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ATTORNEYS FOR DEFENDANTS

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MISSOULA, MT

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PATRICK E DUFFY CLERK

By _____
DEPUTY CLERK

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PATRICK E. DUFFY, CLERK

By _____
DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

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THE WILDERNESS SOCIETY, AMERICAN WILDLANDS, and PACIFIC RIVERS COUNCIL,

Plaintiffs,

vs.

MARK REY, in his official capacity as Under Secretary for the U.S. Department of Agriculture; RODD RICHARDSON, in his official capacity as Forest Supervisor for the Bitterroot National Forest; UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture; UNITED STATES DEPARTMENT OF AGRICULTURE,

Defendants.

CV 01-219-M-DWM

JOINT MOTION TO DISMISS

FRIENDS OF THE BITTERROOT; THE ECOLOGY CENTER, INC.; CENTER FOR BIOLOGICAL DIVERSITY; and THE SIERRA CLUB,

Plaintiffs,

vs.

MARK REY, in his official capacity as Under Secretary for the U.S. Department of Agriculture; RODD RICHARDSON, in his official capacity as Forest Supervisor for the Bitterroot National Forest; UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture; UNITED STATES DEPARTMENT OF AGRICULTURE,

Defendants.

CV 01-220-M-DWM

The parties in the above-captioned proceeding hereby jointly move to dismiss this

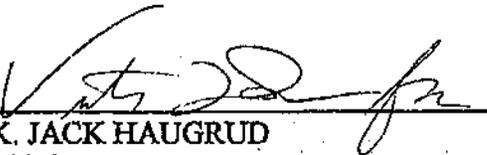
1 proceeding pursuant to the terms of the Settlement Agreement attached hereto and executed by
2 the parties herein on February 7th, 2002 and submit the attached proposed order.

3 DATED this 7th day of February, 2002.

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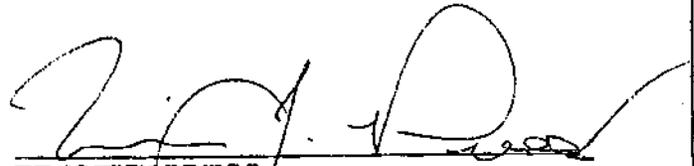
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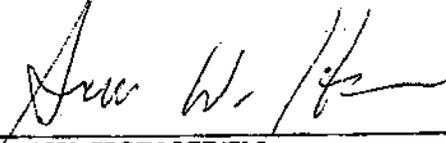
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26 ELIZABETH MITCHELL
27 Attorney for Plaintiffs
28 Friends of the Bitterroot, The Ecology
29 Center, The Center for Biological Diversity and the
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TIMOTHY PRESO
Attorney for The Wilderness Society, American
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Montana Logging Association

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**THE WILDERNESS SOCIETY,
AMERICAN WILDLANDS, and PACIFIC
RIVERS COUNCIL,**

Plaintiffs,

vs.

**MARK REY, in his official capacity as
Under Secretary for the U.S. Department of
Agriculture; RODD RICHARDSON, in his
official capacity as Forest Supervisor for
the Bitterroot National Forest; UNITED
STATES FOREST SERVICE, an agency of
the U.S. Department of Agriculture;
UNITED STATES DEPARTMENT OF
AGRICULTURE,**

Defendants.

CV 01-219-M-DWM

SETTLEMENT AGREEMENT

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FRIENDS OF THE BITTERROOT; THE ECOLOGY CENTER, INC.; CENTER FOR BIOLOGICAL DIVERSITY; and THE SIERRA CLUB,

Plaintiffs,

CV 01-220-M-DWM

vs.

MARK REY, in his official capacity as Under Secretary for the U.S. Department of Agriculture; RODD RICHARDSON, in his official capacity as Forest Supervisor for the Bitterroot National Forest; UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture; UNITED STATES DEPARTMENT OF AGRICULTURE,

Defendants.

WHEREAS, the plaintiffs to this litigation contend that the 12/17/01 record of decision for the Bitterroot Burned Area Recovery Project ("BAR Project") is legally deficient;

WHEREAS, the defendants deny the plaintiffs' allegations;

WHEREAS, the parties to this litigation wish to resolve all issues without conceding any of their legal or factual positions;

THEREFORE, the parties stipulate and agree to the following:

- (1) As used in this stipulation, the terms "roaded" and "unroaded" refer to areas depicted on Map 325 to the Administrative Record for the Final Environmental Impact Statement ("FEIS") for the BAR Project. The term "Wildland Urban Interface Unit" or "WUI Unit" refers to sale units in the BAR Project whose treatment purpose is denoted as "WUI" in the FEIS for the BAR Project.

1 (2) The Forest Service may implement the following fuel reduction projects,
2 including timber sales, of the BAR Project without further objection by the

3 Plaintiffs:

4 Roan-Burke
5 Blodgett
6 Elk Point 1-4
7 Units 346, 717, & 752 of Waugh
8 Dugout
9 Guide
10 The roaded units of Gilbert
11 Robbins
12 Harlan
13 The roaded units of Reimel
14 The roaded units of Moonshine
15 Units 63, 703, & 706 of Coal Little Blue
16 Units 313, 314, 328, 329, 333 of Warm Springs
17 The Wildland Urban Interface units of Skalkaho
18 The roaded units of Laird
19 Bear

20 (3) The Forest Service will not implement timber sales on the remaining cutting units
21 of the BAR Project unless the Forest Service prepares a new decision, issued in
22 compliance with all applicable law, and conducts a new analysis pursuant to the
23 National Environmental Policy Act, and after the resolution of any administrative
24 appeals. The sales subject to these restrictions are as follows:

18 Cathouse
19 Overwich
20 Sleeping Child
21 The unroaded units of Gilbert
22 Bad News
23 Yellowstone Camp
24 Bugle

25 White Stallion
26 The unroaded units of Reimel
27 The unroaded units of Moonshine
28 The unroaded units of Laird

1 Spring Gulch
Trapper
2 Mink
Blacktail
3 Units 55, 59, 60, 707, 708 & 709 of Coal Little Blue
Rye Creek
4 All units of Waugh except 346, 717 & 752
All units of Warm Springs except 313, 314, 328, 329 & 333
5 Tolan
Units 35 and 37 of Skalkaho
6

- 7 (4) The Forest Service may implement the other activities of the BAR Project that do
8 not involve road construction or the commercial harvesting of timber. These
9 activities are fisheries habitat improvements, reforestation, watershed
10 improvement, manual fuels reduction, and prescribed burning.
- 11 (5) For the WUI Intermediate Harvest Units within Coal Little Blue, Warm Springs
12 and Skalkaho sales listed in paragraph (2), the Forest Service agrees to the
13 following mitigation measures in addition to the applicable mitigation measures
14 set forth in the ROD for the BAR Project:
- 15 (i) Larger trees will be retained;
16 (ii) No trees over 22 inches dbh will be harvested without prior agreement of the
17 plaintiffs;
18 (iii) Plaintiffs will be notified of and have the right to inspect the marking of trees
19 prior to harvest; and
20 (iv) There will be no new or temporary road construction.
- 21 (6) The Forest Service agrees to analyze and pursue, in consultation with the United
22 States Fish & Wildlife Service pursuant to the Endangered Species Act, watershed
23 improvement projects in relationship to the Bear sale within the Skalkaho and
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Sleeping Child Creek drainages, inclusive of all tributaries, as proposed by plaintiffs on Map 2-38 of the Final EIS for the BAR Project.

- (7) The amici and plaintiffs agree to draft a mutually agreeable letter encouraging Congressional funding of the restoration and rehabilitation projects in the FEIS for the BAR Project.
- (8) The United States agrees to dismiss its appeal of the Court's preliminary injunction order issued in these cases.
- (9) The parties agree to file a joint motion to dismiss this litigation and proposed order, in the form shown in the attached Exhibit 1.
- (10) Nothing in this settlement shall be construed as an admission of fact or law by any party on any issue, including plaintiffs' claim that the Forest Service has violated the Appeals Reform Act.
- (11) This settlement resolves all claims that Plaintiffs have asserted or could have asserted in this litigation, except as provided in paragraph 12 below.
- (12) Plaintiffs retain the right to seek attorneys' fees under applicable law.
- (13) This agreement includes and embodies the entire terms and conditions of the agreement between the parties.
- (14) Nothing in this agreement shall be construed to commit a federal official to expend funds not appropriated by Congress;
- (15) The parties agree that Chief Judge Hogan for the United States District Court for the District of Oregon shall retain jurisdiction over any motion to interpret or enforce this Agreement in order to resolve disputes among the parties. The parties

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agree they will not seek to interpret or enforce this Agreement through a motion for contempt.

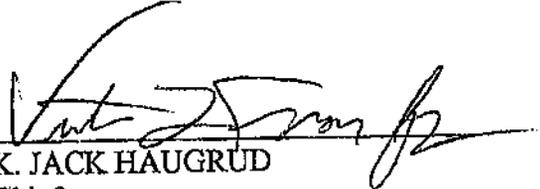
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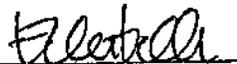
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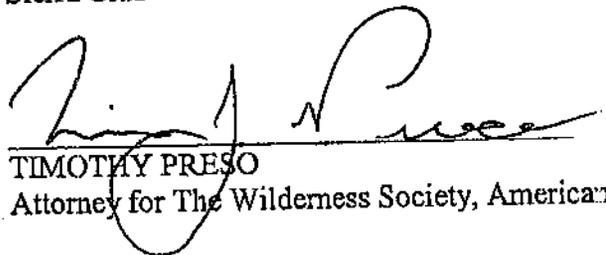


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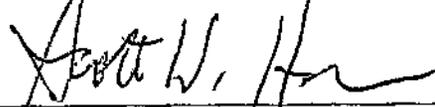
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Attorney for The Wilderness Society, American

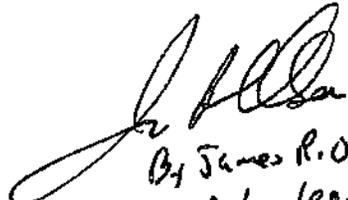
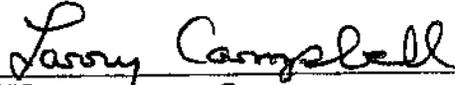
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Wildlands and Pacific Rivers Council

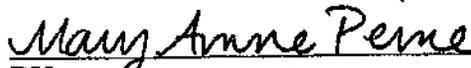


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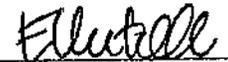
FRIENDS OF THE BITTERROOT


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Volunteer
BY: Larry Campbell
Executive Director

THE ECOLOGY CENTER


BY: Mary Anne Peine,
Executive Director

THE CENTER FOR BIOLOGICAL
DIVERSITY


BY: Elizabeth Mitchell
Attorney for Plaintiffs

SIERRA CLUB

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Jennifer Ferenstein
BY: JENNIFER FERENSTEIN,
PRESIDENT SIERRA CLUB

THE WILDERNESS SOCIETY

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BY: ROBERT ELEY
NORTHERN REGIONAL DIRECTOR

AMERICAN WILDLANDS

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BY: Robert J. Ament
Executive Director

PACIFIC RIVERS COUNCIL

Christopher A. Friessell
BY: Christopher A. Friessell
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**IN THE UNITED STATES DISTRICT COURT
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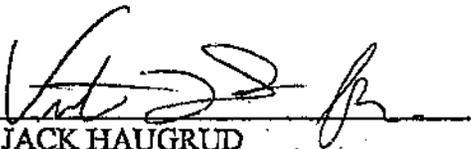
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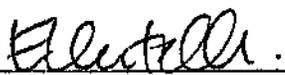
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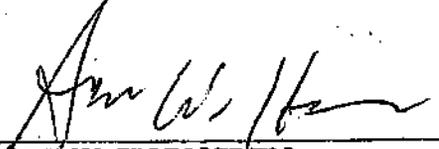

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