

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

BILLINGS COUNTY, a municipal entity, <i>et al.</i> ,)	
)	
)	
Plaintiffs,)	Civ. No. A1-01-045 (lead case)
)	
v.)	
)	
MIKE JOHANNNS, in his official capacity as the)	
Secretary of the Department of Agriculture, <i>et al.</i> ,)	
)	
Defendants,)	
)	
and)	
)	
NATIONAL WILDLIFE FEDERATION, <i>et al.</i> ,)	
)	
Defendant-Intervenors.)	
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STATE OF NORTH DAKOTA,)	
)	
Plaintiff,)	Civ. No. A1-01-087
)	(consolidated case)
)	
v.)	
)	
MIKE JOHANNNS, Secretary, United States)	
Department of Agriculture; <i>et al.</i> ,)	
)	
Defendants,)	
)	
and)	
)	
NATIONAL WILDLIFE FEDERATION, <i>et al.</i> ,)	
)	
Defendant-Intervenors.)	
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SUPPLEMENTAL SETTLEMENT AGREEMENT

Plaintiffs, Federal Defendants, and Defendant-Intervenors National Wildlife Federation, North Dakota Wildlife Federation, Sierra Club, The Wilderness Society, Pacific Rivers Council, Natural Resources Defense Council, Defenders of Wildlife, and National Audubon Society (collectively “Defendant-Intervenors”), by and through their undersigned counsel, hereby stipulate, agree, and jointly notify the court that they have resolved Defendant-Intervenors’ objections to the Settlement Agreement between Plaintiffs and Federal Defendants in accordance with the following terms:

WHEREAS the Plaintiffs and Federal Defendants reached an agreement to settle Plaintiffs’ claims in the above-captioned consolidated cases and submitted a joint motion to dismiss the cases based on the settlement agreement on August 14, 2006;

WHEREAS the Court granted the Joint Motion to Dismiss and dismissed the case as to the Federal Defendants;

WHEREAS the Defendant-Intervenors sought, and the Court allowed them, sixty (60) days to review and respond to the settlement agreement;

WHEREAS the Defendant-Intervenors filed objections to the settlement agreement with the Court on or about October 16, 2006; and,

WHEREAS the Court ordered the parties to meet in an attempt to resolve the Defendant-Intervenors’ objections to the settlement agreement and the parties have done so.

NOW, THEREFORE, the parties to these consolidated cases agree to supplement the Settlement Agreement as follows:

1. If the United States Department of Agriculture (USDA) intends to propose a change in inventoried roadless area (IRA) classification in response to the materials submitted by the Plaintiffs pursuant to paragraph 4 of the settlement agreement between Plaintiffs and USDA

(“the Settlement Agreement”), USDA will allow Defendant-Intervenors a period of sixty days to review the relevant documentation, including the Plaintiffs’ materials, and submit any responsive materials to be considered by the USDA in its reconsideration of the IRA classification. If USDA proposes such a change in IRA classification through a public process, then that process will subsume the Defendant-Intervenors’ opportunity for comment described in this paragraph.

2. USDA will provide the Defendant-Intervenors a copy of the materials provided to Plaintiffs pursuant to paragraph 6(a) of the Settlement Agreement. Upon timely request, USDA shall further make available to the Defendant-Intervenors and the public at the Dakota Prairie Grasslands offices in Bismarck, North Dakota, all information and materials provided to USDA by the Plaintiffs pursuant to paragraph 6(b) of the Settlement Agreement. The Defendant-Intervenors and the public may submit factual comments and materials in response within sixty (60) days. The Defendant-Intervenors will simultaneously submit such comments and materials to the Plaintiffs. USDA will consider the materials provided by the Plaintiffs, the Defendant-Intervenors, and the public, and any other relevant materials, in determining whether to endorse a candidate public road, easement, or right-of-way.

3. Paragraph 6(c) of the Settlement Agreement is hereby amended to read as follows:

For each candidate public road, easement, or right-of-way, USDA will determine whether to endorse the Counties’ request for acknowledgment. If USDA concludes that endorsement is appropriate, it will provide the Counties and the State with its written determination and will endorse with a letter of support the County’s application for a recordable disclaimer of interest pursuant to 43 U.S.C.

1745 (43 C.F.R. Subpart 1864) so long as the application is consistent with
USDA's endorsement.

To ensure consistency throughout the Settlement Agreement, the phrases "USDA
acknowledges" or "USDA will acknowledge" refer to USDA's determination to endorse the
Counties' request for acknowledgment of a candidate road, easement, or right-of-way.

4. By agreeing to settle their objections to the Settlement Agreement on the terms
set forth in this Supplemental Settlement Agreement, the Defendant-Intervenors do not waive
any right or argument they may have to challenge or otherwise seek review of any action by the
USDA taken in connection with Settlement Agreement between the Plaintiffs and USDA or this
Supplemental Settlement Agreement but Defendant-Intervenors do hereby withdraw their
objections to the Settlement Agreement on the basis of the provisions hereof. Likewise, the
Plaintiffs and USDA do not waive any defenses or arguments they may make in response to
Defendant-Intervenors' challenges.

5. All of the parties to this case agree that each party will bear its own fees and costs
in connection with the case as already provided in paragraph 13 of the Settlement Agreement
between the Plaintiffs and USDA.

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