

# EXHIBIT F

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

MICHAEL J. CLEMENT,	)	
	)	
Plaintiff,	)	
	)	
NELSON NEIGHBORHOOD	)	
CONSERVATION COALITION,	)	
a Wyoming non-profit corporation	)	
	)	
Proposed Plaintiff-Intervenor	)	
	)	
v.	)	Civil Action No. 2:26-cv-1-ABJ
	)	
CHAD HUDSON, in his official capacity as	)	
Forest Supervisor, USDA Forest Service,	)	
Bridger-Teton National Forest,	)	
	)	
Defendant.	)	

### COMPLAINT IN INTERVENTION FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW Nelson Neighborhood Conservation Coalition, a Wyoming nonprofit corporation ("Coalition"), by and through its undersigned counsel, respectfully submits this *Complaint in Intervention for Declaratory Relief* pursuant to Federal Rule of Civil Procedure 24(a)(2), and alleges as follows:

#### INTRODUCTION

1. This action challenges the November 21, 2025, Special Use Permit (the "Permit") issued by Defendant Chad Hudson, Forest Supervisor of the Bridger-Teton National Forest, authorizing construction of a 36-unit residential development on 3.15 acres of National Forest System land at the Nelson Drive Trailhead in Jackson, Wyoming.

2. The Permit violates the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 et seq., the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq., and the United States

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Constitution by authorizing a development nearly triple the size of what was analyzed and approved in 2012, without any supplemental environmental analysis, without public notice, and without opportunity for public comment.

3. The Coalition's thirty-three<sup>1</sup> members are residents of Nelson Drive who live directly adjacent to the proposed development, residents who live in east Jackson, and who use the Nelson Drive Trailhead daily for recreation. The Permit authorizes a development that will dramatically increase vehicle traffic on the narrow, winding residential street where the Coalition's members and their children live and play, and will permanently destroy the quiet, natural character of the National Forest land that the Coalition's members use every day.

4. The Coalition seeks declaratory relief to halt implementation of the unlawfully issued Permit and to require the Forest Service to comply with NEPA and other applicable federal laws before authorizing any development on this site.

### JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), as this action arises under the laws of the United States, including NEPA, 42 U.S.C. § 4321 et seq., the APA, 5 U.S.C. § 701 et seq., and the United States Constitution.

6. This Court has jurisdiction to review final agency action pursuant to the APA, 5 U.S.C. § 704, which waives sovereign immunity for actions seeking relief other than money damages.

7. The Coalition's claims are ripe for judicial review because the Permit constitutes final agency action for which there is no adequate alternative remedy. 5 U.S.C. § 704.

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<sup>1</sup> Thirty-three members as of the date of filing.

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8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1) because Defendant is an officer of the United States sued in his official capacity, a substantial part of the events giving rise to the claims occurred in this judicial district, and the challenged Permit authorizes development on National Forest System land located in this judicial district.

**PARTIES**

9. Plaintiff-Intervenor Nelson Neighborhood Conservation Coalition (the "Coalition") is a Wyoming nonprofit corporation organized under the Wyoming Nonprofit Corporation Act, W.S. § 17-19-101 et seq.

10. The Coalition was formed for the express purposes of: (a) preserving and protecting the environmental quality, natural resources, and ecological integrity of the Nelson Drive area in Teton County, Wyoming, and surrounding National Forest System lands; (b) ensuring compliance with federal, state, and local environmental laws affecting the Nelson Drive area; (c) protecting and preserving public access to and enjoyment of the Nelson Drive Trailhead; (d) advocating for responsible land use planning consistent with the residential character of the Nelson Drive neighborhood; and (e) representing the interests of Nelson Drive area residents in administrative and judicial proceedings affecting environmental quality and land use in the neighborhood.

11. The Coalition's members are individuals who own or reside on property on or adjacent to Nelson Drive in Jackson, Wyoming, and who regularly use the Nelson Drive Trailhead to access National Forest System lands for recreational purposes.

12. The Coalition has associational standing to bring this action on behalf of its members pursuant to *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 342 (1977), because: (a) the Coalition's members would have standing to sue in their own right; (b) the

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interests the Coalition seeks to protect are germane to the Coalition's organizational purposes; and (c) neither the claims asserted nor the relief requested requires the participation of individual members in this lawsuit.

13. The Coalition's members include, among others, Kailey Gieck, Lisa Gillette, and Michael McConnell, each of whom has submitted a declaration establishing their individual standing and the Coalition's associational standing. These declarations are attached as **Exhibits E1 – E3** respectively.

14. Defendant Chad Hudson is the Forest Supervisor of the Bridger-Teton National Forest, United States Department of Agriculture Forest Service. He is sued in his official capacity.

15. Defendant Hudson issued the challenged Special Use Permit on November 21, 2025, and has authority over the management and use of National Forest System lands within the Bridger-Teton National Forest, including the 3.15-acre site at the Nelson Drive Trailhead that is the subject of this action.

### FACTUAL ALLEGATIONS

16. On May 4, 2012, Jacqueline Buchanan, then-Supervisor of the Bridger-Teton National Forest, issued a Decision Notice and Finding of No Significant Impact ("2012 FONSI") authorizing construction of 13 housing units for Forest Service employees on the 3.15-acre site at the Nelson Drive Trailhead. **Exhibit A.**

17. The 2012 FONSI was based on an Environmental Assessment conducted in 2009-2012 that analyzed the environmental impacts of constructing 13 housing units on the site. *Id.*

18. The 2012 authorization process included public meetings, published notices, opportunities for public comment, and compliance with NEPA's procedural requirements.

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19. The 2012 FONSI authorized construction of 13 housing units to be offered to Forest Service employees. The environmental review conducted in 2009-2012 analyzed the impacts of 13 units, not a larger development. *Id.*

20. In response to community concerns about the scope of development at the Nelson Drive site, Forest Supervisor Buchanan engaged in extensive public outreach in 2011-2012, including "many public workshops" as described in her June 14, 2012, letter to community representatives.

21. The community expressed strong opposition to sprawling development east of the existing Forest Service footprint into new habitat areas. A true and correct copy of the September 22, 2012, letter from "Protect the Putt-Putt" community action organization to the Eastridge Homeowners' Association is attached hereto as **Exhibit B** with Supervisor Buchanan's letter dated June 14, 2012.

22. In response to community input, Supervisor Buchanan issued a clarification letter dated June 14, 2012, in which she made specific commitments regarding the scope and location of development at the Nelson Drive site. A true and correct copy of Supervisor Buchanan's June 14, 2012 letter is included in **Exhibit B**.

23. In her June 14, 2012, letter, Supervisor Buchanan committed that her "decision is to locate the housing within the 6.04 acres, thus increasing housing density to reflect the character of the surrounding neighborhood, and reduce the sprawl into new habitat to the east." *Id.*

24. Supervisor Buchanan further stated that her "intent is twofold: first I prefer that the final site plan not go outside the 6.04 acres; and second, should the site planning prove this to be unachievable, then my intent is to place 'overflow' east of the north south boundary line." *Id.*

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25. Supervisor Buchanan's letter was accompanied by a site plan map showing development contained within the existing Forest Service footprint of approximately 6 acres, with only minimal potential overflow contemplated. *Id.*

26. The 2012 FONSI and Supervisor Buchanan's commitments were premised on: (a) a maximum of 13 housing units; (b) development contained within the existing 6.04-acre footprint; (c) increased density to match surrounding neighborhood character; (d) reduction of sprawl into new habitat to the east; and (e) extensive public engagement and responsiveness to community concerns. *Id.*

27. The November 21, 2025, Special Use Permit authorizing 36 housing units in 14 buildings on 3.15 acres violates every one of these commitments and fundamentally transforms the project that was analyzed in the 2012 Environmental Assessment and approved in the 2012 FONSI.

### **Exhibit G – Annexation Map** (Compare Exhibit B Map with Exhibit G – Annexation Map)

28. On September 24, 2025, Defendant Hudson conducted a review and increased the authorized number of housing units from 13 to 14. **Exhibit C – Review of Environmental Compliance Documents.**

29. This increase was made without public notice, without environmental analysis, and without opportunity for public comment.

30. On November 21, 2025, Defendant Hudson issued Special Use Permit FS-2700-4 (the "Permit") to the Jackson Hole Community Housing Trust ("Housing Trust") authorizing construction of 36 residential dwelling units in 14 buildings on 3.15 acres of National Forest System land at the Nelson Drive Trailhead. **Exhibit D – Special Use Permit.**

31. The Permit authorizes development of 36 units, representing an increase of 23 units (177% increase) over the 13 units authorized in the 2012 FONSI.

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32. Of the 36 authorized units, only 13 units will be offered first to Forest Service employees.

The remaining 23 units will be controlled entirely by the Housing Trust. *Id.*

33. The Permit grants the Housing Trust a 50-year term through December 31, 2054. *Id.*

34. The Permit requires a \$15,000,000 surety bond but waives all land use fees. *Id.*

35. Construction must commence by November 21, 2027, and be completed by November 21, 2029. *Id.*

36. The Environmental Assessment and supplement relied upon for the 2012 FONSI is now 13-16 years old, having been conducted between 2009 and 2012.

37. The Forest Service conducted no supplemental environmental assessment or environmental impact statement analyzing the impacts of increasing the development from 13 units to 36 units.

38. The Forest Service provided no public notice of the proposed 36-unit development.

39. The Forest Service provided no opportunity for public comment on the 36-unit development.

40. The only environmental analysis ever conducted for this site analyzed the impacts of 13 units contained within the existing 6.04-acre footprint, not 36 units spread across 3.15 additional acres. Moreover, the 2012 analysis was premised on Forest Supervisor Buchanan's explicit commitment to contain development within the existing footprint and to reduce sprawl into new habitat to the east. The 2025 Permit authorizes a project that is not merely larger in number of units, but fundamentally different in scope, scale, location, and character from what was analyzed and approved in 2012.

41. Coalition members reside on Nelson Drive directly adjacent to the proposed development site and regularly use the Nelson Drive Trailhead daily to access National Forest System lands.

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42. Coalition members include families with young children who live on Nelson Drive and walk or bicycle to the Nelson Drive Trailhead on a daily basis.

43. Coalition members assert that they have enjoyed the viewing of wildlife in the area proposed for development for at least 20 years.

44. Nelson Drive is a narrow, winding residential street with no sidewalks, no crosswalks, and no pedestrian infrastructure. Parking is restricted to one side of the street only.

45. Nelson Drive includes at least one blind corner where vehicles travel at unsafe speeds, posing a danger to pedestrians, particularly children.

46. Based on standard residential traffic planning estimates of 7-10 vehicle trips per unit per day: (a) the 2012 authorization for 13 units would generate approximately 91-130 vehicle trips per day on Nelson Drive; and (b) the 2025 Permit for 36 units will generate approximately 252-360 vehicle trips per day on Nelson Drive.

47. This represents an increase of approximately 160-230 additional vehicle movements per day on Nelson Drive compared to the 2012 authorization.

48. To the Coalition's knowledge, the Forest Service conducted no traffic study, no pedestrian safety analysis, and proposed no traffic calming measures, sidewalk additions, or other infrastructure improvements to mitigate these impacts.

49. Coalition members' children will be exposed daily to increased danger from the substantial increase in vehicle traffic authorized by the Permit, with no safety mitigation measures. See **Exhibits H1 – H8**.

50. The Nelson Drive Trailhead is not merely a destination that Coalition members visit occasionally; it is a daily resource central to their families' recreational lives. Coalition members walk their children to the trailhead daily, walk their dogs there daily, and use the trails for hiking,

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mountain biking, running and wildlife viewing on a regular basis throughout the year. See **Exhibits H1, H4, H6, H7.**

51. Construction of a 14-building, 36-unit residential development on the 3.15-acre site at the Nelson Drive Trailhead will permanently and irreversibly destroy the open, quiet, natural character of the area that Coalition members depend on and enjoy daily. See Exhibits H9 and H10.

52. The authorized development will fundamentally alter the aesthetic, environmental, and experiential quality of the trailhead and surrounding National Forest land, replacing open space with high-density residential structures, increasing noise and congestion, and degrading the recreational experience. *Id.*

53. The development will likely result in loss of parking availability near the trailhead, making it more difficult for Coalition members and other members of the public to access National Forest System lands. See **Exhibit H7.**

54. Coalition members learned of the 36-unit development only through informal neighborhood communications, not through any official notice from the Forest Service.

55. Had the Forest Service provided public notice and an opportunity to comment, Coalition members would have participated in the NEPA process by submitting written comments, attending public meetings, and raising concerns about traffic impacts, pedestrian safety, trailhead access, and environmental quality.

56. Coalition members and their predecessors in the Nelson Drive area participated in the 2011-2012 public process and relied on Supervisor Buchanan's commitments that development would be contained within the existing 6.04-acre footprint, would include a maximum of 13 units, and would reduce sprawl into new habitat.

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57. Coalition members had a reasonable expectation that any development at the Nelson Drive site would be consistent with the 2012 FONSI and Supervisor Buchanan's representations to the community. The issuance of the 2025 Permit authorizing a project nearly triple the size and fundamentally different in character from what was promised constitutes a breach of the Forest Service's commitments to the community and a violation of the public trust.

58. Had Coalition members known in 2012 that the Forest Service would ultimately authorize a 36-unit development spread across 3.15 acres with no public input, they would have appealed the 2012 FONSI and Environmental Assessment as inadequate. The Forest Service's failure to be forthright about the ultimate scope of development deprived Coalition members of the opportunity to challenge the project at the appropriate time.

59. Coalition members have been deprived of their procedural rights under NEPA to participate in the environmental review process for a federal action that will directly affect their property, their children's safety, and their daily use of National Forest System lands.

### **CLAIMS FOR RELIEF COUNT I**

#### **Violation of NEPA: Failure to Prepare Supplemental Environmental Analysis (42 U.S.C. § 4332; 40 C.F.R. § 1502.9(d))**

60. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 59 as if fully set forth herein.

61. NEPA requires federal agencies to prepare a detailed environmental impact statement or environmental assessment before taking major federal actions significantly affecting the quality of the human environment. 42 U.S.C. § 4332(2)(C).

62. Where an agency has prepared an environmental assessment or environmental impact statement, and there are significant new circumstances or information relevant to environmental

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concerns and bearing on the proposed action or its impacts, the agency must prepare a supplemental environmental analysis. 40 C.F.R. § 1502.9(d); *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989).

63. The 2012 FONSI was based on an Environmental Assessment analyzing the impacts of constructing 13 housing units on the site. That Environmental Assessment is now 13-16 years old.

64. The Permit authorizes 36 housing units, representing a 177% increase over what was analyzed in 2012. This constitutes a significant new circumstance requiring supplemental environmental analysis.

65. The substantial increase in housing density will result in significant environmental impacts not analyzed in the 2012 Environmental Assessment, including but not limited to: (a) substantially increased vehicle traffic on Nelson Drive (an estimated 160-230 additional vehicle trips per day); (b) pedestrian safety impacts to residents and their children; (c) increased congestion and loss of parking at the Nelson Drive Trailhead; (d) aesthetic and environmental impacts from constructing 14 buildings on the 3.15-acre site; (e) impacts to wildlife habitat and public recreational use of National Forest lands; and (f) Daisey Bush development and the ongoing development owned by Continental Divide Holdings LLC.

66. Defendant's failure to prepare any supplemental environmental analysis before authorizing a development nearly triple the size of what was previously analyzed violates NEPA and its implementing regulations.

67. Defendant's action was arbitrary, capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. § 706(2)(A).

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### COUNT II

#### **Violation of NEPA: Reliance on Stale Environmental Assessment (42 U.S.C. § 4332; 40 C.F.R. § 1502.9)**

68. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 67 as if fully set forth herein.

69. An environmental assessment or environmental impact statement may become stale and inadequate when significant time has passed since its preparation, particularly where circumstances have changed or new information has become available. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989).

70. The Environmental Assessment relied upon for the 2012 FONSI was conducted between 2009 and 2012, making it 13-16 years old at the time the Permit was issued in November 2025.

71. In the 13-16 years since the Environmental Assessment was prepared, circumstances affecting the Nelson Drive area have changed significantly, including but not limited to: (a) increased residential development in the East Jackson area (Daisey Bush and Continental Development Holdings LLC); (b) increased traffic on Nelson Drive; (c) increased recreational use of the Nelson Drive Trailhead; (d) changes in wildlife populations and habitat use; and (e) changes in federal environmental regulations and scientific understanding of environmental impacts.

72. The 13-16 year old Environmental Assessment does not reflect current conditions and cannot support a rational determination that the 36-unit development authorized by the Permit will have no significant environmental impact.

73. Defendant's reliance on a stale, outdated Environmental Assessment to authorize a major federal action violates NEPA and its implementing regulations.

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74. Defendant's action was arbitrary, capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. § 706(2)(A).

### COUNT III

#### **Violation of NEPA: Failure to Provide Public Notice and Opportunity to Comment (42 .S.C. § 4332; 40 C.F.R. §§ 1503.1, 1506.6)**

75. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 74 as if fully set forth herein.

76. NEPA and its implementing regulations require federal agencies to provide public notice and opportunity to comment on environmental assessments and proposed federal actions. 40 C.F.R. §§ 1503.1, 1506.6.

77. NEPA's public participation requirements serve vital purposes, including: (a) ensuring that agencies have complete information before making decisions; (b) alerting agencies to potential problems and alternative solutions; (c) providing a check against arbitrary agency action; and (d) fostering public acceptance of agency decisions.

78. The 2012 authorization for 13 units included public meetings, published notices, and opportunities for public comment in compliance with NEPA.

79. In stark contrast, Defendant issued the Permit authorizing 36 units with no public notice, no public meetings, and no opportunity for public comment.

80. Coalition members learned of the 36-unit development only through informal neighborhood communications, not through any official notice from the Forest Service.

81. Coalition members were thereby deprived of any opportunity to participate in the NEPA process, to submit written comments, to attend public meetings, or to raise their concerns about traffic impacts, pedestrian safety, environmental quality, and trailhead access.

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82. Had proper notice been provided, Coalition members would have participated actively in the NEPA process and would have provided valuable information to the Forest Service regarding the significant impacts of the proposed development.

83. Defendant's complete failure to provide public notice or opportunity to comment on the 36-unit development violates NEPA and its implementing regulations.

84. Defendant's action was arbitrary, capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. § 706(2)(A).

### COUNT IV

#### **Violation of NEPA: Failure to Take Hard Look at Environmental Impacts (42 U.S.C. § 4332)**

85. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 84 as if fully set forth herein.

86. NEPA requires federal agencies to take a 'hard look' at the environmental consequences of their proposed actions before those actions are taken. *Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 97 (1983); *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n.21 (1976).

87. The 'hard look' requirement mandates that agencies consider all foreseeable direct and indirect environmental impacts of proposed actions, including cumulative impacts.

88. Defendant failed to take any hard look at the environmental impacts of the 36-unit development authorized by the Permit. The only environmental analysis ever conducted examined the impacts of 13 units, not 36 units.

89. Defendant failed to analyze critical environmental impacts of the 36-unit development, including but not limited to: (a) traffic impacts on Nelson Drive, including the estimated 160-230 additional vehicle trips per day; (b) pedestrian safety impacts to residents and children living on

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Nelson Drive; (c) impacts to parking availability and public access at the Nelson Drive Trailhead; (d) cumulative impacts when combined with other ongoing development in the East Jackson area; (e) aesthetic and visual impacts of constructing 14 buildings on the 3.15-acre site; (f) impacts to wildlife habitat and migration; and (g) impacts to the recreational experience and use of National Forest lands.

90. Defendant's failure to take a hard look at these significant environmental impacts violates NEPA's most fundamental requirement.

91. Defendant's action was arbitrary, capricious, an abuse of discretion, and not in accordance with law. 5 U.S.C. § 706(2)(A).

### COUNT V

#### **Violation of Administrative Procedure Act: Arbitrary and Capricious Agency Action (5 U.S.C. § 706(2)(A))**

92. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 91 as if fully set forth herein.

93. Under the Administrative Procedures Act ("APA"), a reviewing court shall 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)(A).

94. An agency action is arbitrary and capricious if the agency: (a) relied on factors which Congress has not intended it to consider; (b) entirely failed to consider an important aspect of the problem; (c) offered an explanation for its decision that runs counter to the evidence before the agency; or (d) is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29, 43 (1983).

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95. Defendant's issuance of the Permit is arbitrary and capricious for multiple independent reasons, including: (a) authorizing a 177% increase in housing density without any environmental analysis of the increased density; (b) relying on a 13-16 year old Environmental Assessment that does not reflect current conditions; (c) failing to provide public notice or opportunity to comment; (d) failing to consider critical impacts including traffic, pedestrian safety, parking, wildlife and cumulative effects; and (e) failing to explain how a development nearly triple the size of what was previously analyzed could proceed without supplemental environmental review.

96. Defendant entirely failed to consider important aspects of the problem, including the substantial increase in vehicle traffic, the safety of children and pedestrians on Nelson Drive, the loss of parking and public access to the trailhead, and the cumulative impacts of increased development in the area.

97. Defendant offered no explanation for how a 36-unit development could proceed based on environmental analysis of 13 units and offered no rational basis for concluding that such a substantial increase in density would have no significant environmental impact.

98. Defendant's action was arbitrary, capricious, an abuse of discretion, and not in accordance with law in violation of the APA. 5 U.S.C. § 706(2)(A).

**COUNT VI**  
**Violation of 2012 FONSI Terms and Arbitrary Departure from Prior Agency**  
**Commitments (5 U.S.C. § 706(2)(A);**  
***FCC v. Fox Television Stations, Inc.*, 556 U.S. 502 (2009))**

99. The Coalition realleges and incorporates by reference each and every allegation contained in paragraphs 1 through 98 as if fully set forth herein.

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100. Under the APA, an agency may change course from a prior policy or decision, but it must "display awareness that it is changing position" and "show that there are good reasons for the new policy." *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016).

101. Where an agency's new policy "rests upon factual findings that contradict those which underlay its prior policy," the agency must provide "a more detailed justification than what would suffice for a new policy created on a blank slate." *FCC v. Fox Television Stations*, 556 U.S. at 515.

102. The 2012 FONSI and Supervisor Buchanan's June 14, 2012, clarification letter established binding commitments regarding the scope, scale, and location of development at the Nelson Drive site, including:

- a. A maximum of 13 housing units;
- b. Development to be located "within the 6.04 acres" of existing Forest Service footprint;
- c. Supervisor Buchanan's stated preference that "the final site plan not go outside the 6.04 acres";
- d. Commitment to "reduce the sprawl into new habitat to the east";
- e. Increased density "to reflect the character of the surrounding neighborhood"; and
- f. These decisions were made in response to extensive public engagement, including "many public workshops" and community input.

### **Exhibit B.**

103. The November 21, 2025 Special Use Permit represents a dramatic departure from these prior commitments, authorizing:

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- a. 36 housing units instead of 13 (a 177% increase);
- b. Development spread across 3.15 acres rather than contained within 6.04 acres;
- c. A project fundamentally different in scope and character from what was analyzed in 2012;
- d. Authorization issued with no public workshops, no public notice, and no public comment period.

104. Defendant Hudson's September 24, 2025, Review makes no mention of Supervisor Buchanan's 2012 commitments, provides no explanation for departing from those commitments, and offers no justification for why a project nearly triple the size and fundamentally different in character can proceed without supplemental environmental analysis or public engagement.

105. Defendant Hudson's November 21, 2025, Special Use Permit similarly fails to acknowledge the prior commitments, explain the reasons for the dramatic change in scope, or provide any reasoned analysis for why the Forest Service is now authorizing exactly the type of sprawling development into new habitat that Supervisor Buchanan explicitly committed to avoid.

106. An agency's failure to acknowledge that it is changing position, and its failure to provide a reasoned explanation for the change, renders the new policy arbitrary and capricious. *Encino Motorcars*, 579 U.S. at 221-22.

107. Defendant's authorization of a project that directly contradicts the explicit commitments made in the 2012 FONSI and Supervisor Buchanan's clarification letter, without any acknowledgment of the change or reasoned explanation, violates the APA's prohibition on arbitrary and capricious agency action. 5 U.S.C. § 706(2)(A).

108.

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### PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Intervenor Nelson Neighborhood Conservation Coalition respectfully requests that this Court:

1. Declare that the November 21, 2025 Special Use Permit issued by Defendant Hudson violates the National Environmental Policy Act, and the Administrative Procedure Act;
2. Declare that the Special Use Permit is unlawful, invalid, and void;
3. Vacate and set aside the Special Use Permit;
4. Enjoin Defendant and all persons acting in concert with Defendant from implementing, executing, or relying upon the Special Use Permit;
5. Enjoin any construction, ground disturbance, or other activities pursuant to the Special Use Permit pending compliance with NEPA, the APA, and the Constitution;
6. Order Defendant to prepare a supplemental environmental analysis in full compliance with NEPA before authorizing any development on the Nelson Drive Trailhead site;
7. Order Defendant to comply with the terms and commitments made in the 2012 FONSI and Forest Supervisor Buchanan's June 14, 2012, clarification letter, or alternatively, to conduct a new NEPA process analyzing the impacts of any project that departs from those commitments;
8. Order Defendant to provide public notice and opportunity to comment on any proposed development on the Nelson Drive Trailhead site;
9. Award the Coalition its costs and reasonable attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable statutes;
10. Grant such other and further relief as the Court deems just and proper.

Dated this 30<sup>th</sup> day of April, 2026

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Respectfully submitted,

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