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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON
6 FOR THE COUNTY OF LINCOLN

7	REX CAPRI, WAKEFIELD FARMS, LLC,)	Case No. 17CV23360
8)	
9	Plaintiffs,)	DECLARATION OF CAROL
10	v.)	VAN STRUM IN SUPPORT OF
11	DANA W. JENKINS, LINCOLN COUNTY,)	MOTION TO INTERVENE
12	Defendants,)	BY THE SILETZ RIVER
13	and)	ECOSYSTEM
14	LINCOLN COUNTY COMMUNITY RIGHTS,)	
15	Intervenor-Defendant.)	
16)	

17 1. I, Carol Van Strum, make this declaration in support of the motion to intervene by the
18 Siletz River Ecosystem filed in the above-entitled case. I have personal knowledge of the facts set
19 forth in this declaration.

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21 2. Through this declaration, I support the participation of the Siletz River Ecosystem in
22 the above-entitled action to assert the interests of this ecosystem secured by the Freedom from
23 Aerially Sprayed Pesticides Ordinance of Lincoln County (hereafter "the Ordinance"). These
24 interests are based on the recognized legal rights to be free from aerially sprayed pesticides and
25 prohibitions on this corporate activity, including the legality of the Ordinance itself.
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1 AS A LINCOLN COUNTY RESIDENT

2 3. I have lived in Lincoln County for 43 years in a home surrounded by Siuslaw
3 National Forest land. I am part of the ecosystems of Lincoln County, including the Siletz River
4 Ecosystem.

5 4. During the 1970s, having witnessed deaths, deformities and illness of songbirds,
6 waterfowl, aquatic animals, wildlife, domestic animals and my own children after exposure to USDA
7 Forest Service aerial herbicide spraying, I co-founded, with my neighbors, Citizens Against Toxic
8 Sprays. Our lawsuit against the U.S. government resulted in a court-ordered ban of Forest Service
9 aerial spraying and subsequently a change in Forest Service policy favoring selective harvest and
10 multiple species restoration instead of clearcutting and herbicide spraying. For a well-documented
11 history of that case, see my book, *A Bitter Fog: Herbicides and Human Rights*, 1983; 2014.

12 5. I am blessed to live now in a healthy, diverse forest, free from fear of helicopters
13 spraying us. I have witnessed in my lifetime the return of eagles, crawdads, newts, peregrine falcons,
14 merlins, spotted owls, fishers, and other creatures that disappeared during the years of rampant aerial
15 spraying. Sadly, other areas of Lincoln County, where I frequently visit for business, medical, and
16 social reasons, are surrounded by the barren clearcuts and commercial tree plantations of the timber
17 industry, which has continued the practice of aerial poisoning with impunity. These areas, including
18 the Siletz River Ecosystem, deserve the same freedom from poisoning that my little corner of Earth
19 – surrounded by unsprayed National Forest – now enjoys.

20 AS A PART OF THE SILETZ RIVER ECOSYSTEM

21 6. The Siletz River Ecosystem, which extends from the Oregon Coast Range mountains
22 to the Pacific Ocean, encompasses a watershed that has been decimated by industrial over-cutting.
23
24 Between 2000 and 2015, 42 percent of the Siletz watershed was clearcut, and in 2015, it was listed

1 as the most deforested watershed in western Oregon. Aerial photographs and Google views show so
2 many bald, treeless clearcuts that the area looks strip-mined. Absent the protection of the Ordinance,
3 each of those clearcuts is subject to multiple aerial applications of poisonous chemicals that
4 contaminate both the Siletz and its many feeder streams through direct application, drift, and run-off.

5
6 7. The Siletz watershed is home to many families as well as a rich diversity of wildlife
7 and native salmon that are directly and negatively impacted by aerial pesticide spraying. The Siletz
8 flow also feeds more communities' water intakes than any of the other flows in Lincoln County,
9 supplying Siletz, Toledo, Seal Rock, and other towns. During the dry season, it also supplies water
10 to Newport when Big Creek cannot meet demand.

11 8. The Siletz River Ecosystem is typical of the Alsea, Yachats, and other Lincoln
12 County watershed ecosystems that drain the western slopes of the Oregon Coast Range. All these
13 watersheds share a temperate climate, ample rainfall, and fertile soils favorable to one of the most
14 diverse, healthiest forests in the U.S. Indeed, the Siuslaw National Forest, which comprises much of
15 south Lincoln County, was proclaimed the most productive national forest in the nation before it was
16 overcut drastically during the 1970s. Massive, repeated aerial spraying of the Siuslaw's vast
17 clearcuts during those years resulted in dioxin contamination of our deer and elk populations, which
18 suffered stillbirths, abortions, and deformed offspring. The spraying also contaminated the entire
19 Alsea River watershed, with one Lincoln County stream having the highest levels of dioxin ever
20 reported in Pacific Northwest river systems. The Ordinance will spare the Siletz and other Lincoln
21 County watersheds the grim fate of the Alsea system.
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1 9. An aerial photograph from Google Earth that shows the Siletz River Ecosystem and
2 documents the extensive clearcutting on the area is attached as Exhibit 1. In the last 16 years, the
3 entire Siletz watershed has lost 46% of its forest. This photograph is of the area above Moonshine
4 Park several miles up Siuslaw National Forest Road near the confluence of the Siletz River and Buck
5 Creek. The three forks of Buck Creek can be seen on the lower left hand of the page. This is a
6 crucial spawning ground for multiple species of salmon and steel head. This area is also very popular
7 for deer hunting and salmon and steel head fishing. This landscape has drastically changed in the last
8 ten years. The photo shows how the buffer zone around the river has left a small strip of trees on
9 some areas of the river with no trees on either side of the buffer. This photo also shows the steepness
10 of the terrain which leads to mudslides and pesticide run-off into the river and smaller feeder creeks.
11 These steep slopes are at risk of contaminating the river and streams during the spray season.

12
13 10. On the clearcut areas, the aerial application of pesticides is the standard forest
14 management practice. According to OSU guidelines, a forest unit may be aerielly sprayed with an
15 array of herbicides a number of times: before timber harvest to prevent rapid growth of brush after
16 trees are removed; to prepare a clearcut site for replanting by killing all plants on it; to convert a
17 brush field to a bare site for planting a conifer plantation; to "release" newly planted and young
18 conifers from other "competing" plant species; to kill particular target species that allegedly compete
19 with conifers. Each of these applications occurs at different times of year, such as fall or winter
20 when conifers are dormant or spring before bud break or summer for maximum kill of broadleaf
21 plants. Some applications, such as for conifer release, may be repeated several times until the trees
22 are large enough to overshadow supposedly competing species. The United States Department of
23 Agriculture manages National Forests without aerial pesticide spraying. This shows that the aerial
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1 spraying of pesticides is not necessary for forest management and timber harvest. It is convenient,
2 but comes at a tremendous health cost for people and the ecosystem.

3 11. The enactment of the Ordinance represents a significant gain for the Siletz River
4 Ecosystem because, for the first time, the Siletz River Ecosystem and all Lincoln County natural
5 communities and ecosystems have secured legal rights to be free from toxic trespass from aerially
6 sprayed pesticides under Section 3(a) of the Ordinance. This right is essential to ecosystems' on-
7 going health, function and survival.
8

9 12. Clearly, the Siletz River Ecosystem has a substantial interest in this case in which its
10 rights, interests and general well-being are at stake. If this court declares the Ordinance invalid, the
11 Siletz River Ecosystem will be deprived of its right to be free of aerially sprayed pesticides.

12 13. Therefore, in light of the Siletz River Ecosystem's stated right and interests, any
13 outcome in this proceeding immediately, directly, and significantly affects the rights and interests of
14 the Siletz River Ecosystem as it impacts the enactment and enforcement of the Ordinance. If the
15 court were to find the Ordinance unlawful, the judgment in this matter would represent a substantial
16 loss to the Siletz River Ecosystem's rights and interests.
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18 14. The County cannot fully represent the Siletz River Ecosystem's interests in this case
19 because, while the County has an interest in the general lawfulness of the Ordinance and the
20 operation of state preemption on county law-making, the County does not have a stated interest in
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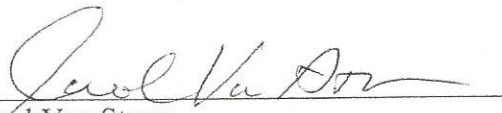
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1 protecting the rights and interests of the natural communities and ecosystems of Lincoln County,
2 specifically the Siletz River Ecosystem, to be free from toxic trespass and aerial pesticide spraying.

3 DATED this 20th day of July, 2017.

4 I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF
5 MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS
6 EVIDENCE IN COURT AND IS SUBJECT TO PENALTY OF PERJURY.

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8 
9 Carol Van Strum

10 Submitted by:
11 Ann B. Kneeland, OSB #992977
12 Community Environmental Legal Defense Fund
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Siletz River

Moonshine Park

Logsden

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EXHIBIT 1: page 1 of 1

1 **CERTIFICATE OF SERVICE**

2 I certify that on July 21, 2017, I served the foregoing DECLARATION OF CAROL VAN
3 STRUM IN SUPPORT OF MOTION TO INTERVENE BY THE SILETZ RIVER ECOSYSTEM

4 upon:

5 Gregory A. Chaimov
6 Davis Wright Tremaine LLP
7 1300 S. W. Fifth Avenue, Suite 2400
8 Portland, Oregon 97201-5610,

9 and

10 Wayne Belmont
11 Lincoln County Counsel
12 110 Lincoln County Courthouse
13 225 W Olive St
14 Newport, OR 97365

15 by E-serve.

16 DATED this 21st day of July, 2017.

17 s/ Ann B. Kneeland
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24 Attorney for Intervenor-Applicant