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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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PACIFIC RIVERS COUNCIL, NO. CIV. S 05-0953 MCE GGH
Plaintiff,

v. ORDER

UNITED STATES FOREST SERVICE,
et al.,
Defendants.

and

QUINCY LIBRARY GROUP,
Applicants for Intervention.

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In its complaint, Plaintiff Pacific Rivers Council
challenges the 2004 Sierra Nevada Forest Plan Amendment ("2004
Framework") on grounds that its approval, by Defendant United
States Forest Service ("Forest Service"), violates various
provisions of the National Environmental Policy Act, 42 U.S.C. §
4321, et seq. ("NEPA") and the Administrative Procedure Act, 5

1 U.S.C. §§ 701-706 ("APA"). By Order dated July 21, 2005, the
2 Court allowed the California Forest Association ("CFA") and the
3 American Forest & Paper Association ("AFPA") to intervene on a
4 permissive basis under Rule 24(b) of the Federal Rules of Civil
5 Procedure.¹ Presently before the Court is a Motion to Intervene
6 on behalf of the Quincy Library Group ("QLG"). QLG asks that it
7 be permitted to intervene either as a matter of right under Rule
8 24(a) or permissively pursuant to Rule 24(b).

9 QLG claims Plaintiff's challenge to the 2004 Framework, if
10 successful, would severely impact the Herger-Feinstein Quincy
11 Library Group Forest Recovery Act of 1998, a pilot program
12 advocated by QLG which consists of various resource management
13 activities designed to provide fire and watershed protection.
14 QLG consequently seeks to intervene to protect those interests.
15 Although the parties to this case did not oppose the earlier
16 intervention requests on behalf of the CFA and the AFPA,
17 Plaintiff now opposes QLG's motion, contending that it cannot
18 meet the requirements for intervention as a matter of right and
19 further should not be permitted to intervene permissively.

20 An applicant has the right to intervene under Rule 24(a) if
21 1) the intervention request is made in a timely fashion; 2) a
22 "significantly protectable" interest related to the subject
23 matter of the litigation is asserted; 3) disposition of the
24 matter may impair or impede the applicant's interest in the
25 absence of intervention; and 4) if the applicant's interest is
26 not adequately represented by existing parties. Wetlands Action

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28 ¹Unless otherwise noted, all further references to "Rule" or
"Rules" are to the Federal Rules of Civil Procedure.

1 Network v. United States Army Corps of Eng'rs, 222 F.3d 1105,
2 1113-14 (9th Cir. 2000). Private parties may not, however,
3 intervene as a matter of right in an action alleging NEPA
4 violations on grounds that such parties do not have the requisite
5 significantly protectable interest in NEPA compliance actions.
6 Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094, 1108 (9th Cir.
7 2004). Because QLG is a private party, and given the fact that
8 the claims sought to be asserted in this action do implicate
9 NEPA, intervention here as a matter of right appears
10 inappropriate.

11 Permissive intervention under Rule 24(b), however, "plainly
12 dispenses with any requirement that the intervenor shall have a
13 direct personal or pecuniary interest in the subject of the
14 litigation." SEC v. U.S. Realty & Improvement Co., 310 U.S. 434,
15 459 (1940). Consequently permissive intervention may be allowed
16 here even in the face of allegations sounding under NEPA.

17 An applicant seeking permissive intervention must satisfy
18 three threshold requirements: 1) the motion must be timely; 2)
19 the court must have an independent basis for jurisdiction over
20 the applicant's claims; and 3) the intervenor's interests must
21 share a common question of law or fact with the main action.

22 Donnelly v. Glickman, 159 F.3d 405, 412 (9th Cir. 1998). The
23 district court has broad discretion to grant permissive
24 intervention if these factors are met. See Spangler v. Pasadena
25 City Board of Educ., 552 F.2d 1326, 1329 (9th Cir. 1977).

26 The threshold requirements for permissive intervention on
27 QLG's part appear to have been satisfied. The instant action was
28 filed on May 13, 2005 and no briefing schedule for resolving this

1 matter (or the other related cases) has yet been established. In
2 addition, because the interests advanced by QLG relate to the
3 same 2004 Framework at issue in the main action, and because the
4 same jurisdictional bases apply, the remaining prerequisites
5 (common issues and independent jurisdictional grounds) are also
6 met.

7 In exercising its discretion to allow permissive
8 intervention, the Court finds that the 2004 Framework impacts
9 large and varied interests, including those advanced by QLG. The
10 potential magnitude of the 2004 Framework is great, and the
11 implications flowing from any challenge to it may be
12 considerable. Ensuring that all competing interests implicated
13 by the Framework are heard, including those advanced by QLG
14 herein, will contribute to the just and equitable resolution of
15 this case. Consequently permissive intervention will be allowed,
16 and the motion presently before the Court is granted.²

17 In permitting such intervention, however, the Court must
18 still consider "whether the intervention will unduly delay or
19 prejudice the adjudication of the rights of the original
20 parties." Fed. R. Civ. P. 24(b)(2). Plaintiff contends that
21 without briefing limitations, the presence of multiple
22 intervenors in this matter may prove logistically impracticable,
23 both in terms of the parties' response to numerous briefs and the
24 Court's burden in considering the voluminous papers that may be
25 filed in response to anticipated motions for summary judgment.

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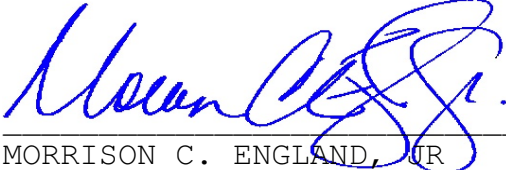
27 ²Because oral argument would not be of material assistance,
28 this matter was deemed suitable for decision without oral
argument. E.D. Local Rule 78-230(h).

1 In that regard, the court may impose reasonable conditions and
2 restrictions on the participation of intervenors so that their
3 involvement does not derail the efficient conduct of these
4 proceedings. See Stringfellow v. Concerned Neighbors in Action,
5 480 U.S. 370, 380 (1987).

6 The Court will consequently impose limits on the briefing
7 allowed in any summary judgment motion filed in this case, as
8 well as cases that have been deemed related to it. Opening
9 points and authorities will be limited to fifty (50) pages in
10 length. Opposition papers are subject to a thirty (30) page
11 limitation, and reply memoranda shall not exceed (10) pages. Any
12 brief filed on behalf of any intervenor, or group of intervenors
13 represented by single counsel, shall not be longer than twenty
14 (20) pages. Moreover, since a briefing schedule is in the
15 process of being established for both this case and its related
16 cases, no further intervention requests (beyond those already
17 made) will be entertained absent a showing of compelling interest
18 for such intervention.

19 IT IS SO ORDERED.

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21 DATED: September 14, 2005

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25 MORRISON C. ENGLAND, JR.
26 UNITED STATES DISTRICT JUDGE
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