

1 JOHN C. CRUDEN  
2 Assistant Attorney General  
3 Environment & Natural Resources Division  
4 United States Department of Justice

5 JOHN P. TUSTIN (TX 24056458)  
6 DAVENÉ D. WALKER (GA 153042)  
7 john.tustin@usdoj.gov  
8 davene.walker@usdoj.gov  
9 Trial Attorneys  
10 Natural Resources Section  
11 P.O. Box 7611  
12 Washington, DC 20044-7611  
13 Tel: (202) 305-3022 (Tustin)  
14 (202) 353-9213 (Walker)  
15 Fax: (202) 305-0506

16 BENJAMIN B. WAGNER  
17 United States Attorney

18 LYNN TRINKA ERNCE  
19 lynn.trinka.ernce@usdoj.gov  
20 Assistant United States Attorney  
21 501 I Street, Suite 10-100  
22 Sacramento, CA 95814  
23 Tel: (916) 554-2720  
24 Fax: (916) 554-2900

25 *Attorneys for Federal Defendants*

26 IN THE UNITED STATES DISTRICT COURT  
27 FOR THE EASTERN DISTRICT OF CALIFORNIA

28 AMY GRANAT, CORKY LAZZARINO, )  
SIERRA ACCESS COALITION; CALIFORNIA )  
OFF-ROAD VEHICLE ASSOCIATION; THE )  
COUNTY OF PLUMAS; AND THE COUNTY )  
OF BUTTE, )

Plaintiffs, )

v. )

Case No. 2:15-CV-0605-MCE-DAD

FEDERAL DEFENDANTS'  
PARTIAL ANSWER

1 UNITED STATES DEPARTMENT OF )  
2 AGRICULTURE, a federal agency; TOM )  
3 VILSACK, in his official capacity as Secretary of )  
4 the United States Department of Agriculture; )  
5 UNITED STATES FOREST SERVICE, a federal )  
6 agency; THOMAS L. TIDWELL, in his official )  
7 capacity as Chief of the United States Forest )  
8 Service; RANDY MOORE, in his official capacity )  
9 as Pacific Southwest Regional Forester; and )  
10 CHRISTOPHER FRENCH, in his official capacity )  
11 as Acting Forest Supervisor for the Plumas )  
12 National Forest, )  
13 Federal Defendants.<sup>1</sup> )  
14 )  
15 )  
16 )  
17 )  
18 )  
19 )  
20 )  
21 )  
22 )  
23 )  
24 )  
25 )

---

26 <sup>1</sup> Plaintiffs also name as defendants Alice Carlton (in her official capacity as the former Plumas  
27 National Forest Supervisor) and Earl Ford (in his official capacity as Plumas National Forest  
28 Supervisor). Ms. Carlton and Mr. Ford are no longer with the Forest Service in these capacities  
and should be substituted pursuant to Federal Rule of Civil Procedure 25(d) with Mr. French,  
who is the Acting Forest Supervisor for the Plumas National Forest. *See also* ¶¶ 30, 31, *infra*.

1 Pursuant to Federal Rule of Civil Procedure 8, Federal Defendants, by and through their  
2 undersigned counsel, submit the following Answer to the claims and allegations in Plaintiffs’  
3 March 18, 2015 Complaint for Declaratory and Injunctive Relief (“Complaint”) (ECF No. 1).  
4 Federal Defendants are the United States Department of Agriculture; Tom Vilsack, in his official  
5 capacity as Secretary of the United States Department of Agriculture; United States Forest  
6 Service; Tom Tidwell, in his official capacity as Chief of the United States Forest Service;  
7 Randy Moore, in his official capacity as Pacific Southwest Regional Forester; and Christopher  
8 French, in his official capacity as Acting Forest Supervisor for the Plumas National Forest.  
9 Plaintiffs are Amy Granat, Corky Lazzarino, Sierra Access Coalition, California Off-Road  
10 Vehicle Association, the County of Plumas, and the County of Butte.

11 The numbered paragraphs of this Answer correspond to the numbered paragraphs of  
12 Plaintiffs’ Complaint.

13 **“INTRODUCTION”**

- 14 1. The allegations in Paragraph 1 constitute characterizations of Plaintiffs’ case, to which no  
15 response is required. To the extent a response is required, Federal Defendants deny the  
16 allegations.
- 17 2. The allegations in the first sentence of Paragraph 2 constitute conclusions of law and  
18 characterizations of Plaintiffs’ case, to which no response is required. To the extent a  
19 response is required, Federal Defendants deny the allegations and deny any violation of  
20 law. The allegations in the second sentence of Paragraph 2 constitute conclusions of law  
21 and Plaintiffs’ prayer for relief, to which no response is required. To the extent a  
22 response is required, Federal Defendants deny the allegations, deny any violation of law,  
23 and deny that Plaintiffs are entitled to the relief requested or any other relief.
- 24 3. Federal Defendants admit the allegations in the first and second sentences of Paragraph 3.  
25 Federal Defendants admit that approximately 3,236 individual routes comprising  
26 approximately 1,107 miles of inventoried, unclassified routes may have been used for  
27 public motorized travel before issuance of the Record of Decision. Federal Defendants  
28 lack knowledge or information sufficient to form a belief about the truth or falsity of the

1 remaining allegations in the third sentence of Paragraph 3, and on this basis deny the  
2 allegations. Federal Defendants admit the allegations in the fourth sentence of Paragraph  
3 4 with the clarification that prior to the issuance of the Travel Management Rule, the  
4 Plumas National Forest was open to cross-country motorized travel. The allegations in  
5 the fifth sentence of Paragraph 3 constitute characterizations of Plaintiffs' case, to which  
6 no response is required. To the extent a response is required, Federal Defendants deny  
7 the allegations. Federal Defendants lack knowledge or information sufficient to form a  
8 belief about the truth or falsity of the allegations in the sixth and seventh sentences of  
9 Paragraph 3, and on this basis deny the allegations.

10 4. Federal Defendants deny the allegations in Paragraph 4.

11 5. Federal Defendants deny the allegations in Paragraph 5 and further deny any violation of  
12 law.

13 **"JURISDICTION"**

14 6. The allegations in Paragraph 6 constitute conclusions of law and statements regarding  
15 jurisdiction, to which no response is required.

16 7. The allegations in Paragraph 7 constitute conclusions of law and statements regarding  
17 jurisdiction, to which no response is required.

18 8. The allegations in Paragraph 8 constitute conclusions of law and statements regarding  
19 jurisdiction, to which no response is required.

20 9. The allegations in Paragraph 9 constitute conclusions of law, to which no response is  
21 required.

22 10. With regards to the allegations in the first sentence of Paragraph 10, Federal Defendants  
23 admit that Plaintiffs Sierra Access Coalition, California Off-Road Vehicle Association,  
24 the County of Butte, and the County of Plumas timely filed administrative appeals.  
25 Federal Defendants deny the remaining allegations in the first sentence of Paragraph 10.  
26 Federal Defendants admit the allegations in the second, third, fourth, and fifth sentences  
27 of Paragraph 10.  
28

1 11. The allegations in Paragraph 11 constitute conclusions of law, to which no response is  
2 required.

3 **“VENUE”**

4 12. The allegations in the first sentence of Paragraph 12 constitute conclusions of law and  
5 statements regarding venue, to which no response is required. Federal Defendants admit  
6 the allegations in the second and third sentences of Paragraph 12.

7 **“PARTIES”**

8 13. Federal Defendants lack knowledge or information sufficient to form a belief about the  
9 truth or falsity of the allegations in Paragraph 13, and on this basis deny the allegations.

10 14. Federal Defendants lack knowledge or information sufficient to form a belief about the  
11 truth or falsity of the allegations in Paragraph 14, and on this basis deny the allegations.

12 15. Federal Defendants admit the allegations in the first sentence of Paragraph 15. The  
13 allegations in the second sentence of Paragraph 15 constitute conclusions of law, to  
14 which no response is required. To the extent a response is required, Federal Defendants  
15 deny the allegations.

16 16. Federal Defendants lack knowledge or information sufficient to form a belief about the  
17 truth or falsity of the allegations in Paragraph 16, and on this basis deny the allegations.

18 17. Federal Defendants lack knowledge or information sufficient to form a belief about the  
19 truth or falsity of the allegations in Paragraph 17, and on this basis deny the allegations.

20 18. Federal Defendants lack knowledge or information sufficient to form a belief about the  
21 truth or falsity of the allegations in Paragraph 18, and on this basis deny the allegations.

22 19. Federal Defendants lack knowledge or information sufficient to form a belief about the  
23 truth or falsity of the allegations in Paragraph 19, and on this basis deny the allegations.

24 20. Federal Defendants admit the allegations in the first sentence of Paragraph 20. The  
25 allegations in the second sentence of Paragraph 20 constitute conclusions of law, to  
26 which no response is required. To the extent a response is required, Federal Defendants  
27 deny the allegations.  
28

1 21. Federal Defendants lack knowledge or information sufficient to form a belief about the  
2 truth or falsity of the allegations in Paragraph 21, and on this basis deny the allegations.

3 22. Federal Defendants lack knowledge or information sufficient to form a belief about the  
4 truth or falsity of the allegations in Paragraph 22, and on this basis deny the allegations.

5 23. Federal Defendants admit the allegations in the first sentence of Paragraph 23. Federal  
6 Defendants deny the allegations in the fifth sentence of Paragraph 23 and aver that  
7 approximately 1,000,260 acres of the Plumas National Forest are located within Plumas  
8 County. Federal Defendants lack knowledge or information sufficient to form a belief  
9 about the truth or falsity of the remaining allegations in Paragraph 23, and on this basis  
10 deny the allegations.

11 24. Federal Defendants admit the allegations in the first sentence of Paragraph 24. Federal  
12 Defendants deny the allegations in the fifth sentence of Paragraph 23 and aver that  
13 approximately 84,040 acres of the Plumas National Forest are located within Butte  
14 County. Federal Defendants lack knowledge or information sufficient to form a belief  
15 about the truth or falsity of the remaining allegations in Paragraph 23, and on this basis  
16 deny the allegations.

17 25. Federal Defendants admit the allegations in Paragraph 25.

18 26. Federal Defendants admit the allegations in Paragraph 26

19 27. Federal Defendants admit the allegations in Paragraph 27.

20 28. Federal Defendants admit the allegations in Paragraph 28.

21 29. Federal Defendants admit the allegations in the first sentence of Paragraph 29. Federal  
22 Defendants deny the allegations in the second sentence of Paragraph 29 and aver that  
23 Ronald G. Ketter, the Deputy Regional Forester for the Pacific Southwest Region of the  
24 Forest Service, was the Appeal Deciding Officer for Plaintiffs' appeals of the Record of  
25 Decision and the Final Environmental Impact Statement.

26 30. Federal Defendants admit the allegations in Paragraph 30 and aver that Alice Carlton left  
27 her position as Forest Supervisor for the Plumas National Forest in or about July 2011.  
28

1 31. Federal Defendants deny the allegations in Paragraph 31 and aver that Christopher  
2 French is the Acting Forest Supervisor for the Plumas National Forest.

3 **“LEGAL FRAMEWORK”**  
4 **“ADMINISTRATIVE PROCEDURE ACT”**

5 32. The allegations in Paragraph 32 purport to characterize the Administrative Procedure Act.  
6 The statute speaks for itself and is the best evidence of its content. The Court is referred  
7 to the statute for true and complete statements of its provisions.

8 **“NATIONAL ENVIRONMENTAL POLICY ACT”**

9 33. The allegations in Paragraph 33 purport to quote from and characterize the National  
10 Environmental Policy Act (“NEPA”), 42 U.S.C. § 4331(a), and Council on  
11 Environmental Quality (“CEQ regulations”), 40 C.F.R. § 1501.1(a)-(c). The statute and  
12 regulations speak for themselves and are the best evidence of their contents. The Court is  
13 referred to the statute and regulations for true and complete statements of their  
14 provisions.

15 34. The allegations in Paragraph 34 purport to quote from and characterize NEPA, 42 U.S.C.  
16 § 4332(2)(C)(i)-(iv), and CEQ regulations, 40 C.F.R. §§ 1500.2(e)-(f). The statute and  
17 regulations speak for themselves and are the best evidence of their contents. The Court is  
18 referred to the statute and regulations for true and complete statements of their  
19 provisions.

20 35. The allegations in Paragraph 35 purport to characterize NEPA and CEQ regulation 40  
21 C.F.R. § 1505.2. The statute and regulation speak for themselves and are the best  
22 evidence of their contents. The Court is referred to the statute and regulation for true and  
23 complete statements of their provisions.

24 **“NATIONAL FOREST MANAGEMENT ACT”**

25 36. Federal Defendants admit the allegations in the first sentence of Paragraph 36. The  
26 allegations in the second sentence of Paragraph 36 purport to quote from and characterize  
27 *Lands Council v. McNair*, 537 F.3d 981 (9th Cir. 2008). The case speaks for itself and is  
28

1 the best evidence of its content. The Court is referred to the case for true and complete  
2 statements of its language.

3 37. The allegations in Paragraph 37 purport to quote from and characterize the National  
4 Forest Management Act (“NFMA”), 16 U.S.C. § 1604(g), and the Multiple-Use  
5 Sustained Yield Act, 16 U.S.C. § 531. The statutes speak for themselves and are the best  
6 evidence of their contents. The Court is referred to the statutes for true and complete  
7 statements of their provisions.

8 38. The allegations in Paragraph 38 purport to quote from and characterize NFMA, 16 U.S.C.  
9 § 1604(a), (g)(3)(A). The statute speaks for itself and is the best evidence of its content.  
10 The Court is referred to the statute for true and complete statements of its provisions.

11 39. The allegations in Paragraph 39 purport to quote from and characterize NFMA, 16 U.S.C.  
12 § 1604(a), and the 1982 Forest Service planning regulations, 36 C.F.R. §§ 219.4, 219.16.  
13 The statute and regulations speak for themselves and are the best evidence of their  
14 contents. The Court is referred to the statute and regulations for true and complete  
15 statements of their provisions. Federal Defendants aver that the cited regulations have  
16 been superseded and that the current Forest Service planning rule was promulgated in  
17 2012. 77 Fed. Reg. 21,162 (April 9, 2012) (codified at 36 C.F.R. pt. 219).

18 **“ALLEGATIONS REGARDING THE TRAVEL MANAGEMENT RULE”**

19 40. Federal Defendants admit the allegations in the first and second sentences of Paragraph  
20 40. The allegations in the third sentence of Paragraph 40 constitute conclusions of law,  
21 to which no response is required.

22 41. The allegations in Paragraph 41 purport to quote from and characterize the Federal  
23 Register Notice for the Travel Management Rule, 70 Fed. Reg. 68,264 (Nov. 9, 2005).  
24 The Notice speaks for itself and is the best evidence of its content. The Court is referred  
25 to the Federal Register Notice for true and complete statements of its language.

26 42. The allegations in Paragraph 42 purport to characterize Subpart A (Administration of the  
27 Forest Transportation System) of the Forest Service’s travel management regulations, 36  
28 C.F.R. § 212.5(b). The cited regulation speaks for itself and is the best evidence of its



1 content. The Court is referred to the regulation for a true and complete statement of its  
2 provisions.

3 43. The allegations in Paragraph 43 purport to characterize Subpart B (Designation of Roads,  
4 Trails, and Areas for Motor Vehicle Use) of the Forest Service's travel management  
5 regulations, 36 C.F.R. § 212.55(a), (b). The cited regulation speaks for itself and is the  
6 best evidence of its content. The Court is referred to the regulation for true and complete  
7 statements of its provisions.

8 44. The allegations in Paragraph 44 purport to quote from and characterize the Forest  
9 Service's travel management regulations, 36 C.F.R. § 212.53. The cited regulation  
10 speaks for itself and is the best evidence of its content. The Court is referred to the  
11 regulation for true and complete statements of its provisions.

12 45. The allegations in Paragraph 45 purport to quote from and characterize the Federal  
13 Register Notice for the Travel Management Rule, 70 Fed. Reg. at 68,264-65. The Notice  
14 speaks for itself and is the best evidence of its content. The Court is referred to the  
15 Federal Register Notice for true and complete statements of its provisions.

16 **“ALLEGATIONS REGARDING PLUMAS NATIONAL FOREST AND**  
17 **IMPLEMENTATION OF THE TRAVEL MANAGEMENT RULE”**

18 46. Federal Defendants admit the allegations in Paragraph 46.

19 47. Federal Defendants admit the allegations in Paragraph 47.

20 48. Federal Defendants admit the allegations in the first and third sentences of Paragraph 48.  
21 In response to the second sentence of Paragraph 48, Federal Defendants admit that prior  
22 to the 2010 Record of Decision (“ROD”) multiple uses (including motorized vehicle use)  
23 occurred in many areas of the Forest (including user-created roads and trails), and that the  
24 use of such roads and trails was not illegal.

25 49. The allegations in Paragraph 49 purport to characterize the 1988 Plumas Land and  
26 Resource Management Plan (“Plumas LRMP”), which speaks for itself and is the best  
27 evidence of its content. The Court is referred to the Plumas LRMP for true and complete  
28 statements of its provisions.

1 50. Federal Defendants admit the allegations in the first sentence of Paragraph 50 with the  
2 clarification that the Forest Service regulated motorized vehicle use and other uses of the  
3 Plumas National Forest both prior to, and after the adoption of, the Travel Management  
4 Rule. Federal Defendants admit the allegations in the second sentence of Paragraph 50  
5 with the clarification that the Forest Service developed the 1989 Off-Road Vehicle Travel  
6 Plan as an implementation plan of the Plumas LRMP. In response to the third sentence  
7 of Paragraph 50, Federal Defendants admit that the Land and Resource Management Plan  
8 (Forest Plan) governs Forest Service management of National Forest System lands.

9 Federal Defendants deny the remaining allegations in the third sentence of Paragraph 50.

10 51. Federal Defendants deny the allegations in the first sentence of Paragraph 51. Federal  
11 Defendants lack knowledge or information sufficient to form a belief about the truth or  
12 falsity of the allegations in the second and third sentences of Paragraph 51, and on this  
13 basis deny the allegations.

14 52. Federal Defendants admit the allegations in the first sentence of Paragraph 52. The  
15 allegations in the second sentence of Paragraph 52 purport to quote from and characterize  
16 the 2003 Memorandum of Intent, which speaks for itself and is the best evidence of its  
17 content. The Court is referred to the 2003 Memorandum of Intent for true and complete  
18 statements of its provisions.

19 53. Federal Defendants deny the allegations in the first and second sentences of Paragraph  
20 53. The allegations in the third sentence of Paragraph 53 purport to characterize the Draft  
21 Environmental Impact Statement (“DEIS”) for the challenged decision, which speaks for  
22 itself and is the best evidence of its content. The Court is referred to the DEIS for true  
23 and complete statements of its provisions. Federal Defendants aver that prior to the  
24 ROD, user-created routes that were not in the Forest Transportation System were  
25 unauthorized but not illegal.

26 54. Federal Defendants admit the allegations in Paragraph 54.

27 55. Federal Defendants admit the allegations in Paragraph 55, with the clarification that  
28 Sierra Access Coalition’s comments on the DEIS are dated March 15, 2009, and

1 California Off-Road Vehicle Association's comments on the DEIS are dated March 12,  
2 2009.

3 56. Federal Defendants deny the allegations in the first sentence of Paragraph 56 and aver  
4 that the Notice of Availability was published in the Federal Register on November 5,  
5 2010, and that the legal notice was published in the newspaper of record on  
6 November 10, 2010. The allegations in the second and third sentences of Paragraph 56  
7 purport to characterize the ROD, which speaks for itself and is the best evidence of its  
8 content. The Court is referred to the ROD for true and complete statements of its  
9 provisions. Federal Defendants deny any failure to satisfy public comment requirements.

10 57. Federal Defendants deny the allegations in Paragraph 57 but aver that the Motor Vehicle  
11 Use Map was published in 2011.

12 58. Federal Defendants deny the allegations in Paragraph 58 but aver that an updated Motor  
13 Vehicle Use Map was published in 2013.

14 **“SPECIFIC ALLEGATIONS THAT SUPPORT DECLARATORY RELIEF”**

15 59. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
16 fully set forth herein.

17 60. The allegations in Paragraph 60 constitute characterizations of Plaintiffs' case and  
18 conclusions of law, to which no response is required. To the extent a response is  
19 required, Federal Defendants deny the allegations and deny any violation of law.

20 61. The allegations in Paragraph 61 constitute characterizations of Plaintiffs' case and  
21 conclusions of law, to which no response is required. To the extent a response is  
22 required, Federal Defendants deny the allegations and deny any violation of law.

23 62. The allegations in Paragraph 62 constitute Plaintiffs' prayer for relief, to which no  
24 response is required. To the extent a response is required, Federal Defendants deny that  
25 Plaintiffs are entitled to the relief requested or any other relief.

26 **“SPECIFIC ALLEGATIONS THAT SUPPORT INJUNCTIVE RELIEF”**

27 63. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
28 fully set forth herein.

1 64. The allegations in Paragraph 64 constitute characterizations of Plaintiffs' case and  
2 conclusions of law, to which no response is required. To the extent a response is  
3 required, Federal Defendants deny the allegations and deny any violation of law.

4 65. The allegations in Paragraph 65 constitute characterizations of Plaintiffs' case and  
5 conclusions of law, to which no response is required. To the extent a response is  
6 required, Federal Defendants deny the allegations and deny any violation of law.

7 66. The allegations in Paragraph 66 constitute characterizations of Plaintiffs' case and  
8 conclusions of law, to which no response is required. To the extent a response is  
9 required, Federal Defendants deny the allegations.

10 67. The allegations in Paragraph 67 constitute characterizations of Plaintiffs' case and  
11 conclusions of law, to which no response is required. To the extent a response is  
12 required, Federal Defendants deny the allegations and deny any violation of law.

13 **"CLAIMS FOR RELIEF"**  
14 **"FIRST CLAIM FOR RELIEF"**

15 **"(Illegal Application of Substantive Criteria of Travel Management Rule)"**

16 68. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
17 fully set forth herein.

18 69. The allegations in Paragraph 69 purport to characterize Subpart A of the Forest Service's  
19 travel management regulations, 36 C.F.R. § 212.5(b). The regulation speaks for itself  
20 and is the best evidence of its content. The Court is referred to the regulation for a true  
21 and complete statement of its provisions.

22 70. The allegations in Paragraph 70 purport to characterize Subpart B of the Forest Service's  
23 travel management regulations, 36 C.F.R. § 212.5(a), (b). The regulations speaks for  
24 themselves and are the best evidence of their contents. The Court is referred to the  
25 regulations for true and complete statements of their provisions.

26 71. The allegations in Paragraph 71 purport to characterize the ROD and the Travel  
27 Management Rule, which speak for themselves and are the best evidence of their content.  
28 The Court is referred to the ROD and Travel Management Rule for true and complete

1 statements of their provisions. Federal Defendants aver that Subpart A and Subpart B of  
2 the Travel Management Rule are separate procedures.

3 72. The allegations in Paragraph 72 purport to quote from and characterize the Forest  
4 Service's Route Designation Guidebook, which speaks for itself and is the best evidence  
5 of its content. The Court is referred to the Guidebook for true and complete statements of  
6 its provisions.

7 73. Federal Defendants deny the allegations in Paragraph 73. Federal Defendants further  
8 aver that the Guidebook is not binding on the Agency.

9 74. Federal Defendants admit the allegations in the first sentence of Paragraph 74, with the  
10 clarification that the Forest Service inventoried non-system National Forest  
11 Transportation System routes. The allegations in the second sentence of Paragraph 74  
12 purport to characterize the Final Environmental Impact Statement ("FEIS") for the  
13 challenged decision, which speaks for itself and is the best evidence of its content. The  
14 Court is referred to the FEIS for true and complete statements of its provisions.

15 75. The allegations in Paragraph 75 purport to characterize the FEIS for the challenged  
16 decision, which speaks for itself and is the best evidence of its content. The Court is  
17 referred to the FEIS for true and complete statements of its provisions. Federal  
18 Defendants deny any violation of law.

19 76. Federal Defendants admit the allegations in Paragraph 76, with the clarification that the  
20 Forest Service also retained numerous spur roads and short connector routes under 0.5  
21 miles in length.

22 77. Federal Defendants admit the allegations in the first sentence of Paragraph 77 with the  
23 clarification that designation of roads solely for the purpose of private property access  
24 was not consistent with the project purpose and need, which was to provide for a system  
25 of roads, trails, and areas for public motor vehicle use. Where private property access is  
26 needed by the property owner, it can be provided under a Special Use Permit and as  
27 specifically provided for in the Travel Management Rule, 36 C.F.R. § 212.51(a)(8). The  
28 allegations in the second sentence of Paragraph 77 purport to characterize the FEIS for

1 the challenged decision, which speaks for itself and is the best evidence of its content.

2 The Court is referred to the FEIS for true and complete statements of its provisions.

3 Federal Defendants deny any violation of law.

4 78. Federal Defendants deny the allegations in Paragraph 78.

5 79. Federal Defendants deny the allegations in Paragraph 79.

6 80. The allegations in Paragraph 80 constitute conclusions of law and Plaintiffs' prayer for  
7 relief, to which no response is required. To the extent a response is required, Federal  
8 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
9 entitled to the relief requested or any other relief.

10 81. The allegations in Paragraph 81 constitute conclusions of law, to which no response is  
11 required. To the extent a response is required, Federal Defendants deny the allegations  
12 and deny that Plaintiffs are entitled to the relief requested or any other relief.

13 82. The allegations in Paragraph 82 constitute conclusions of law, to which no response is  
14 required. To the extent a response is required, Federal Defendants deny the allegations  
15 and deny that Plaintiffs are entitled to the relief requested or any other relief.

16 **"SECOND CLAIM FOR RELIEF"**

17 **"(Failure to Coordinate with Local Governments Under Travel Management Rule)"**

18 83. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
19 fully set forth herein.

20 84. The allegations in Paragraph 84 purport to quote from and characterize the Forest  
21 Service's travel management regulations, 36 C.F.R. § 212.53. The regulation speaks for  
22 itself and is the best evidence of its content. The Court is referred to the regulation for a  
23 true and complete statement of its provisions.

24 85. The allegations in Paragraph 85 purport to quote from and characterize the Forest Service  
25 Manual, FSM 7700 §§ 7702, 7710.3. The Manual speaks for itself and is the best  
26 evidence of its content. The Court is referred to the Manual for true and complete  
27 statements of its provisions.

1 86. The allegations in Paragraph 86 purport to characterize the Forest Service Manual, FSM  
2 7700 § 7715.3. The Manual speaks for itself and is the best evidence of its content. The  
3 Court is referred to the Manual for true and complete statements of its provisions.

4 87. Federal Defendants admit the allegations in Paragraph 87 and aver that the Forest Service  
5 does not designate or manage access on county roads.

6 88. Federal Defendants lack knowledge or information sufficient to form a belief about the  
7 truth or falsity of the allegations in Paragraph 88, and on this basis deny the allegations.  
8 Federal Defendants aver that the Forest Service does not designate or manage access on  
9 county roads.

10 89. Federal Defendants admit that Butte County Board of Supervisors sent a letter dated  
11 November 18, 2008, addressed to Randy Moore, Regional Forester. The remaining  
12 allegations in Paragraph 89 purport to characterize the November 18, 2008 letter and  
13 comments on the DEIS from the Butte County Board of Supervisors. The letter and  
14 comments speak for themselves and are the best evidence of their contents. The Court is  
15 referred to the letter and comments for true and complete statements of their provisions.

16 90. The allegations in Paragraph 90 purport to characterize Plumas County Board of  
17 Supervisors Resolution 08-7514. The Resolution speaks for itself and is the best  
18 evidence of its content. The Court is referred to the Resolution for true and complete  
19 statements of its provisions.

20 91. Federal Defendants deny the allegations in Paragraph 91.

21 92. Federal Defendants deny the allegations in the first and third sentences of Paragraph 92  
22 and aver that the Forest Service does not designate or manage access on county roads.  
23 Federal Defendants lack knowledge or information sufficient to form a belief about the  
24 truth or falsity of the allegations in the second sentence of Paragraph 92, and on this basis  
25 deny the allegations.

26 93. The allegations in the first sentence of Paragraph 93 purport to characterize comments  
27 submitted on the DEIS for the challenged decision, which speak for themselves and are  
28 the best evidence of their contents. The Court is referred to the comments for true and

1 complete statements of their provisions. Federal Defendants deny that they failed to  
2 coordinate with Butte County or Plumas County. Federal Defendants deny the  
3 allegations in the second and third sentences of Paragraph 93.

4 94. The allegations in the first, second, and third sentences of Paragraph 94 purport to  
5 characterize the FEIS for the challenged decision, which speaks for itself and is the best  
6 evidence of its content. The Court is referred to the FEIS for true and complete  
7 statements of its provisions. The allegations in the fourth sentence of Paragraph 94  
8 constitute conclusions of law, to which no response is required. To the extent a response  
9 is required, Federal Defendants deny the allegations and deny any violation of law.

10 95. The allegations in Paragraph 95 purport to characterize the DEIS, FEIS, and ROD for the  
11 challenged decision, which speak for themselves and are the best evidence of their  
12 contents. The Court is referred to the DEIS, FEIS, and ROD for true and complete  
13 statements of their provisions. Federal Defendants deny the allegations in Paragraph 95.

14 96. Federal Defendants deny the allegations in Paragraph 96 and deny any violation of law.

15 97. The allegations in Paragraph 97 constitute conclusions of law and Plaintiffs' prayer for  
16 relief, to which no response is required. To the extent a response is required, Federal  
17 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
18 entitled to the relief requested or any other relief.

19 98. The allegations in Paragraph 98 constitute conclusions of law, to which no response is  
20 required. To the extent a response is required, Federal Defendants deny the allegations  
21 and deny that Plaintiffs are entitled to the relief requested or any other relief.

22 99. The allegations in Paragraph 99 constitute conclusions of law, to which no response is  
23 required. To the extent a response is required, Federal Defendants deny the allegations  
24 and deny that Plaintiffs are entitled to the relief requested or any other relief.

25 **“THIRD CLAIM FOR RELIEF”**  
26 **“(Inadequate Analysis Under NEPA of Inconsistency with Local Laws)”**

27 100. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
28 fully set forth herein.



1 101. The allegations in Paragraph 101 constitute conclusions of law, to which no response is  
2 required. To the extent a response is required, Federal Defendants deny the allegations  
3 and deny any violation of law.

4 102. The allegations in Paragraph 102 purport to quote from and characterize NEPA, 42  
5 U.S.C. § 4331(a). The statute speaks for itself and is the best evidence of its content.  
6 The Court is referred to the statute for true and complete statements of its provisions.

7 103. The allegations in Paragraph 103 purport to characterize NEPA and CEQ regulations, 40  
8 C.F.R. § 1506.2(c), (d). The statute and regulations speak for themselves and are the best  
9 evidence of their contents. The Court is referred to the statute and regulations for true  
10 and complete statements of their provisions.

11 104. The allegations in Paragraph 104 purport to characterize NEPA and CEQ regulations, 40  
12 C.F.R. § 1502.16(c). The statute and regulation speak for themselves and are the best  
13 evidence of their contents. The Court is referred to the statute and regulation for true and  
14 complete statements of their provisions.

15 105. The allegations in Paragraph 105 purport to characterize the FEIS for the challenged  
16 decision, which speaks for itself and is the best evidence of its content. The Court is  
17 referred to the FEIS for true and complete statements of its provisions.

18 106. Federal Defendants deny the allegations in Paragraph 106.

19 107. The allegations in the first sentence of Paragraph 107 purport to characterize the Plumas  
20 County Regional Transportation Plan, which speaks for itself and is the best evidence of  
21 its content. The Court is referred to the Regional Transportation Plan for true and  
22 complete statements of its provisions. Federal Defendants deny the allegations in the  
23 second sentence of Paragraph 107.

24 108. The allegations in Paragraph 108 constitute conclusions of law and Plaintiffs' prayer for  
25 relief, to which no response is required. To the extent a response is required, Federal  
26 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
27 entitled to the relief requested or any other relief.  
28

1 109. The allegations in Paragraph 109 constitute conclusions of law, to which no response is  
2 required. To the extent a response is required, Federal Defendants deny the allegations  
3 and deny that Plaintiffs are entitled to the relief requested or any other relief.

4 110. The allegations in Paragraph 110 constitute conclusions of law, to which no response is  
5 required. To the extent a response is required, Federal Defendants deny the allegations  
6 and deny that Plaintiffs are entitled to the relief requested or any other relief.

7 **“FOURTH CLAIM FOR RELIEF”**  
8 **“(Failure to Identify, Evaluate, and Disclose the Environmental Impacts of**  
9 **Motorized Travel on Thousands of Unclassified but Historically**  
10 **and Lawfully Used Routes in Plumas National Forest)”**

11 111. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
12 fully set forth herein.

13 112. Federal Defendants admit the allegations in Paragraph 112.

14 113. Federal Defendants deny the allegations in Paragraph 113.

15 114. Federal Defendants admit the allegations in the first sentence of Paragraph 114 and aver  
16 that the Forest Service evaluated these remaining routes using spatial, historic, and  
17 institutional data, as well as personal knowledge and observations. Federal Defendants  
18 deny the allegations in the second sentence of Paragraph 114.

19 115. Federal Defendants deny that the Agency’s evaluation was a “summary paper evaluation”  
20 and admit the remaining allegations in Paragraph 115. Federal Defendants aver that the  
21 designation for further evaluation involved analysis of spatial, historic, and institutional  
22 data, as well as personal knowledge and observations.

23 116. Federal Defendants deny the allegations in Paragraph 116.

24 117. Federal Defendants deny the allegations in Paragraph 117.

25 118. Federal Defendants deny the allegations in Paragraph 118.

26 119. The allegations in Paragraph 119 constitute conclusions of law and Plaintiffs’ prayer for  
27 relief, to which no response is required. To the extent a response is required, Federal  
28 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
entitled to the relief requested or any other relief.

1 120. The allegations in Paragraph 120 constitute conclusions of law, to which no response is  
2 required. To the extent a response is required, Federal Defendants deny the allegations  
3 and deny that Plaintiffs are entitled to the relief requested or any other relief.

4 121. The allegations in Paragraph 121 constitute conclusions of law, to which no response is  
5 required. To the extent a response is required, Federal Defendants deny the allegations  
6 and deny that Plaintiffs are entitled to the relief requested or any other relief.

7 **“FIFTH CLAIM FOR RELIEF”**  
8 **“(Inadequate Range of Alternatives)”**

9 122. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
10 fully set forth herein.

11 123. The allegations in Paragraph 123 purport to characterize NEPA, 42 U.S.C. § 4332(c)(iii),  
12 (E), and CEQ regulations, 40 C.F.R. §§ 1502.1, 1502.14(a), (d). The statute and  
13 regulations speak for themselves and are the best evidence of their contents. The Court is  
14 referred to the statute and regulations for true and complete statements of their  
15 provisions. The fourth sentence of Paragraph 123 constitutes a conclusion of law to  
16 which no response is required.

17 124. The allegations in Paragraph 124 purport to characterize CEQ regulation, 40 C.F.R. §  
18 1500.2(e). The regulation speaks for itself and is the best evidence of its content. The  
19 Court is referred to the regulation for a true and complete statement of its provisions.

20 125. The allegations in the first sentence of Paragraph 125 constitute conclusions of law, to  
21 which no response is required. To the extent a response is required, Federal Defendants  
22 deny the allegations and deny any violation of law. Federal Defendants deny the  
23 allegations in the second sentence of Paragraph 125.

24 126. The allegations in Paragraph 126 constitute conclusions of law, to which no response is  
25 required. To the extent a response is required, Federal Defendants deny the allegations  
26 and deny any violations of law.

27 127. Federal Defendants deny the allegations in Paragraph 127 and deny any violation of law.  
28

1 128. The allegations in Paragraph 128 constitute conclusions of law and Plaintiffs' prayer for  
2 relief, to which no response is required. To the extent a response is required, Federal  
3 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
4 entitled to the relief requested or any other relief.

5 129. The allegations in Paragraph 129 constitute conclusions of law, to which no response is  
6 required. To the extent a response is required, Federal Defendants deny the allegations  
7 and deny that Plaintiffs are entitled to the relief requested or any other relief.

8 130. The allegations in Paragraph 130 constitute conclusions of law, to which no response is  
9 required. To the extent a response is required, Federal Defendants deny the allegations  
10 and deny that Plaintiffs are entitled to the relief requested or any other relief.

11 **"SIXTH CLAIM FOR RELIEF"**  
12 **"(Failure to Provide Public with the Scientific Basis for the**  
13 **Record of Decision and Final Environmental Impact Statement)"**

14 131. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
15 fully set forth herein.

16 132. The allegations in Paragraph 132 purport to characterize the CEQ regulations, which  
17 speak for themselves and are the best evidence of their contents. The Court is referred to  
18 the regulations for true and complete statements of their provisions.

19 133. The allegations in Paragraph 133 purport to quote from and characterize NEPA and CEQ  
20 regulation, 40 C.F.R. § 1500.1(b). The statute and regulation speak for themselves and  
21 are the best evidence of their contents. The Court is referred to the statute and regulation  
22 for true and complete statements of their provisions. The fourth sentence of Paragraph  
23 133 constitutes a conclusion of law to which no response is required.

24 134. The allegations in Paragraph 134 purport to characterize CEQ regulation, 40 C.F.R. §  
25 1500.1(c). The regulation speaks for itself and is the best evidence of its content. The  
26 Court is referred to the regulation for a true and complete statement of its provisions.

27 135. The allegations in Paragraph 135 purport to quote from and characterize CEQ  
28 regulations, 40 C.F.R. §§ 1500.2(b), 1502.1. The regulations speak for themselves and

1 are the best evidence of their contents. The Court is referred to the regulations for true  
2 and complete statements of their provisions.

3 136. The allegations in Paragraph 136 purport to quote from and characterize CEQ regulation,  
4 40 C.F.R. § 1502.24. The regulation speaks for itself and is the best evidence of its  
5 content. The Court is referred to the regulation for a true and complete statement of its  
6 provisions.

7 137. The allegations in the first sentence of Paragraph 137 purport to characterize the Route  
8 Designation Guidebook, which speaks for itself and is the best evidence of its content.  
9 The Court is referred to the Guidebook for true and complete statements of its provisions.  
10 Federal Defendants aver that the Guidebook is not binding on the Agency. Federal  
11 Defendants deny the allegations in the second sentence of Paragraph 137 and deny any  
12 violation of law.

13 138. The allegations in Paragraph 138 purport to characterize CEQ regulation, 40 C.F.R. §  
14 1502.15. The regulation speaks for itself and is the best evidence of its content. The  
15 Court is referred to the regulation for a true and complete statement of its provisions.

16 139. Federal Defendants deny the allegations in Paragraph 139 and deny any violation of law.

17 140. Federal Defendants deny the allegations in the preamble of Paragraph 140 and deny any  
18 violation of law.

19 a. The allegations in the first and second sentence of Paragraph 140(A) purport to  
20 characterize the FEIS for the challenged decision, which speaks for itself and is  
21 the best evidence of its content. The Court is referred to the FEIS for true and  
22 complete statements of its provisions. Federal Defendants deny the allegations in  
23 the third and fourth sentences of Paragraph 140(A). The allegations in the fifth  
24 sentence of Paragraph 140(A) constitutes a legal conclusion to which no response  
25 is required. Federal Defendants deny any violation of law.

26 b. Federal Defendants admit the allegations in the first sentence of Paragraph  
27 140(B). Federal Defendants deny the allegations in the second, third, and fourth  
28 sentences of Paragraph 140(B).

- 1 c. Federal Defendants deny the allegations in Paragraph 140(C).  
2 d. Federal Defendants deny the allegations in Paragraph 140(D).  
3 e. Federal Defendants deny the allegations in Paragraph 140(E).  
4 f. The allegations in the first sentence of Paragraph 140(F) purport to characterize  
5 the DEIS for the challenged decision, which speaks for itself and is the best  
6 evidence of its content. The Court is referred to the DEIS for true and complete  
7 statements of its provisions. Federal Defendants deny the allegations in the  
8 second sentence of Paragraph 140(F).  
9 g. Federal Defendants admit the allegations in Paragraph 140(G) and aver that the  
10 Forest Service used other methods to evaluate road safety.  
11 h. Federal Defendants admit the allegations in the first and second sentences of  
12 Paragraph 140(H) and aver that the Forest Service used other methods to evaluate  
13 road safety. Federal Defendants admit the allegations in the third sentence of  
14 Paragraph 140(H).  
15 i. The allegations in the first and third sentences of Paragraph 140(I) purport to  
16 characterize the Route Designation Guidebook and the Forest Service Manual,  
17 EM-7700-30, FSM 7700. The Guidebook and Manual speak for themselves and  
18 are the best evidence of their contents. The Court is referred to the Guidebook  
19 and Manual for true and complete statements of their provisions. Federal  
20 Defendants aver that the Guidebook and Manual are not binding on the Agency.  
21 Federal Defendants deny the allegations in the second and fourth sentences of  
22 Paragraph 140(I).  
23 j. Federal Defendants deny the allegations in the first sentence of Paragraph 140(J).  
24 The allegations in the second sentence of Paragraph 140(J) constitute conclusions  
25 of law, to which no response is required. To the extent a response is required,  
26 Federal Defendants deny the allegations and deny any violation of law.

27 141. The allegations in Paragraph 141 constitute conclusions of law and Plaintiffs' prayer for  
28 relief, to which no response is required. To the extent a response is required, Federal

1 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
2 entitled to the relief requested or any other relief.

3 142. The allegations in Paragraph 142 constitute conclusions of law, to which no response is  
4 required. To the extent a response is required, Federal Defendants deny the allegations  
5 and deny that Plaintiffs are entitled to the relief requested or any other relief.

6 143. The allegations in Paragraph 143 constitute conclusions of law, to which no response is  
7 required. To the extent a response is required, Federal Defendants deny the allegations  
8 and deny that Plaintiffs are entitled to the relief requested or any other relief.

9 **“SEVENTH CLAIM FOR RELIEF”**  
10 **“(Failure to Sufficiently Analyze Impacts to the Human Environment)”**

11 144. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
12 fully set forth herein.

13 145. The allegations in Paragraph 145 purport to quote from and characterize NEPA, 42  
14 U.S.C. § 4332(C), (E), and CEQ regulation, 40 C.F.R. § 1508.14. The statute and  
15 regulation speak for themselves and are the best evidence of their contents. The Court is  
16 referred to the statute and regulation for true and complete statements of their provisions.

17 146. Federal Defendants deny the allegations in Paragraph 146.

18 147. The allegations in Paragraph 147 purport to characterize the Forest Service’s travel  
19 management regulations, 36 C.F.R. § 212.51(a)(8)(b). The regulation speaks for itself  
20 and is the best evidence of its content. The Court is referred to the regulation for a true  
21 and complete statement of its provisions.

22 148. The allegations in Paragraph 148 purport to characterize the ROD, which speaks for itself  
23 and is the best evidence of its content. The Court is referred to the ROD for true and  
24 complete statements of its provisions. Federal Defendants deny the allegation that there  
25 is a significant impact on the human environment.

26 149. Federal Defendants deny the allegations in Paragraph 149 and deny any violation of law.

27 150. Federal Defendants deny the allegations in the first and second sentences of Paragraph  
28 150. The allegations in the third sentence of Paragraph 150 purport to quote from and

1 characterize the FEIS for the challenged decision, which speaks for itself and is the best  
2 evidence of its content. The Court is referred to the FEIS for true and complete  
3 statements of its provisions. Federal Defendants deny any violation of law

4 151. Federal Defendants deny the allegations in Paragraph 151 and deny any violation of law.

5 152. The allegations in Paragraph 152 constitute conclusions of law and Plaintiffs' prayer for  
6 relief, to which no response is required. To the extent a response is required, Federal  
7 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
8 entitled to the relief requested or any other relief.

9 153. The allegations in Paragraph 153 constitute conclusions of law, to which no response is  
10 required. To the extent a response is required, Federal Defendants deny the allegations  
11 and deny that Plaintiffs are entitled to the relief requested or any other relief.

12 154. The allegations in Paragraph 154 constitute conclusions of law, to which no response is  
13 required. To the extent a response is required, Federal Defendants deny the allegations  
14 and deny that Plaintiffs are entitled to the relief requested or any other relief.

15 **"EIGHTH CLAIM FOR RELIEF"**  
16 **"(Deficient Socioeconomic Impacts Analysis)"**

17 155. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
18 fully set forth herein.

19 156. The allegations in Paragraph 156 purport to characterize NEPA and the CEQ regulations,  
20 40 C.F.R. §§ 1508.7, 1508.8. The statute and regulations speak for themselves and are  
21 the best evidence of their contents. The Court is referred to the statute and regulations for  
22 true and complete statements of their provisions.

23 157. Federal Defendants lack knowledge or information sufficient to form a belief about the  
24 truth or falsity of the allegations in the first sentence of Paragraph 157, and on this basis  
25 deny the allegations. Federal Defendants deny the allegations in the second sentence of  
26 Paragraph 157 and deny any violation of law.

27 158. Federal Defendants deny the allegations in Paragraph 158 and deny any violation of law.  
28



1 159. The allegations in Paragraph 159 constitute conclusions of law to which no response is  
2 required. To the extent a response is required, Federal Defendants deny the allegations  
3 and deny any violation of law.

4 160. Federal Defendants deny the allegations in Paragraph 160 and deny any violation of law.

5 161. The allegations in Paragraph 161 constitute conclusions of law and Plaintiffs' prayer for  
6 relief, to which no response is required. To the extent a response is required, Federal  
7 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
8 entitled to the relief requested or any other relief.

9 162. The allegations in Paragraph 162 constitute conclusions of law, to which no response is  
10 required. To the extent a response is required, Federal Defendants deny the allegations  
11 and deny that Plaintiffs are entitled to the relief requested or any other relief.

12 163. The allegations in Paragraph 163 constitute conclusions of law, to which no response is  
13 required. To the extent a response is required, Federal Defendants deny the allegations  
14 and deny that Plaintiffs are entitled to the relief requested or any other relief.

15 **"NINTH CLAIM FOR RELIEF"**  
16 **"(Inadequate Responses to Comments)"**

17 164. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
18 fully set forth herein.

19 165. The allegations in Paragraph 165 purport to quote from and characterize CEQ regulation,  
20 40 C.F.R. § 1500.2(d). The regulation speaks for itself and is the best evidence of its  
21 content. The Court is referred to the regulation for a true and complete statement of its  
22 provisions.

23 166. The allegations in Paragraph 166 purport to quote from and characterize NEPA and CEQ  
24 regulations, 40 C.F.R. §§ 1502.9(b), 1503.4(a). The statute and regulations speak for  
25 themselves and are the best evidence of their contents. The Court is referred to the  
26 statute regulations for true and complete statements of their provisions.

27 167. Federal Defendants deny the allegations in the preamble of Paragraph 167 and deny any  
28 violation of law.

- 1 a. The allegations in Paragraph 167(A) purport to characterize Sierra Access  
2 Coalition's comment 81 submitted on the DEIS for the challenged decision and  
3 the Forest Service's response. The comment and response speak for themselves  
4 and are the best evidence of their contents. The Court is referred to the comment  
5 and response for true and complete statements of their provisions. Federal  
6 Defendants deny any violation of law.
- 7 b. The allegations in Paragraph 167(B) purport to characterize Sierra Access  
8 Coalition's comment 82 submitted on the DEIS for the challenged decision and  
9 the Forest Service's response. The comment and response speak for themselves  
10 and are the best evidence of their contents. The Court is referred to the comment  
11 and response for true and complete statements of their provisions. Federal  
12 Defendants deny any violation of law.
- 13 c. The allegations in the first and third sentences of Paragraph 167(C) purport to  
14 characterize Sierra Access Coalition's comment 83 submitted on the DEIS for the  
15 challenged decision, the Forest Service's response, the FEIS and the National  
16 Visitor Use Monitoring report. The documents speak for themselves and are the  
17 best evidence of their contents. The Court is referred to the documents for true  
18 and complete statements of their provisions. Federal Defendants deny any  
19 violation of law.
- 20 d. The allegations in the first and second sentences of Paragraph 167(D) purport to  
21 characterize Sierra Access Coalition's comment 85 submitted on the DEIS for the  
22 challenged decision and the Forest Service's response. The comment and  
23 response speak for themselves and are the best evidence of their contents. The  
24 Court is referred to the comment and response for true and complete statements of  
25 their provisions. Federal Defendants deny the allegations in the third sentence of  
26 Paragraph 167(D) and deny any violation of law.
- 27 e. The allegations in Paragraph 167(E) purport to characterize Sierra Access  
28 Coalition's comment 87 submitted on the DEIS for the challenged decision and

1 the Forest Service's response. The comment and response speak for themselves  
2 and are the best evidence of their content. The Court is referred to the comment  
3 and response for true and complete statements of their provisions. Federal  
4 Defendants deny any violation of law.

5 f. The allegations in Paragraph 167(F) purport to characterize an unidentified  
6 comment submitted by Sierra Access Coalition on the DEIS for the challenged  
7 decision and the Forest Service's response. The comment and response speak for  
8 themselves and are the best evidence of their contents. The Court is referred to  
9 the comment and response for true and complete statements of their provisions.  
10 Federal Defendants deny any violation of law.

11 168. Federal Defendants deny the allegations in the preamble of Paragraph 168 and deny any  
12 violation of law.

13 a. The allegations in Paragraph 168(A) purport to characterize an unidentified  
14 comment submitted by California Off-Road Vehicle Association on the DEIS for  
15 the challenged decision and the Forest Service's response. The comment and  
16 response speak for themselves and are the best evidence of their contents. The  
17 Court is referred to the comment and response for true and complete statements of  
18 their provisions. Federal Defendants deny any violation of law.

19 b. Federal Defendants deny the allegations in Paragraph 168(B) and deny any  
20 violation of law.

21 169. Federal Defendants deny the allegations in the preamble of Paragraph 169 and deny any  
22 violation of law. The allegations in the remainder of Paragraph 169 purport to  
23 characterize an unidentified comment, map, and table submitted by Butte County on the  
24 DEIS for the challenged decision and the Forest Service's response. The documents  
25 speak for themselves and are the best evidence of their contents. The Court is referred to  
26 the documents for true and complete statements of their provisions. Federal Defendants  
27 deny any violation of law.  
28

1 170. Federal Defendants deny the allegations in the preamble of Paragraph 170 and deny any  
2 violation of law.

3 a. The allegations in Paragraph 170(A) purport to characterize unidentified  
4 comments submitted by Plumas County submitted on the DEIS for the challenged  
5 decision and the Forest Service's response. The comment and response speak for  
6 themselves and are the best evidence of their contents. The Court is referred to  
7 the comment and response for true and complete statements of their provisions.  
8 Federal Defendants deny any violation of law.

9 b. The allegations in Paragraph 170(B) purport to characterize unidentified  
10 comments submitted by Plumas County submitted on the DEIS for the challenged  
11 decision and the Forest Service's response. The comment and response speak for  
12 themselves and are the best evidence of their contents. The Court is referred to  
13 the comment and response for true and complete statements of their provisions.  
14 Federal Defendants deny any violation of law.

15 c. The allegations in Paragraph 170(C) purport to characterize unidentified  
16 comments submitted by Plumas County submitted on the DEIS for the challenged  
17 decision and the Forest Service's response. The comment and response speak for  
18 themselves and are the best evidence of their contents. The Court is referred to  
19 the comment and response for true and complete statements of their provisions.  
20 Federal Defendants deny any violation of law.

21 d. The allegations in Paragraph 170(D) purport to characterize unidentified  
22 comments submitted by Plumas County submitted on the DEIS for the challenged  
23 decision and the Forest Service's response. The comment and response speak for  
24 themselves and are the best evidence of their contents. The Court is referred to  
25 the comment and response for true and complete statements of their provisions.  
26 Federal Defendants deny any violation of law.

27 e. The allegations in Paragraph 170(E) purport to characterize unidentified  
28 comments submitted by Plumas County submitted on the DEIS for the challenged

1 decision and the Forest Service's response. The comment and response speak for  
2 themselves and are the best evidence of their contents. The Court is referred to  
3 the comment and response for true and complete statements of their provisions.

4 Federal Defendants deny any violation of law.

5 171. The allegations in Paragraph 171 constitute conclusions of law and Plaintiffs' prayer for  
6 relief, to which no response is required. To the extent a response is required, Federal  
7 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
8 entitled to the relief requested or any other relief.

9 172. The allegations in Paragraph 172 constitute conclusions of law, to which no response is  
10 required. To the extent a response is required, Federal Defendants deny the allegations  
11 and deny that Plaintiffs are entitled to the relief requested or any other relief.

12 173. The allegations in Paragraph 173 constitute conclusions of law, to which no response is  
13 required. To the extent a response is required, Federal Defendants deny the allegations  
14 and deny that Plaintiffs are entitled to the relief requested or any other relief.

15 **"TENTH CLAIM FOR RELIEF"**

16 **"(Failure to Prepare Supplement to Draft Environmental Impact Statement)"**

17 174. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
18 fully set forth herein.

19 175. The allegations in Paragraph 175 purport to characterize NEPA and CEQ regulation, 40  
20 C.F.R. § 1502.9(c)(1)(i). The statute and regulation speak for themselves and are the best  
21 evidence of their contents. The Court is referred to the statute and regulation for true and  
22 complete statements of their provisions.

23 176. Federal Defendants deny the allegations in the first sentence of Paragraph 176. In  
24 response to the allegations in the second sentence of Paragraph 176, Federal Defendants  
25 admit that they did not prepare a supplement to the DEIS but deny that such a supplement  
26 was required.

27 177. The allegations in Paragraph 177, including subparts A through H, purport to characterize  
28 the DEIS and FEIS for the challenged decision, which speak for themselves and are the

1 best evidence of their contents. The Court is referred to the DEIS and FEIS for true and  
2 complete statements of their provisions.

3 178. Federal Defendants deny the allegations in the first sentence of Paragraph 178. In  
4 response to the allegations in the second sentence of Paragraph 176, Federal Defendants  
5 admit that they did not prepare a supplement to the DEIS but deny that such a supplement  
6 was required.

7 179. The allegations in Paragraph 179 constitute conclusions of law and Plaintiffs' prayer for  
8 relief, to which no response is required. To the extent a response is required, Federal  
9 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
10 entitled to the relief requested or any other relief.

11 180. The allegations in Paragraph 180 constitute conclusions of law, to which no response is  
12 required. To the extent a response is required, Federal Defendants deny the allegations  
13 and deny that Plaintiffs are entitled to the relief requested or any other relief.

14 181. The allegations in Paragraph 181 constitute conclusions of law, to which no response is  
15 required. To the extent a response is required, Federal Defendants deny the allegations  
16 and deny that Plaintiffs are entitled to the relief requested or any other relief.

17 **“ELEVENTH CLAIM FOR RELIEF”**  
18 **“(Failure to Adequately Consider Cumulative Impacts)”**

19 182. Federal Defendants repeat and reassert their responses to all preceding paragraphs as if  
20 fully set forth herein.

21 183. The allegations in Paragraph 183 purport to quote from and characterize NEPA, 42  
22 U.S.C. § 4332(2)(C), CEQ regulations, 40 C.F.R. § 1508.25, and *Tennakee Springs v.*  
23 *Clough*, 915 F.2d 1308 (9th Cir. 1990). The statute, regulations, and case speak for  
24 themselves and are the best evidence of their contents. The Court is referred to the  
25 statute, regulations, and case for true and complete statements of their contents.

26 184. The allegations in Paragraph 184 purport to quote from and characterize CEQ regulation,  
27 40 C.F.R. § 1508.7. The regulation speaks for itself and is the best evidence of its  
28

1 content. The Court is referred to the regulation for a true and complete statement of its  
2 provisions.

3 185. The allegations in Paragraph 185 purport to quote from and characterize *Northern Plains*  
4 *Resource Council, Inc. v. Surface Transportation Board*, 668 F.3d 1067 (9th Cir. 2011)  
5 and CEQ regulation, 40 C.F.R. § 1500.1(b). The case and regulation speak for  
6 themselves and are the best evidence of their contents. The Court is referred to the case  
7 and regulation for true and complete statements of their contents.

8 186. The allegations in Paragraph 186 purport to characterize the FEIS for the challenged  
9 decision, which speaks for itself and is the best evidence of its content. The Court is  
10 referred to the FEIS for true and complete statements of its provisions.

11 187. Federal Defendants deny the allegations in Paragraph 187 and deny any violation of law.

12 188. The allegations in Paragraph 188 constitute conclusions of law, to which no response is  
13 required. To the extent a response is required, Federal Defendants deny the allegations  
14 and deny any violation of law.

15 189. The allegations in Paragraph 189 constitute conclusions of law and Plaintiffs' prayer for  
16 relief, to which no response is required. To the extent a response is required, Federal  
17 Defendants deny the allegations, deny any violation of law, and deny that Plaintiffs are  
18 entitled to the relief requested or any other relief.

19 190. The allegations in Paragraph 190 constitute conclusions of law, to which no response is  
20 required. To the extent a response is required, Federal Defendants deny the allegations  
21 and deny that Plaintiffs are entitled to the relief requested or any other relief.

22 191. The allegations in Paragraph 191 constitute conclusions of law, to which no response is  
23 required. To the extent a response is required, Federal Defendants deny the allegations  
24 and deny that Plaintiffs are entitled to the relief requested or any other relief.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**“TWELFTH CLAIM FOR RELIEF”**  
**“(Violation of the Freedom of Information Act)”**

Federal Defendants filed a motion to dismiss and/or for summary judgment on Plaintiffs’ Twelfth Claim for Relief on the same day as this Partial Answer. ECF No. 11. Therefore no specific response is being provided in this Partial Answer.

**“PRAYER FOR RELIEF”**

The remaining allegations set forth in the Complaint consist of Plaintiffs’ prayer for relief, to which no response is required. To the extent a response is required, Federal Defendants deny that Plaintiffs are entitled to the relief requested or any other relief.

**GENERAL DENIAL**

Federal Defendants deny any and all allegations in Plaintiffs’ Complaint, whether express or implied, that are not specifically admitted, denied, or qualified herein.

**AFFIRMATIVE DEFENSES**

In addition, Federal Defendants raise the following affirmative defenses:

1. Plaintiffs have failed to establish this Court’s jurisdiction for some or all of their claims.
2. Some or all of Plaintiffs’ causes of action fail to state a claim upon which relief can be granted.
3. Some or all of Plaintiffs’ claims are moot or not ripe for adjudication.
4. Some or all of Plaintiffs’ claims are barred by estoppel, waiver, and failure to exhaust administrative remedies.

WHEREFORE, Federal Defendants request that this Court dismiss Plaintiffs’ Complaint, enter judgment for Federal Defendants, and award Federal Defendants costs and any such further relief that this Court deems just and appropriate.

Respectfully submitted on this 29th day of May, 2015.

JOHN C. CRUDEN  
Assistant Attorney General



1 Environment & Natural Resources Division  
2 United States Department of Justice

3 /s/ John P. Tustin

4 JOHN P. TUSTIN (TX 24056458)  
5 DAVENÉ D. WALKER (GA 153042)  
6 john.tustin@usdoj.gov  
7 davene.walker@usdoj.gov

8 Trial Attorneys  
9 Natural Resources Section  
10 P.O. Box 7611  
11 Washington, DC 20044-7611  
12 Tel: (202) 305-3022 (Tustin)  
13 (202) 353-9213 (Walker)  
14 Fax: (202) 305-0506

15 BENJAMIN B. WAGNER  
16 United States Attorney

17 LYNN TRINKA ENRCE  
18 lynn.trinka.ernce@usdoj.gov  
19 Assistant United States Attorney  
20 501 I Street, Suite 10-100  
21 Sacramento, CA 95814  
22 Tel: (916) 554-2720  
23 Fax: (916) 554-2900

24 OF COUNSEL:

25 Sarah Birkeland  
26 U.S. Department of Agriculture  
27 Office of the General Counsel  
28 33 New Montgomery St., 17th Floor  
San Francisco, California 94105

*Attorneys for Federal Defendants*

**CERTIFICATE OF SERVICE**

I, John P. Tustin, hereby certify that on May 29, 2015, I caused the foregoing to be served upon counsel of record through the Court's CM/ECF system.

*/s/ John P. Tustin* \_\_\_\_\_  
JOHN P. TUSTIN  
*Attorney for Federal Defendants*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28