

1 GREGORY C. LOARIE, State Bar No. 215859
2 DEBORAH S. REAMES, State Bar. No. 117257
3 Earthjustice
4 426 17th Street, 5th Floor
5 Oakland, CA 94612
6 Telephone: (510) 550-6725
7 Facsimile: (510) 550-6749

8 Attorneys for Plaintiffs

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION

12 SIERRA NEVADA FOREST PROTECTION)
13 CAMPAIGN and CENTER FOR BIOLOGICAL)
14 DIVERSITY,)

15 Plaintiffs,)

16 v.)

17 UNITED STATES FISH & WILDLIFE SERVICE,)
18 GALE NORTON, in her official capacity as)
19 Secretary of the Interior, and STEVEN A.)
20 WILLIAMS, in his official capacity as Director,)
21 United States Fish & Wildlife Service,)

22 Defendants.)

Case No:

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

23 **INTRODUCTION**

24 1. By this action, plaintiffs Sierra Nevada Forest Protection Campaign and Center for
25 Biological Diversity (collectively, the “Sierra Campaign”) seek to compel the United States Fish &
26 Wildlife Service (“Service”) to respond to a February 10, 2003 request under the Freedom of
27 Information Act (“FOIA”), 5 U.S.C. § 552, for records relating to the Service’s finding that listing
28 the California spotted owl as endangered or threatened under the Endangered Species Act is not
warranted. The Sierra Campaign seeks declaratory and injunctive relief to require the Service to
provide all requested records.

1 **JURISDICTION AND VENUE**

2 2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)
3 (FOIA) and 28 U.S.C. § 1331 (federal question jurisdiction). Venue lies in this District pursuant to
4 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e), because plaintiff Sierra Nevada Forest Protection
5 Campaign is headquartered in Sacramento and the records sought are located in Sacramento.

6 **PARTIES**

7 3. Plaintiff Sierra Nevada Forest Protection Campaign (“Campaign”) is a Sacramento-
8 based coalition of approximately seventy-three grassroots, regional and national conservation groups
9 dedicated to the protection of the Sierra Nevada’s national forests. These federal lands contain most
10 of the old growth forests that remain in the Sierra Nevada and provide the vast majority of known
11 territories of California spotted owls and other old growth-dependent species. To achieve the goals
12 of the coalition and its member groups, the Campaign represents local organizations and their
13 members located in or near the Sierra Nevada as well as regional and national organizations with
14 members who live or work in or near the Sierra Nevada by educating the public, communicating
15 with the media, writing to and meeting with public officials, participating in administrative
16 proceedings and litigating to protect and restore the Sierra Nevada’s native ecosystems.

17 4. Plaintiff Center for Biological Diversity (“Center”) is a non-profit corporation based
18 in Tucson, Arizona, with California offices in Oakland, Idyllwild and San Diego. The Center is
19 dedicated to protecting imperiled species such as the California spotted owl and their habitat through
20 science, policy, education and environmental law. Since its founding over ten years ago, the Center
21 has fulfilled its mission by preparing and publishing scientific articles, participating in state and
22 federal administrative proceedings, disseminating educational information through newsletters,
23 alerts, the world-wide web and media releases, and petitioning and litigating to list numerous birds,
24 fish, amphibians, plants and insects as threatened or endangered species under the Endangered
25 Species Act. Many of the Center’s more than seven thousand members reside in or within several
26 hours drive of the Sierra Nevada and regularly enjoy the Sierra Nevada’s native fauna and flora for
27 educational, scientific research, moral, aesthetic or spiritual purposes.

1 **REQUEST FOR RELIEF**

2 WHEREFORE, the Sierra Campaign respectfully requests that the Court:

3 A. Declare that the Service's failure to produce the documents sought by the Sierra
4 Campaign's FOIA request or otherwise respond to the Sierra Campaign's request violates FOIA;

5 B. Order the Service, within 10 days from the date of such order, to:

6 1. produce without charge the records responsive to the Sierra Campaign's FOIA
7 request; or

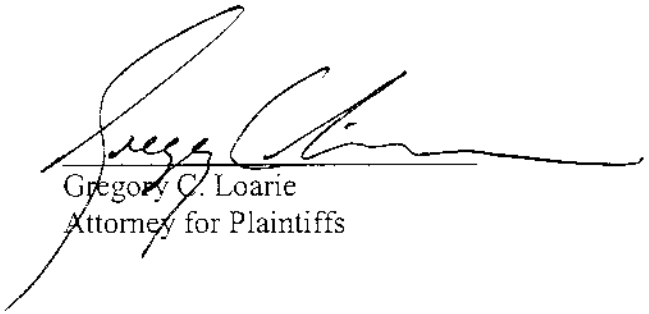
8 2. otherwise respond to the Sierra Campaign's request as required by FOIA;

9 D. Award the Sierra Campaign its costs of litigation, including reasonable attorney and
10 expert witness fees; and

11 E. Grant the Sierra Campaign such additional relief as the Court may deem just and
12 proper.

13
14 Dated: September 2, 2003

Respectfully submitted,

15
16
17 

18 Gregory C. Loarie
19 Attorney for Plaintiffs
20
21
22
23
24
25
26
27
28