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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WESTERN WATERSHEDS PROJECT,
ALLIANCE FOR THE WILD
ROCKIES, and YELLOWSTONE TO
UINTAS CONNECTION

Plaintiffs,

v.

DAVID BERNHARDT, in his official
capacity as Secretary, U.S. Department
of the Interior, UNITED STATES FISH
AND WILDLIFE SERVICE, and
UNITED STATES FOREST SERVICE,

Defendants.

Civil Action No. 1:20-cv-860-APM

MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Western Watersheds Project, Alliance for the Wild Rockies, and Yellowstone to Uintas Connections respectfully move this Court for a preliminary injunction to prevent the

unlawful take of two species protected by the Endangered Species Act: the grizzly bear, listed as “threatened,” and the Kendall Warm Springs dace, listed as “endangered.” Plaintiffs file a Memorandum of Points and Authorities in support of this motion.

As part of the Upper Green River Area Rangeland (UGRA) Project, the U.S. Forest Service authorized ten-year livestock grazing permits for six allotments within suitable grizzly bear habitat in the Greater Yellowstone Ecosystem. In 2019, the U.S. Fish and Wildlife Service produced a flawed biological opinion regarding the effects of permitted grazing on grizzly bears, and as part of its conclusions authorized the lethal removal of up to 72 grizzly bears over ten years from the six UGRA Project allotments. Through its UGRA Project Record of Decision, the U.S. Forest Service also authorized cattle herding through an enclosure surrounding the Kendall Warm Springs as permittees move their livestock onto the six allotments. The enclosure is meant to protect the only known habitat in the world for the Kendall Warm Springs dace, a small endemic fish.

A preliminary injunction is necessary at this time because the UGRA Project Record of Decision authorizes livestock grazing to begin on these allotments on June 14, 2020, and conflicts between livestock and grizzly bears will then resume. Three bears have already been killed in response to grizzly-livestock conflicts pursuant to the U.S. Fish and Wildlife Service’s 2019 authorization. Cattle trailing toward and through the allotments will negatively impact the Kendall Warm Springs dace on or prior to the June 14 turn-out date.

This Court has not yet had the opportunity to review the merits of the case. A preliminary injunction to preserve the *status quo* is warranted here because the public interest and balance of equities tip sharply in Plaintiffs’ favor, the 2019 biological opinion and UGRA Project threaten imminent and irreparable harm to the listed species and Plaintiffs’ interests, and Plaintiffs have raised serious questions on the merits.

Plaintiffs understand the current global pandemic has necessarily shifted priorities and resources for the Court. For that reason, Counsel for Plaintiffs conferred with counsel for Defendants by electronic mail and telephone on May 6 and May 7, 2020, to discuss whether Defendants and Plaintiffs could reach an agreement regarding take of the two species absent a motion for a preliminary injunction. Defendants have declined to voluntarily agree not to lethally remove grizzly bears on these allotments or to allow cattle herding through the Kendall Warm Springs enclosure until the Court has an opportunity to decide this case on the merits. Defendants oppose this motion.

For the reasons stated above and in the accompanying Memorandum of Points and Authorities, Plaintiffs request this Court enjoin the lethal removal of grizzly bears from the UGRA Project allotments in response to livestock conflicts until the Court has decided this case on the merits. In addition, Plaintiffs request this Court enjoin the herding of cattle through the Kendall Warm Springs enclosure until the Court has decided this case on the merits.

Respectfully submitted for the Court's consideration this 7th day of May, 2020.

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