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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF OREGON**  
**PORTLAND DIVISION**

**BARK**, an Oregon non-profit corporation,  
**FRIENDS OF MOUNT HOOD**, an Oregon  
non-profit corporation, **NORTHWEST**  
**ENVIRONMENTAL DEFENSE CENTER**,  
an Oregon non-profit corporation, and  
**SIERRA CLUB**, a California non-profit  
corporation,

Plaintiffs,

v.

**LISA NORTHROP**, Acting Forest  
Supervisor of the Mt. Hood National Forest,  
**BILL WESTBROOK**, Zigzag District  
Ranger, **KENT CONNAUGHTON**, Regional  
Forester for Region 6, and the **UNITED**  
**STATES FOREST SERVICE**, a federal  
agency.

Defendants,

**RLK AND COMPANY**, an Oregon  
corporation.

Defendant-Intervenor.

**Case No. 3:13-cv-00828-AA**

**JOINT STATUS REPORT**

**JOINT STATUS REPORT - 1**

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The parties to this case hereby submit this Joint Status Report to update the Court on recent administrative developments and to propose a manner for proceeding in this litigation in light of those developments, as described more specifically below.

1. On November 14, 2013, the parties filed a Joint Status Report (Dkt. #52) advising the Court of Plaintiffs' submittal to the Forest Service of a 60-day Notice of Intent to Sue for alleged violations of Section 7 of the Endangered Species Act ("ESA") (Exhibit A). Plaintiffs also submitted to the National Marine Fisheries Service (NMFS) a Notice of Intent to Sue (Exhibit B). NMFS received a copy of the Notice Letter on December 23, 2013. Plaintiffs advised the agencies that they believed NMFS's letter of concurrence that the agency had issued during the original round of consultation undertaken on the challenged project under the ESA was legally flawed, and that they believed the agencies' failure to engage in formal consultation amounted to a Section 7 violation.

2. In accordance with the Parties' March 3, 2014 Joint Status Report (Dkt. #85), Plaintiffs filed an amended complaint (Dkt. # 86), adding NMFS as a party to the lawsuit, and adding claims with respect to: (1) alleged violations of the National Forest Management Act, 16 U.S.C. § 1600 *et seq.*, and National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*, regarding new information related to the Western bumblebee; and (2) alleged violations of the ESA, including failure to engage in formal consultation. 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14.

3. On March 31, 2014, Federal Defendants and Defendant-Intervenor filed respective answers to the Amended Complaint (Dkt. #87, #88).

4. Also on March 31, counsel for Federal Defendants provided the Parties with a copy of a March 27 letter documenting that NMFS and the Forest Service have decided to engage in further, formal consultation on the challenged project and, as a result of that determination, that NMFS will prepare a biological opinion (Exhibit C – Letter from Kim Kratz, NMFS to Lisa Northrop, Forest Service).

5. The Parties have agreed to hold off on scheduling briefing on the merits until the agencies have completed their re-initiated consultation, which will occur when NMFS issues a final biological opinion. At that time, counsel for Federal Defendants will provide counsel for the other Parties with a copy of the aforementioned biological opinion. The Forest Service also intends to examine the biological opinion to determine whether and/or to what extent it may need or wish to engage in any further administrative or analytical processes or measures for the challenged project.

6. On April 1, 2014, Plaintiffs notified Defendants that Plaintiffs wish to confer under FRCP 8 and obtain clarification of certain responses in Defendants' Amended Answers. The parties have agreed to confer on those issues in the interim and, if they are unable to work out such issues informally, Plaintiffs have informed Defendants that they may file a motion asking the Court to order Defendants to file amended answers to the Amended Complaint in accordance with the standards in FRCP 8.

7. Plaintiffs have also informed Defendants that Plaintiffs reserve the right to seek leave to further amend their complaint to add claims including, but not limited to, the adequacy of the Biological Opinion and the adequacy of the Forest Service's responses to the Biological Opinion.

8. The Parties agree to update the Court by Joint Status Report within 14 days after counsel for Federal Defendants provides a copy of the final biological opinion to counsel for the other parties unless the Court should set an alternate deadline for them to do so.

Jointly and respectfully submitted this 4th day of April 2014.  
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