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2 **UNITED STATES DISTRICT COURT**
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
4 **OAKLAND DIVISION**

5 KARUK TRIBE OF CALIFORNIA,) Civ. No. 04-4275 (SBA)
6)
7 Plaintiff;)
8)
9 v.) JOINT STIPULATION
10) FOR PARTIAL SETTLEMENT
11) AND PROPOSED ORDER
12 UNITED STATES FOREST SERVICE;)
13 JEFF WALTER, Forest Supervisor,)
14 Six Rivers National Forest,)
15 MARGARET BOLAND, Forest Supervisor,)
16 Klamath National Forest,)
17)
18 Defendants.)
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14 Plaintiff Karuk Tribe of California and Defendants United States Forest Service et al.
15 (“Federal Defendants”) hereby submit this Joint Stipulation for Partial Settlement and Proposed
16 Order for this Court’s approval. Plaintiff and Federal Defendants agree to the following:

18 WHEREAS, on January 31, 2005, Plaintiff Karuk Tribe brought claims, alleging, *inter alia*,
19 that the Defendant United States Forest Service approved five mining Plans of Operation (“PoOs”)
20 without compliance with the Endangered Species Act (“ESA”) and the National Environmental
21 Policy Act (“NEPA”), and the implementing regulations of these laws. These PoOs are listed in
22 Paragraph 5 of Plaintiff’s Second Amended Complaint;

24 WHEREAS, compliance with these laws and regulations is required when the Forest Service
25 reviews and/or approves a PoO;

26 WHEREAS, it is in the interests of the public, the parties and judicial economy to resolve the
27 issues involving the challenged PoOs without continued litigation;

1 NOW, THEREFORE, the parties agree to the following in partial settlement of this case:

- 2 1. Defendants agree that each of the challenged PoOs were approved without compliance
3 with the ESA, NEPA, and their implementing regulations.
- 4 2. Defendants agree that, in the future, the United States Forest Service will fully comply
5 with these and all other applicable laws and regulations prior to approval of any PoO.
- 6 3. Plaintiff agrees to dismiss with prejudice its claims regarding the five PoOs identified in
7 paragraph 5 of the Second Amended Complaint.
- 8 4. Regardless of the preceding paragraph, Plaintiff reserves the right to seek, at the
9 conclusion of this case, award of its reasonable costs, fees, expenses and disbursements,
10 including reasonable attorney fees and costs, associated with this case, including but not
11 limited to, Plaintiff's challenge to the Forest Service's approval of each of the five PoOs
12 without compliance with the ESA, NEPA, and their implementing regulations.
- 13 5. The parties agree that this partial settlement does not impact any of Plaintiff's remaining
14 claims or any of the Defendants' stated defenses to those claims.
- 15 6. The undersigned representatives of the Plaintiff and Defendants certify that they are fully
16 authorized by the party or parties they represent to enter into the terms and conditions of
17 this agreement and to legally bind the parties to it.
- 18 7. Nothing in this agreement shall be construed to deprive a federal official of authority to
19 revise, amend or promulgate regulations.
- 20 8. Nothing in this agreement shall be interpreted as, or shall constitute, a commitment or
21 requirement that the Forest Service obligate or pay funds, or take any other action in
22 contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable
23 appropriations law.
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1 9. This agreement is based on and limited solely to the facts involved in this case. Nothing
2 in this agreement shall be construed to limit Plaintiff's right to bring a new challenge to
3 any other mining-related or other decision of the Forest Service.
4

5 Respectfully submitted this 22nd day of April, 2005.
6

7 /s/ Joshua Borger

8
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IT IS SO ORDERED

/s/ Sandra Brown Armstrong
Sandra B. Armstrong
U.S. District Court Judge

4-26-05
Date