

UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF COLUMBIA

GREEN CLIMATE  
1507 GROVE AVE  
RICHMOND, VA 23220  
PLAINTIFF,

V.

BROOKE L. ROLLINS, IN HER OFFICIAL CAPACITY AS SECRETARY OF  
AGRICULTURE,  
DEFENDANT.

Civil Action No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**I. INTRODUCTION**

1. Plaintiff brings this action under Infrastructure Investment and Jobs Act (IIJA), 16 U.S.C. § 6592; Healthy Forest Restoration Act (HFRA) 16 U.S.C. Chapter 84; Administrative Procedure Act (APA), 5 U.S.C. §§ 701–706, and Executive Order 14225, seeking judicial review of Secretary of Agriculture Brooke L. Rollins Memorandum 1078-006, entitled “Increasing Timber Production And Designating An Emergency Situation On National Forest System Lands, dated April 3, 2025 (published April 4, 2025) (“the Memorandum”).
2. In the Memorandum, the Secretary makes a final Emergency Situation Determination (ESD) under the IIJA. As a result of the ESD, the Department of Agriculture (DOA) and the National Forest Service (NFS) are authorized to harvest up to 112,646,000 acres of NFS

forest land at discount price in violation of NFS regulations and guidance or submitting public input. Timber harvesting on NFS land is not an emergency action.

3. The Memorandum also directs the NFS to implement timber harvesting on NFS lands, substantially altering the scope and scale of federal land management actions without following NFS rules or guidance or soliciting public input.

4. Plaintiff seeks declaratory and injunctive relief to set aside and vacate the ESD, and the Memorandum and enjoin its implementation unless and until Defendant complies with applicable Federal Law, NFS rules, NFS guidance, and the APA.

## **II. JURISDICTION AND VENUE**

5. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction) and 5 U.S.C. §§ 702–706 (APA judicial review).

6. Venue is proper in this District under 28 U.S.C. § 1391(e) because Defendant is an officer of the United States acting in her official capacity, and because a substantial part of the events or omissions giving rise to the claim occurred in the District of Columbia.

## **III. PARTIES**

7. Green Climate is a charitable organization committed to the sustainability and environmental protection of our natural resources. We focus on combating climate change through initiatives that promote forest conservation and reduce greenhouse gases. Our members enjoy National Parks and federal forest and wilderness lands across the country. These activities include hiking, camping, and fishing. Our members also actively work to protect federal forest and wilderness lands. Our mission will be directly harmed by

significant additional harvesting of NFS forest land that will result from the ESD and the Memorandum.

8. Defendant Brooke L. Rollins is the Secretary of the U.S. Department of Agriculture (“USDA”) and is sued in her official capacity. The Secretary has ultimate authority over the United States Forest Service, which manages the National Forest System and is responsible for implementing the challenged Memorandum.

#### IV. FACTUAL BACKGROUND

9. On March 1, 2025, the White House issued Executive Order (EO) 14225, *Immediate Expansion of American Timber Production*. The purpose of the EO is to expand timber harvesting on federal lands which is “critical to our Nation’s well-being.” Most relevant to this matter is Section 2 of the EO.

“Sec. 2. Directives to the Secretary of the Interior and the Secretary of Agriculture.

(a) Within 30 days of the date of this order, the Secretary of the Interior and the Secretary of Agriculture, through the Director of the Bureau of Land Management (BLM) and the Chief of the United States Forest Service (USFS), respectively, shall each issue new or updated guidance regarding tools to facilitate increased timber production and sound forest management, reduce time to deliver timber, and decrease timber supply uncertainty, such as the Good Neighbor Authority described in 16 U.S.C. § 2113a, . . .”

10. Under this Section, the Secretary only is ordered to “*issue new or updated guidance regarding tools* to facilitate increased timber production and sound forest

management, reduce time to deliver timber, and decrease timber supply uncertainty” .

. . (emphasis added).

11. On April 3, 2025, Defendant issued Secretary’s Memorandum 1078-006 (published April 4, 2025) detailing the “actions that I am directing the Forest Service to take in response to EO 14225.” The actions in the Memorandum are far from limited to the issuance of “guidance regarding tools.” The Secretary first makes an ESD under the IIJA then taking an Emergency Action (EA) under the same statute.

12. The EA consists of designating 66,940,000 acres of NFS lands because of wildfire risk; 78,800,000 acres because of “declining forest health making them at risk of substantial increased tree mortality over the next 15 years;” 33,846,000 that are both subject to wildfire risk and declining health; for a total of 112,646,000. Under the IIJA, an EA can be taken only to “mitigate the harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land.”

13. Consistent with EAs, Emergency Situations are limited to “relief from hazards threatening human health and safety” and mitigation of threats to natural resources on National Forest System land or adjacent land.”

14. An ESD is an action made by the Secretary under subsection (b)(1)(A). That provision limits the Secretary to EA’s clearly limited to actions taken after wildfires and storms impacting National Forest System land. Otherwise, no emergent relief is necessary.

“After making an emergency situation determination with respect to National Forest System land, the Secretary may carry out authorized emergency actions on that National Forest System land in order to achieve reliefs from hazards threatening human health and

safety or mitigation of threats to natural resources on National Forest System land or adjacent land, including through-

- (A) the salvage of dead or dying trees;
- (B) the harvest of trees damaged by wind or ice;
- (C) the commercial and noncommercial sanitation harvest of trees to control insects or disease, including trees already infested with insects or disease;
- (D) the reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species;
- (E) the removal of hazardous trees in close proximity to roads and trails;
- (F) the removal of hazardous fuels;
- (G) the restoration of water sources or infrastructure;
- (H) the reconstruction of existing utility lines; and
- (I) the replacement of underground cables.”

14. The harvest of trees is limited to those that are dead or dying, damaged by wind or ice and the sanitation harvest of infected trees. In each case these actions are limited to emergent actions to protect human health and natural resources. Timber harvesting is not an authorized action because it is non-emergent and accomplished through a separate NFS process which involves proposals and contracts with third parties.

15. The HFRA, and subsequent regulations and guidance, directly address the identification and harvest of trees that pose wildfire risks and are declining from disease and insect infestation. The ESD, EA and Memorandum are in direct contravention of the HFA and EO.

16. The IIJA recognizes the primacy of existing NFS law and regulations when it provides that

“Any authorized emergency action carried out under paragraph (2) on National Forest System land shall be conducted consistent with the applicable land and resource management plan.”

The NFS already has a process for addressing Emergency Situations and ESDs. 36 CFR 218.21 (2024).

17. The ESD and the Memorandum are final orders that if not appealed at this point in the legal process may not be appealable later. *See*, 5 U.S.C. §§ 551, 701-706. A later challenge to NFS actions under these Orders cannot determine the legal status of each and will be too late because Plaintiff can only challenge actions harvesting timber as a result of these Orders.

18. The ESD and Memorandum are not guidance that will become final at a later date and can be challenged then.

19. The actions authorized by the Memorandum will lead to increased logging activity on millions of acres of federal forest land, with direct and indirect environmental impacts including loss of wildlife habitat, increased carbon emissions, soil erosion, water quality degradation, and impacts to endangered species.

20. The Memorandum was issued without public notice or opportunity for comment, denying Plaintiff and the public a chance to participate in the decision-making process.

21. The Memorandum constitutes final agency action subject to judicial review under the APA because it has direct and immediate legal consequences.

**22.** No other remedy exists except appeal to this Court.

## **CLAIMS FOR RELIEF**

### **Count I — Violation of Law**

23. Plaintiff realleges and incorporates by reference all preceding paragraphs.
24. The issuance of the ESD and Memorandum are contrary to all applicable Federal Law and must be vacated under 5 U.S.C. § 706(2)(C). Likewise, all EAs and other actions under the authority of the ESD and Memorandum are illegal and must be vacated.
25. Any actions taken by NFS, USDA or any third-parties based on the authority of the Memorandum are illegal and must be so held.

### **Count II — Violation of the Administrative Procedure Act**

26. Plaintiff realleges and incorporates by reference all preceding paragraphs.
27. The ESD and Memorandum are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law in violation of the APA, 5 U.S.C. § 706(2)(A), because each was issued in violation of Federal Law and superseded existing USDA and NFS law without sufficient notice and an opportunity for comment.
28. Any actions taken by NFS, USDA or any third-parties based on the authority of the ESD and Memorandum are illegal and must be so held.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Assume jurisdiction over this matter.

- B. Declare that the ESD and Secretary's Memorandum 1078-006 violate the Infrastructure Investment and Jobs Act, 16 U.S.C 6592; Healthy Forest Restoration Act, 16 U.S.C. Chapter 84; Administrative Procedure Act, 5 U.S.C. §§ 701–706, and Executive Order 14225;
- C. Set aside and vacate the ESD and the Memorandum;
- D. Enjoin Defendant from implementing or enforcing the ESD or Memorandum unless and until compliance all with all applicable Federal Law is achieved;
- E. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

John M. Holloway III  
John M. Holloway III  
Climate Law & Strategy, PLLC  
1507 Grove Av.  
Richmond, VA 23220  
804.307.3817

Attorney for Green Climate



# CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<p><b>I. (a) PLAINTIFFS</b></p>   <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____  <b>(EXCEPT IN U.S. PLAINTIFF CASES)</b></p>	<p><b>DEFENDANTS</b></p>   <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____  <b>(IN U.S. PLAINTIFF CASES ONLY)</b></p> <p style="text-align: center;"><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
<p>(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER)</p>	<p>ATTORNEYS (IF KNOWN)</p>

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)		III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <u>FOR DIVERSITY CASES ONLY!</u>					
<input type="radio"/> 1 U.S. Government Plaintiff	<input type="radio"/> 3 Federal Question (U.S. Government Not a Party)		PTF	DFT		PTF	DFT
		Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4
<input type="radio"/> 2 U.S. Government Defendant	<input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5
		Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6

#### IV. CASE ASSIGNMENT AND NATURE OF SUIT

**(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)**

(Place an "X" in one category, if "X," that best represents your Cause of Action and one in a corresponding Nature of Suit)			
<input type="radio"/> <b>A. Antitrust</b>  410 Antitrust	<input type="radio"/> <b>B. Personal Injury/ Malpractice</b>  310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Medical Malpractice 365 Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  151 Medicare Act  <u>Social Security</u> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <u>Other Statutes</u> 891 Agricultural Acts 893 Environmental Matters 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*

<input type="radio"/> E. <i>General Civil (Other)</i>	OR	<input type="radio"/> F. <i>Pro Se General Civil</i>
<u><b>Real Property</b></u> 210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property  <u><b>Personal Property</b></u> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<u><b>Bankruptcy</b></u> 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157  <u><b>Prisoner Petitions</b></u> 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Conditions 560 Civil Detainee – Conditions of Confinement  <u><b>Property Rights</b></u> 820 Copyrights 830 Patent 835 Patent – Abbreviated New Drug Application 840 Trademark 880 Defend Trade Secrets Act of 2016 (DTSA)	<u><b>Federal Tax Suits</b></u> 870 Taxes (US plaintiff or defendant) 871 IRS-Third Party 26 USC 7609  <u><b>Forfeiture/Penalty</b></u> 625 Drug Related Seizure of Property 21 USC 881 690 Other  <u><b>Other Statutes</b></u> 375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 430 Banks & Banking 450 Commerce/ICC Rates/etc 460 Deportation 462 Naturalization Application  465 Other Immigration Actions 470 Racketeer Influenced & Corrupt Organization 480 Consumer Credit 485 Telephone Consumer Protection Act (TCPA) 490 Cable/Satellite TV 850 Securities/Commodities/Exchange 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  530 Habeas Corpus – General 510 Motion/Vacate Sentence 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  895 Freedom of Information Act 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Labor Railway Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  441 Voting (if not Voting Rights Act) 443 Housing/Accommodations 440 Other Civil Rights 445 Americans w/Disabilities – Employment 446 Americans w/Disabilities – Other 448 Education	<input type="radio"/> <b>M. Contract</b>  110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholder's Suits 190 Other Contracts 195 Contract Product Liability 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☐ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multi-district Litigation  
☐ 7 Appeal to District Judge from Mag. Judge  
☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input type="checkbox"/>
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: \_\_\_\_\_

SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
**Authority for Civil Cover Sheet**

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.