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10 Attorneys for Federal Defendants
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

15 SIERRA NEVADA FOREST PROTECTION)
CAMPAIGN, PLUMAS FOREST PROJECT)
16 EARTH ISLAND INSTITUTE; and CENTER)
FOR BIOLOGICAL DIVERSITY, non-profit)
17 organizations,)

18 Plaintiffs,)

19 v.)

20 UNITED STATES FOREST SERVICE;)
JACK BLACKWELL, in his official capacity)
21 as Regional Forester, Region 5, United States)
Forest Service; and JAMES M. PEÑA,)

22 Federal Defendants,)

23 and)

24 QUINCY LIBRARY GROUP, an)
25 unincorporated citizens group; and)
PLUMAS COUNTY,)

26 Defendant-Intervenors.)
27 _____)
28

Case No. S-04-CV-2023 LKK/PAN

**FEDERAL DEFENDANTS'
NOTICE OF MOTION AND
MOTION TO STRIKE PLAINTIFFS'
EXTRA-RECORD DECLARATIONS**

Date: April 5, 2005
Time: 1:30 p.m.
Location: 15th Floor
Courtroom No. 4

1 **NOTICE OF MOTION**

2 Federal Defendants in this case hereby give notice that the following Motion to Strike
3 Plaintiffs' Extra-Record Declarations will be heard by Honorable Lawrence K. Karlton, Senior
4 Judge, United States District Court, on April 5, 2005 at 1:30 p.m. in Courtroom 4, 15th Floor,
5 501 I Street, Sacramento, California.

6 **MOTION**

7 Federal Defendants hereby move to strike five of nine extra-record declarations filed by
8 Plaintiffs on the grounds that review of the agency decision being challenged here is limited to
9 the administrative record already lodged with the Court, and that Plaintiffs' declarations do not
10 fit any exception to the general rule prohibiting review of extra-record materials. In the
11 alternative, Federal Defendants request that if the Court does not strike the declarations, that it
12 also consider the declarations being filed today by Federal Defendants in response. This motion
13 is supported by a separately filed memorandum and proposed order.

14 For the reasons stated above and more fully in that separate memorandum, the Court
15 should grant Defendants' motion and strike the following declarations: Declaration of Monica L.
16 Bond (Doc. No. 27); Declaration of Jennifer A. Blakesley (Doc. No. 28); Supplemental
17 Declaration of Chad T. Hanson (Doc. No. 30); Declaration of Dennis C. Odion (Doc. No. 33);
18 and Attachments 4 through 9 to the Declaration of George M. Torgun (Doc. No. 35). The Court
19 also should strike the portions of Plaintiffs' summary judgment memorandum and statement of
20 facts relying upon those declarations, as noted in the proposed order.

21
22 Respectfully submitted this 28th day of January 2005.

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/s/ Brian C. Toth
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Attorneys for Federal Defendants

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 28, 2005, I electronically filed the foregoing Federal
3 Defendants' NOTICE OF MOTION AND MOTION TO STRIKE PLAINTIFFS' EXTRA-RECORD
4 DECLARATIONS, with the Clerk of the Court using the CM/ECF system, which will send
5 notification of such filing to the following:

6 Michael R. Sherwood
msherwood@earthjustice.org

7 Michael B. Jackson
8 mjatty@sbcglobal.net

9 I further certify that I caused to be served a copy of Federal Defendants' NOTICE OF MOTION
10 AND MOTION TO STRIKE PLAINTIFFS' EXTRA-RECORD DECLARATIONS, by Federal Express
11 overnight delivery, upon the following individual:

12 RACHEL M. FAZIO
13 John Muir Project
14 15267 Meadow Valley
Grass Valley, CA 95945

15 /s/ Brian C. Toth _____
16 Attorney for Federal Defendants
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