

KD Feeback  
TOOLE & FEEBACK, PLLC  
702 Main Street  
PO Box 907  
Lincoln, Montana 59639  
(406) 362-4025  
[kdfeeback@gmail.com](mailto:kdfeeback@gmail.com)

JUL 24 2017  
Clerk, U.S. Courts  
District of Montana  
Missoula Division

Attorney for Applicant *amicus curiae*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

		CV 17-21-M-DLC
		Applicants
	)	<b>Lincoln Restoration</b>
	)	<b>Committee, Lewis &amp; Clark</b>
	)	<b>County, Powell County,</b>
	)	<b>Lincoln Volunteer Fire</b>
	)	<b>Department, James and Jill</b>
	)	<b>Frisbee, David and Peggy</b>
	)	<b>Mannix and family, Becky</b>
	)	<b>Garland, Paul Roos, Bill</b>
	)	<b>Wall, PhD, Pyramid</b>
	)	<b>Mountain Lumber, Inc., RY</b>
	)	<b>Timber, Inc., Montana</b>
	)	<b>Wood Products Association,</b>
	)	<b>Inc., Montana Logging</b>
	)	<b>Association, Rocky</b>
	)	<b>Mountain Elk Foundation,</b>
	)	<b>and the National Wildlife</b>
	)	<b>Federation's Unopposed</b>
	)	<b>Motion for Leave to File</b>
	)	<b>Amicus Brief</b>
ALLIANCE FOR THE WILD ROCKIES and NATIVE ECOSYSTEMS COUNCIL ,	Plaintiffs,	
-vs-		
LEANNE MARTIN, Regional Forester of Region One of the U.S. Forest Service; and UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agrilculture,	Defendants.	

## I. Introduction

Applicant Lincoln Restoration Committee (Lincoln), *et al.* respectfully moves the Court for leave to file an *amicus* brief in support of the federal defendants' position in this case. Both Plaintiffs and the Federal Defendants were contacted via respective counsel and neither object to this request.

### A. Corporate Disclosures Under Local Rule 7.5(b)(2)(B)

Applicant *amici* Pyramid Mountain Lumber, Inc. is a Montana corporation in good standing with the Montana Secretary of State and is entirely owned by Montana citizens: the Roger Johnson family of Seeley Lake, Montana, and Charles Park of Drummond, Montana.

Applicant *amici* RY Timber, Inc., is an Idaho corporation in good standing with the Montana Secretary of State and is privately and entirely owned by the Ronald Yanke family of Boise, Idaho.

Applicant *amici* Montana Wood Products Association, Inc., is in good standing with the Montana Secretary of State and is a Montana public benefit corporation with members, none of whom are public corporations.

Applicant *amici* Montana Logging Association, is in good standing with the Montana Secretary of State and is Montana public benefit corporation with members, none of whom are public corporations.

**B. Background Facts**

This case centers on the U.S. Forest Service's recently released EIS for the Stonewall Vegetation Project on the Lincoln District of the Helena National Forest. The Stonewall Project or Project is a collaborative landscape restoration effort planned and proposed by the U.S. Forest Service and Applicant Lincoln Restoration Committee and supported by a number of *amici* and other stakeholders with interests in the Project. The Stonewall Project encompasses approximately 24,000 acres, most of which is contained within the Helena National Forest with a minor amount of privately held property within the Project boundary.

The Project lies approximately four miles north of the unincorporated town of Lincoln which is denominated an at-risk community with respect to wildfire in the Healthy Forests Restoration Act. The Project is designed to restore landscapes ravaged by drought and pine bark beetles that pose an elevated risk of catastrophic wildfire with the attendant damage to the ecosystem. The Lincoln community is surrounded by National Forest composed of considerable standing dead timber resulting from insect infestation. Applicant Lincoln suggested the Stonewall Project to USFS in 2008 in response to community concerns regarding wildfire. Plaintiffs challenge the EIS claiming the federal defendants erred in its preparation.

**II. Applicant *Amici* and *Amici's* Interest in this Case**

Applicant **Lincoln Restoration Committee** is a subgroup of the Montana Forest Restoration Committee, a consensus-based collaborative group formed in January 2007 to help guide restoration of Montana's national forests in partnership with the U.S. Forest Service. The Montana Forest Restoration Committee formed local restoration committees that work on three national forests - the Bitterroot, Lolo, and Helena. These local restoration committees utilize 13 restoration principles to guide on the ground restoration work. The Lincoln Restoration Committee is a group of volunteers composed of private citizens, agricultural interests, business owners, members of the environmental community as well as loggers and lumber companies, all participating in a multi-party effort to suggest and collaborate with the Forest Service to implement the 13 restoration principles on the Helena National Forest. Lincoln is a voluntary, private initiative, not convened or managed by the Forest Service.

Applicant **Lewis & Clark County** is the political and administrative subdivision of Montana where the Project is located. Powell County by and through its citizens participated in the planning of the Stonewall Project and are very interested in seeing the Project proceed.

The County has economic, environmental, and administrative interests in the Project that arise from industry, ranching, farming, wildlife concerns, as well as the individual interests of its citizens who actually live, work, and recreate within the Project's footprint.

**Powell County, Montana**, is a political subdivision of the State and an active participant with the Forest Service in supporting conscientious resource management. Powell County believes strongly in collaborative management of public lands and supports the Stonewall Project which is just east of the Powell County line.

**James W. and Jill M. Frisbee** are residents of Lincoln and owners of 2 local businesses, the Lincoln Pit Stop and Montana Western Properties. Both serve in multiple volunteer capacities for Lincoln and are supporters of the Stonewall Project.

**David and Peggy Mannix** and their four children are members of a five-generation family ranch originally homesteaded in 1882 in the Helmville valley. Together with his brothers, David manages the ranch with the goal of maintaining a viable ranching operation while simultaneously enhancing the resources that sustain them. A leader for conservation in the valley, David has piloted a number of natural resource

improvement projects on his family's ranch, including stream restoration, water conservation and weed management. Additionally, the Mannix Ranch is a local pioneer in growing grass-finished beef for delivery to local markets.

**Becky Garland** is a long-time resident of Lincoln, Montana, and has great interest in conservation values of the Big Blackfoot River Corridor. Becky has contributed substantial time and effort to not only the Project, but may other efforts in the area to enhance the effectiveness of resource management.

**Paul Roos** is also long-time resident of the area and is similarly very interested in conservation issues including the Project, where he has invested considerable hours in planning. As a fishing guide and outfitter, Paul is spends a great deal of time volunteering in land-use planning and fisheries issues in the Blackfoot Valley.

The **Lincoln Rural Fire District** is a volunteer fire department providing fire protection to the Lincoln area. The District participates in developing land management projects that address catastrophic wildfire danger on National Forest Lands in the Lincoln area, including the Stonewall Vegetation Project. The Lincoln Rural Fire District is directly affected by wildfire in the wildland-urban interface.

**Pyramid Mountain Lumber**, located in Seeley Lake is the oldest surviving family owned and operated lumber mill in Montana. Since 1949, Pyramid has built personal relationships within the community and with landowners. Pyramid's objective has always been to create healthy forests while producing quality lumber products in demand around the country. Dedication to being trustworthy stewards of the land is Pyramid's hallmark. At Pyramid Mountain Lumber Company, community relationships are the touchstone and the company contributes its time accordingly.

**RY Timber** operates two sawmills, one located in Townsend and the second mill in Livingston, Montana. The Company is considered to be one of the leading suppliers of high quality 2"x 4" studs. RY's Montana mills produce 16% of all the structural lumber that is manufactured in the State of Montana. RY prides itself on being a good steward of Montana's forests and valuable member of the communities where it is located.

**Bill Wall**, PhD is a Certified Wildlife Biologist with The Wildlife Society, a resident of Seeley Lake and the owner of **Sustainability, Inc.**, a biomass and wildlife conservation consulting firm. He serves on the steering committee of the Blackfoot Clearwater Stewardship Project, and

on the board of the Clearwater Resource Council, a non-profit organization that works to initiate and coordinate efforts that will enhance, conserve, and protect the natural ecosystems and rural lifestyle of the Clearwater River region of Montana for present and future generations.

The **Montana Wood Products Association** was founded in 1972 and has served as a major voice for the wood products industry while actively working with timber, logging, and wood products manufacturing issues in the public area, and with state and federal government agencies. The Association's MWPA's membership includes a diverse group of companies and individuals involved in all facets of Montana's wood products industry. The Association works to educate the public about the positive contributions the forest products industry makes to Montana's economy and environment, and works with the Forest Service and the State of Montana to ensure a steady, reliable timber supply for our mills.

Founded in 1976, the **Montana Logging Association** provides a unified voice for the family-owned businesses that harvest and transport timber from forest to mill in Montana. On behalf of its members, the Association works with public agencies, legislative bodies and media sources. Member benefits include safety services, group insurance

programs, and a comprehensive professional accreditation program. The organization has an unwavering commitment to forest stewardship. Logging has deep roots in Montana - it has been a part of our heritage for well over a century - and the Association is planting the seeds that will ensure the future of this important part of Montana life.

The **Rocky Mountain Elk Foundation** was founded in 1984 by four hunters seeking to ensure a future for North American elk and to protect and enhance elk habitat. The Foundation's mission is to ensure the future of elk, other wildlife, their habitat, and our hunting heritage. The Rocky Mountain Elk Foundation is committed to conserving, restoring and enhancing natural habitats; enhancing access to public lands, promoting the sound management of wild elk, which may be hunted or otherwise enjoyed; restoring elk to their native ranges; and educating members and the public about habitat conservation and our hunting heritage. The Foundation has so far protected or enhanced nearly 6.8 million acres of wildlife habitat and opened or improved more than 852,000 acres for public access through more than 9,800 projects to further its stated goals.

### III. Argument

The Project was initiated in 2008 by Lincoln seeking the assistance of the Forest Service to respond to a massive Mountain pine beetle infestation

with resultant pervasive lodgepole pine mortality and attendant environmental degradation surrounding the Lincoln area. EIS at I. The Forest Service sought input from the public and with the assistance of Lincoln ultimately created a collaborative effort to plan and implement an integrated forest management program that restored and enhanced forest resources in the Project area. *Id.* at ii.

Over the course of the following years leading up to release of the subject EIS and ROD in January 2017, the Forest Service and Lincoln studied the subject landscape and its wildlife with USFS and FWS scientists and resource specialists, discussed options, and ultimately released the EIS and Record of Decision for the Project. Lincoln has invested considerable time and effort in its collaboration with the Forest Service to move the Stonewall Project to this point.

Lincoln believes the Project will provide crucial restoration benefits to land and water while complying with all applicable federal and state environmental laws and regulations. Perhaps more importantly, Applicant believes the efforts put forth, working with the Forest Service to develop this Project represents a way forward for future land and resource management that bodes well for the health of public lands.

**A. An Amicus Brief is Relevant and Desirable in this Case**

Lincoln's perspective is important to the Court in this case because it can provide the real world perspective of the resident community. The existing parties cannot adequately present Lincoln's perspective because on the one hand, the federal defendants represent the regulatory interest as opposed to the regulated community's interest, *i.e.* the residents of Lincoln, Montana; and Plaintiffs oppose both the federal defendants' position as well as the supportive position of Lincoln. Additionally, Lincoln shares in part the values and perspectives of both the federal Defendants as well as the Plaintiffs and can provide a balanced view of the subject proposal which is, after all, the touchstone of public land management. *See e.g. Montana Wilderness Association, et al. v. McAllister, et al.*, 658 F.Supp.2d 1249, 1252 (2009 D. Mont.).

**B. Timing of Amicus' Brief**

Applicant's motion is timely as this case is in its beginning stages with Plaintiffs' opening brief on summary judgment just recently filed on June 30, 2017, and the federal defendants' answer/cross-motion due July 28, 2017.<sup>1</sup> Additionally, none of the named parties object to the Applicant

---

<sup>1</sup> At this time the Federal Defendants have an unopposed motion for extension of time to file the USFS brief until August 11, 2017.

submitting a brief. Accordingly, Applicant proposes that should the Court grant its motion that Applicant's brief be due on August 1, 2017, shortly after the federal Defendants' brief. In the event the Court grants the Federal Defendants' unopposed motion for an extension of time until August 11, 2017, to file the USFS brief, Applicant Lincoln, *et al.* requests its brief be due August 14, 2017.

**IV. Conclusion**

For the reasons set forth herein, Applicant Lincoln Restoration Committee respectfully seeks leave to file a friend of the court brief in this case.

Dated this 20<sup>th</sup> day of July 2017.

TOOLE & FEEBACK, PLLC



KD Feeback  
Attorneys for Applicant Lincoln Restoration Committee

\* \* \* \* \*

Certificate of Compliance

I certify that this brief contains 2063 words as determined by Word Perfect software, excluding the caption and the certificates of service and compliance.

  
KD Feeback

///

Certificate of Service

I certify that on the 20<sup>th</sup> day of July 2017, I served a copy of the forgoing Motion for Leave to file an Amicus Brief via first class mail and email on the following:

Rebecca K. Smith  
Public Interest Defense Center, PC  
PO Box 7584  
Missoula, Montana 59807  
[publicdefense@gmail.com](mailto:publicdefense@gmail.com)

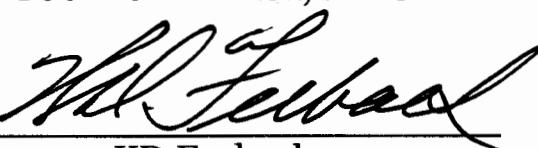
Timothy M. Bechtold  
Bechtold Law Firm  
PO Box 7051  
Missoula, Montana 59807  
[tim@bechtoldlaw.net](mailto:tim@bechtoldlaw.net)

Kristine Marie Akland  
Akland Law Firm, PLLC  
PO Box 7274  
Missoula, Montana 59807  
[aklandlawfirm@gmail.com](mailto:aklandlawfirm@gmail.com)

Mark Steger Smith  
U.S. Attorney's Office - Billings  
2601 Second Avenue North  
Suite 3200  
Billings, Montana 59101  
[mark.smith3@usdoj.gov](mailto:mark.smith3@usdoj.gov)

Melissa Anne Hornbein  
U.S. Attorney's Office - Helena  
901 Front Street  
Suite 1100  
Helena, Montana 59626  
[melissa.hornbein@usdoj.gov](mailto:melissa.hornbein@usdoj.gov)

John H. Martin  
U.S. Department of Justice  
1961 Stout St., 8th Floor  
Denver, CO 80294  
[john.h.martin@usdoj.gov](mailto:john.h.martin@usdoj.gov)

TOOLE & FEEBACK, PLLC  
  
KD Feeback  
Attorneys for Applicant Amicus

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

---

ALLIANCE FOR THE WILD	)	
ROCKIES and NATIVE	)	
ECOSYSTEMS COUNCIL,	)	
	)	
Plaintiffs,	)	<b>CV 17-21-M-DLC</b>
	)	
-vs-	)	
LEANNE MARTIN, Regional	)	<b>Order Granting Unopposed</b>
Forester of Region One of the U.S.	)	<b>Motion of Lincoln</b>
Forest Service, and UNITED	)	<b>Restoration Committee, et</b>
STATES FOREST SERVICE, an	)	<b>al., for Leave to File Amicus</b>
agency of the U.S. Department of	)	<b>Brief</b>
Agriculture,	)	
	)	
Defendants.	)	
	)	

---

The unopposed motion of Lincoln Restoration Committee, *et al.*, for leave to file an *amicus curiae* brief is hereby GRANTED. *Amicus* may file a brief no later than August 1, 2017.

Dated this \_\_\_\_ day of July 2017.

---

Hon. Dana L. Christensen  
District Court Judge