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FILED  
U.S. DISTRICT COURT  
DISTRICT OF WYOMING  
2014 JUL 14 AM 11 12  
STEPHAN HARRIS, CLERK  
CHEYENNE

UNITED STATES DISTRICT COURT  
DISTRICT OF WYOMING

WESTERN WATERSHEDS PROJECT,

Petitioner,

vs.

UNITED STATES FOREST SERVICE, an  
administrative agency of the United States  
Department of Agriculture; CLINT KYHL, in  
his official capacity as Forest Supervisor,  
Bridger-Teton National Forest;

Respondents.

Civ. Case No. 14-CV-140-S

PETITION FOR REVIEW OF AGENCY  
ACTION

1. Pursuant to Local Civil Rule 83.6, Western Watersheds Project hereby petitions the Court for review of the United States Forest Service's decision to grant a twenty-year Special Use Permit to the Wyoming Game and Fish Department ("WGFD") to use National Forest System

federal public lands for winter elk feeding operations. On July 15, 2008, then-Forest Supervisor Carole “Kniffy” Hamilton signed a Record of Decision granting the twenty-year permit. On October 17, 2008, Appeal Deciding Officer Harv Forsgren rejected Western Watersheds Project’s administrative appeal, constituting final agency action. The decision challenged herein is thus final and subject to this Court’s review pursuant to the Administrative Procedure Act, 5 U.S.C. § 706.

2. Petitioner WESTERN WATERSHEDS PROJECT (“WWP”) is a non-profit conservation group founded in 1993 with approximately 2000 members, including over 150 in Wyoming. WWP is headquartered in Hailey, Idaho, with field offices in Wyoming, Idaho, Montana, Utah, Arizona, and California. WWP’s mission is to protect and restore western watersheds and wildlife through education, public policy initiatives and legislation. WWP members use the Bridger-Teton National Forest lands and Palisades Wilderness Study Area lands impacted by this permitting action for a variety of pursuits, including hiking, backpacking, botanizing, photography, wildlife watching, birding, hunting, gathering antlers, and other recreational and scientific activities. The interests of WWP and its members have been and will continue to be irreparably impaired if WGFD continues to use federal public lands for elk feeding operations per a permit granted in violation of the National Environmental Policy Act (“NEPA”), the National Forest Management Act (“NFMA”), and the Wyoming Wilderness Act of 1984 (“WWA”).

3. Respondent UNITED STATES FOREST SERVICE is an agency of the United States and is a division of the Department of Agriculture. The Forest Service is charged with managing the lands and resources within the Jackson and Pinedale Ranger Districts of the Bridger-Teton National Forest in accordance and compliance with NEPA, NFMA, the WWA, and other federal

laws and regulations, and is responsible for approving the special use permit that is the subject of this litigation.

4. Respondent CLINT KYHL is the Forest Supervisor for the Bridger-Teton National Forest and, in that capacity, has management responsibility for the Forest Service's actions pursuant to decisions impacting the Bridger-Teton National Forest. Respondent Kyhl is the successor to Carole "Kniffy" Hamilton, who was the Forest Supervisor of the Bridger-Teton National Forest at the time of the challenged action, and who signed the Forest Service Record of Decision approving the challenged action.

5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331 (federal question), § 1346 (United States as a defendant), § 2201 (injunctive relief), and § 2202 (declaratory relief). The current cause of action arises under the laws of the United States, including the APA, WWA, NFMA, and NEPA. The requested relief is proper under 28 U.S.C. §§ 2201-2202, and 5 U.S.C. §§ 705-706.

6. Venue lies in the District of Wyoming pursuant to 28 U.S.C. § 1391(e) because (1) respondent U.S. Forest Service maintains a Supervisor's Office in Wyoming and respondent Clint Kyhl resides in Wyoming; (2) Petitioner WWP has offices in this District; (3) the lands at issue lie within the Bridger-Teton National Forest, headquartered in Jackson, Wyoming; and (4) a substantial part of the events or omissions giving rise to claims in this case occurred in Wyoming.

7. Petitioner seeks review of the Record of Decision described in paragraph 1, *supra*, and the associated Final Environmental Impact Statement on the following bases:

a. The decision violates the Wyoming Wilderness Act of 1984 ("WWA"), Pub.L. No. 98-550, 98 Stat. 2807;

b. The decision violates the National Forest Management Act (“NFMA”), 16 U.S.C. §§ 1600-1687;

c. The decision violates the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4370h, and its implementing regulations; and

d. For these reasons, the decision to grant the permit to WGFD to use Bridger-Teton National Forest lands for winter elk feedgrounds was arbitrary, capricious, an abuse of discretion, and not in accordance with law pursuant to the Administrative Procedure Act (“APA”), 5 U.S.C. § 706(2)(A), (D).

Wherefore, Petitioner requests the Court to:

1. Declare that the decision violates the WWA, NFMA, and NEPA, and is arbitrary, capricious, an abuse of discretion, and not in accordance with law pursuant to the APA;

2. Set aside the Record of Decision and the special use permit issued pursuant to it;

3. Enjoin the Forest Service from permitting winter elk feeding on lands in the Bridger-Teton National Forest in violation of the Wyoming Wilderness Act and the Bridger-Teton National Forest Plan;

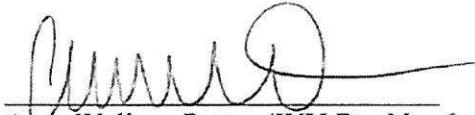
4. Award Petitioner reasonable fees, costs, and expenses, including attorneys fees, associated with this litigation; and

5. Grant Petitioner such further and additional relief as this Court may deem just and proper.

Respectfully submitted this 11<sup>th</sup> day of July, 2014.



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