

Defendant-Intervenor the American Forest Resource Council (AFRC) hereby joins in the federal defendants' Motion to Alter or Amend Judgment, which asks that the Court remand the End of the World Decision Notice and Finding of No Significant Impact to the Forest Service for further action consistent with the Court's June 24 Order *without* ordering the preparation of an Environmental Impact Statement (EIS). *Cf.* Judgment (ECF No.49) at 2.

Federal defendants correctly observe that the Court failed to follow Ninth Circuit precedent when it concluded "the Forest Service must prepare an Environmental Impact Statement under the National Environmental Policy Act" for the End of the World Project. *Id.* The Ninth Circuit has held that "preparation of an EIS is not mandated in all cases simply because an agency has prepared a deficient EA or otherwise failed to comply with NEPA." *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1225 (9th Cir. 2008). Because the decision as to how best to proceed in light of the Court's decision is left to the agency's discretion, the appropriate course in this case is for the Court to remand the matter to the Forest Service "for further proceedings consistent with this opinion." *Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 965-66 (9th Cir. 2005). Thus, for the reasons set forth in federal defendants' motion, in which AFRC joins, the Court should grant federal defendants' requested relief.

DATED this 22nd day of July, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of July, 2022, I served the foregoing **INTERVENOR'S JOINDER IN FEDERAL DEFENDANTS' MOTION TO ALTER OR AMEND JUDGMENT** with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record and all registered participants.

/s/ Julie A. Weis

Julie A. Weis

CERTIFICATE OF SERVICE