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**Pro hac vice applications pending*

Attorneys for Plaintiff Western Watersheds Project

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

WESTERN WATERSHEDS PROJECT,

Plaintiff,

v.

UNITED STATES FOREST SERVICE;
TOM SCHULTZ, in his official capacity as
Chief of the United States Forest Service;
and CHAD HUDSON, in his official
capacity as Forest Supervisor of the Bridger-
Teton National Forest,

Defendants.

Case No. 1:26-cv-236

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

To all parties and their attorneys of record:

PLEASE TAKE NOTICE that Plaintiff, WESTERN WATERSHEDS PROJECT, a non-profit corporation, hereby moves this court for a temporary restraining order and preliminary injunction against Defendants UNITED STATES FOREST SERVICE; TOM SCHULTZ, in his official capacity as the Chief of the United States Forest Service; and CHAD HUDSON, in his official capacity as Forest Supervisor of the Bridger-Teton National Forest. This request is submitted pursuant to Rule 65(a) and (b) of the Federal Rules of Civil Procedure (FRCP).

Plaintiff is requesting a temporary restraining order and preliminary injunction to stop Federal Defendants' plan to stock the vacant Elk Ridge Complex of Grazing Allotments with cattle August 15, 2026, due to Defendants' violations of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq., the Federal Land Policy and Management Act, 43 U.S.C. §§ 1701-1787, the National Forest Management Act, 16 U.S.C. §§ 1600-1614, and the Administrative Procedure Act, 5 U.S.C. § 706(2). Plaintiff's motion is supported by the following Memorandum of Points and Authorities, the accompanying declarations of Jessica L. Blome, Erik Molvar, Meredith Taylor, Chuck Neal, Dagny Signorelli, and attached exhibits, Plaintiff's Verified Complaint for Judicial Review of Final Agency Action and for Injunctive and Declaratory Relief, and any written and oral argument and authorities that are presented at or before the hearing on this motion.

DATED: August 10, 2026,

Respectfully Submitted,

/s/ John Persell

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION¹

Immediate injunctive relief is necessary to halt Federal Defendants’ imminent unlawful and environmentally harmful plan to stock the vacant Elk Ridge Complex of Grazing Allotments with cattle without public comment or adherence to federal law. In June 2026, the United States Forest Service quietly distributed Annual Operating Instructions (the “2026 AOIs”) for the upcoming fiscal year to grazing permittees in the Upper Green River Area (UGRA) Rangeland. The 2026 AOIs provide that cattle may graze the Elk Ridge Complex from August 15 through October 15, 2026, to assist with “livestock distribution and restoration of areas burned by the Dollar Lake Fire.” *See* Verified Complaint at ¶¶ 56-58, Exh. C. Advocates, including Plaintiff Western Watersheds Project, first learned of Federal Defendants’ stocking plan in July, in violation of the robust public notice and comment requirements of applicable federal law. Ten years ago, sheep grazers voluntarily waived their permits to graze the Elk Ridge Complex after conservationists bought out their interests. Conservationists were concerned about the high risk of disease transmission between domesticated sheep, who had authority to graze there pursuant to the only applicable planning documents, and Grizzly Bear and Gray Wolf conflicts. At the time of the buyout, the Forest Service promised to manage the Complex as vacant until it could complete a robust environmental review of the significant impacts to the Bridger-Teton National Forest ecosystem that would follow if cattle were allowed to graze in the area.

¹ Plaintiff has standing. By not complying with NEPA, FLPMA, and NFMA regarding the stocking of the Elk Ridge Complex for cattle grazing beginning on August 15, 2026, the Service has caused injury to Plaintiff and Plaintiff’s members’ interests in the Bridger-Teton National Forest, and protection of Grizzly Bears, Wolverines, Canada Lynxes, and Gray Wolves. *See, e.g.* Declaration of Erik Molvar, ¶¶ 7, 11, 17; Declaration of Dagny Signorelli, ¶¶ 8-11; Declaration of Meredith Taylor, ¶¶ 12-15; Declaration of Chuck Neal, ¶¶ 15-16.

Federal Defendants have since contradicted their earlier position, electing to quietly plan to stock the Elk Ridge Complex with cattle on August 15, 2026, without meaningful environmental review and without determining whether cattle grazing within the Complex complies with the objectives and goals of the Bridger-Teton National Forest Plan. *See* Verified Complaint at ¶ 3. Plaintiff is entitled to immediate injunctive relief to halt the provision of the 2026 AOIs that unlawfully permit cattle grazing in the Elk Ridge Complex until such time as the Forest Service complies with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1701-1787, the National Forest Management Act (NFMA), 16 U.S.C. §§ 1600-1614, and the Administrative Procedure Act, 5 U.S.C. § 706(2).

II. STATEMENT OF THE CASE

A. Plaintiff Western Watersheds Project

Plaintiff WESTERN WATERSHEDS PROJECT (WWP) is a nonprofit environmental conservation group that works to improve public lands management throughout the western United States. WWP, its staff, volunteers, members, and supporters are deeply concerned that Defendants routinely and systematically overlook the determinantal effects of private livestock grazing, and in the case of the 2026 Annual Operating Instructions temporary grazing allotments from August 15, 2026, until October 15, 2026, on the Elk Ridge Complex, have skirted NEPA review and federal law entirely. WWP's interests in this decision include the proper and unbiased administration of public lands, full and fair environmental analysis of landscape health, the long-term survival and recovery of the Gray Wolf and Grizzly Bear to its former range throughout the contiguous United States, and to ensuring that the Forest Service complies with all applicable federal laws related to the survival and health of these endangered species.

WWP Executive Director and Member Erik Molvar is an individual resident of Oregon. Mr. Molvar is a conservationist and author of wilderness guidebooks. Mr. Molvar's duty is to set strategic conservation priorities, work to advance improvements in public lands conservation and stewardship, and engage directly in conservation advocacy on behalf of western public lands and wildlife. *See* Declaration of Erik Molvar (Molvar Decl.) in support of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction at ¶ 2. Through WWP, Mr. Molvar seeks to protect and preserve natural resources on public lands, with a particular focus on enforcing environmental laws related to livestock grazing. *Id.* at ¶ 8. Mr. Molvar was involved in WWP's successful litigation with the Upper Green River Area Rangeland Project, for the purposes of preventing the deaths of 72 grizzly bears approved to be killed in response to livestock conflicts. *Id.* at ¶ 11. Mr. Molvar first learned about the 2026 AOIs on July 1, 2026. *Id.* at ¶ 15. Mr. Molvar began receiving documents related to the Elk Ridge allotments on or around July 14th, while traveling for business, and flagged that the issue was a top priority for WWP's Wyoming Director on or around July 19th. *Id.* Mr. Molvar began to contact counsel on Monday, July 20th to secure representation for a legal challenge to the Elk Ridge Allotment stocking. *Id.* Counsel was engaged on Wednesday, August 5th, 2026. *Id.*

WWP staff, members, and supporters have significant scientific, recreational, spiritual, aesthetic, and other interests in the Elk Ridge allotments, and will be injured by the stocking of the long-vacant Elk Ridge allotments with cattle which will worsen and accelerate the existing threats to grizzly bears, wolves, amphibians, riparian habitats, water quality, and trout. *Id.* at ¶ 14. WWP and Mr. Molvar's aesthetic, conservation, economic, recreational, scientific, educational, and wildlife preservation interests have been, and, unless the requested relief is

granted, will continue to be adversely and irreparably harmed in the absence of injunctive relief. *Id.* at ¶ 16.

WWP member Chuck Neal is an individual resident of Wyoming. Mr. Neal is an ecologist, conservationist, activist, author, and grizzly bear aficionado. Mr. Neal has dedicated his life to the recovery of the subpopulation of grizzly bears in the Greater Yellowstone Ecosystem. *See* Declaration of Chuck Neal (Neal Decl.) in support of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction at ¶ 11. Mr. Neal has cultivated extensive knowledge about grizzly bears in order to enjoy them safely within the secure ecosystem he has worked hard to create within the Greater Yellowstone Ecosystem, and harm to the bears stemming from livestock conflicts will cause Mr. Neal irreparable harm. *Id.* at ¶ 14. Mr. Neal will suffer additional irreparable harm if livestock are not temporarily and permanently enjoined on Elk Ridge.

WWP Member Meredith Taylor is an individual resident of Wyoming. Ms. Taylor is a retired scientist and outfitter, conservationist, activist, author, and educator. Ms. Taylor has dedicated her life to the conservation of the Greater Yellowstone Ecosystem, including the Elk Ridge Area. *See* Declaration of Meredith Taylor (Taylor Decl.) in support of Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction at ¶ 18. Ms. Taylor derives enjoyment from experiencing encounters with apex predators; causing bears and wolves harm will cause Ms. Taylor irreparable harm. Taylor Decl. at ¶ 16. Ms. Taylor will suffer irreparable harm if livestock are not temporarily and permanently enjoined on Elk Ridge.

WWP Wyoming/Utah State Director Dagney Signorelli is an individual resident of Utah. Ms. Signorelli is an ecologist and author. Signorelli's position requires her to spend considerable time on the ground visiting and collecting data on public lands in Wyoming. *See* Declaration of

Dagny Signorelli (Signorelli Decl.) in support of Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction at ¶ 5. Ms. Signorelli also uses, enjoys, and takes great pleasure from recreating on the Forest Service managed lands in Wyoming. *Id.* at ¶ 8. The deleterious effects of livestock grazing on Elk Ridge Complex will cause Ms. Signorelli irreparable harm. *Id.* at ¶ 10. Ms. Signorelli will suffer irreparable harm if livestock are not temporarily and permanently enjoined on Elk Ridge.

B. History of the Elk Ridge Complex

The U.S. Fish and Wildlife Service listed Grizzly Bears as threatened species in 1975, when the population dropped below 700. *See* Verified Complaint, ¶ 38. Three years later, in 1978, the Forest Supervisor issued its Record of Decision and Environmental Assessment implementing an Allotment Management Plan for the Elk Ridge Complex that would allow the grazing of sheep, goats, or cattle with significant constraints. *Id.* at Exh. B (1978 EA). At that time, livestock operators chose to utilize the allotments for sheep grazing. *Id.* at ¶ 38. The Elk Ridge Complex is comprised of four allotments: Elk Ridge, Lime Creek, Rock Creek, and Tosi Creek. *Id.*

In 1990, the Forest Service adopted the Bridger-Teton National Forest Plan, which called for the conservation of the Forest for wilderness, wildlife, and human experience in solitude. Verified Complaint, ¶ 39. The Forest Service has updated the Plan over the years, but the Goals and Objectives remain the same. *Id.* The 1990 Forest Plan provides in its “Vacant Allotment Guideline” that “Vacant allotments will be stocked only to meet resource-management needs.” Verified Complaint, ¶ 44 (1990 Forest Plan at 273). The Forest Service has relied on the vacancy status of the Elk Ridge Complex to meet its Forest Plan goal for the last ten-years, since June 2016. *Id.* at ¶ 45.

Ten years ago, conservation groups purchased the grazing rights to each allotment within the Elk Ridge Complex to protect the Whiskey Mountain, Jackson North, and Jackson South Bighorn Sheep Herds from a “high risk” of disease transmission from domesticated sheep authorized to graze in the allotments. Verified Complaint, ¶ 49.

In a 2016 letter, the Forest Service advised grazing permittees it *may* consider issuing grazing permits for cattle in the Elk Ridge Complex, but the agency explicitly stated: “Since the potential effects of cattle grazing in the Elk Ridge Complex have not recently been considered under any NEPA analysis, such an analysis would be necessary prior to any authorization of term permitted cattle grazing on these allotments.” Verified Complaint, ¶ 51. The Service identified resource issues that would be addressed in a future NEPA review, stating that the allotments would be held vacant pending a final suitability determination and that, if any allotment were determined suitable for cattle grazing, NEPA analysis would follow. Verified Complaint, ¶ 52. The allotments have been vacant since June 2016. *Id.* at ¶ 53.

In keeping with its previous position that the agency must comply with NEPA before permitting cattle grazing in the Elk Ridge Complex, in 2021, the Forest Service released a Draft Environmental Assessment for the Elk Ridge Complex Rangeland Supplementation Project to evaluate the environmental impacts of cattle grazing in the ten-years-vacant allotments. Verified Complaint, ¶ 54. The Draft EA analyzed whether cattle grazing should be authorized within the Complex and under what conditions. *Id.*

As of the filing of this Complaint, the Forest Service appears to have abandoned the 2021 Draft EA. *Id.* at ¶ 55.

C. Forest Service 2026 Annual Operating Instructions Decision

In June 2026, the Forest Service quietly distributed Annual Operating Instructions (AOIs) for the upcoming fiscal year to grazing permittees in the Upper Green River Area (UGRA) Rangeland, authorizing cattle grazing in the Elk Ridge Complex from August 15 through October 15, 2026. Verified Complaint, ¶ 56, Exh. C. The AOIs assert that the Forest Service undertook a “thorough NEPA sufficiency review” after consultation with the U.S. Fish & Wildlife Service. *Id.*; *see also* ¶ 57, Exh. D.

Advocates did not learn of the 2026 AOIs’ authorization of grazing in the Elk Ridge Complex until July, as the Forest Service provided no public notice, opportunity for comment, contemporaneous disclosure of the decision, NEPA sufficiency review, U.S. Fish and Wildlife Service consultation, or supporting documentation before authorizing grazing in the Elk Ridge Complex. Verified Complaint, ¶ 58, Exh. A; *see also* Molvar Decl. at ¶ 15.

III. ARGUMENT

The standard that a moving party must meet to obtain injunctive relief in the form of a temporary restraining order (TRO) or a preliminary injunction is the same, requiring the party to demonstrate 1) a likelihood of success on the merits; 2) irreparable harm in the absence of preliminary relief; 3) the balance of equities tips in their favor; and 4) an injunction is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 374 (2008); *Harmon v. City of Norman*, 981 F.3d 1141, 1146 (10th Cir. 2020).

The “purpose of a preliminary injunction is to preserve the relative positions of the parties until a trial on the merits can be held.” *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *Tri-State Generation & Transmission Ass’n, Inc. v. Shoshone River Power, Inc.*, 805 F.2d 351, 355 (10th Cir. 1986) (“The main purpose of a preliminary injunction is simply to preserve the status quo pending the outcome of the case.”). A temporary restraining order fulfills

the same purpose: to preserve the status quo. *See Stein v. Disciplinary Bd. of the Supreme Court of N.M.*, 2005 U.S. Dist. LEXIS 21913, at *7 (D.N.M. Aug. 26, 2005).

A. Plaintiff will succeed on the merits of its claims.

Plaintiff must show a “reasonable probability that [they] will ultimately be entitled to relief sought.” *Harmon*, 981 F.3d at 1146 (10th Cir. 2020) (quoting *Automated Mktg. Sys., Inc. v. Martin*, 467 F.2d 1181, 1183 (10th Cir. 1972)). “The movant is not required to show there is an ‘absolute certainty’ that it will prevail on the merits...Nor is it required to show an ‘overwhelming likelihood’ of success.” *La. Mun. Police Employees' Ret. Sys. v. Cont'l Res., Inc.*, 886 F.Supp.2d 1255, 1262 (W.D.Okla. 2012) (quoting *Autoskill v. Nat'l Educ. Support Sys.*, 994 F.2d 1476, 1487 (10th Cir.1993) (cleaned up)).

Plaintiff has brought this action seeking declaratory and injunctive relief for Federal Defendants’ violations of NEPA, FLPMA, NFMA, and the APA. Plaintiff is likely to succeed on these claims.

1. First Claim for Relief – Federal Defendants violated NEPA and the APA for failure to prepare an Environmental Assessment.

Defendants violated NEPA, 42 U.S.C. §§ 4332 et seq., by authorizing the 2026 AOIs without preparing an Environmental Assessment (EA) to evaluate environmental impacts. NEPA requires federal agencies to assess the environmental impacts of their actions before making a final decision. See 42 U.S.C. §§ 4331, 4336. AOIs are a “final agency action” within the meaning of NEPA. *Ctr. for Native Ecosystems v. Cables*, 509 F.3d 1310, 1329–1331 (10th Cir. 2007) (holding that AOIs satisfy both prongs of the two-part test for a final agency action in *Bennett v. Spear*, 520 U.S. 154, 177–178 (1997)).

The Administrative Procedure Act (APA) gives this Court authority to “hold unlawful and set aside agency action . . . found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2).

To comply with NEPA, an agency typically prepares an EA to determine whether the environmental impact of a proposed action is significant enough to warrant preparation of an Environmental Impact Statement (EIS), but an agency must prepare an EIS if the proposed project will “significantly affect” the environment. 42 U.S.C. § 4332(2)(C). The U.S. Department of Agriculture’s implementing NEPA regulations require that the Forest Service reevaluate the sufficiency of an existing EA to support continuing or renewed agency action if, “there are new circumstances or information with relevance to the proposal and these have bearing on the major Federal action, such that there is potential to alter the disclosure of adverse effects.” 7 C.F.R. § 1b.9(r). If the Forest Service determines after reevaluation that it is “not necessary to correct, revise, or supplement, and environmental document,” implementation of the “major Federal action may continue.” *Id.* at (1).

The Forest Service elected to reevaluate the 2026 AOIs as a continuing implementation of the 1978 EA, pursuant to 7 C.F.R. § 1b.9(r), even though significant changes to the ecosystem and environment have occurred over the last 50 years, including but not limited to:

- (a) Congress designated the adjacent Gros Ventre Wilderness Area in 1984 as part of the Wyoming Wilderness Act, covering more than 285,000 acres of the Bridger-Teton National Forest.
- (b) The Bridger-Teton National Forest adopted a Forest Plan in 1990, which has since been amended, to establish a large mammal migration corridor for Pronghorn Sheep.

- (c) The U.S. Fish and Wildlife Service reintroduced threatened Gray Wolves to the Greater Yellowstone Ecosystem in 1995, which includes the Grand Teton National Park and Bridger-Teton National Forest.
- (d) The U.S. Fish and Wildlife Service listed Canada Lynx as threatened in 2000.
- (e) Permittees voluntarily retired their grazing permits for the Elk Ridge Complex in 2016, allowing the Complex's ecosystem to recover and thrive over the last decade.
- (f) The U.S. Fish and Wildlife Services listed Wolverines as threatened in 2023.

Verified Complaint at ¶ 64.

In prior public statements, the Forest Service has admitted that NEPA review is necessary to analyze environmental impacts to the Elk Ridge Complex from cattle grazing, and at least one federal court has stricken a federal agency decision authorizing grazing in the Bridger-Teton National Forest for failure to consider adverse impacts to Grizzly Bears due to bear-livestock conflicts. *W. Watersheds Project v. Haaland*, 69 F.4th 689 (10th Cir. 2023).

But the 1978 EA does not mention, let alone analyze, the environmental impacts of livestock grazing on multiple species of concern in the Elk Ridge Complex, including threatened and endangered carnivores like reintroduced Grey Wolves; Canada Lynx listed in 2000; and Wolverines listed in 2023, but also the Western (Boreal) Toad, Columbian Spotted Frog, Boreal Chorus Frog, and Colorado River cutthroat trout. *Id.* The Western (Boreal) Toad and Boreal Chorus Frog are Management Indicator Species under the 1990 Bridger-Teton Forest Plan. Verified Complaint, ¶ 66. While the 1978 EA briefly mentioned recovering Grizzly Bear populations, it does not analyze these impacts, and any analysis would be outdated given the current listing status of the Grizzly Bear. *Id.*

The Forest Service acted arbitrarily and capriciously, abused its discretion, and acted contrary to the law when it determined that it was not necessary to correct, revise, or supplement the 1978 EA based on significant new information, in violation of NEPA and § 706 of the APA. In so doing, Federal Defendants brazenly deprived Plaintiff of notice and opportunity to participate in the NEPA review process (and to timely file this lawsuit and motion).

For these reasons, Plaintiff has a substantial likelihood of success in proving that the 2026 AOIs were implemented in violation of NEPA and the APA.

2. Second Claim for Relief – Substantive Violations of NEPA and APA, inadequate analysis and failure to take a “hard look.”

Federal Defendants’ approval of the 2026 AOIs without undertaking a new NEPA review violates NEPA, 42 U.S.C. §§ 4321 *et seq.*, because Defendants failed to take a “hard look” at the 2026 AOIs’ potential impacts, as required by NEPA. As with Plaintiff’s first claim for relief, this second claim for relief is subject to the judicial review provisions of the APA, 5 U.S.C. § 706. NEPA “requires that federal agencies prepare an EIS [or EA] prior to taking major federal action.” *Diné Citizens Against Ruining Our Env’t v. Haaland*, 59 F.4th 1016, 1030 (10th Cir. 2023) (citing 42 U.S.C. § 4331-4370d) (internal citations omitted). Thus, agencies must take a “hard look” at the environmental effects of their planned actions. *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 374 (1989).

NEPA’s “hard look” review requires that “every significant aspect” of the environmental effects of a proposed major federal action be made available to inform agency decisionmakers and the public so that both may “play a role in both the decision-making process and the implementation of” the action. *See Balt. Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983); *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). Such review requires consideration of direct, indirect, cumulative, and ecological

impacts associated with a proposed action. *See* 40 C.F.R. § 1508.1(g); *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F.3d 1372, 1379 (9th Cir. 1998); *Sierra Club v. U.S. Army Corps of Engineers*, 645 F.3d 978, 991 (8th Cir. 2011). NEPA also requires that an agency's reliance on data not be stale. *See N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1086 (9th Cir. 2011); *Lands Council v. Forester of Region One of the United States Forest Serv.*, 395 F.3d 1019, 1030-31 (9th Cir. 2004).

Rather than comply with NEPA's requirement that the Forest Service conduct an EA to determine whether the 2026 AOI will have a significant effect on the environment, the Forest Service elected to proceed with a sufficiency evaluation of the 1978 EA for the Bridger-Teton National Forest Allotment Management Plan, pursuant to 7 C.F.R. § 1b.9(r). Verified Complaint, Exh. D.

a) The NEPA sufficiency evaluation of the 1978 EA does not accurately reflect current baseline information.

Agencies have a general duty to ascertain baseline data during the NEPA process to determine the likely impacts of their actions. *See N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067 (9th Cir. 2011); *Nat'l Parks & Conservation Ass'n v. Babbitt*, 241 F.3d 722 (9th Cir. 2001), abrogated on other grounds by *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 157 (2010). “In general, NEPA analysis uses a no-action alternative as a baseline for measuring the effects of the proposed action.” *Ctr. for Biological Diversity v. United States DOI*, 72 F.4th 1166, 1185 (10th Cir. 2023) (quoting *Biodiversity Conservation All. v. U.S. Forest Serv.*, 765 F.3d 1264, 1269 (10th Cir. 2014)). The project baseline information in the 1978 EA does not accurately reflect the baseline information today, as the Elk Ridge Complex has been vacant for ten years. Verified Complaint at ¶ 79(a). The vegetation within the Complex has recovered substantially following decades of heavy livestock grazing. Elk, Mule Deer, and other

native herbivores are likely using the area differently due to the decade-long absence of livestock, and their populations will likely have expanded in response to decreased competition from livestock. *Id.* Due to departure from a fundamentally different baseline, the environmental impacts of renewed livestock grazing on the previously ungrazed habitat of the Elk Ridge Complex will be different from the impacts analyzed in the 1978 EA, which analyzed alternatives departing from a baseline of currently-grazed conditions. *Id.*

b) The NEPA sufficiency evaluation of the 1978 EA does not address impacts to Gray Wolf and Grizzly Bear population recoveries, as well as Pronghorn migration corridors.

The Elk Ridge Complex is located within the Greater Yellowstone Ecosystem, which has seen significant gains in Gray Wolf and Grizzly Bear population recoveries, since implementation of Endangered Species Act protections. *See Verified Complaint at ¶ 79(b).* In fact, according to the Forest Service in 2016, “potential conflicts with large carnivores as well as a lack of infrastructure for cattle management” indicate that cattle grazing in this current ecosystem differs from grazing conditions analyzed in 1978. *Id.* In addition, according to the Forest Service in 2016, the 1990 Forest Plan’s direction for wilderness, wildlife migration corridors, and other resources “must be addressed in the development of feasible grazing strategies.” *Id.* No such analysis was conducted prior to the proposed grazing use authorized by the 2026 AOIs. *Id.*

Further, the Elk Ridge Complex adjoins six other allotments where Grizzly Bears are routinely killed due to livestock-bear conflict, and these killings adversely affect the Grizzly population. *Id.* Introduction of cattle into vacant allotments where human and livestock presence has been minimal for a decade will likely initiate additional bear-cattle and wolf-cattle conflicts,

and the resulting lethal removals will have cumulative impacts on both species' populations, impacts which have never been analyzed. *Id.*

Additionally, the critically important Pronghorn migration corridor passes just to the east of the Elk Ridge Complex, and the increase of livestock activity in the Complex could result in shifts of predator habitat use in ways that have direct or cumulative effects on migrating Pronghorn, but which have not been considered, analyzed, or disclosed in Federal Defendants' sufficiency review.

c) The 2019 UGRA EIS does not otherwise provide relevant NEPA analysis for the 2026 AOIs.

The renewal of six adjacent grazing allotments (Badger Creek, Beaver-Twin Creeks, Noble Pastures, Roaring Fork, Wagon Creek, and Upper Green River) under the Upper Green River Area Rangeland Project (UGRA) was conducted under a full-scale Environmental Impact Statement, completed in 2019. Neither the EIS nor the specialist reports considered site-specific impacts of any environmental impact on the lands and wildlife of the Elk Ridge Complex. *See* Verified Complaint at ¶ 79(c). However, an independent Sensitive Amphibians Report and a Migratory Birds Report were conducted as part of internal agency analysis of alternatives for the UGRA project. Effects to rare and imperiled species, including Grizzly Bears, Canada Lynx, Wolverines, and Colorado River Cutthroat Trout, were found to be significant impacts to the human environment. For Grizzly Bears, the Biological Assessment concluded the grazing allotment renewal would be "likely to adversely affect" the species. *Id.* These same imperiled species are found on the Elk Ridge allotments, but no assessment has been conducted.

In the UGRA, cattle impacts to riparian and aquatic conditions were found to be significant, as this area (as well as the Elk Ridge allotments) are habitat for the Boreal Toad, Columbia Spotted Frog, Boreal Chorus Frog, and other riparian and aquatic species. According

to the UGRA Record of Decision ROD), “Livestock tend to congregate in riparian areas, and without appropriate management can exceed forage allocation amounts, damage stream banks, and accelerate erosion.” UGRA ROD at 27; *see* Verified Complaint at ¶ 79(d). The UGRA EIS did not encompass any of the Elk Ridge Complex and therefore did not provide NEPA analysis examining site-specific impacts of renewed livestock grazing that likely rise to the level of significance, requiring an EIS. The finding that certain environmental impacts of livestock grazing are significant, requiring an EIS, is directly relevant to the adjacent Elk Ridge Complex.

d) The Forest Service should have considered a range of reasonable alternatives under NEPA.

Federal Defendants’ sufficiency evaluation also failed to consider a range of reasonable alternatives under NEPA, relying instead on the alternatives discussed in the 1978 EA. Verified Complaint at Exh. D; ¶ 79(g).

The Forest Service’s decision to adopt the 2026 AOIs based on the environmental analysis contained in the 1978 EA despite the intervening changes to the regulatory landscape and ecosystem was plainly arbitrary and capricious under § 706 of the APA. The Forest Service further abused its discretion under § 706 of the APA by relying on the 1978 EA to adopt the 2026 AOIs, which will significantly alter the ecosystem, in violation of NFMA, the 1990 Forest Plan, and FLPMA. Further, the Forest Service’s decision to adopt the 2026 AOIs using the reevaluation process contained in 7 C.F.R. § 1b.9(r) violated NEPA’s statutory public disclosure requirements and was therefore contrary to law under § 706 of the APA.

For these reasons, Plaintiff has a substantial likelihood of success in proving that the 2026 AOIs were implemented in violation of the APA because they are without legal authority and violate the Service’s responsibilities under NEPA to adequately analyze and take a “hard look” at potential impacts.

3. Third Claim for Relief – Federal Defendants violated NFMA, FLPMA, and the APA for failure to comply with the 1990 Forest Plan.

Plaintiff is also likely to succeed on the merits of its claim related to the Service’s failure to comply with its 1990 Forest Plan. The 1990 Forest Plan identified and described “Desired Future Conditions,” or “DFCs,” which the Forest Service intended to reach to accomplish the Plan’s Goals and Objectives. 1990 Forest Plan at 199. *See* Verified Complaint at ¶¶ 40, 87.

Under NFMA, project-level decisions must be consistent with direction in the Forest Plan. Under the 1990 Forest Plan, the Elk Ridge Complex is designated to be managed as approximately 56% as DFC 10 (Simultaneous Development of Resources) and 44% as DFC 6B (Wilderness), with less than 1% DFC 12 (Backcountry Big-game hunting). *Id.* at ¶¶ 41-43, 88-90. Federal Defendants violated 1990 Forest Plan DFC 10 and 6B when they adopted the 2026 AOIs without considering the effects of cattle grazing on plan goals. *Id.* Further, Federal Defendants violated the 1990 Forest Plan’s Vacant Allotment Guidelines by stocking the Elk Ridge Complex with cattle before evaluating resource-management needs, including the needs of threatened and endangered species, native ungulates, and the recovering ecosystem of the Green River Basin.

Because the Forest Service elected to rely on the 1978 EA, the Forest Service failed to evaluate site-specific impacts to the Elk Ridge Complex under DFC 10 or 6B. The Service, moreover, failed to analyze whether the 2026 AOIs comply with the Forest Plan, which was adopted 12 years after the 1978 EA was released.

The Forest Service thus acted arbitrarily and capriciously, abused its discretion, and acted contrary to the law under § 706 of the APA when it adopted the 2026 AOIs without analyzing whether it complied with the NMFA and the 1990 Forest Plan. For these reasons, Plaintiff has a substantial likelihood of success in proving that the 2026 AOIs were implemented in violation of

the NFMA, FLPMA, and the APA because the Service’s action fails to comply with the 1990 Forest Plan.

B. Plaintiff will suffer imminent and irreparable harm.

If the provision of the 2026 AOIs authorizing cattle grazing in the Elk Ridge Complex is not immediately enjoined, Plaintiff will suffer imminent and irreparable harm. An injury is imminent and is not speculative if it is likely to occur before the court rules on the merits. *See RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1210 (10th Cir. 2009). An injury is irreparable if it “cannot be compensated after the fact by money damages” or if the district court cannot remedy the harm following a final determination on the merits. *Id.*; *see also Fish v. Kobach*, 840 F.3d 710, 751 (10th Cir. 2016). As the Tenth Circuit has recognized, “purely speculative harm does not amount to irreparable injury[.]” *Greater Yellowstone Coal v. Flowers*, 321 F.3d 1250, 1258 (10th Cir. 2003). But neither does this standard require certainty, and “an injury is not speculative simply because it is not certain to occur.” *Id.* Rather, an “irreparable harm requirement is met if a plaintiff demonstrates a *significant risk* that he or she will experience harm that cannot be compensated after the fact by monetary damages.” *Id.* (emphasis added).

The harm to WWP members, Chuck Neal, Meredith Taylor, and Dagny Signorelli is imminent. The Forest Service intends to open the grazing allotment areas as soon as August 15, 2026, less than a week from today. The harm to Plaintiff identified herein will imminently occur once the grazing begins. Plaintiffs have environmental interests in the Bridger-Teton National Forest, including the Elk Ridge Complex. WWP members including Mr. Neal, Ms. Taylor, and Ms. Signorelli have personal aesthetic and environmental interests in engaging in recreation. *See, e.g.* Molvar Decl., ¶ 17; Signorelli Decl., ¶¶ 8-11; Taylor Decl., ¶¶ 12-16; Neal Decl., ¶¶ 15-16.

Monetary damages cannot compensate these and other and WWP members for the damage to their aesthetic and recreational experiences while in the Elk Ridge Complex. *See Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545 (1987) (“Environmental 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”); *Sierra Club v. City of Colo. Springs*, 2009 U.S. Dist. LEXIS 73922, (D. Co. Aug. 20, 2009) (“environmental harm or pollution of navigable waters may be considered as irreparable harm because of the difficulty of proving damages”).

For these same reasons, there no adequate remedy at law for Plaintiff for the irreparable harm it and its members will suffer if a Temporary Restraining Order and Preliminary Injunction are not issued here.

C. The balance of equities weighs in favor of granting injunctive relief and the public interest will be furthered by requiring government compliance with federal laws.

Consideration of the balance of equities and public interest merge into one inquiry where the government is the opposing party. *Denver Homeless out Loud v. Denver*, 32 F.4th 1259, 1278 (10th Cir. 2022) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)). The balance of equities addresses the burdens or hardships to Plaintiffs compared with the burden on Defendants if a TRO or injunction is ordered. *See Winter*, 555 U.S. at 24-31 .

As described above, Plaintiff, its staff, members, and supporters face immediate and irreparable harm to their environmental, conservation, and aesthetic interests. Those interests outweigh the hardship, if any, experienced by Federal Defendants if the 2026 AOIs go into effect on August 15. The Forest Service is not burdened in waiting to open the Elk Ridge Allotment Complex for cattle grazing until it has conducted the legally required NEPA review and complied with FLPMA and NFMA. If the grazing plan as detailed in the 2026 AOIs proceeds,

Plaintiff's injury is imminent and significant. On the other hand, the impact of a temporary or preliminary injunction on Federal Defendants is minimal. The status quo for the last ten years has been to keep the allotments vacant. A delay until the Court can reach a decision on the merits will not significantly impact a situation where vacancy is the established standard quo for over a decade. Moreover, the Forest Service prepared a Draft EA for the Elk Ridge Allotment Complex in 2021 and has failed to indicate why it abandoned the finalization of that EA prior to opening the allotment sites for grazing. *See Verified Complaint* at ¶¶ 54-55. The Service must finish its EA and comply with NEPA and will not suffer as a result.

Nor is there any hardship suffered by the public at large or other non-parties. To the contrary, the public has an interest both in ensuring that government agencies operate within their authority, as well as preventing the risks associated with opening the Elk Ridge Complex to grazing without NEPA review. Additionally, portions of the UGRA allotments that burned in the Dollar Lake Fire were timbered and possessed little forage for cattle, whereas the unburned parts of the pastures will continue to be grazed in 2026. *Molvar Decl.* at ¶ 16. Further, to address fire displacement, a federal subsidy program exists to provide forage and hay for displaced ranchers, which can be used to purchase cattle feed where necessary. *Id.* The balance of hardships here weighs in favor of granting injunctive relief.

The public interest also weighs in favor of granting injunctive relief to Plaintiff to halt the August 15, 2026, action. There is a substantial public interest in ensuring that federal agencies operate within the scope of their authority. Here, ensuring that the grazing plan outlined in the 2026 AOIs is an authorized activity will serve the public interest in a material way. *See Seattle Audubon Society v. Evans*, 771 F. Supp. 1081, 1096 (W.D. Wash. 1991), *aff'd* 952 F.2d 297 (9th Cir. 1991) ("The problem here has not been by a shortcoming in the laws, but simply a refusal of

administrative agencies to comply with them. *This invokes a public interest of the highest order: the interest in having government officials act in accordance with law.*") (emphasis added) (internal citations omitted).

IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that this Court preserve the status quo by issuing a temporary restraining order prohibiting Federal Defendants from implementing the provision of the 2026 AOIs that authorize cattle grazing within the Elk Ridge Complex scheduled to begin on August 15, 2026, until the Court has had opportunity to rule on the merits of Plaintiff's claims.

Dated: August 10, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on August 10, 2026, I electronically filed the foregoing Motion on behalf of Plaintiff Western Watersheds Project, through the CM/ECF system. To ensure all parties received notice of this Motion, I sent a copy of this document by electronic mail to the following counsel:

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