, the
13 Forest Service fails to acknowledge or explain its failure to comply with internal guidance prohibiting
14 the designation of “trails open to all motor vehicles” in Inventoried Roadless Areas.

15 63. The Forest Service’s adoption of a ROD that is inconsistent with the requirements of the
16 Roadless Rule is therefore arbitrary, capricious, an abuse of discretion, in excess of statutory authority
17 and limitations, and not in accordance with the law and procedures required by law. 5 U.S.C. § 706(2).

18 **THIRD CLAIM FOR RELIEF**

19 **Violations of Travel Management Regulations, Executive Orders, and the APA**

20 64. Plaintiff hereby incorporates by reference the allegations presented in all preceding
21 paragraphs.

22 65. The Travel Management Regulations require the Forest Service to: (1) conduct a science-
23 based process for identifying a minimum system of roads and unneeded roads for decommissioning that
24 involves citizen participation; and (2) designate motor vehicle trails in a way that “minimize[s]” damage
25 to water, soil, and wildlife, as well as conflicts between motorized and non-motorized users. 36 C.F.R.
26 §§ 212.55(b); 212.5(b)(1); Executive Order 11644, as amended by Executive Order 11989. The Forest
27 Service violated the Travel Management Regulations and Executive Orders in adopting the Bridgeport
28 Travel Management ROD and FEIS.

1 66. First, Defendants failed to conduct a science-based process for identifying a minimum
2 system of roads and for identifying unneeded roads for decommissioning. 36 C.F.R. § 212.5(b)(1). The
3 Forest Service concludes in its FEIS, without analysis or public participation, that its proposed action –
4 maintaining 1,290 miles of vehicle routes and adding 220 new routes – is the “minimum road system”
5 on the Bridgeport Ranger District. The agency fails to provide any explanation for its conclusion that a
6 1,510 mile system is the minimum needed to meet land and resource management plan objectives,
7 statutory or regulatory requirements, funding expectations, or explain how the chosen system minimizes
8 adverse environmental impacts. *Id.* Nor does the agency “identify the roads . . . that are no longer
9 needed to meet forest resource management objectives” and should be decommissioned. *Id.* §
10 212.5(b)(2).

11 67. Second, the Forest Service failed to “minimize” damage to forest resources, wildlife, and
12 wildlife habitat. EO 11644, as amended by EO 11989; 36 C.F.R. § 212.55(b). The agency must
13 designate trails that “minimize damage to soil, watershed, [and] vegetation,” “minimize harassment of
14 wildlife of significant disruption of wildlife habitats,” and “minimize conflicts between off-road vehicle
15 use and other existing or proposed recreational use.” *Id.*

16 68. The agency acknowledges generally that newly authorized routes will degrade water,
17 soil, roadless area values, and wildlife habitat, including but not limited to nesting and brooding areas
18 for northern goshawk and sage grouse, habitat for marten, essential aquatic areas for Yosemite toad and
19 various macroinvertebrates, and designated critical habitat for endangered Sierra Nevada bighorn sheep.
20 However, the FEIS fails to analyze and minimize site-specific impacts on, *inter alia*, (1) stream
21 sedimentation and connectivity from the slope, orientation of the route, soil texture, level of traffic, and
22 design of individual routes; and (2) habitat, including occupied nesting and denning sites, from the
23 location, proximity, and number of individual routes in that habitat. Moreover, the agency failed to
24 address and minimize conflicts with other forest users in specific inventoried roadless areas from routes
25 that will be accessible by all motorized vehicles.

26 69. Because the Forest Service failed to evaluate the site-specific impacts of individual routes
27 authorized, the agency could not and did not comply with its administrative mandate to designate routes
28

1 that “minimize” damage to soil, water, wildlife, and wildlife habitat, as well as user conflicts. EO 11644,
2 as amended by EO 11989; 36 C.F.R. § 212.55(b). Without evaluating site-specific impacts, the Forest
3 Service cannot consider possible site-specific mitigation measures, including moving routes, closing
4 routes, eliminating stream crossings, constructing culverts, requiring seasonal closures, or otherwise
5 mitigating impacts on a route-by-route basis.

6 70. Further, the agency failed to provide a rational explanation for its conclusion that the
7 Bridgeport Travel Management Project decision “minimizes” damage to soil, water, wildlife, and
8 wildlife habitat, as well as user conflicts. *Id.*

9 71. The Forest Service’s approval of the ROD is inconsistent with the Travel Management
10 Regulations and Executive Orders and is therefore arbitrary, capricious, an abuse of discretion, in excess
11 of statutory authority and limitations, and not in accordance with the law and procedures required by
12 law. 5 U.S.C. § 706(2).

13 **FOURTH CLAIM FOR RELIEF**
14 **Violations of NEPA and the APA:**
15 **Failure to Evaluate the Minimum Road System Determination**

16 72. Plaintiff hereby incorporates by reference the allegations presented in all preceding
17 paragraphs.

18 73. NEPA requires “responsible [federal] officials” to prepare an EIS on all “major Federal
19 actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C)(i). An
20 EIS must provide a description of the purpose and need for the action and a “rigorous[] explor[ation]”
21 of all reasonable alternatives; “succinctly describe the environment of the area(s) to be affected by the
22 alternatives under consideration;” and present a “full and fair discussion of significant environmental
23 impacts.” 40 C.F.R. § 1502.1. Further, an agency must invite public participation on the development
24 of its EIS. *Id.* § 1501.7(a)(1).

25 74. Subpart A of the Travel Management Planning regulations requires the Forest Service to
26 identify the minimum road system needed for management of the Bridgeport Ranger District. 36 C.F.R.
27 § 212.5(b). The Forest Service must also “identify the roads . . . that are no longer needed to meet forest
28 resource management objectives and that, therefore, should be decommissioned or considered for other

1 uses, such as for trails.” *Id.* § 212.5(b)(2). Subpart B of the Travel Management Planning regulations
2 requires the agency to designate which roads, trails, and areas may be used by motorized vehicles. *Id.* §
3 212.51(a).

4 75. In its ROD for the Bridgeport Travel Management Project, the Forest Service implements
5 both its Subpart A and Subpart B determinations. ROD at 4. The agency’s implementation of minimum
6 road system determination constitutes a major Federal action affecting the human environment and must
7 be analyzed pursuant to NEPA. Yet Defendants entirely fail to evaluate the environmental consequences
8 of its decision to maintain 1,290 miles of routes, including the 145 miles of routes that occur within 300
9 feet of perennial streams, 431 miles within 150 feet of intermittent streams, 182 perennial stream
10 crossings, 1593 intermittent stream crossings, as well as routes that currently disturb key terrestrial
11 wildlife habitats, in any NEPA document. Defendants fail to evaluate alternatives to the minimum road
12 system determination, including closing currently authorized routes.

13 76. Defendants’ failure to comply with NEPA in implementing its minimum road system
14 determination is therefore arbitrary, capricious, an abuse of discretion, in excess of statutory authority
15 and limitations, and not in accordance with the law and procedures required by law. 5 U.S.C. § 706(2).

16 **FIFTH CLAIM FOR RELIEF**

17 **Violation of NEPA and the APA:**

18 **Failure to Adequately Consider Site-Specific Direct and Indirect Effects**

19 77. Plaintiff hereby incorporates by reference the allegations presented in all preceding
20 paragraphs.

21 78. NEPA’s implementing regulations require an agency’s EIS to analyze both the “direct
22 effects, which are caused by the action and occur at the same time and place,” and the “indirect effects,
23 which are caused by the action and are later in time or farther removed in distance.” 40 C.F.R. §
24 1508.8(a), (b).

25 79. The Forest Service has violated NEPA, and the ROD and FEIS for Bridgeport Travel
26 Management Project are invalid, because the agency failed to rationally and adequately assess all of the
27 environmental consequences of the action, including impacts to water, soil, wildlife, and roadless area
28 resources.

1 80. The designation of any road, trail, or area for motorized vehicle use is a project level
2 decision that requires site-specific analysis under NEPA. However, the Forest Service failed to fully
3 analyze the site-specific impacts of each route authorized in its EIS. The FEIS fails to analyze site-
4 specific impacts on, *inter alia*, stream sedimentation and connectivity from the slope, orientation of the
5 route, soil texture, level of traffic, and design of individual routes; habitat, including occupied nesting
6 and denning sites, from the location, proximity, and number of individual routes in that habitat; and
7 roadless values from designation of routes that will be accessible by all motorized vehicles in roadless
8 areas. Failure to disclose this site-specific information and analyze the impacts on resources is a
9 violation of NEPA.

10 81. Defendants’ failure to properly analyze the direct and indirect effects of its action is
11 therefore arbitrary, capricious, an abuse of discretion, in excess of statutory authority and limitations,
12 and not in accordance with the law and procedures required by law. 5 U.S.C. § 706(2).

13 **SIXTH CLAIM FOR RELIEF**
14 **Violations of NEPA and the APA:**
15 **Failure to Consider a Reasonable Range of Alternatives**

16 82. Plaintiff hereby incorporates by reference the allegations presented in all preceding
17 paragraphs.

18 83. Pursuant to NEPA, the Forest Service must “[r]igorously explore and objectively
19 evaluate all reasonable alternatives” to a proposed action including a “no action” alternative. 40 C.F.R. §
20 1502.14(a), (d); 42 U.S.C. §§ 4332(2)(C)(iii), 4332(E).

21 84. The Forest Service violated NEPA and NEPA’s implementing regulations because it
22 failed to consider a reasonable range of alternatives. The range of alternatives analyzed is unduly
23 narrow, and all alternatives provide high levels of vehicle access across the District. Defendants failed to
24 include an alternative that would provide additional environmental protections and minimize the harm
25 caused by ORV use, and did not consider any alternatives that would close and decommission any
26 previously authorized routes. The agency also rejected consideration of the more environmentally
27 protective alternative proposed by Plaintiff that would have closed some system and user created routes,
28

1 including routes that cross key wildlife habitat, terminate at the entrance to roadless areas, or are
2 redundant.

3 85. Defendants' failure to properly consider a range of alternatives within the NEPA process
4 is therefore arbitrary, capricious, an abuse of discretion, in excess of statutory authority and limitations,
5 and not in accordance with the law and procedures required by law. 5 U.S.C. § 706(2).

6 **SEVENTH CLAIM FOR RELIEF**
7 **Violation of NEPA and the APA:**
8 **Failure to Demonstrate Compliance with Executive Orders, Travel Plan**
9 **Regulations, and Forest Plan**

10 86. Plaintiff hereby incorporates by reference the allegations presented in all preceding
11 paragraphs.

12 87. NEPA requires that an agency's EIS evaluate and describe how the action will comply
13 with other laws, including NFMA, Executive Orders, and the Travel Management Regulations. *See* 40
14 C.F.R. §§ 1502.2(d), 1502.25(a); 1508.27(b).

15 88. Pursuant to NFMA, site-specific actions taken within the Bridgeport Ranger District must
16 be consistent with the applicable Forest Plan. *Id.* § 1604(i). This includes compliance with all resource
17 requirements and standards and guidelines.

18 89. Defendants' FEIS and ROD fail to demonstrate that the 220 miles of newly-authorized
19 motorized routes across the Bridgeport Ranger District comply with all applicable Forest Plan
20 requirements, including all applicable riparian and wildlife standards and guidelines in the Sierra
21 Nevada Forest Plan Amendment and the Toiyabe National Forest Plan.

22 90. Further, Executive Order 11644, as amended, and the Travel Management Regulations
23 require the Forest Service to designate ORV routes in a way that minimizes damage to soils, watersheds,
24 and other resources; minimizes disruption of wildlife and their habitat; and minimizes conflicts with
25 other recreational uses. E.O. 11644 § 3; 36 C.F.R. § 212.55(b)(1)-(4).

26 91. Defendants' FEIS and ROD fail to demonstrate that the 220 miles of newly-authorized
27 motorized routes across the Bridgeport Ranger District will minimize damage to soils, watersheds,
28 disruption of wildlife and habitat, or conflicts with other recreational uses.

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Respectfully submitted,

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