



NATURAL RESOURCES DEFENSE COUNCIL

October 10, 2003

VIA FACSIMILE

Mr. Stephen Liacouras, Circuit Mediator
U.S. Court of Appeals for the Ninth Circuit
Thomas F. Eagleton Courthouse
95 Seventh & Mission Streets
San Francisco, CA 94103
FAX: (415) 556-9725

Re: Case No. 03-35711

Dear Mr. Liacouras:

Pursuant to the September 26, 2003 Order directing the parties to inform you whether this matter is appropriate for settlement discussions or mediation, the Plaintiffs/Appellees respond in the affirmative.

We believe that the Idaho Federal District Court correctly decided the matter, but we are confident that reasonable solutions to the Defendants'/Appellants' policy concerns exist under current law. Thus, mediation between the parties conducted under the purview of this Court could provide an opportunity to resolve these disputes without further litigation. Importantly, to effectively resolve these issues via mediation, the Plaintiffs/Appellees would welcome the participation of the amici from the Idaho Federal District Court proceeding (the States of Idaho, Washington, South Carolina and Oregon) and other states, such as New York, that might have substantial interest in these matters.

There is no need to keep this letter confidential and you may share it with the other parties in the case. If you have any questions, please do not hesitate to call me at (202) 289-2371. Thank you for your assistance in this matter.

Sincerely,

Geoffrey H. Fettus, Staff Attorney
Natural Resources Defense Council
1200 New York Avenue, N.W., Suite 400
Washington, D.C. 20005
Counsel for Plaintiffs/Appellees

