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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

CASCADIA WILDLANDS, an Oregon non-profit organization; **OREGON WILD,** an Oregon non-profit organization, and **UMPQUA WATERSHEDS,** an Oregon non-profit organization,

Plaintiffs,

v.

UNITED STATES BUREAU OF LAND MANAGEMENT, a federal agency,

Defendant, and

AMERICAN FOREST RESOURCE COUNCIL and **ASSOCIATION OF O&C COUNTIES**,

Defendant-Intervenors.

Case No. 6:24-cv-01641-MTK

MOTION FOR TEMPORARY RESTRAINING ORDER and/or PRELIMINARY INJUNCTION AND MEMORANDUM IN SUPPORT

Oral Argument Requested

Expedited Hearing and Decision Requested

MOTION

Plaintiffs Cascadia Wildlands, Oregon Wild, and Umpqua Watersheds ("Plaintiffs") move under Federal Rule of Civil Procedure 65(a) and 65(b) and Local Rule 65 for:

(1) an Order temporarily restraining Federal Defendant the Bureau of Land Management ("BLM") and its agents, assigns and contractors from implementing the Blue and Gold Project until this Court adjudicates the parties' cross-motions for summary judgment (ECF Nos. 27, 29, & 32) or until a preliminary injunction issues; and

(2) an Order preliminarily enjoining Federal Defendant and its agents, assigns and contractors from implementing the Blue and Gold Project until this Court adjudicates the parties' cross-motions for summary judgment.

Pursuant to Local Rule 7-1(a)(1) and Federal Rule of Civil Procedure 65(b)(1)(B), counsel for Plaintiffs have conferred with counsel for Federal Defendant and Defendant-Intervenors. Defendant-Intervenors advised Plaintiffs that logging in the Noble Steed, Sternbreaker and Prince Butte timber sales will be starting on or after May 15, 2026, and Federal Defendant advised Plaintiffs that logging has begun in the Mean Mustard timber sale. Plaintiffs conferred on this motion on May 7, 2026, and Federal Defendant and Defendant-Intervenors have indicated that they oppose the motion. Plaintiffs have now discovered old growth logging occurring in Mean Mustard, in violation of FLPMA and NEPA, as set forth below. Plaintiffs were under the impression that this logging was prohibited by seasonal spotted owl restrictions articulated in the Mean Mustard Decision. AR477. Plaintiffs request an immediate ruling on the restraining order and a subsequent oral argument on this preliminary injunction motion as soon as the Court's calendar can accommodate it.

This motion is supported by the legal memorandum below and by the Declaration of

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Ashley Jernigan and the Second Declarations of Madeline Cowen, Janice Reid, and Chandra LeGue filed herewith, as well as the First and Second Declarations of Peter Jensen (ECF Nos. 25 & 50), and the First Declarations of Madeline Cowen (ECF No. 27-1), Erich Reeder (ECF No. 27-2), Janice Reid (ECF No. 27-3), Chandra LeGue (ECF No. 27-4), Grace Brahler Newsome (ECF No. 44), and Greg Blomstrom (ECF No. 50-1), together with the exhibits and other supporting materials attached to these filings, as well as the briefing in support of Plaintiffs' Motion for Summary Judgment (ECF Nos. 26, 27, 35, 36, 51, 55) and the exhibits thereto.

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MEMORANDUM IN SUPPORT

I. Introduction

Plaintiffs respectfully request that this Court enjoin ongoing and imminent logging and associated activities authorized under the Blue and Gold Project. A temporary restraining order and preliminary injunction is warranted because Plaintiffs are likely to succeed on the merits, will suffer irreparable harm in the absence of an injunction, and the balance of equities tips in their favor. Plaintiffs have discovered new logging that directly implicates the claims below and those facts are set forth herein, along with citations to relevant declarations filed herewith. On the merits, Plaintiffs respectfully refer this Court to the already filed summary judgment briefing and the additional discussion below. *See* ECF Nos. 26, 27, 35, 36, 51 & 55.

II. Standard of Review for Preliminary Injunction

A plaintiff seeking a preliminary injunction must establish that (1) it is likely to succeed on the merits; (2) it will likely suffer irreparable harm absent the injunction; (3) the balance of the equities tips in its favor; and (4) the injunction would serve the public interest. *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008). "The purpose of a preliminary injunction is to preserve the status quo and prevent the 'irreparable loss of rights' before a final judgment on the merits." *Native Ecosystems Council v. Marten*, 334 F. Supp. 3d 1124, 1130 (D. Mont. 2018) (citation omitted).

Courts in the Ninth Circuit employ a "sliding scale" approach in which, for example, "a stronger showing of irreparable harm to plaintiff might offset a lesser showing of likelihood of success on the merits." *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–32 (9th Cir. 2011). Under this approach, a preliminary injunction may issue where a plaintiff's likelihood of success is such that "serious questions going to the merits [are] raised and the balance of

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hardships tips sharply in [plaintiff's] favor." *Id.*

In the Ninth Circuit, the legal standard for issuance of a temporary restraining order is "essentially identical" to the standard for a preliminary injunction:

> District courts enjoy discretion regarding whether to grant or deny a temporary restraining order. *Miss Universe, Inc. v. Flesher*, 605 F. 2d 1130, 1132-33 (9th Cir. 1979); *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 22, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008). Federal Rules of Civil Procedure 65 governs preliminary injunctions and temporary restraining orders. The standard for issuing a TRO proves "essentially identical" to the standard for granting a preliminary injunction. *Don't Shoot Portland v. City of Portland*, 465 F. Supp. 3d 1150, 1154 (D. Or. 2020*)*; *see also Stuhlbarg Int'l Sales Co. v. John D. Brush & Co*., 240 F.3d 832, 839 n.7 (9th Cir. [2001]).
>
> A plaintiff seeking a temporary restraining order must establish the following four elements: (1) that they are likely to succeed on the merits; (2) that they are likely to suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in their favor; and (4) that an injunction is in the public interest. *Winter*, 555 U.S. at 20. The balance of equities and public interest "factors merge when the Government" is the party opposing the preliminary injunction request. *Nken v. Holder*, 556 U.S. 418, 435, 129 S. Ct. 1749, 173 L. Ed. 2d 550 (2009).

All. for the Wild Rockies v. James, No. CV-25-104-BU-BMM, 2026 LX 106626, at *4-*6 (D. Mont. Mar. 11, 2026). "The [Supreme] Court has repeatedly held that the basis for injunctive relief in the federal courts has always been irreparable injury and the inadequacy of legal remedies." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982).

IV. Factual Background

Plaintiffs refer the Court to the facts set out in the briefing on Plaintiffs' Motion for Summary Judgment. *See* ECF No. 27 at 6-15.

Along with those facts, Plaintiffs present these updated facts relating to the current status of logging, as relevant to this motion for preliminary relief as well as the merits of the case. On May 3, 2026, and again on May 10, 2026, volunteers with Cascadia Wildlands were camping near the Blue and Gold Project area and observed ongoing logging activity in the Mean Mustard timber sale area. Jernigan Decl. ¶¶ 5-6. These volunteers observed and documented that old-

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growth trees over 40 inches in diameter and over 170 years in age had been logged. Jernigan Decl. ¶¶ 7, 9-15. This includes trees marked by BLM for retention that presumably BLM determined were over 40 inches in diameter at breast height and were established before 1850. Jernigan Decl. ¶¶ 7, 12, 13; Second Cowen Decl. ¶¶ 13, 14. It also includes trees that were over 40 inches in diameter at breast height and were established before 1850 that were not marked by BLM for retention. Jernigan Decl. ¶¶ 7, 10, 11, 14. This logging was observed within Mean Mustard Timber Sale Unit 1, EA Unit 24-6-7B. Jernigan Decl. ¶¶ 6, 9.

The Mean Mustard Timber Sale Unit 1 intersects with an occupied spotted owl site. ECF No. 44-3 at 8; AR549 (Bear Creek NSO Activity Center). The EA indicated that seasonal restrictions were in place to protect this occupied spotted owl habitat. AR477 ("Seasonal restrictions would be applied in occupied or unsurveyed nesting, roosting, and foraging habitat as described in the Biological Assessment and Biological Opinion. The BLM may waive the restriction and spot check requirement in the third and fourth years if two years of protocol surveys covering all northern spotted owl habitat within the survey area indicate no resident single owls, territorial owl pairs, or pairs/two owls of unknown status and no activity centers are known to occur in the survey area and no barred owls are detected in the survey area (USDI/FWS 2012)."). Plaintiffs have attempted to confer with BLM over the status of seasonal restrictions and why logging has begun but have not received a definitive answer from BLM.

Pursuant to recent conferral with Defendant-Intervenors, logging of the Prince Butte, Sternbreaker, and Noble Steed timber sales is generally slated to begin this Friday, May 15, 2026, consistent with the parties' stipulation before this Court. *See* ECF No. 42.

V. Argument

A. Plaintiffs Are Likely to Succeed on the Merits.

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A likelihood of success on any one of Plaintiffs' claims is sufficient to obtain an injunction. *See League of Wilderness Defs. v. Connaughton* ("*LOWD*"), 752 F.3d 755, 760 (9th Cir. 2014). In the alternative, Plaintiffs raise at least "serious questions" on the merits—all that is necessary for an injunction to issue here because the balance of harms tips sharply in Plaintiffs' favor. "Serious questions" are those that are "substantial, difficult and doubtful enough" to require more thorough review. *Republic of the Philippines v. Marcos*, 862 F.2d 1355, 1362 (9th Cir. 1988). The merits of Plaintiffs' claims have been fully briefed and argued before this Court, *see* ECF Nos. 26, 27, 36, 51, & 55, and Plaintiffs respectfully refer the Court to the arguments therein. Plaintiffs summarize the main points of their merits arguments below[1]:

1. *BLM has failed to demonstrate that the Blue and Gold Project is consistent with the 2016 RMP requirement to protect large and old trees.*

The RMP prohibits the logging of old-growth trees:

> Include among retained trees all trees that are both ≥ 40" DBH and that BLM identifies were established prior to 1850, except where falling is necessary for safety or operational reasons and no alternative harvesting method is economically viable or practically feasible. If such trees need to be cut for safety or operational reasons, retain cut trees in the stand. BLM identification of trees established prior to 1850 may be based on any of a variety of methods, such as evaluation of bark, limb, trunk, or crown characteristics, or increment coring, at the discretion of BLM.

AR7876. Plaintiffs have argued in this case that BLM has failed to demonstrate compliance with this standard. Now, BLM has begun implementation of the Blue and Gold timber sales in the older areas Plaintiffs have identified repeatedly as being replete with old-growth trees. Jernigan Decl. ¶¶ 5-7, 9; Second Cowen Decl. ¶¶ 10-13. Plaintiffs have documented that old-growth trees marked and identified by BLM as being established prior to 1850 and over 40 inches in diameter

[1] Federal Defendant and Defendant-Intervenors have not challenged Plaintiffs' standing, which was briefed previously. *See* ECF No. 27 at 16-17.

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at breast height have been logged. Jernigan Decl. ¶¶ 7, 12, 13. Plaintiffs have repeatedly argued that the pervasive presence of old growth in these areas would require the authorized commercial logging prescriptions to log this old growth. ECF No. 27 at 23-24; ECF No. 36 at 12. Plaintiffs now have evidence demonstrating this fact. Jernigan Decl. ¶¶ 7, 9-15; Second Cowen Decl. ¶¶ 13-17. This logging fails to comply with the RMP's prohibition on old-growth logging and thus violates FLPMA. *See* AR7876 (old growth standard); *see also Or. Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1125 (9th Cir. 2007).

Additionally, Plaintiffs have now documented old-growth trees plainly established prior to 1850 that are over 40 inches in diameter that BLM has not identified or marked and were logged. Jernigan Decl. ¶¶ 7, 10, 11, 14; Second Cowen Decl. ¶¶ 13, 14. BLM assured the Court at oral argument that such trees would be identified and protected. BLM's failure to properly identify trees that were established prior to 1850 and over 40 inches in diameter at breast height is a product of BLM's mischaracterization of the project area as containing stands uniform in age and maxing out at 140 years old. AR325, AR355, AR527. As previously briefed and argued, the record here contains a substantial body of evidence demonstrating that many of the stands targeted for logging, especially within the contiguous Yellow Butte area, were established well prior to 1850, and as such, a 40-inch diameter logging limit was necessary to ensure compliance with the old-growth protection standard in these areas. AR5899, AR3283, AR3316, AR1202-07. *See Brong*, 492 F.3d at 1125; *see also Klamath-Siskiyou Wildlands Ctr. v. BLM,* No. 1:23-cv-00519-CL, 2024 U.S. Dist. LEXIS 105741 (D. Or. May 24, 2024) (Findings and Recommendation adopted in full, Case No. 1:23-cv-00519-CL, 2025 U.S. Dist. LEXIS 60355 (D. Or. Mar. 31, 2025)) (raising a potential RMP violation "trigger[s] BLM's obligation to demonstrate the necessary FLPMA compliance."). BLM's failure to properly identify trees

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established prior to 1850 and over 40 inches in diameter at breast height in these logging units in planning documents or during implementation is a failure to ensure compliance with the old-growth protection standard. *See Brong*, 492 F.3d at 112.

BLM's argument that it can punt compliance with this standard out of project planning and into logging implementation has demonstrably failed. Jernigan Decl. ¶¶ 7, 9-15. Now, BLM is facing the logging of old-growth trees in units where retention of these trees was necessary to meet the old-growth protection standard. Additionally, this unit currently being logged is within an occupied northern spotted owl site. ECF No. 44-3 at 8. It is likely that retention of these old-growth trees was necessary to maintain 60% canopy cover and prevent the illegal take of spotted owls. *Id*. *See also* Decl. Jernigan, ¶ 14. Plaintiffs are in the process of alerting the U.S. Fish and Wildlife Service to these issues.

To the extent BLM argues that these tree removals are permitted by the RMP, nowhere in the record has BLM argued or justified that logging of this old-growth "is necessary for safety or operational reasons" and nowhere in the record has BLM demonstrated that there is "no alternative harvesting method [that] is economically viable or practically feasible." AR7876. Properly addressing the presence of this old-growth in project planning would have allowed these issues to be thoroughly vetted and accounted for, but BLM attempted to obscure the presence of this old-growth, both in NEPA documents and the manipulation of silvicultural data.

For Plaintiffs' prior arguments on this issue, *see* ECF No. 27 at 17-24; ECF No. 36 at 9-16; ECF No. 55 at 9-13.

2. BLM failed to comply with NEPA because it did not take a "hard look" at the Project's effects on logging large and old trees as required by NEPA.

BLM failed to take a "hard look" at the effects of the Project on large and old trees and forest stands because it incorrectly assumed in its analysis that "mature stands in the area exhibit

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a single, dominant cohort of Douglas fir, suggesting a stand replacement disturbance around the turn of the 20th century," ignoring the facts before it showing that there are many trees and stands much older than 140, and that those stands will be adversely affected by the proposed logging activities. AR325; AR527 (BLM response); AR1202-07; AR1137-42; AR 1226-51 (information about older stands); *compare* AR527-28 (age classes assigned by BLM) *with* AR3332 (Prince Butte timber sale unit dominated by old growth); AR3316 (Sternbreaker timber sale unit dominated by old growth); AR5898 (Sternbreaker timber sale unit contains 10-acre pocket of old growth); AR5899 (Sternbreaker timber sale unit stands appear older than unit label suggests); AR3283, AR3316, AR3332 (Noble Steed timber sale units dominated by old growth); AR7252 (Mean Mustard timber sale units consist of late-successional forest).

Even assuming FLPMA compliance (which again, there is no record support for and Plaintiffs strongly dispute), *see* AR7876, BLM's failure to analyze the significant effects of logging in these old stands, let alone recognize their presence, bred serious violations of NEPA. *Or. Nat. Desert Ass'n v. Jewell,* 840 F.3d 562, 570 (9th Cir. 2016) (extrapolations of site conditions "must be based on accurate information and defensible reasoning."); *see also W. Watersheds Project v. Schultz*, No. CV 22-149-M-DWM, 2025 LX 429195, at *15 (D. Mont. Sep. 17, 2025) (court finding Forest Service's EA especially problematic because it contained several references to positive and neutral impacts of an element of the action, but omitted the potential negative impacts, even where commenters had raised the insufficiency of the analysis); *compare Ctr. for Biological Diversity v. Hays*, No. 2:15-cv-01627-TLN-CMK, 2015 U.S. Dist. LEXIS 137985, at *28 (E.D. Cal. Oct. 7, 2015) (EA upheld when the agency "candidly acknowledged adverse impacts and considered, independent of the Project's beneficial effects, whether those impacts were potentially significant," rather than "rely on the Project's

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benefits to discount its negative effects.").

Further, the inclusion of all this old growth in the merchantable tree data, that was in turn used to model commercial volume sold to timber purchasers, *see* ECF No. 55, means BLM was over-valuing these units to purchasers. BLM has represented that this old growth will be protected, and at the same time, has apparently sold these trees to purchasers. This creates a dynamic where purchasers are logging whatever they can to justify the purchase price and reach the promised volume levels, and BLM is left trying to clean up the situation after the trees are on the ground and irreparable damage has occurred. *See* Jernigan Decl. ¶ 12. This results in unanalyzed effects, including the loss of ancient, resilient and irreplaceable trees.

Photo taken on May 10, 2026 in the Mean Mustard sale by Ashley Jernigan. See Decl. Jernigan, ¶ 14.

As such, BLM failed to take the thorough, full and fair discussion of the proposed action's environmental impacts, and we are now witnessing the consequences of this failure. *350*

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Mont. v. Haaland, 50 F.4th 1254, 1265 (9th Cir. 2022); *see also* 42 U.S.C. § 4332(2)(D) (agency must ensure professional and scientific integrity of environmental documents).

For Plaintiffs' prior and incorporated arguments on this issue, *see* ECF No. 27 at 24-25; ECF No. 36 at 23-26.

3. *BLM failed to comply with NEPA because the Project has significant effects and thus an EIS, not an EA, was required.*

For Plaintiffs' arguments on this issue, *see* ECF No. 27 at 29-35; ECF No. 36 at 26-34. There are serious questions about whether the Blue and Gold Project has significant effects. For one, there is substantial uncertainty about the effects of the Project, as evidenced by the myriad evidence placed before the agency (and now this Court) about the presence of ancient forests that will be affected—none of which was analyzed, let alone even acknowledged in the NEPA analysis. *See Nat'l Parks & Conservation Ass'n v. Babbitt*, 241 F. 3d 722, 731-32 (9th Cir. 2001). Logging groves of ancient forest "is precisely the type of 'controversial' action for which an EIS must be prepared." *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998) (citing *Sierra Club v. U.S. Forest Service*, 843 F.2d 1190, 1992-93 (9th Cir. 1988) (rejecting Forest Service's decision to award several timber contracts that contained groves of giant sequoia redwoods without preparing an EIS)). Additionally, the agency's FONSI ignored the fact that ESA-listed species will be taken as part of the Project. These effects are *prima facie* evidence of NEPA significance. *See Envtl. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 879 (9th Cir. 2022). BLM failed to grapple with these and other indicators of significance and its decision and FONSI lacked a "convincing statement of reasons" why no EIS was required and were therefore arbitrary and capricious. *350 Mont.*, 50 F.4th at 1259.

4. *BLM failed to comply with NEPA because it did not take a "hard look" at the effects of logging mature forests on carbon storage and climate change.*

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For Plaintiffs' arguments on this issue, *see* ECF No. 27 at 26-29; ECF No. 36 at 23-26. BLM failed to take a hard look at the project-level affects to carbon and climate change as required by NEPA and as set out in *Ctr. for Biological Diversity v. U.S. Forest Service*, 687 F. Supp. 3d 1053 (D. Mont. 2023) ("*Black Ram*"). Here, BLM relied on even less analysis than the *Black Ram* court found inadequate, offering *no* project-level carbon analysis and merely summarizing the plan-level FEIS. AR498. And perhaps more relevant to this emergency motion, BLM is in fact cutting large and old trees that have substantially more carbon than their smaller, younger counterparts, so to the extent BLM did consider any carbon effects, it made a faulty assumption about the preservation of the carbon giants that are now being logged. AR1224-26 (Plaintiffs' comments discussing the value of large and old trees for carbon storage). BLM's analysis is therefore insufficient. *See Klamath-Siskiyou Wildlands Ctr. v. BLM*, No. 1:19-cv-02069-CL, 2021 U.S. Dist. LEXIS 26040, at *12 (D. Or. Jan. 21, 2021) (tiering unlawful where no site-specific analysis in RMP FEIS); *Pac. Coast Fed'n of Fishermen's Ass'ns v. Nat'l Marine Fisheries Serv.,* 265 F.3d 1028, 1036 (9th Cir. 2001) (agency cannot minimize activity's effect by watering down the effects using broad scale analysis).

B. An Injunction Is Necessary to Avoid Irreparable Harm

If the remainder of the Blue and Gold Project is not enjoined, Plaintiffs will suffer the irreparable harm that accompanies the loss of the ancient, complex, and carbon-rich forests that will be logged imminently. According to the Supreme Court, "[e]nvironmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i.e., irreparable." *Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545 (1987). Moreover, "[w]hen a court finds a likelihood of success on the merits of a NEPA claim coupled with likely environmental harm, the NEPA violation generally is found to rise to the

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level of irreparable harm supporting preliminary injunctive relief." *W. Watersheds Project v. Bernhardt,* 392 F. Supp. 3d 1225, 1258 (D. Or. 2019) (citations omitted); *see also Or. Nat. Desert Ass'n v. Raby*, 780 F. Supp. 3d 1085, 1101, 1103-04, 1104-07 (issuing preliminary injunction after finding likely success on the merits of FLPMA and NEPA claims and associated irreparable harm).

According to the Ninth Circuit, Plaintiffs may satisfy the irreparable harm requirement when a project will harm plaintiffs' members' ability to "view, experience, and utilize the areas in their undisturbed state," and will "prevent [their] use and enjoyment . . . of the forest." *Cottrell*, 632 F.3d at 1135. For the purposes of establishing irreparable harm, "undisturbed" refers to the state of the forest before the challenged activities occur. *See id*. Here, Plaintiffs have established the likelihood of irreparable harm because Plaintiffs' interests are in viewing, experiencing, using and enjoying the forests, individual trees, and associated habitats in their current state, and that state will be lost if the logging occurs. *See*, *e.g.*, ECF No. 27-1, Cowen Decl. ¶ 8 (describing use and enjoyment of project area for foraging, hiking, and photography); ECF No. 27-2, Reeder Decl. ¶¶ 43–44, 47 (describing use of the project area for hiking, exploring, education, recreating with family and friends, and spiritual well-being); ECF No. 27-3, Reid Decl. ¶¶ 3, 9–11 (33 years working in this area studying northern spotted owls; hosting river campout/event on the Umpqua where Yellow Creek meets it and within view of Yellow Butte units; "scientific background and my recreational enjoyment of the forests of the Umpqua Watershed, including the Yellow Creek and Tyee Study Area"); ECF No. 27-4, LeGue Decl. ¶¶ 9, 14 (describing 2024 visit and plan to return for mushroom foraging in fall 2025); Second LeGue Decl. ¶ 4 (visited again in January 2026 and intending to return this summer to inform comments on RMP Revisions).

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Plaintiffs have sufficiently established that they have recreational or aesthetic interests that would be harmed by the challenged Project. Cowen Decl. ¶ 27 (if logging proceeds as planned "my ability to recreate in this forest and experience the spiritual benefits … will be directly and significantly impacted and my connection to this place impaired."); Reeder Decl. ¶¶ 42, 47 (his mental and spiritual health interest "would truly be irreparably harmed if this extensive, contiguous, unlogged, healthy and mature and old-growth forest … was itself irreparably harmed by the Blue and Gold Harvest Plan."); Reid Decl. ¶ 17 ("extensive logging precludes me from being able to witness and enjoy the continued natural recovery of the area"); LeGue Decl. ¶¶ 15–17 (adverse "effects will severely damage my enjoyment of the project area if these stands are logged as planned."). *See Cottrell*, 632 F.3d at 1135; *Portland Audubon Soc'y v. Lujan*, 795 F. Supp. 1489, 1509 (D. Or. 1992), *aff'd*, 998 F.2d 705 (9th Cir. 1993) ("The destruction of [old growth forests] without compliance with law is a significant and irreparable injury. Old growth forests are lost for generations, and no amount of monetary compensation can replace the environmental loss."); *LOWD*, 752 F.3d at 764 ("The logging of mature trees, if indeed incorrect in law, cannot be remedied easily if at all. Neither the planting of new seedlings nor the paying of money damages can normally remedy such damage. The harm here, as with many instances of this kind of harm, is irreparable for the purposes of the preliminary injunction analysis."). Plaintiffs satisfy this prong of the *Winter* test.

C. The Balance of Hardships and Public Interest Favor a Short-Term Injunction Until the Merits Decision Is Issued.

When the government is a party, courts consider the balance of equities and the public interest together. *Envtl. Prot. Info. Ctr. v. Carlson*, 968 F.3d 991 (citation omitted). If irreparable environmental injury is sufficiently likely, the balance of harms usually will favor the issuance of an injunction to protect the environment. *Id.* (citing *Amoco*, 480 U.S. at 545); *see also W. Org. of*

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Res. Councils v. Johanns (in re Geertson Seed Farms), 541 F.3d 938, 950 (9th Cir. 2008) ("If environmental injury is sufficiently likely, the balance of harms will usually favor the issuance of an injunction to protect the environment."). When the government violates federal law, the public interest factor favors the plaintiff. *Bernhardt*, 392 F. Supp. 3d at 1260, 1026 (citing *Valle del Sol, Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013)). There is a "well-established public interest in preserving nature and avoiding irreparable environmental injury." *Cottrell*, 632 F.3d at 1138. Here, the balance of the equities favors injunctive relief because of the irreparable environmental injury as well as the public's interest in government compliance with the law. *Id.*

Federal Defendant and Defendant-Intervenors may argue that because logging contracts have been awarded, there is a potential for economic harm that would result with the injunction. First, such economic harm is not irreparable, therefore it does not outweigh the harm to Plaintiffs. Cf *Se. Alaska Conservation Council v. United States Forest Serv.,* 413 F. Supp. 3d 973, 985 (D. Alaska 2019 (economic loss caused by a preliminary injunction halting logging that would be in effect for several months is "not considerable".). Further, a substantial portion of the Project has already been sold and logged, including four sales totaling approximately 26 MBF and over $2 million. And finally, Federal Defendant and Defendant-Intervenors have been on notice that Plaintiffs were likely to seek emergency relief to halt any logging in these remaining timber sales and moved forward with finalizing contracts anyway. Thus, all parties to those contracts were on notice that they might be affected by the present litigation over the Project.

Additionally, this is a request for preliminary relief, and would only bar Project implementation until this Court reviews the merits of Plaintiffs' claims, which are already fully briefed and argued before this Court. Thus, harms to those economic interests, when viewed through the balance of harms/public interest lens, are both temporary and outweighed by the

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certain-to-occur environmental harms associated with the Project. *See N. Alaska Envtl. Ctr. v. Hodel*, 803 F. 2d 466, 471 (9th Cir. 1986) ("more than pecuniary harm must be demonstrated" to prevent issuance of injunctive relief); *see also Envtl. Prot. Info. Ctr. v. Blackwell*, 389 F. Supp. 2d 1174, 1221 (N.D. Cal. 2004) (finding that the value of timber to the Forest Service and the economic benefit to surrounding communities are not "unusual circumstances" that warrant denial of an injunction to prevent a timber sale); *see League of Wilderness Defs. v. Connaughton*, No. 3:12-cv-2271-HZ, 2014 US Dist. LEXIS 203889, at *7 (D. Or. Aug. 7, 2014) ("The public interest in preserving mature trees also outweighs the temporary loss of jobs or government revenue").

Finally, both BLM and the purchasers have had months of opportunity to avoid any alleged economic harms. Because courts focus on the "portion of the harm that would occur while the preliminary injunction is in place," *LOWD,* 752 F.3d at 765, and because the "public interest is served by requiring the [agency] to comply with the law," *Blackwell*, the balance of equities and public interest tip in Plaintiffs' favor.

D. Scope of Injunction

District courts enjoy "considerable discretion in fashioning suitable relief and defining the terms of an injunction," but "injunctive relief must be tailored to remedy the specific harm alleged." *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1195 (9th Cir. 2024). Here, Plaintiffs have alleged environmental injury from NEPA and FLPMA violations that center on the mature and old forests and individual trees that will be affected by the Project. Plaintiffs negotiated with Federal Defendant and Defendant-Intervenors to permit a large portion of the Project to go forward during litigation, and that has occurred. Thus, Plaintiffs request that this Court enjoin the remainder of the Project, which includes the areas with the largest and most

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ancient trees as well as northern spotted owl and marbled murrelet habitat and vast amounts of stored carbon, until a decision issues on the merits.

E. The Court Should Waive the Bond Requirement

Plaintiffs respectfully request that, if the Court grants this motion for injunctive relief, the Court waive the bond requirement of Rule 65(c) or require a nominal bond. Federal Rule of Civil Procedure 65(c) ordinarily requires that a party moving for a preliminary injunction provide a security in an amount determined by the court "to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." The Ninth Circuit, however, has long held that courts have discretion to dispense with the requirement "where requiring security would effectively deny access to judicial review." *People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985), *amended*, 775 F.2d 998 (9th Cir. 1985). A finding that the plaintiff is likely to succeed on the merits also "tips in favor of a minimal bond or no bond at all." *Id.* at 1326. "Moreover, special precautions to ensure access to the courts must be taken where Congress has provided for private enforcement of a statute." *Id.* at 1325–26; *see also Friends of the Earth, Inc. v. Brinegar*, 518 F.2d 322, 323 (9th Cir. 1975).

No bond should be required here, because it "is well established that in public interest environmental cases the plaintiff need not post bonds because of the potential chilling effect on litigation to protect the environment and the public interest." *Central Or. Landwatch v. Connaughton*, 905 F. Supp. 2d 1192, 1198 (D. Or. 2012). "Federal courts have consistently waived the bond requirement in public interest environmental litigation, or required only a nominal bond." *Id.*; *see also Forestkeeper v. U.S. Forest Serv.*, 2021 U.S. Dist. LEXIS 192443, *5 (E.D. Cal. Oct. 5, 2021) (no additional bond beyond previously ordered $100 bond considering no realistic harm to defendant and public interest nature), *aff'd*, 950 F.3d 1242 (9th Cir. 2020); *E. Bay Sanctuary*

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Covenant v. Trump, 349 F. Supp. 3d 838, 868-69 (N.D. Cal. 2018) (waiving bond); *see also Wildlands v. Warnack*, 570 F. Supp. 3d 983, 993 (D. Or. 2021) (no bond on account of "chilling effect").

Plaintiffs are each environmental interest non-profit organizations with limited resources; imposition of a bond would have a "chilling effect." *Landwatch*, 905 F. Supp. 2d at 1198; Second Decl. Reid, ¶¶ 10-11; Second Decl. LeGue, ¶¶ 5-6; Second Decl. Cowen, ¶ 29.

F. Conclusion

For all of the above reasons, Plaintiffs respectfully request that this Court grant Plaintiffs' Motion for a Temporary Restraining Order and/or Preliminary Injunction and enjoin the Blue and Gold Project until this Court issues a final decision in this case.

DATED this 12th day of May, 2026.

Respectfully submitted,

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