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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO  
SOUTHERN DIVISION

ALLIANCE FOR THE WILD ROCKIES, *et al.*,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE, *et al.*,

Defendants,

ADAMS COUNTY, a political subdivision of  
the State of Idaho, and PAYETTE FOREST  
COALITION, an unincorporated Idaho  
association,

Proposed Defendant-Intervenors.

No. 1:19-cv-00445-BLW

**DECLARATION OF RICK THOLEN**

I, Rick Tholen, declare as follows:

1. I make this declaration based on my personal knowledge. I am over the age of 18, and if called as a witness, could and would competently testify as follows.

2. I have been involved in forest management in Idaho for over 40 years. I am a member of the Society of American Foresters. I hold a B.S. degree in forest management from Humboldt State University (1976) and an M.S. in forest management from the University of Idaho (1999). I worked as a forester for the Bureau of Land Management through 2009. Since 2009, I have operated Granite Mountain Environmental Services, LLC, a forestry and wildfire consulting company specializing in community forest management planning, including wildfire protection, forest insect and disease control, invasive species control and eradication, and wildlife habitat improvements.

3. I am one of the members of the Payette Forest Coalition (PFC or Coalition) and was a member of Coalition's Steering Team when the Coalition provided recommendations to the Payette National Forest regarding the Lost Creek Boulder Creek project in 2013. A summary of the Coalition's governance structure is attached as Exhibit A to this Declaration. Currently, members of the Steering Team are Lin Davis, Larry Laxson, John Robison, Frank Schwartz, Michael Gibson, and John Lewinski.

4. True and correct copies of the following documents are attached as Exhibits to this Declaration:

<u>Exhibit</u>	<u>Date</u>	<u>Description/Title</u>
A	June 26, 2012	Payette Forest Coalition Organizational Structure

<b><u>Exhibit</u></b>	<b><u>Date</u></b>	<b><u>Description/Title</u></b>
B	January 25, 2013	Payette Forest Coalition Recommendations: Lost Creek-Boulder Creek Restoration Project
C	March 26, 2013	Payette Forest Coalition Scoping Comments re Lost Creek- Boulder Creek Landscape Restoration Project
D	December 15, 2013	PFC Comments on Draft Environmental Impact Statement for Lost Creek-Boulder Creek Landscape Restoration Project
E	April 22, 2014	Letter from Payette Forest Coalition to Keith Lannom, Forest Supervisor, in support of Selected Alternative
F	August 18, 2013/ January 22, 2014/ September 5, 2014/ September 6, 2015	Monitoring Chart, Lost Creek-Boulder Creek Project
G	December 15, 2014	Letter to Idaho Department of Parks & Recreation in support of grant application by Payette National Forest
H	January 12, 2016	Letter from Idaho Department of Fish & Game (IDFG) to Keith Lannom, Forest Supervisor, reaffirming IDFG support for Lost Creek/Boulder Creek project
I	July 29, 2019	Supportive objection letter submitted during draft ROD comment period.
J	March 5, 2019	US News and World Report, <a href="https://www.usnews.com/news/best-states/california/articles/2019-03-05/california-fire-officials-want-more-logging-after-wildfires">https://www.usnews.com/news/best-states/california/articles/2019-03-05/california-fire-officials-want-more-logging-after-wildfires</a>
K	November 8, 2018	Controlled burns helped contain spread of Mesa Fire, Max Silverson, Star News

5. The Payette Forest Coalition is a collaborative group representing a broad array of interests who all seek to reach consensus on natural resource issues. The Coalition was formed in 2009 in response to the concerns shared by many southwest Idaho residents about the lack of

forest restoration and responsible economic development opportunities on the Payette National Forest.

6. The Rocky Mountain Elk Foundation and the Woody Biomass Utilization Partnership convened the first meeting of the PFC in June 2009. The group represents a range of interests in the Payette National Forest. A common bond is the recognition that current forest conditions depart from historic conditions and from those desired. The PFC recognizes that collaboratively-developed projects can reduce conflict over public land management while leading to better results on the ground. Landscape-scale restoration can transition the forest closer to desired conditions and address five goals of the Coalition's diverse interests: fish and wildlife habitat, uncharacteristic wildfire, watershed health, access and recreation, and economic stability of adjacent communities.

7. The Coalition supports management projects that promote forest health, improve habitat for terrestrial and aquatic species, improve water quality and watershed health, promote economic vitality for local communities, recreational opportunities, public safety, and provide certainty for the Coalition's timber partners. Interests represented by the Coalition include conservation groups, forest recreation advocates, the timber industry, local and community businesses, local government, and state government. The attorneys representing the Coalition in this case have been provided to the Coalition as part of the commitment by Adams County and the timber industry to successful collaboration and to advocating for the interests of all Coalition stakeholders, not just the interests of the County or industry.

8. The current voting membership of the Coalition is as follows (\* denotes Steering Committee members):

<u>Name</u>	<u>Affiliation</u>
Mike Paradis	Adams County
Ron C. Hamilton	Adams County Natural Resources Committee
Wendy Green	Adams Soil & Water Conservation District
Becky Johnstone	Backcountry Recreation Club, Idaho Recreation Council
Rachel Vandenburg	Woodgrain Millwork
Arlan Turnbull	CBPS (Cuprum)
Linden Davis*	Circle C Ranches
Ryan Kerby	Citizen
Jim Wassmuth	Evergreen Forest Products
Gloria Pippin	Heartland Back Country Horsemen
John Robison*	Idaho Conservation League
Mac Lefebvre	Idaho Forest Group
Rick Tholen	Society of American Foresters
Michael Gibson*	Trout Unlimited
John Lewinski*	Citizen at Large
John Anderson	Meadows Valley Resident
Sean Gould	Unaffiliated
Sandra F. Mitchell	Idaho Recreation Council/Idaho State Snowmobile Association
Charles Caruso	Bacon Valley Ditch Company
Larry Laxson*	Valley County
Larry Brockman	McCall & Donnelly Snowmobile Clubs

<u>Name</u>	<u>Affiliation</u>
Frank Schwartz*	Weiser River Cattle Association
Olin Balch	Citizen
Garret Visser	Idaho Wildlife Federation
Austin Terrell	Idaho State Department of Agriculture
Karen Balch	Citizen

9. During the PFC's initial work on the Lost Creek-Boulder Creek Project prior to 2016, the following voting member was also involved and approved the PFC's support of the project. This member is reflected at page 7 of Exhibit D.

<u>Name</u>	<u>Affiliation</u>
Jeff Rohlman	Idaho Fish and Game

10. The Wilderness Society (TWS) is not currently a member of the PFC. However, at the time the project was first developed, TWS was a member and its representative, John McCarthy, was a member of PFC's steering committee. Mr. McCarthy retired at the end of January 2013, shortly after the PFC's recommendations for the Lost Creek -Boulder Creek project were submitted to the Forest Service. TWS played a significant role in shaping the Coalition's recommendations.

11. Idaho Department of Fish and Game (IDFG) was a voting member of PFC during the first round of litigation. Idaho State Department of Agriculture (ISDA) joined the PFC in November 2019. Neither organization is able to participate in this action because of restrictions on how they may be represented in court. Idaho Code § 67-1406. The representation of PFC by

attorneys from the American Forest Resource Council and Adams County did not, and currently does not, extend to IDFG or ISDA. However, IDFG voted to approve the project and provided a letter of support to PFC's position. Ex. H.

12. PFC's involvement in the Lost Creek-Boulder Creek Project began in the very early planning stages. In early 2013, before scoping began, the PFC submitted a set of recommendations to the district ranger for project design. Exhibit B. These recommendations emphasized the need to restore ecosystem functions and structures. *Id.* at 4. The recommendations were based on the PFC's five goals of Wildlife, Wildfire, Watershed Health, Forest Access & Recreation, and Restoration Economics. *Id.* at 5. The PFC made specific vegetation treatment recommendations with the objective of producing larger blocks of stands with the historically stable composition and structure found in the forest before wildfire suppression significantly altered those conditions. *Id.* at 12. As a result, the highest priority for vegetation treatment was to retain large tree size stands, which are suited for a regime of regular and less severe wildfire. *Id.* at 13. The PFC recommended that the Forest Service not propose any mechanized harvest in either Inventoried Roadless Areas or Research Natural Areas. *Id.* at 15. The PFC recommended that the Forest Service give the highest watershed restoration priority to Boulder Creek and recommended that the project include a regime to restore Boulder Creek to its proper function. *Id.* at 20. With regard to recreation, the PFC recommended significant work on the Lost Valley Reservoir camping area to improve recreational opportunities and mitigate recreational impacts in the area. *Id.* at 21.

13. These recommendations had an impact. In March 2013, the PFC wrote to the Forest Service to confirm that the proposed action was consistent with the PFC's earlier

recommendations. Ex. C at 1. The scoping comments addressed three issues reflecting the varied perspectives of PFC members: (1) whether the project was of sufficient scale to produce the desired benefits; (2) whether post-treatment landscapes would have sufficient habitat blocks; and (3) whether the project as proposed was economically viable. *Id.* at 1, 4.

14. Late in 2013, the PFC commented on the Forest Service’s Draft Environmental Impact Statement (DEIS) for the project. Ex. D. The PFC recommended some enhancements to the Forest Service’s preferred alternative. *Id.* at 1. Specifically, the PFC: reiterated the high priority of treatments retaining or enhancing large trees, *id.* at 1-2; proposed more thinning of large-tree stands, *id.* at 1; recommended measures for conservation of elk and Northern Idaho Ground Squirrel, *id.* at 2; recommended additional watershed restoration, *id.* at 2-3; requested confirmation of watershed condition indicators, *id.* at 3-4; and submitted guidelines regarding road improvement and/or decommissioning, *id.* at 4-6. The DEIS comment letter specifically reiterated the PFC’s earlier recommendation that restoration work in the Boulder Creek watershed be given highest priority. *Id.* at 3. The PFC stated that it supported road decommissioning actions and stream crossing removals in Boulder Creek and requested that the Line Officer consider additional road decommissioning in the Boulder Creek watershed. *Id.*

15. As reflected in the comment letter, the following voting members of the PFC approved the 2013 DEIS comment letter:

<u>Name</u>	<u>Affiliation</u>
Rick Tholen	Society of American Foresters
Mac Lefebvre	Idaho Forest Group
John McCarthy	The Wilderness Society



<u>Name</u>	<u>Affiliation</u>
Wendy Green	Adams Soil & Water Conservation District
John Robison	Idaho Conservation League
Mike Paradis	Adams County
Becky Johnstone	Backcountry Recreation Club, Idaho Recreation Council
Rachel Vandenburg	Boise Cascade Wood Products
Ron Hamilton	Adams County Natural Resources Committee
Jeff Rohlman	Idaho Department of Fish and Game
Jim Wassmuth	Evergreen Forest Products

Ex. D at 7.

16. Throughout the planning process, the PFC participated in numerous meetings and field visits with Forest Service staff to work through unresolved planning and resource management issues. The Coalition participated in three Forest Service field trips to the project area, which allowed Coalition members from all of the interests represented by the Coalition to learn about the project area first-hand. Individual members of the Coalition also made numerous trips to the project area in order to observe forest conditions and report back to the Coalition's other members so that all decisions could be based on accurate information and tailored to the specific needs of the area.

17. As a result of the PFC's comments, the Forest Service added additional watershed and fish passage improvements. The Record of Decision (ROD) authorized decommissioning of 68 miles of system roads, treating 117 miles of unauthorized roads, and improving fish passage at 36 sites. ROD, page 4. Waterways supporting Snake River chinook

and steelhead and Columbia River bull trout were prioritized for treatments. For example, the Forest Service proposed to decommission 33 miles of roads in the Boulder Creek watershed and improve fish passage at 16 locations along Boulder Creek, which has the potential for positive impact on these three threatened fish species. Final EIS, pages 53, 223-226. These changes would open up several miles of previously unavailable anadromous fish habitat in Boulder Creek.

18. By working closely with the Forest Service throughout the planning process for the Lost Creek-Boulder Creek Project, the Coalition was ultimately able to reach consensus and give the project its full support. The Forest Service's selected alternative sufficiently addressed the issues raised by the PFC in its comment letter. Ex. E at 1. As a result, the PFC members reached consensus that the Forest Service's decision met the five PFC goals. *Id.* The PFC is proud to have played a key role in working toward a project that will achieve goals important to many of its stakeholders, including restoration of Boulder Creek and economic benefit to local communities.

19. After the first Record of Decision, the PFC remained involved in implementation and monitoring of the Lost Creek-Boulder Creek Project. The Coalition developed a Mission, Strategy, and Goals Document which identifies the Coalition goals met by this project, and which gives key measures and indicators whether those goals are being met. Ex. F. In order to facilitate the recreation improvements included in the project the Coalition wrote to the Idaho Department of Parks and Recreation in support of the Payette National Forest's funding grant application. Ex. G.

20. In addition to the PFC's comments, several Coalition members, including Adams

County, Idaho Department of Fish and Game, Boise Cascade, Evergreen Forest Products, Idaho Conservation League, as well as affiliated individuals, submitted detailed comments during the NEPA planning and public participation phases. Final EIS, Vol. 2, App. A, at 5-6.

21. One of the greatest achievements of the PFC has been its ability to find common ground among the diverse interests of its members on the project, including on topics which initially divided members. For example, the ultimate Coalition recommendations supported an alternative that was a middle ground on harvest levels, and which included habitat restoration measures to benefit elk, Northern Idaho Ground Squirrel, and White-headed Woodpecker. Despite some internal and external differences of opinion, the collaborative spirit of the PFC ultimately prevailed. No individual Coalition member got everything they were after, but all Coalition members agreed that the Lost Creek-Boulder Creek Project is the best way to accommodate a vast array of diverse forest stakeholder interests.

22. The Lost Creek-Boulder Creek Project is the culmination of years of hard work on the part of the PFC, its members, and the Forest Service. It embodies the idea that better results—for the forest, its stakeholders, and local communities—can and should be achieved through collaborative efforts to find common ground and build partnerships among everyone who has a stake in forest management. By collaborating and compromising, the members of the PFC were able to make progress on their organizational goals and objectives in a manner that has become elusive in the past.

23. The PFC wants to see the restoration work implemented so that the area will support a healthy forest that provides all of the numerous benefits of responsible forest management, including clean water, wildlife habitat, diverse recreation, watershed restoration, and economic benefits to local communities. The Coalition also believes it is vital that fuel

levels are reduced to avoid uncharacteristic wildfires with adverse effects to fisheries, watersheds, wildlife, timber resources, recreation and local economies.

24. When litigation against the project was first filed in 2015, Coalition members were demoralized and concerned that their years of hard work would be undermined and the health of the landscape endangered. This situation was aggravated by the fact that the plaintiff organizations repeatedly declined invitations to participate in the collaborative process. Therefore, the Coalition decided to move to intervene in the case. Judge Lodge granted the motion to intervene. The Coalition authorized its attorneys to participate in briefing on summary judgment and on the plaintiffs' request for a temporary restraining order. Later the Coalition attorneys participated in appeal, including oral argument. When the Ninth Circuit ruled against the project on issues related to the Forest Plan, the Coalition filed its own petition for rehearing. At each of these states, the Coalition met as a group to ensure consensus support for engaging on these legal issues.

25. The Coalition has remained engaged with the Forest Service during the remand process. When the Forest Service published a revised draft ROD in June 2019, the PFC filed a supportive objection to ensure its eligibility to participate in any potential discussions and/or litigation on the LCBC restoration. Exhibit I. In this supportive objection, the PFC indicated its support of the draft ROD and FEIS Errata as being beneficial to the proposed landscape and forest health. The PFC further supports the final Record of Decision (November 2019), and believes the proposed restoration actions are entirely consistent with the Forest Plan.

26. One major difference between the time that the LCBC Restoration Project was planned (2013-14) and now is the greater public awareness and recognition of the potential for uncharacteristic wildfires in National and State Forests. In the drought-stricken west,

uncharacteristic mega-fires have become more prevalent with significant loss of property, life, water quality and wildlife habitat. While the causes of these fires are seen to be a mix of human impacts, including effects of climate change, and nature, their catastrophic quality has increasingly been understood to be associated with neglected, overgrown forests. California recently has established policies to mitigate fire risk. Exhibit J.

27. The Payette National Forest, working in collaboration with the PFC, has been in the vanguard of forest management protocols which will restore the Payette National Forest to healthier conditions which will be more resistant to catastrophic wildfires. When wildfire does occur in treated areas, the PFC expects, and current scientific understanding validates, that the results will not be catastrophic, but will revert to historically beneficial fires that cleanse the understory and provide healthier habitats for terrestrial and aquatic wildlife. PFC members are confident that, once implemented, the Lost Creek-Boulder Creek project will similarly ameliorate the risks of uncharacteristic and catastrophic wildfire.

28. The strategy and tactics the PFC and Payette National Forest employ had an empirical test in the summer of 2018, when a human-caused fire ignited 4 miles south of Council, Idaho under conditions conducive for explosive fire behavior: single-digit humidity, extremely dry vegetation, triple-digit temperatures and high winds. Some of the Mesa fire burned in an area where restoration treatments were done via the Mill Creek Council Mountain Collaborative Forest Landscape Restoration Project, which began in 2012. The PFC had worked with the Forest Service in designing the Mill Creek Council Mountain Project.

29. Starting on July 26, 2018 and growing to just under 35,000 acres, including 16,560 acres of the Payette National Forest, the Mesa Fire was completely contained on August

25, 2018). Firefighters managing the Mesa Fire reported that the acres which were previously treated in a manner similar to the prescriptions for Lost Creek-Boulder Creek burned with much lower fire intensity than was experienced elsewhere on the fire. This allowed firefighters to implement more direct attack procedures that ultimately held the wildfire from moving further to the north and east and resulted in far fewer acres being burned during the incident. The treatments recommended by the Coalition were credited by the local newspaper for the fire's relatively rapid containment. Exhibit K.

30. For all the reasons outlined above, and due to the urgency for treating these forests and watersheds before wildfire strikes, and because PFC members have invested so much time and effort into designing the balanced treatments contained in this project, we believe it is important that work to implement the Lost Creek-Boulder Creek Project resume as quickly as possible. Any delay or injunction of the project threatens harm to the landscape, the forest, and local communities.

31. The PFC has been monitoring this litigation and working to intervene as quickly as possible. Because we are a consensus-based volunteer organization which meets once a month, these discussions have taken some time. Additionally, several members of the PFC are affiliated with larger national or regional organizations, and therefore have needed to go through approval processes in order to participate in the litigation. We are filing these documents as soon as practicable after all approvals were secured. The PFC will instruct our attorneys to ensure that our participation in the case does not result in delay. PFC attorneys have been in communication with attorneys for the plaintiffs and the government to ensure that we can work with the existing case schedule.

32. The PFC is not adequately represented in this case by any of the other parties. Although the Coalition shares the government's goal to implement the project, PFC members have narrow, site-specific interests relating to the economic, recreational, wildfire, and wildlife benefits of the project. These interests will suffer direct harm if the project is halted, whereas the government's interests are more diffuse and abstract. The PFC's specific interests will be harmed if this project in this planning area does not go forward as soon as possible.

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

Executed this 3rd day of April, 2020, at Eagle, Idaho.

A handwritten signature in black ink, appearing to read "Rick Tholen", is written over a light gray rectangular background.

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RICK THOLEN