

Rebecca K. Smith  
Public Interest Defense Center, P.C.  
P.O. Box 7584  
Missoula, MT 59807  
(406) 531-8133  
publicdefense@gmail.com

Timothy M. Bechtold  
Bechtold Law Firm, PLLC  
P.O. Box 7051  
Missoula, MT 59807  
(406) 721-1435  
tim@bechtoldlaw.net

Attorneys for Plaintiffs

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

---

ALLIANCE FOR THE WILD  
ROCKIES, NATIVE ECOSYSTEMS  
COUNCIL,

Plaintiffs,

CV-

COMPLAINT FOR INJUNCTIVE  
AND DECLARATORY RELIEF

vs.

HILARY COOLEY, U.S. Fish &  
Wildlife Service Grizzly Bear  
Recovery Coordinator; MARTHA  
WILLIAMS, Director, U.S. Fish &  
Wildlife Service; DEB HAALAND,  
Secretary, Department of Interior,

Defendants.

---

## I. INTRODUCTION

1. This is a civil action for judicial review under the Administrative Procedure Act (APA) of the U.S. Fish and Wildlife Service's (USFWS) failure to act and unreasonable delay regarding its Final Rule and Regulation, Record of Decision, and Final Environmental Impact Statement (Final EIS) on Bitterroot grizzly bear recovery and establishment of a nonessential experimental population in the Bitterroot area of Montana and Idaho, and its Proposed Rule to revoke the same and implement the "no action" alternative from the Final EIS.
2. Plaintiffs Alliance for the Wild Rockies and Native Ecosystems Council attest that Defendants' conduct and/or failure to act constitutes unlawful unreasonable delay and/or is arbitrary and capricious, an abuse of discretion, and/or otherwise not in accordance with law.
3. Defendants' failure to issue a new final rule following the publication of their Proposed Rule, and/or Defendants' failure to comply with the existing Final Rule and Regulation, violates the APA. Additionally, Defendants' failure to prepare a supplemental EIS in light of significant changes violates the APA and National Environmental Policy Act (NEPA), 42 U.S.C. §§4331 *et seq.*
4. Plaintiffs seek a declaratory judgment, injunctive relief, the award of costs,

and expenses of suit, including attorney and expert witness fees pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412, and/or such other relief as this Court deems just and proper.

## II. JURISDICTION

5. This action arises under the laws of the United States and involves the United States as a Defendant. Therefore, this Court has subject matter jurisdiction over the claims specified in this Complaint pursuant to 28 U.S.C. §§ 1331, 1346.
6. An actual controversy exists between Plaintiffs and Defendants. Plaintiffs' members use and enjoy the Bitterroot region for hiking, fishing, hunting, camping, photographing scenery and wildlife, and engaging in other vocational, scientific, spiritual, and recreational activities. Plaintiffs' members intend to continue to use and enjoy the area frequently and on an ongoing basis in the future. Plaintiffs' members are heavily invested in grizzly bear recovery in the Bitterroot region and understand that grizzly recovery in the Bitterroot is necessary for the long-term viability and recovery of grizzly bears throughout the lower 48 states.
7. The aesthetic, recreational, scientific, spiritual, and educational interests of Plaintiffs' members have been and will be adversely affected and irreparably injured if Defendants continue to unreasonably delay taking

final action, and continue to unreasonably delay supplementing the EIS to reflect and address dramatically changed conditions over the past 20 years since the original final EIS was published. These are actual, concrete injuries caused by Defendants' failure to comply with mandatory duties under the APA and NEPA. The requested relief would redress these injuries and this Court has the authority to grant Plaintiffs' requested relief under 28 U.S.C. §§ 2201 & 2202, 5 U.S.C. §§ 705 & 706.

### III. VENUE

8. Venue in this case is proper under 28 U.S.C. §1391(e) and Local Rule 3.2(b). Defendant Cooley, and the office of the Grizzly Bear Recovery Program, are located in Missoula County. Additionally, the Bitterroot region falls in part within Missoula County and Ravalli County. Missoula County and Ravalli County are in the Missoula Division of the United States District Court for the District of Montana.

### IV. PARTIES

9. Plaintiff ALLIANCE FOR THE WILD ROCKIES is a tax-exempt, non-profit public interest organization dedicated to the protection and preservation of the native biodiversity of the Northern Rockies Bioregion, its native plant, fish, and animal life, and its naturally functioning ecosystems. Its registered office is located in Missoula, Montana. The

Alliance has over 2,000 individual members. Members of the Alliance observe, enjoy, study, and appreciate the Bitterroot's native wildlife, including grizzly bears, as well as water quality and terrestrial habitat quality, and expect to continue to do so in the future. Alliance's members' professional and recreational activities are directly affected by Defendants' failure to perform their duties. Alliance for the Wild Rockies brings this action on its own behalf and on behalf of its adversely affected members.

10. Plaintiff NATIVE ECOSYSTEMS COUNCIL is a non-profit Montana corporation with its principal place of business in Three Forks, Montana. Native Ecosystems Council is dedicated to the conservation of wildlife and natural resources on public lands in the Northern Rockies. Its members observe, enjoy, and study grizzly bears throughout the Northern Rockies, and expect to continue to do so in the future. Its members' professional and recreational activities are directly affected by Defendants' failure to perform their duties. Native Ecosystems Council brings this action on its own behalf and on behalf of its adversely affected members.
11. Defendant HILARY COOLEY is the U.S. Fish & Wildlife Service Grizzly Bear Recovery Coordinator. The Grizzly Bear Recovery Program is the agency program responsible for the Bitterroot grizzly recovery EIS.
12. Defendant MARTHA WILLIAMS is the Director of the U.S. Fish &

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.