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Magistrate Judge Smacks Down Enviros' Arguments on Collaboration

Portland, Ore. – Yesterday, Magistrate Judge Sullivan offered a strong rebuke of a dubious legal challenge to an important public safety project on the Wallowa-Whitman National Forest in Northeast Oregon.

Judge Sullivan called out the plaintiffs' – Greater Hells Canyon Council and Oregon Wild – repeated failure to work collaboratively and in good faith on the Lostine Corridor Public Safety Project, stating, “instead of participating, plaintiffs [would] often object to how the Project was being developed, *rather than providing meaningful, substantive input.*”

The Lostine Corridor provides access into the Eagle Cap Wilderness in Wallowa County. It not only provides important scenic, fishery, and wildlife values, but is also home to historic and recreational values including a Civilian Conservation Corps-era guard station, seven campgrounds, and three developed trailheads. The corridor is interspersed with family homes, small residential developments, and private lands.

Residents, visitors, and emergency services agencies who operate in the area have expressed serious concerns about downed hazard trees along the roads, trails, and campgrounds. Declining forest health, heavy fuel loads, and the risk of catastrophic fire threaten the many values of the Lostine Corridor.

In response, the Forest Service worked with stakeholders on a project to remove hazard and danger trees that pose a risk to the public; to create defensible space around residential and historical areas; to reduce fuel loads and the risk of high intensity fires; and to thin dense forest stands to improve forest resiliency to insects, disease, and wildfire.

Instead of working with the Forest Service and residents to implement this critical public safety project, Greater Hells Canyon Council and Oregon Wild decided to sue, turning to their websites and social media to spread misleading information about the Lostine Corridor Public Safety Project. In one post, Oregon Wild attacked the Forest Service claiming the agency “broke the law,” deliberately “chose to cut most of the public out of the process and sidestep mandated environmental analysis” and that Lostine could be “irreversibly damaged by commercial logging and road building.” One of the plaintiffs also produced a YouTube video of the project including footage of forests not even in the Wallowa-Whitman National Forest or Northeast Oregon, apparently hoping no one would notice.

“It’s encouraging to see a Magistrate Judge sift through the hyperbole, stale talking points, and misinformation to see what’s really going on here: the ‘my way or the courtroom’ strategy that

has dominated forest policy in Oregon for two decades,” said AFRC President Travis Joseph. “It’s getting old. Oregonians want to see people working together to improve our forests and protect communities – not in an endless cycle of litigation that helps no one, except maybe lawyers, and does nothing for the forest.”

Magistrate Judge Sullivan also didn’t buy the plaintiffs’ arguments about the lack of collaboration. Judge Sullivan noted that plaintiffs repeatedly insisted that a “formal collaborative group” was required for project development, “even though there is no legal authority for such requirement.” “Contrary to plaintiffs’ arguments, this does not require a structured nonexclusive working group from initial design stage nor the widespread dissemination of every piece of information on Project design and impacts at every stage of the development process.” Magistrate Judge Sullivan highlighted how the Forest Service did in fact collaborate with plaintiffs and how they seek “to impose a more demanding definition for, and requirements of, a collaborative process.”

“Ideally, this decision would allow the Forest Service and its partners to move forward on the project to protect public safety and this incredible place so many people love. Unfortunately, this isn’t the end of the long legal process,” said Sara Ghafouri, AFRC staff attorney, who filed an *amicus* brief on behalf of AFRC. “We expect the plaintiffs will object to Judge Sullivan’s Findings and Recommendation and take their chances with Judge Simon.”

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About the American Forest Resource Council

AFRC is a regional trade association whose purpose is to advocate for sustained yield timber harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. AFRC does this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. It works to improve federal and state laws, regulations, policies and decisions regarding access to and management of public forest lands and protection of all forest lands. The goal of AFRC’s programs and initiatives is to advance its members’ ability to practice socially and scientifically responsible forestry on both public and private forest lands.