Case 2:04-cv-00844-MJP Document 108 Filed 10/10/2006 Page 1 of 3

Hon. Marsha J. Pechman

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NORTHWEST ECOSYSTEM ALLIANCE, et al.,	CASE NO. C04-844-P
Plaintiffs,	
v.	STIPULATION AND [PROPOSED] ORDER RE: INJUNCTION
MARK E. REY, et. al.,	
Defendants.	

04-CV-00844-ORD

Western Environmental Law Center, 541-485-2471
1216 Lincoln Street, Eugene, Oregon, 97401

Whereas, on August 1, the Court entered an Order on Summary Judgment in this case;

Whereas, on January 9, 2006, the Court entered an Order Issuing a Permanent Injunction;

Whereas, on January 24, 2006, Federal Defendants filed a Rule 59(e) Motion for Reconsideration of Order and Judgment to narrow the scope of the injunction, and Defendants-Intervenors filed a Rule 60 Motion to Alter or Amend the Judgment;

Whereas, on February 12, 2006, Plaintiffs opposed both motions, but stated a willingness to meet and confer to discuss certain modifications of the judgment;

Whereas, on April 20, 2006, the Court issued an Order denying the motions for reconsideration and to alter or amend the judgment, but stated that "the Court would be receptive to a Rule 60(b) motion to modify the judgment if the parties engage in mediation and are able to reach an agreement on exemptions to the judgment";

Whereas, the parties have since met and conferred regarding the scope of the injunction;

Whereas, Plaintiffs and Defendants-Intervenors agree that the injunction should be modified, and Federal-Defendants do not oppose such a request;

Therefore, Plaintiffs and Defendants-Intervenors hereby stipulate to and respectfully request that the Court enter an Order under Rule 60(b) amending paragraph 3 of the injunction, to state:

> 3. Defendants shall not authorize, allow, or permit to continue any logging or other habitat disturbing activities on projects to which the 2004 ROD applied unless such activities are in compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March 21, 2004), except that this order will not apply to:
>
> a. Thinning projects in stands younger than 80 years old;
>
> b. Replacing culverts on roads that are in use and part of the road system, and removing culverts if the road is temporary or to be decommissioned;
>
> c. Riparian and stream improvement projects where the riparian work is riparian planting, obtaining material for placing in-stream, and road or trail decommissioning; and where the stream improvement work is the placement large wood, channel and floodplain reconstruction, or removal of channel diversions; and
>
> d. The portions of projects involving hazardous fuel treatments where prescribed fire is applied. Any portion of a hazardous fuel treatment project involving commercial logging

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will remain subject to the survey and manage requirements except for thinning of stands younger than 80 years old under subparagraph a. of this paragraph.

Dated: October 10, 2006.

Respectfully submitted,

/s/ Peter M.K. Frost
Peter M.K. Frost
Stephanie M. Parent
Attorneys for Plaintiffs

/s/ Brian Kipnis
Brian Kipnis
Wells D. Burgess
Attorneys for Federal Defendants

/s/ Scott W. Horngren
Scott W. Horngren
Shay S. Scott
Attorneys for Defendants-Intervenors

Pursuant to the stipulation of parties, IT IS SO ORDERED.

Dated this 11 day of Oct., 2006.

Marsha J. Pechman
UNITED STATES DISTRICT JUDGE

Presented by: /s/ Peter M.K. Frost
Peter M.K. Frost, *pro hac vice*
Western Environmental Law Center
1216 Lincoln Street
Eugene, Oregon 97401
Tel: 541-485-2471
Fax: 541-485-2457
frost@westernlaw.org