

1 DAMIEN M. SCHIFF, No. 235101
E-mail: dms@pacificlegal.org
2 THEODORE HADZI-ANTICH, No. 264663
E-mail: tha@pacificlegal.org
3 Pacific Legal Foundation
930 G Street
4 Sacramento, California 95814
Telephone: (916) 419-7111
5 Facsimile: (916) 419-7747

6 Attorneys for Plaintiffs Amy Granat, *et al.*

7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 AMY GRANAT; CORKY LAZZARINO;)
11 SIERRA ACCESS COALITION; CALIFORNIA)
OFF-ROAD VEHICLE ASSOCIATION; THE)
12 COUNTY OF PLUMAS; and THE COUNTY OF)
BUTTE)

13 Plaintiffs,)

14 v.)

15 UNITED STATES DEPARTMENT OF)
16 AGRICULTURE; TOM VILSACK, in his official)
capacity as Secretary of the Department of)
17 Agriculture; UNITED STATES FOREST)
SERVICE; THOMAS L. TIDWELL, in his official)
18 capacity as Chief of the United States Forest)
Service; RANDY MOORE, in his official capacity)
19 as PACIFIC SOUTHWEST REGIONAL)
FORESTER; ALICE CARLTON, in her official)
20 capacity as the former PLUMAS NATIONAL)
FOREST SUPERVISOR; and EARL FORD, in his)
21 official capacity as PLUMAS NATIONAL)
FOREST SUPERVISOR,)

22 Defendants.)
23

No. 2:15-cv-00605-MCE-EFB (TEMP)

**NOTICE OF MOTION
AND MOTION FOR
SUMMARY JUDGMENT**

Date: July 21, 2016

Time: 2:00 p.m.

Place: Courtroom 7, 14th Floor

Judge: Hon. Morrison C. England, Jr.

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that on July 21, 2016, or beginning as soon thereafter as the
3 matter can be heard, in Courtroom 7 of the above-entitled Court, located at 501 I Street,
4 Sacramento, California 95814, AMY GRANAT, CORKY LAZZARINO, SIERRA ACCESS
5 COALITION, CALIFORNIA OFF-ROAD VEHICLE ASSOCIATION, THE COUNTY OF
6 PLUMAS, and THE COUNTY OF BUTTE (the “Plumas National Forest Group”), will and hereby
7 do move for an order, pursuant to Federal Rule of Civil Procedure 56 and Local Rule 260, granting
8 summary judgment to the Plumas National Forest Group with respect to all claims of the Plumas
9 National Forest Group that the Final Environmental Impact Statement (“FEIS”) and Record of
10 Decision (“ROD”) for the Plumas National Forest Motorized Travel Management Project, R5-MB-
11 122a, dated September, 2010 (collectively the “Decision Documents”), illegally applied the Travel
12 Management Rule in Plumas National Forest, 70 Fed. Reg. 68,264-68,291 (Nov. 9, 2005), and
13 were issued in violation of the National Environmental Policy Act, the National Forest
14 Management Act, and the Administrative Procedure Act by UNITED STATES DEPARTMENT
15 OF AGRICULTURE; TOM VILSACK, in his official capacity as Secretary of the Department of
16 Agriculture; UNITED STATES FOREST SERVICE; THOMAS L. TIDWELL, in his official
17 capacity as Chief of the United States Forest Service; RANDY MOORE, in his official capacity
18 as Pacific Southwest Regional Forester of the United States Forest Service, ALICE CARLTON,
19 in her official capacity as former Plumas National Forest Supervisor; and EARL FORD, in his
20 official capacity as Plumas National Forest Supervisor (collectively, the “Federal Defendants” or
21 the “Forest Service”).

22 This motion is based on the grounds that there is no genuine issue as to any material fact
23 and that the Plumas National Forest Group is entitled to summary judgment as a matter of law
24 because: (1) the Decision Documents illegally applied the substantive criteria of the Travel
25 Management Rule in violation of 36 C.F.R. § 212.55 and the Region 5 Route Designation
26 Guidebook for National Forests in California; (2) the Defendants failed to coordinate with
27 responsible local officials in violation of 36 C.F.R. § 212.53 and The Forest Service Manual 7700
28 §§ 7702, 7710.3 and 7715.3; (3) the Decision Documents inadequately analyze inconsistency with

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

1 | the decisions taken by the Forest Service and local laws, in violation of 42 U.S.C. § 4331(a),
2 | 40 C.F. R. § 1506.2(c) and (d), and 40 C.F.R. § 1502.16(c); (4) the Decision Documents fail to
3 | articulate a rational connection between the facts found and the choices made in failing to identify,
4 | evaluate, and disclose the environmental impacts on thousands of unclassified but historically and
5 | lawfully used routes in Plumas National Forest, in violation of 42 U.S.C. § 4332(2)(C) and
6 | 40 C.F.R. § 1502.14; (5) the Decision Documents fail to evaluate a reasonable range of alternatives
7 | in selecting a preferred alternative, in violation of 42 U.S. C. §§ 4332(2)(C)(iii), 4332(E), 40
8 | C.F.R. §§ 1502.14, 1502.1, 1502.14, and 1500.2(e); (6) the Decision Documents fail to provide
9 | the public with a scientific basis for the decisions taken by the Federal Defendants, in violation of
10 | 40 C.F.R. §§ 1500.1(b) and (c), 1500.2, 1502. 1, and 1502.24; (7) the Decision Documents fail to
11 | sufficiently analyze impacts to the human environment, in violation of 42 U.S.C. § 4332(2)(C) and
12 | (E), 40 C.F.R. § 1508.14, and 36 C.F.R. § 212.51(a)(8)(b); (8) the Decision Documents contain
13 | a deficient socioeconomic impacts analysis, in violation of 40 C.F.R. § 1508.7 and 1508.8; (9) the
14 | Decision Documents contain inadequate responses to public comments, in violation of 40 C.F.R.
15 | §§ 1500.2(d), 1502.9(b), and 1503.4(a); (10) the Forest Service failed to prepare a supplement to
16 | the draft environmental impact statement for public comment, in violation of 40 C.F.R.
17 | § 1502.9(c)(1)(i); and (11) the Decision Documents fail to adequately consider cumulative impacts,
18 | in violation of 42 U.S.C. § 4332(2)(c) and 40 C.F.R. § 1508.25.

19 | This Motion is based upon this Notice of Motion and Motion, the accompanying
20 | Memorandum of Points and Authorities and its exhibits and declarations in support of the Motion,
21 | and the accompanying Statement of Undisputed Facts in support of the Motion, all of which are
22 | submitted herewith, as well as all of the pleadings and papers on file in this action, and upon such
23 | other matters as may be presented to the Court at the time of hearing.

24 | DATED: March 30, 2016.

Respectfully submitted,

DAMIEN M. SCHIFF
THEODORE HADZI-ANTICH

By /s/ THEODORE HADZI-ANTICH
THEODORE HADZI-ANTICH

Attorneys for Plaintiffs AMY GRANAT, *et al.*

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2016, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of California by using the court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Eastern District Court's CM/ECF system.

/s/THEODORE HADZI-ANTICH
THEODORE HADZI-ANTICH

PACIFIC LEGAL FOUNDATION
930 G Street
Sacramento, CA 95814
(916) 419-7111 FAX (916) 419-7747

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