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Attorneys for Defendants

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

ALLIANCE FOR THE WILD)	
ROCKIES,)	
)	
Plaintiff,)	
)	
v.)	
)	Civ. No. 4:07-cv-452 - EJL
WILLIAM A . WOOD, in his official)	
capacity as Forest Supervisor for the)	
Salmon-Challis National Forest; JACK)	
TROYER, Regional Forester of Region)	SETTLEMENT AGREEMENT
Four of the United States Forest Service;)	
ABIGAIL KIMBELL, in her official)	
capacity as Chief of the United States)	
Forest Service; and the UNITED)	
STATES FOREST SERVICE, an agency)	
of the United States Department of)	
Agriculture,)	
)	
Defendants.)	

COME NOW Plaintiff Alliance for the Wild Rockies and Defendants, William A. Wood, in his official capacity as Forest Supervisor for the Salmon-Challis National Forest; Jack Troyer, Regional Forester of Region Four of the United States Forest Service; Abigail Kimbell, in her official capacity as Chief of the United States Forest Service; and the United States Forest Service, an agency of the United States Department of Agriculture (collectively, “the Parties”), by and through their undersigned attorneys, who hereby enter into the following Settlement Agreement (“Agreement”), which constitutes a full, complete, and final settlement of all issues in or related to Case No. 4:07-cv-452-EJL, filed in the U.S. District Court for the District of Idaho:

WHEREAS, Plaintiff Alliance for the Wild Rockies filed a complaint in this case on or about October 22, 2007, challenging the final decision issued by the United States Forest Service, Salmon-Challis National Forest that authorized the Salmon Interface/Moose Creek Fuels Reduction Project (“Project”), and alleging violations of the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, and the National Forest Management Act, 16 § 1600 *et seq.*;

WHEREAS, this Court issued a preliminary injunction against implementation of the Project on May 21, 2008;

WHEREAS, the Parties believe that it is in the interests of judicial economy to avoid further litigation of this matter and to avoid diverting Agency resources;

THEREFORE, in the interests of the public, the Parties, and judicial economy, the Parties hereby agree to the following:

1. Defendants will not proceed with the activities authorized in the Salmon Interface/Moose Creek Fuels Management Project decision except for the following actions:

- a. All units other than Units 9 and 10 of the Wallace Timber Sale.
- b. The personal use post and pole sales.
- c. The travel management activities.

2. Beginning January 1, 2009, and until such time as the Salmon National Forest completes an amendment or revision of its Land and Resource Management Plan (“Forest Plan”), Defendants agree to do the following in all future commercial timber harvest projects on the Salmon National Forest:

- a. Evaluate and inventory designated old growth stands within a project area for old growth characteristics using the Hamilton definition (Hamilton, Characteristics of Old Growth, Vol. 3; SM15197).
- b. Evaluate and inventory all proposed harvest units within a project area for old growth characteristics using the Hamilton definition (Hamilton, Characteristics of Old Growth, Vol. 3; SM15197).
- c. If necessary, substitute old growth stands within a project area to ensure that all designated old growth stands meet the Hamilton definition and the Forest Plan minimum size of 80 acres.
- d. Refrain from commercially harvesting any timber stands on the Salmon National Forest that meet the Hamilton definition and are 80 acres or larger in size.

3. Until such time as the Salmon National Forest completes an amendment or revision of its Forest Plan, Defendants agree to prepare a Biological Evaluation on a project-by-project basis when sensitive species are known or expected to be in the project area, or when such species are potentially affected by the project, as provided by Forest Service Manual § 2672.42. Defendants agree to conduct surveys and follow-up surveys of sensitive species in the Salmon National Forest on a project-by-project basis when the Forest Service biologist deems it is warranted.

4. Until such time as the Salmon National Forest completes an amendment or revision of its Forest Plan, Defendants agree to apply the Detrimental Soil Disturbance Guidelines for Region 4 of the National Forest system to projects on the Salmon National

Forest. See Forest Service Handbook, Region 4 Supplement § 2509.18, Ch. 2 (effective January 21, 2003) (SM 11410).

5. Defendants agree to pay Plaintiff's attorneys' fees and costs in the lump sum total of twenty-three thousand dollars (\$23,000.00) in full and complete satisfaction of any and all claims, demands, rights, and causes of action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and/or any other statute and/or common law theory, for all attorneys' fees and costs incurred by Plaintiff in this litigation.

6. Defendants agree to submit all necessary paperwork for the payment of attorneys' fees and costs to the appropriate office within thirty (30) business days after this Agreement is filed with the U.S. District Court for the District of Idaho and after receiving all information from Plaintiff necessary for preparing this paperwork.

7. Plaintiff agrees that receipt of this payment from Defendants shall operate as a release of any and all claims for attorneys' fees and costs that Plaintiff could have pursued in this matter relating to the litigation or settlement.

8. Defendants' payment, as identified in Paragraph 5 above, shall be accomplished by Defendants making an electronic payment in the settlement amount of \$23,000.00 to Plaintiff Alliance for the Wild Rockies in accordance with information that has been provided to Defendants. Plaintiff agrees to send confirmation of the receipt of the payment within 14 days of such payment.

9. Plaintiff and Plaintiffs' undersigned counsel agree to hold harmless Defendants in any litigation, further suit, or claim arising from the deposit of the agreed-upon \$23,000.00 settlement amount to Plaintiff through the means identified in Paragraph 8 above.

10. Upon the filing of this executed Settlement Agreement, the parties will file a stipulation to dismiss with prejudice the above-captioned proceeding, Case No. 4:07-cv-452-EJL, filed in the U.S. District Court for the District of Idaho.

11. This Agreement includes and embodies the entire terms and conditions of the agreement between the parties.

12. The terms of this Agreement shall apply exclusively to the Salmon National Forest. The terms have no direct or implied effect on the management of any other National Forest.

13. This Agreement does not represent an admission by any Party to any fact, claim, or defense on any issue in the lawsuit referenced in the preamble to this Agreement.

14. This Agreement has no precedential value and shall not be used as evidence of such in any litigation. The Parties agree not to cite to or refer to this Agreement as legal precedent in any other litigation or administrative proceeding other than the one referenced in the preamble to this Agreement, and further agree not to cite to or refer to this Agreement except as necessary to enforce the terms of this Agreement. The Parties' acceptance of the Agreement's terms is not intended to affect or bind their position in any other settlement.

15. Nothing in this Agreement shall be interpreted as, or shall constitute, a commitment or requirement that the Defendants obligate, commit, or expend funds not appropriated by Congress, or take any other action in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable law or regulation.

16. Nothing in this Agreement shall be construed to limit or deny the power of the federal government to promulgate or amend regulations.

17. The undersigned representatives of each party certify that they are fully authorized by the party or parties they represent to agree to the above terms and conditions of this Agreement and legally to bind the Parties to it.

DATED this 31st day of December, 2008.

/s/ Thomas J. Woodbury
THOMAS J. WOODBURY
FOREST DEFENSE, PC
P.O. Box 7681
Missoula, MT 59807
Ph: (406) 728-5631

On behalf of Plaintiff, Alliance for the Wild
Rockies

DATED this 31st day of December, 2008.

RONALD J. TENPAS
Assistant Attorney General

/s/ Beverly F. Li
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On behalf of Defendants