

John R. Mellgren, Oregon Bar # 114620, applicant *pro hac vice*
Western Environmental Law Center
1216 Lincoln Street
Eugene, Oregon 97401
Ph: (541) 359-0990
Fax: (541) 485-2457
mellgren@westernlaw.org

Susan Jane M. Brown, Oregon Bar # 054607, applicant *pro hac vice*
Western Environmental Law Center
4107 NE Couch Street
Portland, Oregon 97232
Ph. (503) 914-1323
brown@westernlaw.org

Counsel for Plaintiffs

Cynthia Tuell (Arizona Bar # 025301)
903 N. Alder Avenue
Tucson, Arizona 85705
Ph. (520) 404-0920
cctuell@hotmail.com

Counsel for Plaintiff WildEarth Guardians

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

WildEarth Guardians; Grand Canyon Wildlands
Council; Wildlands Network; and the Sierra
Club.

Plaintiffs,

v.

Heather Provencio, in her official capacity as
Kaibab National Forest Supervisor; and the
United States Forest Service,

Defendants.

No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

INTRODUCTION

1. Plaintiffs WildEarth Guardians, Grand Canyon Wildlands Council, Wildlands Network, and the Sierra Club respectfully file this civil action for declaratory and injunctive relief against Federal Defendants Heather Provencio, in her official capacity as Forest Supervisor for the Kaibab National Forest; and the United States Forest Service (collectively “Forest Service” or “Defendants”). This suit alleges violations of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*; the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*; Executive Order 11644, as amended by Executive Order 11989; the National Historic Preservation Act (“NHPA”), 54 U.S.C. § 300101 *et seq.*; and implementing regulations established pursuant to these federal statutes and executive orders, including but not limited to the Travel Management Rule (“TMR”), 36 C.F.R. Part 212.1, *et seq.*

2. The Forest Service has violated, and continues to violate, NEPA, the APA, Executive Order 11644, the TMR, and the NHPA through its authorization of Travel Management Plans on three Ranger Districts of the Kaibab National Forest, including the associated Environmental Assessments (“EA”) and Decision Notices and Findings of No Significant Impact (“DN/FONSI”).

JURISDICTION AND VENUE

3. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal question), 2201 (injunctive relief), and 2202 (declaratory relief). The current cause of action arises under the laws of the United States, in the APA, NEPA, Executive Orders 11644 and 11989, and the TMR. An actual, present, justiciable controversy exists

between Plaintiffs and Defendants. The requested relief is proper under 28 U.S.C. §§ 2201 & 2201, and 5 U.S.C. § 706. Plaintiffs timely appealed the Forest Service decisions at issue in this litigation. Plaintiffs exhausted their administrative remedies with regards to the Forest Service decisions at issue in this litigation.

4. Venue in this Court is proper under 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district. The Forest Service official who authorized the three decisions at issue in this litigation is headquartered in Williams, Arizona. Williams, Arizona is geographically located in Coconino County, Arizona. The Forest Service lands managed by the three decisions at issue in this litigation are geographically located in Coconino County, Arizona and Yavapai County, Arizona. Coconino and Yavapai Counties, Arizona are geographically located within this District. Plaintiffs WildEarth Guardians, Grand Canyon Wildlands Council, Wildlands Network, and the Sierra Club maintain offices within this District, and Plaintiffs' staff and members reside and recreate within this District.

5. This case is properly filed in the Prescott Division of this District pursuant to L.R. Civ. 77.1(a) because the three decisions at issue in this litigation were made in Coconino County, Arizona. Additionally, the Forest Service lands managed by the three decisions at issue in this litigation are geographically located in Coconino and Yavapai Counties, Arizona. Coconino and Yavapai Counties, Arizona are geographically located within the Prescott Division of the District of Arizona.

PARTIES

6. Plaintiff WildEarth Guardians is a nonprofit conservation organization with an office in Arizona and seven other states. WildEarth Guardians has more than 120,000 members and activists across the United States and the world. WildEarth Guardians protects and restores wildlife, wild places, wild rivers, and the health of the American West. Toward this end, Guardians and its members work to protect the natural and cultural features of landscapes within national forests and other public lands, including their wildlife and historic properties. WildEarth Guardians' members regularly engage in non-motorized recreation on all three Ranger Districts of the Kaibab National Forest.

7. Plaintiff Grand Canyon Wildlands Council is a nonprofit conservation organization whose mission is to create and apply a dynamic conservation area network that ensures the existence, health, and sustainability of all native species and natural ecosystems in the Grand Canyon ecoregion. Grand Canyon Wildlands Council maintains an office in Flagstaff, Arizona. Grand Canyon Wildlands Council is a group of ardent conservationists, river runners, backcountry enthusiasts, land managers, university professors, and scientists. Many of its members have worked, studied, and practically lived in the Grand Canyon and surrounding areas.

8. Plaintiff Wildlands Network is a nonprofit conservation organization with offices and staff across North America, including Flagstaff Arizona, Portal Arizona, Salt Lake City Utah and Ogden Utah. Wildlands Network works to halt the 6th Great Extinction. Wildlands Network reconnects wildlife habitats in North America so that animals can live in and move safely through the landscape. Wildlands Network collaborates with partner groups to create wildlife corridors at a large enough scale to meet the needs

of wolves, mountain lions, and other native carnivores. Wildlands Network engages with federal agency staff, and federal and state policymakers to ensure that our public lands are appropriately managed and that our laws and public policies are effectively and correctly implemented and enforced to protect conservation values.

9. Plaintiff Sierra Club is a national nonprofit grassroots conservation organization. Founded in 1892 by John Muir, the Sierra Club now has more than two million members and supporters. The Sierra Club's mission is to explore, enjoy, and protect the wild places of the Earth, to practice and promote responsible uses of the Earth's ecosystems and resources, to educate and enlist humanity in the protection and restoration of the quality of the natural and human environment, and to use all lawful means to carry out those objectives. The Sierra Club's Grand Chapter works to protect Arizona's wild places, wildlife, and waters, as well as the people and communities who depend on them. Sierra Club members regularly recreate on all three ranger districts of the Kaibab National Forest. Sierra Club members have been harmed by the actions described in this complaint.

10. Plaintiffs' staff, members, and supporters regularly recreate on the Kaibab National Forest, including in areas within the Williams Ranger District, the Tusayan Ranger District, and the North Kaibab Ranger District. Plaintiffs' staff, members, and supporters recreate in these areas for the purposes of hiking, backpacking, wildlife viewing, bird watching, historic appreciation, and other recreational and professional pursuits. Plaintiffs' staff, members, and supporters have engaged in these activities on the three Ranger Districts of the Kaibab National Forest in the past, and have plans to do so

again in the future. Plaintiffs' staff, members, and supporters derive aesthetic, recreational, scientific, inspirational, historic, spiritual, educational, and others benefits from these activities that they engage in throughout the three Ranger Districts of the Kaibab National Forest.

11. Plaintiffs have standing to bring this litigation by and through their members because their members have standing to sue in their own right, the interests at stake are germane to Plaintiffs' organizational purposes, and this litigation does not require the participation of individual members in the lawsuit.

12. The interests of Plaintiffs' staff, members, and supporters, as well as the organizational interests of Plaintiffs, have been, are being, and unless the requested relief is granted, will continue to be harmed by the Forest Service's actions and inactions challenged in this Complaint. If this Court issues the relief requested, the harm to Plaintiffs' staff, members, and supporters' interests will be redressed and alleviated. If this Court issues the relief requested, the harm to Plaintiffs' organizational interests will be redressed and alleviated.

13. Defendant HEATHER PROVENCIO is sued in her official capacity as the Forest Supervisor for the Kaibab National Forest. As Forest Supervisor, Ms. Provencio is a federal official with responsibility for all Forest Service officials' actions and inactions challenged in this complaint. Ms. Provencio is substituted for her predecessor, Michael Williams, who made the decisions challenged in this complaint

14. Defendant UNITED STATES FOREST SERVICE is an agency within the United States Department of Agriculture that is responsible for applying and implementing the federal laws and regulations challenged in this complaint.

FACTS

The Kaibab National Forest

15. The Kaibab National Forest is located in northern Arizona. The Kaibab National Forest is made up of three ranger districts: the Williams Ranger District, the Tusayan Ranger District, and the North Kaibab Ranger District. None of the three ranger districts of the Kaibab National Forest share a border with another. Grand Canyon National Park lies in the middle of the Kaibab National Forest. Grand Canyon National Park physically separates the Tusayan and North Kaibab Ranger Districts of the Kaibab National Forest.

16. The Kaibab National Forest encompasses approximately 1,542,791 acres of land. The Kaibab National Forest ranges in elevation from approximately 3,000 feet to 10,418 feet. Tree species found on the Kaibab National Forest include ponderosa pine, Douglas-fir, Engelmann spruce, aspen, blue spruce, oak, pinyon pine, and juniper.

17. The Kaibab National Forest provides habitat for species listed as threatened or endangered pursuant to the Endangered Species Act. The Kaibab National Forest provides habitat for reintroduced species classified as non-essential experimental populations pursuant to the Endangered Species Act.

18. The Kaibab National Forest provides habitat for the Mexican spotted owl. The Mexican spotted owl is listed as threatened pursuant to the Endangered Species Act. The

U.S. Fish and Wildlife Service has designated critical habitat for the Mexican spotted owl on the Kaibab National Forest.

19. Mexican spotted owls are sensitive to disturbance from human activity. Motorized recreation on the Kaibab National Forest has the potential to disturb Mexican spotted owls. Motorized recreation on the Kaibab National Forest disturbs Mexican spotted owls.

20. Motorized recreation directly affects Mexican spotted owls at nesting, roosting, or foraging sites. Noise from motorized recreation negatively affects Mexican spotted owls.

21. Motorized recreation indirectly affects Mexican spotted owls through alteration of habitats. Motorized recreation also indirectly affects Mexican spotted owls through damage to vegetation, soil compaction, illegal trail creation, and increased risk of wildland fires.

22. The potential for motorized recreation-related impacts to Mexican spotted owls is high. The potential for motorized recreation-related impacts to Mexican spotted owl critical habitat is high. Motorized off-highway vehicle recreation may affect Mexican spotted owls on the Kaibab National Forest. Motorized off-highway vehicle recreation may affect Mexican spotted owl critical habitat on the Kaibab National Forest.

23. The Kaibab National Forest provides habitat for the black-footed ferret. The black-footed ferret is listed as an endangered species pursuant to the Endangered Species Act, except where it is classified as a non-essential experimental population. Federal agencies must treat non-essential experimental populations located outside of a National Wildlife Refuge or National Park as proposed for listing, meaning Federal agencies must confer with the U.S. Fish and Wildlife Service on actions that are likely to jeopardize the

continued existence of the species. According to the Forest Service, there are two reintroduced populations of black-footed ferrets in Arizona that are classified as non-essential experimental populations pursuant to the Endangered Species Act.

24. Prairie dogs are the primary prey of black-footed ferrets. Large prairie dog complexes provide habitat for black-footed ferrets. Large prairie dog complexes are required to support black-footed ferret populations.

25. Gunnison's prairie dogs occur on the Kaibab National Forest. Motorized off-highway vehicle recreation may affect Gunnison's prairie dog populations. Motorized off-highway vehicle recreation may affect the ability of black-footed ferrets to establish occupied habitat on the Kaibab National Forest.

26. Motorized off-highway vehicle recreation may affect black-footed ferrets on the Kaibab National Forest.

27. Motorized off-highway vehicle recreation may affect California condors on the Kaibab National Forest.

28. Motorized big game retrieval facilitates hunting on the Kaibab National Forest. California condors consume lead ammunition as a result of hunting on the Kaibab National Forest.

29. The Kaibab National Forest prepared an Environmental Assessment for each of its three ranger districts to analyze the environmental effects of travel management projects on each of the ranger districts. The Forest Service signed a Decision Notice and Finding of No Significant Impact for each of the travel management projects on the Kaibab National Forest.

The Williams Ranger District Travel Management Project

30. The Williams Ranger District is one of three Ranger Districts on the Kaibab National Forest. The Williams Ranger District is the southern-most Ranger District of the Kaibab National Forest. The Williams Ranger District encompasses approximately 560,305 acres of land.

31. The Williams Ranger District is divided into several Geographic Areas, Land Use Zones, and Special Areas. Amongst these areas are two Congressionally-designated wilderness areas: the Kendrick Mountain Wilderness and the Sycamore Canyon Wilderness.

32. The Williams Ranger District contains the Arizona Bugbane Botanic Area. The Arizona Bugbane Botanic Area is a botanical area for the protection of *Cimicifuga arizonica*, Watson, Arizona bugbane. A Conservation Agreement between the Forest Service and the U.S. Fish and Wildlife Service covers the Arizona Bugbane Botanic Area.

33. The Williams Ranger District provides quality winter and summer habitat for elk and deer.

34. The Williams Ranger District includes habitat that is used by pronghorn antelope herds.

35. The Williams Ranger District provides travel corridors for big game.

36. The Williams Ranger District provides habitat for the black-footed ferret.

37. The Williams Ranger District provides habitat for Mexican spotted owls.

38. The Williams Ranger District contains portions of three Mexican spotted owl critical habitat units.
39. The Williams Ranger District contains six Mexican spotted owl Protected Activity Centers.
40. Before the Williams Ranger District embarked on the travel planning process, there were no restrictions on off-road motorized travel except in a few limited areas.
41. In July 2010, the Forest Service released the final Environmental Assessment for the Williams Ranger District Travel Management Project (“Williams EA”).
42. On July 9, 2010, then Kaibab National Forest Supervisor Michael Williams signed the Decision Notice and Finding of No Significant Impact (“DN/FONSI”) for the Williams Ranger District Travel Management Project. The DN/FONSI selected alternative 3.
43. According to the Williams EA, the Williams Ranger District Travel Management Project would designate an open road system totaling approximately 1,114 miles. With the removal of 8 miles of unauthorized routes in the appeal decision, the Williams Ranger District Travel Management Project designated an open road system totaling approximately 1,106 miles.
44. The DN/FONSI adds approximately 34 miles of roads to the designated road system on the Williams Ranger District.
45. The DN/FONSI adds approximately 18 miles of short spur roads to the designated road system.

46. The DN/FONSI allows for roadside parking up to thirty feet off of all open designated roads on the Williams Ranger District.
47. The DN/FONSI allows for motorized big game retrieval of legally hunted elk.
48. The DN/FONSI allows for motorized big game retrieval up to one mile off of all designated open roads on the Williams Ranger District.
49. The Forest Service estimates that in 2008 there were 855 motorized big game retrievals on the Williams Ranger District. The Forest Service estimates that in 2008 there were 695 motorized big game retrievals for elk on the Williams Ranger District. Each motorized big game retrieval consists of a trip to retrieve the downed big game, and a trip to return to the road.
50. The DN/FONSI allows motorized big game retrieval across most of the Williams Ranger District. The DN/FONSI allows motorized big game retrieval on more than 90% of the geographic area of the Williams Ranger District.
51. Because each motorized big game retrieval for elk on the Williams Ranger District could consist of a one-mile trip to retrieve the downed elk and a one-mile trip to return to the road, the 2008 motorized big game retrievals for elk on the Williams Ranger District represents potentially 1,390 miles of off-road travel.
52. Some areas open to motorized big game retrieval border designated wilderness areas.
53. The Williams Ranger District EA refers to areas open to motorized big game retrieval as “areas.” The Forest Service considers areas open to motorized big game retrieval to be “areas.”

54. Portions of the Williams Ranger District open to motorized big game retrieval qualify as areas for the purposes of the Travel Management Rule.
55. The Forest Service did not conduct site-specific environmental analysis for all areas on the Williams Ranger District open to motorized big game retrieval.
56. The Williams Ranger District Travel Management Project allows motorized travel on designated roads through Mexican spotted owl critical habitat and restricted Mexican spotted owl habitat.
57. The Williams Ranger District Travel Management Project allows motorized travel off of designated roads for the purposes of motorized big game retrieval through Mexican spotted owl critical habitat and restricted habitat.
58. The Williams Ranger District Travel Management Project allows motorized travel on designated roads through Mexican spotted owl Protected Activity Centers.
59. The Williams Ranger District Travel Management Project allows motorized travel off of designated roads for the purposes of motorized big game retrieval through Mexican spotted owl Protected Activity Centers.
60. The Williams Ranger District Travel Management Project allows motorized travel on designated roads through restricted Mexican spotted owl habitat.
61. The Williams Ranger District Travel Management Project allows motorized travel off of designated roads for the purposes of motorized big game retrieval through Mexican spotted owl restricted habitat.

62. The Forest Service determined that the Williams Ranger District Travel Management Project may affect, but would not adversely affect, the Mexican spotted owl and its critical habitat.

63. Cross-country motorized vehicle use has the potential to spread invasive and noxious weeds. The DN/FONSI authorizes motorized big game retrieval for five months per year at a time when the soils are often moist. Exotic weed seeds are more likely to stick to vehicle tires when soils are moist. Motorized big game retrieval on the Williams Ranger District has the potential to spread exotic weed seeds that stick to vehicle tires.

64. The areas opened to motorized big game retrieval in the Williams DN/FONSI overlap with the areas proposed for dispersed camping corridors in Alternative 2 of the Williams EA. In the context of dispersed camping corridors, the Forest Service admits that it does not know how many of those areas have erodible soils, unsatisfactory condition soils, nearby drainages, or other soil/watershed concerns. Given this overlap, the Forest Service does not know how many of the areas open to motorized big game retrieval on the Williams Ranger District have erodible soils, unsatisfactory condition soils, nearby drainages, or other soil or watershed concerns.

65. Plaintiffs provided the Forest Service with an alternative that would provide greater natural resource protection than any of the alternatives analyzed by the Forest Service. The Forest Service declined to consider Plaintiffs' suggested alternative in detail because the Forest Service thought it went beyond the scope of the Williams Ranger District Travel Management Project and that many of the issues would be better resolved

through the Forest Planning process. Plaintiffs' suggested a reasonable alternative that meets the purpose and need for the project.

66. According to the Williams EA, 42% of the Williams Ranger District has been inventoried for cultural resources. These inventories have documented 4,634 cultural resources on the Williams Ranger District. Eleven of these sites are on the National Register of Historic Places. Seven hundred sixty six of these sites are eligible for inclusion on the National Register of Historic Places.

67. Because only 42 % of the Williams Ranger District has been inventoried for cultural resources, the number of cultural resources on the Ranger District, and the number of sites that are eligible for inclusion on the National Register of Historic Places is likely much larger than reported in the Williams EA.

68. Allowing motorized big game retrieval on the Williams Ranger District would cause direct and indirect effects to cultural resources.

69. The Forest Service determined that the Williams EA and DN/FONSI would not have an adverse effect on cultural resources on the Williams Ranger District.

70. The Forest Service declined to conduct additional surveys for cultural resources on the Williams Ranger District before signing the DN/FONSI.

71. The Forest Service relied on Exemption Q from Appendix I of the Forest Service's Southwestern Region NHPA Programmatic Agreement to support its decision to not conduct additional inventories of cultural resources on the Williams Ranger District.

72. On August 30, 2010, the Center for Biological Diversity, the Grand Canyon Chapter of the Sierra Club, Grand Canyon Wildlands Council, and WildEarth Guardians submitted an appeal of the Williams EA and DN/FONSI.

73. The August 30, 2010 administrative appeal was timely.

74. Plaintiffs exhausted their administrative remedies related to the Williams EA and DN/FONSI.

75. On September 13, 2010, an informal disposition meeting was held between the Kaibab Forest Supervisor and Plaintiffs' representatives. The informal disposition meeting did not lead to a resolution of the administrative appeal.

76. On October 6, 2010, Gilbert Zepeda, the Appeal Deciding Officer and Deputy Regional Forester, issued a decision on Plaintiffs' administrative appeal. Mr. Zepeda's decision affirmed the Kaibab Forest Supervisor's decision in part with instructions and reversed in part. Mr. Zepeda instructed that certain documents be included in the project record. Mr. Zepeda reversed the part of the Kaibab Forest Supervisor's decision that added eight miles of unauthorized roads to the designated system based on lack of site-specific analysis and disclosure in the project record.

The Tusayan Ranger District Travel Management Project

77. The Tusayan Ranger District is one of three Ranger Districts on the Kaibab National Forest. The Tusayan Ranger District is geographically located immediately south of Grand Canyon National Park. The Tusayan Ranger District encompasses approximately 331,427 acres of land.

78. The Tusayan Ranger District is home to a portion of the Arizona Trail. The Arizona Trail is an approximately 800-mile long National Scenic Trail beginning at the Arizona-Mexico border and ending at the Arizona-Utah border. The Arizona Trail is a designated non-motorized trail.
79. The Coconino Rim on the Tusayan Ranger District is an inventoried roadless area.
80. Motorized vehicle use was restricted in the Red Butte non-motorized area of the Tusayan Ranger District prior to the DN/FONSI for the Tusayan Ranger District. The Tusayan DN/FONSI does not change the motorized vehicle use restrictions for the Red Butte area.
81. In April 2009, the Forest Service released a final Environmental Assessment for the Tusayan Ranger District Travel Management Project.
82. On April 18, 2009, the Kaibab National Forest Supervisor signed a DN/FONSI for the Tusayan Ranger District Travel Management Project.
83. After reviewing administrative appeals, the Forest Service reversed the decision and the Tusayan Ranger District was instructed to complete a new environmental analysis, including an evaluation of an alternative without motorized big game retrieval.
84. In January 2011, the Forest Service released a new final Environmental Assessment for the Tusayan Ranger District Travel Management Project. (“Tusayan EA”).
85. On January 31, 2011, then Kaibab National Forest Supervisor Michael Williams signed the DN/FONSI for the Tusayan Ranger District Travel Management Project. The DN/FONSI selected alternative 3 with modifications.

86. All comments and public input received on the April 2009 EA were incorporated into the 2011 EA.
87. The DN/FONSI designates an open road system on the Tusayan Ranger District totaling approximately 566 miles.
88. The DN/FONSI changes approximately 143 miles of roads to ML1 status (administrative use only).
89. The DN/FONSI allows for motorized big game retrieval up to one mile off of all designated open roads on the Tusayan Ranger District.
90. Between 2004 and 2006, there were an estimated 510 motorized big game retrievals on the Tusayan Ranger District. Between 2004 and 2006, there were an estimated 414 motorized elk retrievals on the Tusayan Ranger District. Each motorized big game retrieval consists of a trip to retrieve the downed big game, and a trip to return to the road.
91. Because each motorized big game retrieval for elk on the Tusayan Ranger District could consist of a one-mile trip to retrieve the downed elk and a one-mile trip to return to the road, the 2004-2006 motorized big game retrievals for elk on the Tusayan Ranger District represent 828 miles of off-road travel.
92. The DN/FONSI allows motorized big game retrieval across most of the Tusayan Ranger District. The DN/FONSI allows motorized big game retrieval on more than 90% of the total geographic area of the Tusayan Ranger District.
93. Areas open to motorized big game retrieval border Grand Canyon National Park.

94. Areas open to motorized big game retrieval border the Coconino Rim Inventoried Roadless Area.
95. Areas open to motorized big game retrieval border the Red Butte non-motorized area.
96. Areas open to motorized big game retrieval border areas within the Tusayan Ranger District that are closed to motor vehicle use. There is potential for motor vehicle operators to enter areas closed to motorized vehicle use.
97. Portions of the Tusayan Ranger District open to motorized big game retrieval qualify as areas for the purposes of the Travel Management Rule.
98. The Forest Service did not conduct site-specific environmental analysis for all areas on the Tusayan Ranger District open to motorized big game retrieval.
99. Cross-country motorized vehicle use has the potential to spread invasive and noxious weeds. The DN/FONSI authorizes motorized big game retrieval at a time when the soils are often moist. Exotic weed seeds are more likely to stick to vehicle tires when soils are moist. Motorized big game retrieval on the Tusayan Ranger District has the potential to spread exotic weed seeds that stick to vehicle tires. Exotic weed seeds are more likely to stick to vehicle tires when soils are moist.
100. Plaintiffs provided the Forest Service with an alternative that would provide greater natural resource protection than any of the alternatives analyzed in detail by the Forest Service. The “Crumbo” alternative sought to protect goshawk, black bear, and mule deer habitat. This alternative includes road closures and conversions of roads to

non-motorized trails within Mule Deer High Density Habitat, Mule Deer Moderate Density Habitat, Black Bear Habitat, and Goshawk Habitat.

101. The Forest Service declined to consider the “Crumbo” alternative in detail because the Forest Service thought it went beyond the scope of the Tusayan Ranger District Travel Management Project. The Forest Service declined to consider this alternative in detail because the Forest Service believed that protecting wildlife habitat was not a significant issue. The Forest Service asserted that the single action that would provide the most benefit to wildlife species and other resources was the prohibition on cross-country travel, and that therefore it did not need to take other actions through the Tusayan Ranger District Travel Management Project to protect wildlife habitat.

102. The “Crumbo” alternative meets the purpose and need for the Tusayan Ranger District Travel Management Project. The “Crumbo” alternative is reasonable.

103. According to the Tusayan EA, 23% of the Tusayan Ranger District has been inventoried for cultural resources. These inventories have documented 1,770 cultural resources on the Tusayan Ranger District. Six of these sites are on the National Register of Historic Places. Three hundred of these sites are eligible for inclusion on the National Register of Historic Places.

104. Because only 23% of the Tusayan Ranger District has been inventoried for cultural resources, the number of cultural resources on the Ranger District, and the number of sites that are eligible for inclusion on the National Register of Historic Places is likely much larger than reported in the Tusayan EA.

105. Allowing motorized big game retrieval on the Tusayan Ranger District would cause direct and indirect effects to cultural resources.
106. The Forest Service determined that the Tusayan EA and DN/FONSI would not have an adverse effect on cultural resources on the Tusayan Ranger District.
107. The Forest Service declined to conduct additional surveys for cultural resources on the Tusayan Ranger District before signing the DN/FONSI.
108. The Forest Service relied on Exemption Q from Appendix I of the Forest Service's Southwestern Region NHPA Programmatic Agreement to support its decision to not conduct additional inventories of cultural resources on the Tusayan Ranger District.
109. On March 23, 2011, the Center for Biological Diversity, the Grand Canyon Chapter of the Sierra Club, and Grand Canyon Wildlands Council submitted an appeal of the Tusayan EA and DN/FONSI.
110. The March 23, 2011 administrative appeal was timely.
111. Plaintiffs exhausted their administrative remedies related to the Tusayan EA and DN/FONSI.
112. On May 6, 2011, Faye Krueger, the Appeal Deciding Office and Deputy Regional Forester issued a decision on Plaintiffs' administrative appeal. Ms. Krueger's decision affirmed the Kaibab Forest Supervisor's decision.

The North Kaibab Ranger District Travel Management Project

113. The North Kaibab Ranger District is one of the three Ranger Districts of the Kaibab National Forest. The North Kaibab Ranger District is the northern-most Ranger

District of the Kaibab National Forest. The North Kaibab Ranger District encompasses approximately 655,078 acres of land.

114. The North Kaibab Ranger District borders Grand Canyon National Park. Grand Canyon National Park is immediately south of the North Kaibab Ranger District.

115. The North Kaibab Ranger District borders Vermillion Cliffs National Monument. Vermillion Cliffs National Monument is immediately east of the North Kaibab Ranger District.

116. The North Kaibab Ranger District contains two Congressionally-designated wilderness areas: the Kanab Creek Wilderness and the Saddle Mountain Wilderness.

117. The North Kaibab Ranger District provides habitat for Mexican spotted owls.

118. All mixed-conifer habitat type on the North Kaibab Ranger District is designated-critical habitat for the Mexican spotted owl pursuant to the Endangered Species Act.

119. The North Kaibab Ranger District is located within the Colorado Plateau Recovery Unit for the Mexican spotted owl.

120. The North Kaibab Ranger District Travel Management Project designates roads in Mexican spotted owl critical habitat.

121. The North Kaibab Ranger District Travel Management Project allows motorized vehicle use through Mexican spotted owl critical habitat.

122. The Forest Service determined that the North Kaibab Ranger District Travel Management Project may affect, but would not adversely affect, the Mexican spotted owl and its critical habitat.

123. The North Kaibab Ranger District Travel Management Project allows motorized travel off of designated roads for the purposes of motorized big game retrieval through Mexican spotted owl critical habitat.

124. Motorized vehicle use in Mexican spotted owl habitat disturbs Mexican spotted owls. Motorized vehicle use in Mexican spotted owl habitat affects Mexican spotted owls. Motorized vehicle use in Mexican spotted owl habitat adversely affects Mexican spotted owls.

125. Motorized vehicle use in Mexican spotted owl habitat disturbs Mexican spotted owl critical habitat. Motorized vehicle use in Mexican spotted owl habitat affects Mexican spotted owl critical habitat. Motorized vehicle use in Mexican spotted owl habitat adversely affects Mexican spotted owl critical habitat.

126. The North Kaibab Ranger District provides habitat for the California condor. California condors use the North Kaibab Ranger District for breeding and nesting.

127. In Arizona, the California condor is a non-essential, experimental population pursuant to the Endangered Species Act.

128. California condors are known to consume lead ammunition and/or lead ammunition fragments on the North Kaibab Ranger District. Hunters use lead ammunition on the North Kaibab Ranger District. California condors consume this lead ammunition through scavenging at “gut piles” left in the field by hunters.

129. The U.S. Fish and Wildlife Service submitted comments on the North Kaibab Ranger District Travel Management Project. These comments recommended that the Forest Service not allow motorized big game retrieval on the North Kaibab Ranger

District unless hunters were required to remove the entire downed animal without leaving behind a “gut pile.” The Forest Service did not adopt this proposal for the North Kaibab Ranger District.

130. In September 2012, the Forest Service released the final Environmental Assessment for the North Kaibab Ranger District Travel Management Project.

131. On September 17, 2012, then Kaibab National Forest Supervisor Michael Williams signed the Decision Notice and Finding of No Significant Impact (“DN/FONSI”) for the North Kaibab Ranger District Travel Management Project. The DN/FONSI selected alternative 2.

132. The North Kaibab Ranger District Travel Management Project EA and DN/FONSI designate approximately 1,476 miles of roads as open to motor vehicle use by the public.

133. The North Kaibab Ranger District Travel Management Project EA and DN/FONSI add 16 miles of unauthorized user-created routes to the designated road system on the North Kaibab Ranger District.

134. The DN/FONSI allows for motorized big game retrieval up to one mile off of all designated open roads during any designated hunting season on the North Kaibab Ranger District.

135. The Forest Service estimates that in 2009, there were 952 motorized big game retrievals on the North Kaibab Ranger District. The Forest Service estimates that in 2009, there were 34 big game retrievals for bison on the North Kaibab Ranger District.

136. The DN/FONSI allows motorized big game retrieval across most of the North Kaibab Ranger District. The DN/FONSI allows motorized big game retrieval on more than 90% of the geographic area of the North Kaibab Ranger District.
137. Some areas open to motorized big game retrieval border designated wilderness areas.
138. Some areas open to motorized big game retrieval border Grand Canyon National Park.
139. Some areas open to motorized big game retrieval border Vermillion Cliffs National Monument.
140. The Forest Service did not conduct site-specific environmental analysis for all areas on the North Kaibab Ranger District open to motorized big game retrieval.
141. Cross-country motorized vehicle use has the potential to spread invasive and noxious weeds. The DN/FONSI authorizes motorized big game retrieval at a time when the soils are often moist. Motorized big game retrieval on the North Kaibab Ranger District has the potential to spread exotic weed seeds that stick to vehicle tires. Exotic weed seeds are more likely to stick to vehicle tires when soils are moist.
142. According to the North Kaibab EA, 25% of the North Kaibab Ranger District has been inventoried for cultural resources. These inventories have documented 3,100 cultural resources on the North Kaibab Ranger District. Twelve of these sites are on the National Register of Historic Places. Approximately 40% of these sites are eligible for inclusion on the National Register of Historic Places. Approximately 2% of these sites are ineligible for inclusion on the National Register of Historic Places. The remaining

cultural resources are unevaluated for eligibility for inclusion on the National Register of Historic Places.

143. Because only 25% of the North Kaibab Ranger District has been inventoried for cultural resources, the number of cultural resources on the Ranger District, and the number of sites that are eligible for inclusion on the National Register of Historic Places is likely much larger than reported in the North Kaibab EA.

144. Allowing motorized big game retrieval on the North Kaibab Ranger District would cause direct and indirect effects to cultural resources.

145. The Forest Service determined that the North Kaibab EA and DN/FONSI would not have an adverse effect on cultural resources on the North Kaibab Ranger District.

146. The Forest Service declined to conduct additional surveys for cultural resources on the North Kaibab Ranger District before signing the DN/FONSI.

147. The Forest Service relied on Exemption Q from Appendix I of the Forest Service's Southwestern Region NHPA Programmatic Agreement to support its decision to not conduct additional inventories of cultural resources on the North Kaibab Ranger District.

148.

149. On November 5, 2012, the Center for Biological Diversity, the Grand Canyon Chapter of the Sierra Club, and Grand Canyon Wildlands Council submitted an appeal of the North Kaibab Ranger District Travel Management Project EA and DN/FONSI. The November 5, 2012 administrative appeal was timely. Plaintiffs exhausted their administrative remedies related to the North Kaibab Ranger District Travel Management Project EA and DN/FONSI.

150. On December 18, 2012, Jeanne Higgins, the Appeal Deciding Officer and Deputy Regional Forester, issued a decision on Plaintiffs' administrative appeal and affirmed the Forest Supervisor's decision.

FIRST CLAIM FOR RELIEF
Violations of the Travel Management Rule and Administrative Procedure Act

Failure to limit and sparingly apply the motorized big game retrieval exception to the prohibition on cross-country motorized travel on the Williams, Tusayan, and North Kaibab Ranger Districts

151. Plaintiffs incorporate by reference all preceding paragraphs.

152. The Williams Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule by failing to limit and sparingly apply the motorized big game retrieval exception to the Travel Management Rule's prohibition on off-road motorized travel.

153. The Tusayan Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule by failing to limit and sparingly apply the motorized big game retrieval exception to the Travel Management Rule's prohibition on off-road motorized travel.

154. The North Kaibab Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule by failing to limit and sparingly apply the motorized big game

retrieval exception to the Travel Management Rule's prohibition on off-road motorized travel.

155. The Travel Management Rule prohibits motor vehicle use off designated roads and trails outside designated areas. 36 C.F.R. § 212.50(a).

156. The Travel Management Rule provides an exception to this prohibition for the limited use of motor vehicles within a specified distance of certain forest roads or trails where motor vehicle use is allowed for the purposes of retrieving down game. 36 C.F.R. § 212.51(b).

157. The Travel Management Rule's limited exception instructs the Forest Service to impose specified time periods during which such motorized big game retrieval is allowed if appropriate. 36 C.F.R. § 212.51(b).

158. The Forest Service is to apply the motorized big game retrieval provision sparingly. 70 Fed. Reg. 68,264, 68,285 (Nov. 9, 2005).

159. The Forest Service must conduct site-specific environmental analysis before allowing motorized big game retrieval off of certain forest roads or trails.

160. The Williams Ranger District Travel Management Project allows motorized vehicle use within one mile off of all designated open roads on the Williams Ranger District for the purposes of retrieving legally hunted and downed elk. Allowing motorized big game retrieval for up to one mile off of every designated open road on the Williams Ranger District is not "limited" and does not apply only to certain designated roads. Allowing motorized big game retrieval for up to one mile off of every designated open road on the Williams Ranger District does not apply the Travel Management Rule's

motorized big game retrieval provision sparingly. The Forest Service did not analyze the site-specific environmental impacts of allowing motorized big game retrieval for one mile off of every designated open road on the Williams Ranger District.

161. The Tusayan Ranger District Travel Management Project allows motorized vehicle use within one mile off of all designated open roads on the Tusayan Ranger District for the purposes of retrieving legally hunted and downed elk. Allowing motorized big game retrieval for up to one mile off of every designated open road on the Tusayan Ranger District is not limited and does not apply only to certain designated roads. Allowing motorized big game retrieval for up to one mile off of every designated open road on the Tusayan Ranger District does not apply the Travel Management Rule's motorized big game retrieval provision sparingly. The Forest Service did not analyze the site-specific environmental impacts of allowing motorized big game retrieval for one mile off of every designated open road on the Tusayan Ranger District.

162. The North Kaibab Ranger District Travel Management Project allows motorized vehicle use within one mile off of all designated open roads on the North Kaibab Ranger District for the purposes of retrieving legally hunted and downed elk and bison. Allowing motorized big game retrieval for up to one mile off of every designated open road on the North Kaibab Ranger District is not limited and does not apply only to certain designated roads. Allowing motorized big game retrieval for up to one mile off of every designated open road on the North Kaibab Ranger District does not apply the Travel Management Rule's motorized big game retrieval provision sparingly. The Forest Service did not

analyze the site-specific environmental impacts of allowing motorized big game retrieval for one-mile off of every designated open road on the North Kaibab Ranger District.

163. The Forest Service's failure to limit and sparingly apply the motorized big game retrieval exception to the Travel Management Rule's prohibition on off-road motorized travel on the Williams, Tusayan, and North Kaibab Ranger Districts violates the Travel Management Rule, 36 C.F.R. § 212.51(b), and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

164. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

SECOND CLAIM FOR RELIEF
Violations of the Travel Management Rule, Executive Order 11644, and the
Administrative Procedure Act

Failure to consider and comply with the Travel Management Rule and Executive
Order 11644's minimization criteria on the Williams, Tusayan, and North Kaibab
Ranger Districts

165. Plaintiffs incorporate by reference all preceding paragraphs.

166. The Williams Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule and Executive Order 11644 by failing to consider and apply the minimization criteria.

167. The Tusayan Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule and Executive Order 11644 by failing to consider and apply the minimization criteria.

168. The North Kaibab Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the Travel Management Rule and Executive Order 11644 by failing to consider and apply the minimization criteria.

169. Executive Order 11644 (February 8, 1972) directed federal land management agencies, including the Forest Service, to develop regulations providing for the designation of areas and trails on public lands on which off-road vehicles may be permitted.

170. Executive Order 11644 instructed that areas and trails shall be located to minimize damage to soil, watersheds, vegetation, and other resources of the public lands; to minimize harassment of wildlife or significant disruption of wildlife habitats; and minimize conflicts between off-road motor vehicle use and existing or proposed recreational uses of the Forest. Executive Order 11644 § 3.

171. The Travel Management Rule states general and specific criteria the Forest Service must consider and apply when designating roads, trails, and areas for motor vehicle use on National Forests with the objective of minimizing damage to forest resources, harassment of wildlife, disruption of wildlife habitat, and conflicts with other recreational uses. 36 C.F.R. § 212.55.

172. The Travel Management Rule defines an area as a discrete, specifically delineated space that is smaller, and in most cases much smaller, than a Ranger District. 36 C.F.R. § 212.1.

173. General criteria that must be considered and applied for the designation of roads, trails, and areas for motor vehicle use include effects on natural and cultural resources, public safety, provision of recreational opportunities, access needs, conflicts among users of the Forest, and the availability of resources for necessary administration and maintenance. 36 C.F.R. § 212.55(a).

174. Specific criteria that must be considered and applied in designating trails and areas for motor vehicle use, with the objective of minimizing, include damage to soil, watersheds, vegetation, and other forest resources; harassment of wildlife and significant disruption of wildlife habitats; and conflicts between motor vehicle use and existing or proposed recreational uses of the Forest. 36 C.F.R. § 212.55(b). These specific criteria are referred to as the “minimization criteria.” The Forest Service must not just consider these minimization criteria, but must affirmatively demonstrate how it evaluated and applied the minimization criteria in any decision designating trails and areas for motor vehicle use with the objective of minimizing impacts and conflicts.

175. The Williams Ranger District Travel Management Project designated areas open to motorized vehicle use when it allowed motorized big game retrieval within one mile of every open road on the forest. The geographic areas of the Williams Ranger District that are open to motorized big game retrieval qualify as “areas” pursuant to the Travel Management Rule. The Forest Service did not consider or apply the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the Williams Ranger District. The Forest Service did not demonstrate how it considered or

applied the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the Williams Ranger District.

176. The Tusayan Ranger District Travel Management Project designated areas open to motorized vehicle use when it allowed motorized big game retrieval within one mile of every open road on the forest. The geographic areas of the Tusayan Ranger District that are open to motorized big game retrieval qualify as “areas” pursuant to the Travel Management Rule. The Forest Service did not consider or apply the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the Tusayan Ranger District. The Forest Service did not demonstrate how it considered or applied the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the Tusayan Ranger District.

177. The North Kaibab Ranger District Travel Management Project designated areas open to motorized vehicle use when it allowed motorized big game retrieval within one mile of every open road on the forest. The geographic areas of the North Kaibab Ranger District that are open to motorized big game retrieval qualify as “areas” pursuant to the Travel Management Rule. The Forest Service did not consider or apply the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the North Kaibab Ranger District. The Forest Service did not demonstrate how it considered or applied the minimization criteria found in Executive Order 11644 and the Travel Management Rule to these areas on the North Kaibab Ranger District.

178. The Forest Service’s failure to consider and apply the minimization criteria found in Executive Order 11644 and the Travel Management Rule violates Executive Order

11644 and the Travel Management Rule, 36 C.F.R. § 212.55(b), and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

179. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

THIRD CLAIM FOR RELIEF
Violations of the National Environmental Policy Act and the Administrative Procedure Act

Failure to disclose and analyze the direct, indirect, and cumulative impacts of the Williams, Tusayan, and North Kaibab Travel Management Projects

180. Plaintiffs incorporate by reference all preceding paragraphs.

181. The regulations implementing NEPA require the Defendants to disclose and analyze the environmental effects of the proposed action and alternatives to it. 40 C.F.R. § 1500.1(b). Specifically, the regulation explains that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” *Id.*

182. The Forest Service is required to disclose and analyze the direct, indirect, and cumulative effects of the proposed action on the environment. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8, 1508.25(c)(3), 1508.27(b)(7). When analyzing cumulative effects, the Forest Service must analyze the effects on the environment resulting from the

incremental impacts of the action, and its alternatives, when added to other past, present, and reasonably foreseeable future actions. 40 C.F.R. § 1508.7.

183. The Forest Service has failed to disclose and analyze the direct, indirect, and cumulative effects of the proposed action and its alternatives for the Williams, Tusayan, and North Kaibab Ranger Districts Travel Management Projects.

184. The Williams Ranger District Travel Management Project EA and DN/FONSI fail to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and its alternatives on the environment, which makes assessment of the environmental consequences of the project impossible. For example (but not limited to):

- a. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of motorized big game retrieval on the Williams Ranger District.
- b. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of closing routes, without decommissioning and/or obliterating those routes, on the Williams Ranger District.
- c. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable future motorized vehicle use on the Williams Ranger District, including on pre-existing user-created routes.
- d. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable illegal motorized vehicle use on the Williams Ranger District.

185. The Tusayan Ranger District Travel Management Project EA and DN/FONSI fail to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and its alternatives on the environment, which makes assessment of the environmental consequences of the project impossible. For example (but not limited to):

- a. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of motorized big game retrieval on the Tusayan Ranger District.
- b. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of closing routes, without decommissioning and/or obliterating those routes, on the Tusayan Ranger District.
- c. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable future motorized vehicle use on the Tusayan Ranger District, including on pre-existing user-created routes.
- d. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable illegal motorized vehicle use on the Tusayan Ranger District.

186. The North Kaibab Ranger District Travel Management Project EA and DN/FONSI fail to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and its alternatives on the environment, which makes assessment of the environmental consequences of the project impossible. For example (but not limited to):

- a. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of motorized big game retrieval on the North Kaibab Ranger District.
- b. The EA and DN/FONSI fail to disclose and analyze the direct and cumulative effects of closing routes, without decommissioning and/or obliterating those routes, on the North Kaibab Ranger District.
- c. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable future motorized vehicle use on the North Kaibab Ranger District, including on pre-existing user-created routes.
- d. The EA and DN/FONSI fail to disclose and analyze the cumulative effects of past, present, and reasonably foreseeable illegal motorized vehicle use on the North Kaibab Ranger District.

187. The Forest Service has failed to disclose and analyze the direct, indirect, and cumulative impacts of the proposed action and alternatives to it for the Williams, Tusayan, and North Kaibab Ranger Districts' Travel Management Projects as required by NEPA, which is arbitrary, capricious, and not in accordance with the APA. 5 U.S.C. § 706(2)(A).

188. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

FOURTH CLAIM FOR RELIEF
Violations of the National Environmental Policy Act and the Administrative Procedure Act

**Failure to prepare an Environmental Impact Statement on the Williams, Tusayan,
and North Kaibab Ranger Districts**

189. Plaintiffs incorporate by reference all preceding paragraphs.

190. The Williams Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Environmental Policy Act and Administrative Procedure Act by failing to require and prepare an Environmental Impact Statement.

191. The Tusayan Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Environmental Policy Act and Administrative Procedure Act by failing to require and prepare an Environmental Impact Statement.

192. The North Kaibab Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Environmental Policy Act and Administrative Procedure Act by failing to require and prepare an Environmental Impact Statement.

193. NEPA requires the Forest Service to prepare an EIS when a proposed major federal action may significantly affect the quality of the environment. 42 U.S.C. § 4332(2)(C). In determining whether a proposed action may “significantly” impact the environment, both the context and intensity of the action must be considered. 40 C.F.R. §1508.27.

194. In evaluating intensity, the agency must consider numerous “significance” factors, including impacts that may be both beneficial and adverse; the unique characteristics of

the geographic area such as proximity to ecologically critical areas; the degree to which the effects on the quality of the human environment are likely to be highly controversial; the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; the degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration; the degree to which the action may adversely affect an endangered or threatened species or its habitat; and whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. 40 C.F.R. § 1508.27(b).

195. If the agency's action may be environmentally significant according to any of the criteria, the agency must prepare an EIS. The presence of several significance factors, when considered cumulatively, can require the preparation of an EIS.

196. The Williams Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact authorize federal action that may have a significant effect on the environment. The authorized action implicates a number of the significance factors that individually require the preparation of an EIS. The authorized action would have significant adverse impacts. 40 C.F.R. § 1508.27(b)(1). The authorized action would have significant beneficial impacts. *Id.* The authorized action would be carried out in geographic areas with unique characteristics, including in geographic areas in proximity to ecologically critical areas. 40 C.F.R. § 1508.27(b)(3). The effects of the authorized action are highly controversial. 40 C.F.R. § 1508.27(b)(4). The effects of the authorized action are highly uncertain or involve unique

or unknown risks. 40 C.F.R. § 1508.27(b)(5). The authorized action may establish a precedent for future actions. 40 C.F.R. § 1508.27(b)(6). The authorized action may have cumulatively significant impacts. 40 C.F.R. § 1508.27(b)(7). The authorized action may cause loss or destruction of significant scientific, cultural, or historical resources. 40 C.F.R. § 1508.27(b)(8). The authorized action may adversely affect an endangered or threatened species or its habitat. 40 C.F.R. § 1508.27(b)(9). The authorized action threatens a violation federal law. 40 C.F.R. § 1508.27(b)(10).

197. The Tusayan Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact authorize federal action that may have a significant effect on the environment. The authorized action implicates a number of the significance factors that individually require the preparation of an EIS. The authorized action would have significant adverse impacts. 40 C.F.R. § 1508.27(b)(1). The authorized action would have significant beneficial impacts. *Id.* The authorized action would be carried out in geographic areas with unique characteristics, including in geographic areas in proximity to ecologically critical areas. 40 C.F.R. § 1508.27(b)(3). The effects of the authorized action are highly controversial. 40 C.F.R. § 1508.27(b)(4). The effects of the authorized action are highly uncertain or involve unique or unknown risks. 40 C.F.R. § 1508.27(b)(5). The authorized action may establish a precedent for future actions. 40 C.F.R. § 1508.27(b)(6). The authorized action may have cumulatively significant impacts. 40 C.F.R. § 1508.27(b)(7). The authorized action may cause loss or destruction of significant scientific, cultural, or historical resources. 40 C.F.R. § 1508.27(b)(8). The authorized action may adversely affect an endangered or

threatened species or its habitat. 40 C.F.R. § 1508.27(b)(9). The authorized action threatens a violation federal law. 40 C.F.R. § 1508.27(b)(10).

198. The North Kaibab Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact authorize federal action that may have a significant effect on the environment. The authorized action implicates a number of the significance factors that individually require the preparation of an EIS. The authorized action would have significant adverse impacts. 40 C.F.R. § 1508.27(b)(1). The authorized action would have significant beneficial impacts. *Id.* The authorized action would be carried out in geographic areas with unique characteristics, including in geographic areas in proximity to ecologically critical areas. 40 C.F.R. § 1508.27(b)(3). The effects of the authorized action are highly controversial. 40 C.F.R. § 1508.27(b)(4). The effects of the authorized action are highly uncertain or involve unique or unknown risks. 40 C.F.R. § 1508.27(b)(5). The authorized action may establish a precedent for future actions. 40 C.F.R. § 1508.27(b)(6). The authorized action may have cumulatively significant impacts. 40 C.F.R. § 1508.27(b)(7). The authorized action may cause loss or destruction of significant scientific, cultural, or historical resources. 40 C.F.R. § 1508.27(b)(8). The authorized action may adversely affect an endangered or threatened species or its habitat. 40 C.F.R. § 1508.27(b)(9). The authorized action threatens a violation federal law. 40 C.F.R. § 1508.27(b)(10).

199. The Forest Service did not prepare an Environmental Impact Statement for the Williams, Tusayan, and North Kaibab Ranger Districts' Travel Management Projects.

200. The significance factors implicated by the authorized actions are significant individually. The significance factors implicated by the authorized actions are significant when considered cumulatively.

201. The Forest Service's decision to authorize and implement its Williams, Tusayan, and North Kaibab Ranger Districts' Travel Management Projects without first preparing an EIS is arbitrary, capricious, and not in compliance with NEPA. 5 U.S.C. § 706(2)(A). The Williams Tusayan, and North Kaibab Ranger Districts' Travel Management Projects' Decision Notices and Findings of No Significant Impact are arbitrary, capricious, and not in compliance with NEPA. 5 U.S.C. § 706(2)(A).

202. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

FIFTH CLAIM FOR RELIEF
Violations of the National Historic Preservation Act (NHPA) and the Administrative Procedure Act

203. Plaintiffs incorporate by reference all preceding paragraphs.

204. The Williams Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Historic Preservation Act and Administrative Procedure Act.

205. The Tusayan Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Historic Preservation Act and Administrative Procedure Act.

206. The North Kaibab Ranger District Travel Management Project Environmental Assessment and Decision Notice and Finding of No Significant Impact violate the National Historic Preservation Act and Administrative Procedure Act.
207. The NHPA requires the Forest Service to inventory, evaluate, and identify cultural resources within the Kaibab National Forest. 54 U.S.C. § 306102. The NHPA requires the Forest Service to “take into account the effect of the undertaking on any historic property” and is to allow the Advisory Council on Historic Preservation “a reasonable opportunity to comment with regard to such undertaking.” 54 U.S.C. § 306108.
208. The Forest Service is to make a reasonable, good-faith effort to identify historic properties, determine whether identified properties are eligible for listing on the National Register of Historic Places, assess the effects of an undertaking on any eligible historic properties found, and determine whether the effect will be adverse, and if so, avoid or mitigate any adverse effects. 36 C.F.R. § 800.4.
209. The Williams Ranger District EA and DN/FONSI is an undertaking under the NHPA. The Tusayan Ranger District EA and DN/FONSI is an undertaking under the NHPA. The North Kaibab Ranger District EA and DN/FONSI is an undertaking under the NHPA.
210. In approving the Williams Ranger District EA and DN/FONSI, the Forest Service failed to make a reasonable effort to identify historic and cultural properties on the Williams Ranger District.
211. The Forest Service’s reliance on Exemption Q of the Forest Service’s Southwestern Region NHPA Programmatic Agreement for the Williams Ranger District

is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

212. The Forest Service’s “no adverse effect” determination under the NHPA for the Williams Ranger District is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

213. In approving the Tusayan Ranger District EA and DN/FONSI, the Forest Service failed to make a reasonable effort to identify historic and cultural properties on the Williams Ranger District.

214. The Forest Service’s reliance on Exemption Q of the Forest Service’s Southwestern Region NHPA Programmatic Agreement for the Tusayan Ranger District is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

215. The Forest Service’s “no adverse effect” determination under the NHPA for the Tusayan Ranger District is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

216. In approving the North Kaibab Ranger District EA and DN/FONSI, the Forest Service failed to make a reasonable effort to identify historic and cultural properties on the Williams Ranger District.

217. The Forest Service’s reliance on Exemption Q of the Forest Service’s Southwestern Region NHPA Programmatic Agreement for the North Kaibab Ranger District is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

218. The Forest Service’s “no adverse effect” determination under the NHPA for the North Kaibab Ranger District is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, 5 U.S.C. § 706(2)(A).

219. The Forest Service’s failure to comply with the NHPA is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” 5 U.S.C. § 706(2)(A), and constitutes “agency action unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

220. Plaintiffs are entitled to their reasonable fees, costs, and expenses associated with this litigation pursuant to the Equal Access to Justice Act. 28 U.S.C. § 2412.

PLAINTIFFS’ PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

1. Declare that the Forest Service violated the National Environmental Policy Act and its implementing regulations, the Travel Management Rule, Executive Order 11644, and the Administrative Procedure Act in designing, analyzing, authorizing, and implementing the Williams Ranger District Travel Management Project EA and DN/FONSI; the Tusayan Ranger District Travel Management Project EA and DN/FONSI; and the North Kaibab Ranger District Travel Management Project EA and DN/FONSI;
2. Order the Forest Service to commence and engage the public in a legally sufficient travel management planning process on the Williams, Tusayan, and North Kaibab Ranger Districts within six months of the entry of judgment;

3. Order the Forest Service to complete a legally sufficient travel management planning process on the Williams, Tusayan, and North Kaibab Ranger Districts within two years of the entry of judgment;
 4. Order the Forest Service to submit progress reports to the Court on the Forest Service's progress towards completion of a legally sufficient travel management planning process on the Williams, Tusayan, and North Kaibab Ranger Districts every six months;
 5. Enjoin the Forest Service from allowing motorized big game retrieval on the Williams, Tusayan, and North Kaibab Ranger Districts until such time that it can demonstrate compliance with federal law;
 6. Award Plaintiffs costs, other expenses, and attorneys' fees pursuant to the Equal Access to Justice Act and National Historic Preservation Act;
 7. Grant Plaintiff such other and further relief as the Court deems just and equitable.
- Respectfully submitted and dated this 25th day of January, 2016.

/s/ John R. Mellgren
John R. Mellgren (OSB # 114620)
Applicant Pro Hac Vice
Western Environmental Law Center
1216 Lincoln Street
Eugene, Oregon 97401
Ph. (541) 359-0990
Fax (541) 485-2457
mellgren@westernlaw.org

Susan Jane M. Brown (OSB #054607)
Applicant Pro Hac Vice
Western Environmental Law Center
4107 NE Couch Street
Portland, Oregon 97232
Ph. (503) 914-1323
brown@westernlaw.org

Attorneys for Plaintiffs

/s/ Cynthia Tuell

Cynthia Tuell (Arizona Bar # 025301)

903 N. Alder Avenue

Tucson, Arizona 85705

Ph. (520) 404-0920

cctuell@hotmail.com

Attorney for Plaintiff WildEarth Guardians