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19 **UNITED STATES DISTRICT COURT**
20 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

21 PEOPLE OF THE STATE OF
22 CALIFORNIA, *ex rel.* BILL LOCKYER,
23 ATTORNEY GENERAL; STATE OF
24 NEW MEXICO, *ex rel.* PATRICIA A.
25 MADRID, ATTORNEY GENERAL;
26 STATE OF OREGON, by and through
THEODORE KULONGOSKI,
GOVERNOR,

Plaintiffs,

STATE OF WASHINGTON, by and
through CHRISTINE O. GREGOIRE,
GOVERNOR,

Intervenor,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE; MIKE JOHANNIS,
Secretary of the Department of
Agriculture; MARK REY, Under
Secretary for Natural Resources and
Environment of the Department of
Agriculture; UNITED STATES FOREST
SERVICE; DALE BOSWORTH, Chief
of the United States Forest Service,

Defendants.

NO. 05-03508-EDL

**MEMORANDUM IN SUPPORT
OF MOTION TO INTERVENE
IN ROADLESS RULE
CHALLENGE**

(Administrative Procedure Act,
5 U.S.C. § 701 *et seq.*; National
Environmental Policy Act,
43 U.S.C. § 4321 *et seq.*)

1 The State of Washington submits the following memorandum in support of its motion
2 for leave to intervene as a Plaintiff. Plaintiffs do not oppose this motion. Defendants do not
3 oppose this motion provided Washington does not raise new issues or otherwise delay the
4 litigation of this matter, which it will not.

5 For the reasons that follow, this motion should be granted.

6 I. INTRODUCTION

7 In January 2001, following publication of an Environmental Impact Statement (EIS)
8 under the National Environmental Policy Act (NEPA) and an extensive public process that
9 generated more than two million comments, the United States Forest Service (USFS) adopted
10 what is commonly referred to as the "Roadless Rule." This rule generally prohibited timber
11 harvest and road construction in Inventoried Roadless Areas (IRAs) within the National Forest
12 System. In 2005, without further NEPA review, the USFS adopted a rule that purportedly
13 repealed the Roadless Rule and put in its place a process whereby individual states may
14 petition the USFS for state-specific protections for lands within IRAs. This case involves a
15 challenge by California, Oregon and New Mexico (Plaintiff States) to the 2005 Rule. The
16 Plaintiff States allege violations of the NEPA and the federal Administrative Procedure Act
17 (APA) in the adoption of the 2005 Rule.

18 The state of Washington is home to approximately 9.2 million acres of National Forest,
19 approximately one-fifth of the state's total land mass. Declaration of Washington State
20 Governor Christine O. Gregoire ¶ 2. This includes roughly 2 million acres classified as IRAs.
21 *Id.* ¶ 2. Washington has a significant interest in the management of the IRAs, as activities in
22 these areas have the potential to impact the state's natural resources, specifically species
23 protected under federal and state law and water quality in waters downstream from the IRAs.
24 Washington's citizens expressed these concerns in the enormous number of comments they
25 submitted in favor of the adoption of the 2001 Roadless Rule. Of approximately 80,000
26 comments submitted, 96% favored the adoption of the rule. *Id.* ¶ 3. The attached declarations

