

Lindsey W. Hromadka
Michelle Tafoya Weinberg
WEINBERG & HROMADKA, PLLC
P.O. Box 652
Whitefish, MT 59937
Phone: (406) 730-2988
lindsey@whlawmt.com
michelle@tafoyalawfirm.com

David K. Wilson
MORRISON, SHERWOOD, WILSON & DEOLA, PLLP
401 N. Last Chance Gulch
Helena, MT 59601
Phone: (406) 442-3261
kwilson@mswdlaw.com

Attorneys for Plaintiffs

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

FRIENDS OF THE FLATHEAD
RIVER, a Montana Nonprofit
Corporation,

Plaintiff,

vs.

U.S. FOREST SERVICE, and
LEANNE MARTEN, REGIONAL
FORESTER FOR THE U.S.
FOREST SERVICE REGION 1

Defendant.

Cause No. _____

**COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. This civil action requests declaratory and injunctive relief for violations of the Wild and Scenic Rivers Act (“WSRA”), 16 U.S.C. §§ 1271, *et seq.*, the Forest Service Organic Administration Act of 1897 (“Organic Act”), 16 U.S.C. § 551, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701, *et seq.*

2. Specifically, this action seeks to compel preparation of the long overdue review and update of the Flathead Comprehensive River Management Plan required to be prepared under the Act and, until finalized and implemented, enjoin dispersed overnight camping southwest of Blankenship Bridge on the gravel bar on the Middle Fork of the Flathead River (the “Gravel Bar”).

3. In 1976, Congress designated three forks of the Flathead River in Montana to be protected under the Wild and Scenic Rivers Act. 16 U.S.C. § 1274 (a)(13).

4. The WSRA requires the preparation of Management Plans to “protect and enhance...outstanding remarkable values” for “future generations.”

5. The Forest Service Organic Administration Act of 1897, 16 U.S.C. § 551, requires the Forest Service to regulate the “occupancy and use” of the national forests and to “preserve the forests thereon from destruction.”

JURISDICTION AND VENUE

6. Jurisdiction is proper in this Court given the Defendant is an agency within the U.S. federal government, and under 28 U.S.C. § 1331 (federal question) as this

action arises under the laws of the United States , including the National Wild and Scenic Rivers Act of 1968, 16 U.S.C. §§ 1271–1287, the Forest Service Organic Administration Act of 1897 (“Organic Act”), 16 U.S.C. § 551, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, and the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412 *et seq.* An actual, justiciable controversy exists between the parties, and the requested relief is therefore proper under 28 U.S.C. §§ 2201–2202 and 5 U.S.C. § 701–06.

7. Venue is proper in this Court under 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district, Plaintiff’s Directors and supporters reside in this district, and the public lands and resources in question are located in this district.

8. The federal government has waived sovereign immunity in this action pursuant to 5 U.S.C. § 702.

PARTIES

9. Plaintiff Friends of the Flathead River, Inc. (“Friends”) is a Montana non-profit organization, whose mission is to protect and preserve the Flathead River watershed. Many of Friends’ Directors and supporters live near Blankenship Bridge on the Middle Fork of the Flathead River in Flathead County and enjoy activities such as hiking, fishing, wildlife watching, picnicking, running, and rafting within

and adjacent to the Flathead Wild and Scenic Corridor. The aesthetic, recreational, and conservation interests of Friends and its members have been, are being, and will continue to be adversely affected and irreparably harmed by Defendant's (i) failure to update the Flathead Comprehensive River Management Plan and (ii) continued authorization of overnight camping southwest of Blankenship Bridge directly on the Gravel Bar of Middle Fork of the Flathead River, causing ongoing damage to its resources.

10. Defendant United States Forest Service (the "Forest Service") is the agency charged with the administration of the designated Flathead River wild and scenic river segments at issue here and is responsible for compliance with the Wild and Scenic Rivers Act and the Travel Management Rule (36 C.F.R. §§ 212, *et. seq.*) for these designated segments.

LEGAL BACKGROUND

National and Wild Scenic Rivers Act

11. Congress enacted the National Wild and Scenic Rivers Act in 1968 to identify rivers that possess "outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values" and to preserve those rivers in free-flowing condition and protect their immediate environments "for the benefit and enjoyment of present and future generations." 16 U.S.C. § 1271.

12. The policy of the WRSA is to "preserve [] selected rivers or sections thereof

in their free-flowing condition *to* protect the water quality of such rivers and to fulfill other vital national conservation purposes.” *Id.*

13. River corridors, including adjacent land, included in the wild and scenic rivers system are classified as wild, scenic, or recreational. *Id.* § 1273(b). Wild rivers are those rivers or sections of rivers that “are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted.” *Id.* § 1273(b)(1). These rivers represent “vestiges of primitive America.” *Id.* Scenic rivers are “free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.” *Id.* § 1273(b)(2). Finally, recreational rivers are “readily accessible by road or railroad [and] may have some development along their shorelines, and [] may have undergone some impoundment or diversion in the past.” *Id.* § 1273(b)(3).

14. Once a river is designated, the federal agency charged with administration of that corridor “shall prepare a comprehensive management plan for such river segment to provide for the protection of the river values.” *Id.* § 1274(d)(1). These management plans must address resource protection, development, use, and other management practices that will achieve the purposes of the WSRA. *Id.*

15. Each component of the system, regardless of its classification as wild, scenic, or recreational, “shall be administered in such manner as to *protect and enhance* the

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