

Hon. Marsha J. Pechman

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WESTERN DISTRICT OF WASHINGTON  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NORTHWEST ECOSYSTEM ALLIANCE, et al., )  
Plaintiffs, )  
v. )  
MARK E. REY, et al., )  
Defendants. )

CASE NO. C04-844-P  
STIPULATION AND [PROPOSED]  
ORDER RE: INJUNCTION

04-CV-00844-ORD

1       *Whereas*, on August 1, the Court entered an Order on Summary Judgment in this case;

2       *Whereas*, on January 9, 2006, the Court entered an Order Issuing a Permanent Injunction;

3       *Whereas*, on January 24, 2006, Federal Defendants filed a Rule 59(e) Motion for

4 Reconsideration of Order and Judgment to narrow the scope of the injunction, and Defendants-

5 Intervenors filed a Rule 60 Motion to Alter or Amend the Judgment;

6       *Whereas*, on February 12, 2006, Plaintiffs opposed both motions, but stated a willingness to  
7 meet and confer to discuss certain modifications of the judgment;

8       *Whereas*, on April 20, 2006, the Court issued an Order denying the motions for  
9 reconsideration and to alter or amend the judgment, but stated that "the Court would be receptive to  
10 a Rule 60(b) motion to modify the judgment if the parties engage in mediation and are able to reach  
11 an agreement on exemptions to the judgment";

12       *Whereas*, the parties have since met and conferred regarding the scope of the injunction;

13       *Whereas*, Plaintiffs and Defendants-Intervenors agree that the injunction should be  
14 modified, and Federal-Defendants do not oppose such a request;

15       *Therefore*, Plaintiffs and Defendants-Intervenors hereby stipulate to and respectfully request  
16 that the Court enter an Order under Rule 60(b) amending paragraph 3 of the injunction, to state:

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18       3. Defendants shall not authorize, allow, or permit to continue any logging or other habitat  
19 disturbing activities on projects to which the 2004 ROD applied unless such activities are in  
20 compliance with the 2001 ROD (as the 2001 ROD was amended or modified as of March  
21 21, 2004), except that this order will not apply to:

21       a. Thinning projects in stands younger than 80 years old;

22       b. Replacing culverts on roads that are in use and part of the road system, and removing  
23 culverts if the road is temporary or to be decommissioned;

24       c. Riparian and stream improvement projects where the riparian work is riparian planting,  
25 obtaining material for placing in-stream, and road or trail decommissioning; and where the  
26 stream improvement work is the placement large wood, channel and floodplain  
27 reconstruction, or removal of channel diversions; and

28       d. The portions of projects involving hazardous fuel treatments where prescribed fire is  
applied. Any portion of a hazardous fuel treatment project involving commercial logging

1 will remain subject to the survey and manage requirements except for thinning of stands  
2 younger than 80 years old under subparagraph a. of this paragraph.

3 Dated: October 10, 2006.

Respectfully submitted,

4  
5 /s/ Peter M.K. Frost

6 Peter M.K. Frost  
7 Stephanie M. Parent  
8 Attorneys for Plaintiffs

9 /s/ Brian Kipnis


10 Brian Kipnis  
11 Wells D. Burgess  
12 Attorneys for Federal Defendants

13 /s/ Scott W. Horngren

14 Scott W. Horngren  
15 Shay S. Scott  
16 Attorneys for Defendants-Intervenors

17 Pursuant to the stipulation of parties, IT IS SO ORDERED.

18 Dated this 11 day of Oct., 2006.

19   
20 Marsha J. Pechman  
21 UNITED STATES DISTRICT JUDGE

22 Presented by: /s/ Peter M.K. Frost  
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