

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Civil File No. 07-13008

Kurt J. Meister

Plaintiff

v

Mike Johanns, Secretary, United States
Department of Agriculture; Dale Bosworth,
Chief, United States Department of Agriculture,
Forest Service; Randy Moore, Regional
Forester, United States Department of
Agriculture, Forest Service, Eastern Region;
and Leanne Marten, Forest Supervisor, Huron-
Manistee National Forests

Defendants

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Attorney for Plaintiff

COMPLAINT

1. This court has jurisdiction pursuant to 28 U.S.C. §1331.

2. On or about March 20, 2006, Defendant Moore issued a Record of Decision (the "Decision") adopting the 2006 Land and Resource Management Plan for the Huron-Manistee National Forests (the "2006 Forest Plan").

3. Prior to the Decision, Plaintiff submitted comments on the alternative forest plans for the Huron-Manistee National Forest and the proposed 2006 Forest Plan (the "Alternatives").

4. After adoption of the 2006 Forest Plan, Plaintiff filed a timely appeal of the Decision with Defendant Bosworth (the "Administrative Appeal").

5. The Administrative Appeal involved the failure of the 2006 Forest Plan to designate substantial additional acres as Semiprimitive Nonmotorized Areas, as defined in the 2006 Forest Plan.

6. The Administrative Appeal also involved the failure of the 2006 Forest Plan to have the Wilderness Areas, as defined in the 2006 Forest Plan, conform to the Recreation Opportunity Spectrum ("ROS") of Primitive.

7. The Administrative Appeal also involved the failure of the 2006 Forest Plan to have the Semiprimitive Nonmotorized Areas, Concentrated Recreational Areas, Wild and Scenic Rivers, Research Natural Areas, and Study Wild and Scenic Rivers Areas, as defined in the 2006 Forest Plan, (collectively, the "Quiet Areas") conform to the ROS of Semiprimitive Nonmotorized.

8. The Administrative Appeal also involved the failure of the 2006 Forest Plan to have the Roaded Natural Rolling Plains and Morainal Hills, Roaded Natural Sandy Plains and Hills and Roaded Natural Wetlands Areas, as defined in the 2006 Forest

Plan, (collectively, the "Roaded Natural Areas") conform to the Recreation Opportunity Spectrum of Roaded Natural.

9. The Administrative Appeal sought to reverse the decision contained in the 2006 Forest Plan to allow snowmobiling on almost all unplowed United States Department of Agriculture, Forest Service ("Forest Service") roads on the Huron-Manistee National Forest.

10. The Administrative Appeal also sought to prevent firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas.

11. The Administrative Appeal also sought to prevent snowmobiling around the Wilderness Areas and in and around the Quiet Areas.

12. On or about June 22, 2007, the Reviewing Officer for Defendant Bosworth issued a decision on the Administrative Appeal (the "Chief's Decision").

13. The Chief's Decision granted a portion of the relief requested by Plaintiff by instructing Defendant Moore not to allow snowmobiling on almost all unplowed Forest Service roads on the Huron-Manistee National Forest, but otherwise denied the relief requested in the Administrative Appeal.

14. Defendant Johanns had 15 days from the date of receipt of the Chief's Decision to decide whether or not to review it.

15. Defendant Johanns, acting through Under Secretary for Natural Resources and Environment Mark Ray, elected not to review the Chief's Decision.

16. The Chief's Decision is the final administrative decision of the United States Department of Agriculture on the Administrative Appeal.

17. Plaintiff has exhausted his administrative remedies regarding the Decision.

18. All conditions precedent to bringing this action have been performed and have occurred.

FAILURE TO PROVIDE SUBSTANTIAL ADDITIONAL ACRES OF SEMIPRIMITIVE NONMOTORIZED AREAS

19. No further factual development, analysis, consideration or action is required by the Forest Service to implement the decision contained in the 2006 Forest Plan not to designate substantial additional acres as Semiprimitive Nonmotorized Areas.

20. Immediately upon the adoption of the 2006 Forest Plan, Plaintiff was prevented from enjoying additional acres of Semiprimitive Nonmotorized Areas on the Huron-Manistee National Forests.

21. The activities permitted on most of the areas of the Huron-Manistee National Forests which are not Semiprimitive Nonmotorized Areas substantially diminish

Plaintiff's walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing experiences.

22. The 2006 Forest Plan replaces the Land and Resource Management Plan for the Huron-Manistee National Forests adopted in 1986, as amended (the "1986 Forest Plan").

23. The Huron-Manistee National Forest contains approximately 970,000 acres of Forest Service lands.

24. The 1986 Forest Plan, prior to being amended, designated approximately 46,284 acres of Semiprimitive Nonmotorized Areas and no Semiprimitive Motorized Areas, as defined in the 1986 Forest Plan.

25. The lack of semiprimitive areas was the basis for several appeals of the original 1986 Forest Plan.

26. Pursuant to the settlement of the appeals, approximately an additional 24,239 acres were to be analyzed for inclusion as Semiprimitive Nonmotorized Areas, and approximately 23,971 acres were to be analyzed for inclusion as Semiprimitive Motorized areas.

27. As a result, approximately 70,523 acres were to be considered as Semiprimitive Nonmotorized Areas, and approximately 23,971 acres were to be considered as Semiprimitive Motorized Areas.

28. Almost 20 year later, the Forest Service had only designated approximately 59,626 acres as Semiprimitive Nonmotorized Areas and approximately 11,375 acres as Semiprimitive Motorized Areas.

29. As of the time the 2006 Forest Plan was adopted, an additional 4,771 acres of Semiprimitive Nonmotorized Areas and an additional 5,773 acres of Semiprimitive Motorized Areas had been identified, but had not yet been formally designated under the 1986 Plan.

FAILURE OF THE WILDERNESS AREAS TO CONFORM
TO THE ROS OF PRIMITIVE,
THE QUIET AREAS TO CONFORM
TO THE ROS OF SEMIPRIMITIVE NONMOTORIZED, AND
THE ROADED NATURAL AREAS TO CONFORM
TO THE ROS OF ROADED NATURAL

30. No further factual development, analysis, consideration or action is required by the Forest Service to implement the decision contained in the 2006 Forest Plan not to have the Wilderness Areas conform to the ROS of Primitive, the Quiet Areas conform to the ROS of Semiprimitive Nonmotorized, or the Roaded Natural Areas conform to the ROS of Roaded Natural.

31. Immediately upon the adoption of the 2006 Forest Plan, Plaintiff was prevented from enjoying Primitive, Semiprimitive Nonmotorized and Roaded Natural experiences on the Huron-Manistee National Forests.

32. The activities permitted in the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas substantially diminish Plaintiff's walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing experiences.

33. In the planning process for the 2006 Forest Plan, the Forest Service was required to use the ROS to provide a broad spectrum of experiences in response to user preference.

34. Primitive on the ROS means the probability of isolation from the sounds of humans is extremely high.

35. Semiprimitive Nonmotorized on the ROS means there is a large probability of isolation from the sounds of others.

36. Roaded Natural on the ROS means evidence of the sounds of humans is moderate but in harmony with the natural environment.

37. There is an expectation among some visitors of the Huron-Manistee National Forests of a forest experience that includes a sense of isolation from the sights and sounds of others.

38. By failing to prohibit firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas and snowmobiling around the Wilderness Areas and in and around the Quiet Areas, no part of the Huron-Manistee National Forest conforms to the Primitive, Semiprimitive Nonmotorized or Roaded Natural ROS.

39. The Huron-Manistee National Forests are among the rare places in the Lower Peninsula of Michigan with a land base large enough and contiguous enough to provide opportunities for solitude or for relatively remote and semiprimitive types of recreation.

40. The United States Department of Interior has stated that areas available for non-motorized activities are at a premium in the Midwest and additional acreage should be preserved or added whenever possible.

**FAILURE TO PROHIBIT FIREARM HUNTING
IN AND AROUND THE WILDERNESS AREAS,
THE QUIET AREAS
AND THE ROADED NATURAL AREAS**

41. No further factual development, analysis, consideration or action is required by the Forest Service to allow firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roded Natural Areas.

42. Firearm hunting has taken place in and around the Wilderness Areas, the Quiet Areas and the Roded Natural Areas while the Administrative Appeal was pending.

43. Firearm use during hunting seasons is a source of noise on the Huron-Manistee National Forests.

44. The noise from firearm hunting on the Huron-Manistee National Forests can be heard over one mile away.

45. Firearm hunting for coyotes on the Huron-Manistee National Forests is permitted from approximately July 15 through November 14.

46. Firearm hunting for crows on the Huron-Manistee National Forests is permitted from approximately August 1 through September 30.

47. Firearm hunting for elk on the Huron-Manistee National Forests is permitted at various times from late August through mid September.

48. Firearm hunting for Canada geese on the Huron-Manistee National Forests is permitted from approximately September 1 through September 10.

49. Firearm hunting for black bears on the Huron-Manistee National Forests is permitted at various times from early September through late October.

50. Firearm hunting for ruffed grouse on the Huron-Manistee National Forests is permitted from approximately September 15 through November 14.

51. Firearm hunting for common snipe and rails on the Huron-Manistee National Forests is permitted from approximately September 15 through November 14.

52. Firearm hunting for squirrel on the Huron-Manistee National Forests is permitted from approximately September 15 through March 1.

53. Firearm hunting for rabbits and varying hares on the Huron-Manistee National Forests is permitted from approximately September 15 through March 31.

54. Firearm hunting for American woodcock on the Huron-Manistee National Forests is permitted from mid September through mid November.

55. Firearm hunting for geese on the Huron-Manistee National Forests is permitted from approximately September 23 through December 4.

56. Firearm hunting for Canada geese on the Huron-Manistee National Forests is also permitted from approximately September 30 through October 29.

57. Firearm hunting for ducks and mergansers on the Huron-Manistee National Forests is permitted from approximately September 30 through November 28.

58. Firearm hunting for coots and moorhens on the Huron-Manistee National Forests is permitted from approximately September 30 through November 28.

59. Firearm hunting for turkeys on the Huron-Manistee National Forests is permitted from early October through approximately November 14.

60. Firearm hunting for bobwhite quail on the Huron-Manistee National Forests is permitted from mid October through mid November.

61. Firearm hunting for ring-necked pheasants on the Huron-Manistee National Forests is permitted from approximately October 20 through November 14.

62. Firearm hunting for white-tailed deer on the Huron-Manistee National Forests is permitted from approximately November 15 through November 30.

63. Firearm hunting for Canada geese on the Huron-Manistee National Forests is also permitted from approximately November 23 through December 12.

64. Firearm hunting for ruffed grouse on the Huron-Manistee National Forests is also permitted from approximately December 1 through January 1.

65. Firearm hunting for coyotes on the Huron-Manistee National Forests is also permitted from approximately December 1 through April 15.

66. Firearm hunting for elk on the Huron-Manistee National Forests is also permitted at various times during mid December.

67. Firearm hunting for white-tailed deer on the Huron-Manistee National Forests is also permitted from approximately December 14 through December 23.

68. Firearm hunting for elk on the Huron-Manistee National Forests may also be permitted at various times during mid January.

69. Firearm hunting for crows on the Huron-Manistee National Forests is also permitted from approximately February 1 through March 31.

70. Firearm hunting for turkeys on the Huron-Manistee National Forests is also permitted at various times during the spring.

71. Firearm hunting for opossums, porcupines, weasels, red squirrels, skunks, starlings, feral pigeons, English sparrows, ground squirrels and woodchucks on the Huron-Manistee National Forests is permitted year round.

72. There is no time of the year when some form of firearm hunting is not permitted on the Huron-Manistee National Forests.

73. Firearm hunting is permitted on more than 99.9% of the Huron-Manistee National Forests.

74. Immediately upon the adoption of the 2006 Forest Plan, Plaintiff was prevented from enjoying the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas free from the dangers and sounds of firearm hunting.

75. The presence of firearm hunters in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas substantially diminishes Plaintiff's walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing experiences.

**FAILURE TO PROHIBIT SNOWMOBILING
AROUND THE WILDERNESS AREAS
AND IN AND AROUND THE QUIET AREAS**

76. No further factual development, analysis, consideration or action is required by the Forest Service to allow snowmobiling around the Wilderness Areas and in and around the Quiet Areas.

77. Snowmobiling has taken place around the Wilderness Areas and in and around the Quiet Areas while the Administrative Appeal was pending.

78. Recreational vehicles are a source of noise on the Huron-Manistee National Forests.

79. Snowmobiles are a source of noise on the Huron-Manistee National Forests.

80. The noise from snowmobiling on the Huron-Manistee National Forests can be heard over one mile away.

81. Immediately upon the adoption of the 2006 Forest Plan, Plaintiff was prevented from enjoying the Wilderness Areas and the Quiet Areas free from the dangers and sounds of snowmobiles.

82. The presence of snowmobiles around the Wilderness Areas and in and around the Quiet Areas substantially diminishes Plaintiff's cross country skiing and snowshoeing experiences.

VIOLATIONS OF THE NATIONAL ENVIRONMENTAL POLICY ACT

83. Plaintiff adopts by reference the statements contained in paragraphs 1 through 82 of this Complaint.

84. Defendant Johanns is authorized to designate areas of the Huron-Manistee National Forest where, and establish periods when, no hunting will be permitted.

85. The Forest Service was required to study, develop and describe appropriate alternatives to the recommended courses of action in the 2006 Forest Plan which involved unresolved conflicts concerning alternative uses of available resources.

86. The Alternatives were required to be formulated according to National Environmental Policy Act procedures.

87. None of the Alternatives described alternatives to allowing firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas.

88. The Alternatives were required to provide different ways to address and respond to the major public issues identified during the planning process.

89. One of the major public issues was that the demand for semiprimitive recreation, both motorized and nonmotorized, had increased.

90. The Forest Service developed three Alternative forest plans for the Huron-Manistee National Forest -- Alternative A, Alternative B and Alternative C.

91. At least one Alternative was required to reflect the current level of goods and services and the most likely amount of goods and services expected in the future if current management direction continues (the "No Action Alternative").

92. The Forest Service labeled Alternative A as the No Action Alternative.

93. If the 2006 Forest Plan had not been adopted, it was most likely that the additional 4,771 acres of Semiprimitive Nonmotorized Areas and the additional 5,773 acres of Semiprimitive Motorized Areas which had been identified, but had not yet been formally designated under the 1986 Forest Plan, would have been formally designated as Semiprimitive Nonmotorized Areas and Semiprimitive Motorized Areas, respectively.

94. As it relates to the increased demand for semiprimitive recreation, Alternative B also represents the No Action Alternative, since all it does is designate as Semiprimitive Nonmotorized Areas and Semiprimitive Motorized Areas the areas which had been identified but not yet formally designated under the 1986 Plan.

95. Alternative C proposed to redesignate all Semiprimitive Motorized Areas as Semiprimitive Nonmotorized Areas, but not to designate any additional acres as semiprimitive areas.

96. Neither Alternative B nor Alternative C address or respond to the major public issue identified of the increased demand for semiprimitive recreation, both motorized and nonmotorized.

VIOLATIONS OF THE NATIONAL FOREST MANAGEMENT ACT

97. Plaintiff adopts by reference the statements contained in paragraphs 1 through 96 of this Complaint.

98. The Forest Service was required to revise the 1986 Forest Plan when conditions had significantly changed.

99. One of the significant changes was that the demand for semiprimitive recreation, both motorized and nonmotorized, had increased.

100. The 2006 Forest Plan does not adequately resolve the increased demand for semiprimitive recreation.

101. The Alternatives were required to provide for a broad spectrum of outdoor recreation opportunities.

102. None of the Alternatives provided for any restrictions on the areas of the Huron-Manistee National Forests in which firearm hunting would be allowed.

103. None of the Alternatives provided for any restrictions on snowmobiling around the Wilderness Areas and in and around the Quiet Areas.

104. The Alternatives were required to consider dispersal problems of hunting and other visitor uses of the Huron-Manistee National Forests.

105. Neither the 2006 Forest Plan, the Final Environmental Impact Statement to accompany the 2006 Forest Plan (the "FEIS"), nor, upon information and belief, any of the publicly available planning documents considered dispersal problems of firearm hunting.

106. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents considered dispersal problems of snowmobiling.

107. The 2006 Forest Plan was required to identify the recreational preferences of user groups and the settings needed to provide quality recreation opportunities.

108. The 2006 Forest Plan does not identify the recreational preferences of walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers.

109. The 2006 Forest Plan does not identify the settings needed to provide quality recreation opportunities for walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers.

110. In formulating and analyzing the Alternatives, interactions among recreation opportunities were required to be examined.

111. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents analyze the interactions among firearm hunters and walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers.

112. Walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers do not make a lot of noise.

113. Mountain bikers, kayakers and cross country skiers can move quickly.

114. It is easy for walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers to inadvertently find themselves in the line of fire of a firearm hunter.

115. At least 4 people were killed and 31 more people were injured in the State of Michigan by hunters during 2006.

116. The presence of firearm hunters in areas used by walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers presents a risk of death or severe personal injury to walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers.

117. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents analyze the interactions among snowmobilers and cross country skiers or snowshoers.

118. Snowmobiles can travel at speeds in excess of 100 miles per hour.

119. It is easy for cross country skiers and snowshoers to inadvertently find themselves in the path of a snowmobile.

120. At least 5 people were killed and 16 more people were injured in the State of Michigan by snowmobilers between December 8, 2006 and March 10, 2007.

121. The presence of snowmobilers in areas used by cross country skiers or snowshoers presents a risk of death or severe personal injury to cross country skiers and snowshoers.

122. The examination of the Alternatives was required to consider the impacts of the proposed recreation activities on other uses and values and the impacts of other uses and activities associated with them on recreation opportunities, activities, and quality of experience.

123. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents considered the impacts of firearm hunting on walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers.

124. Many walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers prefer areas free from danger and noise of firearm hunting.

125. Walkers, hikers, mountain bikers, kayakers, cross country skiers or snowshoers often choose not to participate in their recreational activities where firearm hunters are present.

126. Because firearm hunting is a year-round activity and is allowed on almost all of the Huron-Manistee National Forest, some walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers choose not to participate in their recreational activities on the Huron-Manistee National Forest.

127. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents considered the impacts of snowmobiling on cross country skiers or snowshoers.

128. Many cross country skiers and snowshoers prefer areas free from the danger and noise of snowmobiles.

129. Cross country skiers or snowshoers often choose not to participate in their recreational activities where snowmobiles are present.

130. Because the seasons for snowmobiling, cross country skiing and snowshoing coincide, and snowmobiling is allowed around the Wilderness Areas and in and around the Quiet Areas, some cross country skiers and snowshoers choose not to participate in their recreational activities on the Huron-Manistee National Forest.

131. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents considered the impacts of firearm hunting on the quality of experience of walking, hiking, mountain biking, kayaking, cross country skiing or snowshoeing.

132. The possibility of being shot, shot at, or having shots fired nearby diminishes the quality of experience of walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing.

133. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents considered the impacts of snowmobiling on the quality of experience of cross country skiing or snowshoeing.

134. The possibility of being hit by snowmobiles or having snowmobiles nearby diminishes the quality of experience of cross country skiing and snowshoeing.

135. The formulation and evaluation of the Alternatives were required to be coordinated to the extent feasible with recreation opportunities already present and available on other public land, with the aim of reducing duplication in meeting recreation demands.

136. There are almost 4 million acres of state forest land in the State of Michigan.

137. Firearm hunting is permitted on more than 99.9% of the state forest land in the State of Michigan.

138. Allowing firearm hunting on almost all of the Huron-Manistee National Forest duplicates the firearm hunting recreation opportunity already present and available on state forest land.

139. Snowmobiling is permitted on more than 99.9% of the state forest land in the State of Michigan.

140. Allowing snowmobiling around the Wilderness Areas and in and around the Quiet Areas duplicates the snowmobiling recreation opportunity already present and available on state forest land.

141. Forest planning for the Huron-Manistee National Forest was required to plan and implement off-road vehicle use to minimize conflicts with other uses of the Huron-Manistee National Forests.

142. Snowmobiles are off-road vehicles.

143. Neither the 2006 Forest Plan, the FEIS, nor, upon information and belief, any of the publicly available planning documents plan or implement snowmobile use to minimize conflicts with cross country skiers and snowshoers.

144. By allowing snowmobiling around the Wilderness Areas and in and around the Quiet Areas, the Forest Service has created conflicts with cross country skiers and snowshoers.

145. Defendant Johanns is required to assure the 2006 Forest Plan provides for the administration of the Huron-Manistee National Forests for outdoor recreation as well as wildlife purposes.

146. By not prohibiting firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas, Defendant Johanns improperly favored wildlife purposes over outdoor recreation.

**VIOLATIONS OF THE
WILDERNESS ACT**

147. Plaintiff adopts by reference the statements contained in paragraphs 1 through 146 of this Complaint.

148. The Wilderness Areas are subject to the Wilderness Act.

149. Part of the definition of a wilderness is that it has outstanding opportunities for solitude.

150. The Forest Service is responsible for preserving the wilderness character of the Wilderness Areas.

151. The noise from firearm hunting in and around the Wilderness Areas and snowmobiling around the Wilderness Areas prevents the opportunity for solitude in the Wilderness Areas.

152. The Forest Service has failed to preserve the wilderness character of the Wilderness Areas.

VIOLATIONS OF THE
MULTIPLE-USE SUSTAINED-YIELD ACT

153. Plaintiff adopts by reference the statements contained in paragraphs 1 through 152 of this Complaint.

154. The Forest Service is required to administer the Huron-Manistee National Forests for outdoor recreation as well as wildlife purposes.

155. The laws and regulations governing the administration of the Huron-Manistee National Forests contemplate that some land will be used for less than all of the resources, and that there will be harmonious and coordinated management of the various resources, each with the other.

156. By not prohibiting firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas, the Forest Service improperly favored wildlife purposes over outdoor recreation.

VIOLATIONS OF THE
FEDERAL LAND POLICY MANAGEMENT ACT

157. Plaintiff adopts by reference the statements contained in paragraphs 1 through 156 of this Complaint.

158. Defendant Johanns is required to manage the Huron-Manistee National Forests for outdoor recreation as well as wildlife purposes.

159. By not prohibiting firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas, Defendant Johanns improperly favored wildlife purposes over outdoor recreation.

VIOLATIONS OF THE ADMINISTRATIVE PROCEDURES ACT

160. Plaintiff adopts by reference the statements contained in paragraphs 1 through 159 of this Complaint.

161. Defendant Moore was required to ensure that the 2006 Forest Plan complied with all laws, regulations and policy.

162. Defendant Moore's Decision was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

163. The Forest Service's actions in formulating and evaluating the Alternatives were arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

164. The Forest Service's failure to consider dispersal problems of hunting and snowmobiling on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

165. The Forest Service's failure to identify the recreational preferences of walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

166. The Forest Service's failure to analyze the interactions among firearm hunters and walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

167. The Forest Service's failure to analyze the interactions among snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

168. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

169. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on the quality of experience of walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

170. The Forest Service's failure to coordinate the firearm hunting and snowmobiling recreation opportunities already present on other public land and the duplication of the firearm hunting and snowmobiling recreation opportunities on the Huron-Manistee National Forests already present and available on state forest land was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

171. The Forest Service's failure to minimize conflicts between snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

172. Defendant Johanns failure to prohibit firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

173. Defendant Johanns failure to prohibit snowmobiling around the Wilderness Areas and in and around the Quiet Areas was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

174. The Forest Service's failure to preserve the wilderness character of the Wilderness Areas was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

175. Defendant Moore's Decision was made without observance of procedure required by law.

176. The Forest Services's actions in formulating and evaluating the Alternatives were done without observance of procedure required by law.

177. The Forest Service's failure to consider dispersal problems of hunting and snowmobiling on the Huron-Manistee National Forests was done without observance of procedure required by law.

178. The Forest Service's failure to identify the recreational preferences of walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was done without observance of procedure required by law.

179. The Forest Service's failure to analyze the interactions among firearm hunters and walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was done without observance of procedure required by law.

180. The Forest Service's failure to analyze the interactions among snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was done without observance of procedure required by law.

181. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was done without observance of procedure required by law.

182. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on the quality of experience of walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing on the Huron-Manistee National Forests was done without observance of procedure required by law.

183. The Forest Service's failure to coordinate the firearm hunting and snowmobiling recreation opportunities already present on other public land and the duplication of the firearm hunting and snowmobiling recreation opportunities on the Huron-Manistee National Forests already present and available on state forest land was done without observance of procedure required by law.

184. The Forest Service's failure to minimize conflicts between snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was done without observance of procedure required by law.

185. The Forest Service's failure to preserve the wilderness character of the Wilderness Areas was done without observance of procedure required by law.

186. Defendant Moore's decision to adopt the 2006 Forest Plan as the forest plan for the Huron-Manistee National Forests was unwarranted by the facts.

187. The Forest Service's actions in formulating and evaluating the Alternatives were unwarranted by the facts.

188. The Forest Service's failure to consider dispersal problems of hunting and snowmobiling on the Huron-Manistee National Forests was unwarranted by the facts.

189. The Forest Service's failure to identify the recreational preferences of walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was unwarranted by the facts.

190. The Forest Service's failure to analyze the interactions among firearm hunters and walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was unwarranted by the facts.

191. The Forest Service's failure to analyze the interactions among snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was unwarranted by the facts.

192. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on walkers, hikers, mountain bikers, kayakers, cross country skiers and snowshoers on the Huron-Manistee National Forests was unwarranted by the facts.

193. The Forest Service's failure to consider the impacts of firearm hunting and snowmobiling on the quality of experience of walking, hiking, mountain biking, kayaking, cross country skiing and snowshoeing on the Huron-Manistee National Forests was unwarranted by the facts.

194. The Forest Service's failure to coordinate the firearm hunting and snowmobiling recreation opportunities already present on other public land and the duplication of the firearm hunting and snowmobiling recreation opportunities on the Huron-Manistee National Forests already present and available on state forest land was unwarranted by the facts.

195. The Forest Service's failure to minimize conflicts between snowmobilers and cross country skiers and snowshoers on the Huron-Manistee National Forests was unwarranted by the facts.

196. Defendant Johanns failure to prohibit firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roaded Natural Areas was unwarranted by the facts.

197. Defendant Johanns failure to prohibit snowmobiling around the Wilderness Areas and in and around the Quiet Areas was unwarranted by the facts.

198. The Forest Service's failure to preserve the wilderness character of the Wilderness Areas was unwarranted by the facts.

Request for Relief

Plaintiff requests that this Court:

- a. Declare the 2006 Forest Plan unlawful and set aside the Decision;
- b. Order Defendants to timely and properly consider a range of alternatives, including adding substantial additional acres of Semiprimitive Nonmotorized Areas, prohibiting firearm hunting in and around the Wilderness Areas, the Quiet Areas and the Roded Natural Areas and prohibiting snowmobiling around the Wilderness Areas and in and around the Quiet Areas, and prepare a forest plan for the Huron-Manistee National Forests in accordance with the applicable laws and regulations;
- c. Order Defendant Johanns to administer the Huron-Manistee National Forests in accordance with the applicable laws and regulations;
- d. Retain jurisdiction over this matter until Defendants comply with the judgment of this court;
- e. Award Plaintiff his costs incurred in this action, together with reasonable attorney's fees; and

f. Grant such other relief to which Plaintiff is entitled.

July 18, 2007



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