

Ralph O. Bloemers, OSB No. 984172
ralph@crag.org - (503) 525-2727
Christopher G. Winter, OSB No. 984355
chris@crag.org - (503) 525-2725
Crag Law Center
917 SW Oak Street, Suite 417
Portland, OR 97205
Fax: (503) 296-5454

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, **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

[PROPOSED]
STIPULATED ORDER ON
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

STIPULATED ORDER ON PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION- 1

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WHEREAS plaintiffs have filed the above-captioned lawsuit (Dkt. # 1) against the United States Forest Service and named officers (collectively the “defendants” or “Forest Service”) thereof seeking judicial review under the Administrative Procedure Act, 5 U.S.C. § 706, of the Timberline Mountain Bike Trails and Skills Park Environmental Assessment (“EA”), Finding of No Significant Impact (“FONSI”) and Decision Notice (“DN”) issued by defendants and challenging the defendants’ failure to conduct an analysis consistent with National Environmental Policy Act for the projects contained in the Master Development Plan (Dkt. ## 25-10 and 25-11);

WHEREAS, plaintiffs’ motion for a temporary restraining order and preliminary injunction seeks to enjoin ground-disturbing activities related to the construction of more than seventeen miles of downhill bike routes and a skills park within the Timberline ski permit area (Dkt. ## 16 and 25-1). Plaintiffs did not seek injunctive relief against certain restoration activities. In support of the motion, plaintiffs filed eight declarations and a set of exhibits. (Dkt. ## 17-24);

WHEREAS, the parties appeared before this Court on June 13, 2013 and counsel for the defendants informed the Court that the defendants and defendant-intervenor RLK and Company (“RLK”) have agreed to not proceed with the construction of the downhill mountain bike trails, skills park or related facilities and improvements until this Court has an opportunity to decide this case on the merits.

In light of the foregoing, the parties hereby stipulate and agree as follows:

1. Defendants and defendant-intervenor are enjoined from constructing all or any part of the downhill bike trails, the mountain bike skills park and associated improvements

**STIPULATED ORDER ON PLAINTIFFS’ MOTION FOR
PRELIMINARY INJUNCTION- 2**

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described in Table 1 on page 22 of the EA (Dkt. # 25-1) and authorized by the DN and FONSI or any subsequently prepared construction plan until the Court has resolved plaintiffs' claims on the merits via cross-motions for summary judgment.

2. The parties agree that all of the activities described in Table 2 on page 28 of the EA (Dkt. # 25-1) may go forward, except that the defendants and defendant-intervenor shall not proceed with the "surface hardening" work proposed for the "Jeff Flood Express Bottom Terminal" described on page 28, Figure 8 and page 29 of the EA (Dkt. # 25-1) until the Court has resolved plaintiffs' claims on the merits via cross-motions for summary judgment.

3. To avoid any potential disagreement or confusion about which restoration activities authorized by the DN may go forward, the Forest Service agrees to provide a restoration plan to counsel for plaintiffs at least ten calendar days prior to the on-the-ground implementation of any activities within the scope of the restoration plan. Plaintiffs reserve their right to seek a further injunction against any restoration activities within the restoration plan that they believe are part of or related to the construction activities described in paragraph 1, above.

4. This order shall have no effect on projects outside the scope of the DN, including any restoration activities that were independently authorized by the Environmental Impact Statement and Record of Decision dated November 2005 for the construction of the Jeff Flood Express Lift.

5. The parties agree to cooperate in good faith to seek a reasonable schedule for the Court's resolution of the merits of plaintiffs' claims, but plaintiffs consider it premature to agree to any target dates for that resolution, except plaintiffs agree to a 45-day period to review and submit any objections to the administrative record once it is filed.

**STIPULATED ORDER ON PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION- 3**

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6. Each of the undersigned counsel below certifies that he has the authority to enter into this stipulation on behalf of the respective parties that each represents.

SO STIPULATED.

DATED this 25th day of June, 2013

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/s/ Ralph O. Bloemers
RALPH O. BLOEMERS, OSB # 984172
Attorneys for Plaintiffs

/s/ Stephen J. Odell
STEPHEN J. ODELL, OSB #903530
Assistant United States Attorney
Attorneys for Federal Defendants

/s/ Robert A. Maynard
ROBERT A. MAYNARD
Idaho State Bar No. 5537, Pro Hac Vice
Counsel for Defendant-Intervenor

IT IS SO ORDERED.

DATED this _____ day of _____, 2013

HONORABLE ANN AIKEN
Chief Judge
United States District Court
For the District of Oregon

**STIPULATED ORDER ON PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION- 4**

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