

Lauren M. Rule (ISB # 6863)
ADVOCATES FOR THE WEST
PO Box 1612
Boise ID 83701
(208) 342-7024
(208) 342-8286 (fax)
lrule@advocateswest.org

Laurence ("Laird") J. Lucas (ISB # 4733)
PO Box 1342
Boise ID 83701
208-424-1466 (phone and fax)
llucas@lairdlucas.org

Attorneys for Plaintiffs

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

WOLF RECOVERY FOUNDATION, and
WESTERN WATERSHEDS PROJECT

Original Plaintiffs,

and

THE WILDERNESS SOCIETY, GREAT OLD
BROADS FOR WILDERNESS, IDAHO
CONSERVATION LEAGUE, WINTER
WILDLANDS ALLIANCE, WILDERNESS
WATCH, and SIERRA CLUB,

Co-Plaintiffs On Third Claim For Relief

v.

U.S FOREST SERVICE and USDA APHIS
WILDLIFE SERVICES,

Defendants.

No. 09-cv-686-BLW

**DECLARATION OF
THOMAS KOVALICKY**

I, Thomas Kovalicky, with full knowledge of the penalties for perjury, declare as follows:

1. I am a retired Forest Service employee with over thirty years of experience working for the agency, much of which was spent implementing the 1964 Wilderness Act and managing Forest Service wilderness areas. I have a deep appreciation for and thorough understanding of wilderness values and what it means to protect wilderness character.

2. I have a Bachelor of Science degree in forestry from the University of Montana. I began my career with the Forest Service in 1962 as a Forester. From 1970 to 1972, I was the District Ranger in Stanley, Idaho and managed the area along the Middle Fork of the Salmon River, which at the time was within the "Idaho Primitive Area" before the designation of the Frank Church River Of No Return Wilderness. Next, I acted as the Assistant Superintendent for Administration of the Sawtooth National Recreation Area in 1972-1976. From 1976 to 1980, I was the Assistant Director in Region 1 for Wilderness, Wild and Scenic Rivers, and other special areas. In this position, I was an advisory specialist for administration of Wilderness, Wild and Scenic Rivers, and Special Use Recreation Areas, advising the Regional Director of Recreation and Lands, the Regional Forester, and the forest supervisors and district rangers on thirteen national forests.

3. Then in 1980, I was named the Deputy Forest Supervisor on the Flathead National Forest in western Montana. This forest contains an extensive amount of Wilderness and Wild and Scenic Rivers now and at the time I was Deputy Supervisor. Finally, I ended my career as the Forest Supervisor of the Nez Perce National Forest from 1982-1991. The Nez Perce National Forest also contains a lot of Wilderness. In fact, the Moose Creek Ranger District on this forest falls entirely within the Selway Bitterroot Wilderness Area, one of only a few Forest Service Ranger Districts that falls completely within the boundary of a wilderness area.

4. Because of the significant amount of wilderness in the forests on which I worked, many of my responsibilities dealt with issues related to wilderness management and oversight of decisions implementing the 1964 Wilderness Act and the individual acts designating specific wilderness areas. I also advised the Chief of the Forest Service on numerous occasions in preparation for testimony before Congress about potential new wilderness areas.

5. My experience administering and managing wilderness is also the reason that the Chief of the Forest Service commissioned me in 1991 to start the Arthur Carhart National Wilderness Management School, where I taught wilderness stewardship to Forest Service managers after I retired from the Forest Service. The school later expanded to include managers from the Bureau of Land Management, U.S. Fish and Wildlife Service, and the National Park Service. I instructed these federal land managers on how to implement the 1964 Wilderness Act to insure that they were managing their lands and resources in accordance with the requirements of the Act.

6. I have read the Forest Service's decision notice to issue a special use permit to Idaho Department of Fish Game ("IDFG") allowing it to use and land helicopters in the Frank Church River of No Return Wilderness Area to dart and collar wolves. Based on more than thirty years of professional experience implementing the Wilderness Act and managing wilderness areas for the Forest Service, I believe this decision will harm the wilderness resource and the wilderness experience of anyone using the Middle Fork Salmon River corridor, and that the Forest Service did not adequately consider the impacts to wilderness character and the precedential nature of this decision for future wilderness management.

7. The heart of the 1964 Wilderness Act is the concept that wilderness areas are and should remain wild and in their natural state. The intent of the Act is to keep lands from

becoming developed or modified, and thus managers must remove human intrusions and prohibit new intrusions. I managed wilderness to insure that we were always moving toward more intact wilderness and fewer intrusions, protecting these areas that were set aside for surprise and discovery of how ecosystems work in their natural state.

8. The Wilderness Act specifically prohibits the use of all motorized and mechanized equipment and landing of aircraft in wilderness except as necessary to meet minimum requirements for the administration of the area for the purpose of the Act—i.e. preserving wilderness character. The use and landing of helicopters to radio-collar wolves is not necessary to preserve the wilderness character of the Frank Church River of No Return Wilderness Area. Instead, it will impair the wilderness character of the area.

9. The purpose of this project is to gain more information about wolves to assist IDFG in managing the wolf population. However, managing wildlife does not enhance or preserve wilderness values. In order to preserve the wilderness character, wildlife should be left alone in their natural state. It is not necessary to have detailed information on wolves to benefit the wilderness resource or to have a healthy wilderness ecosystem.

10. Rather, using helicopters to dart and collar wolves is detrimental to the wilderness character by allowing motorized human intrusions into the wilderness, disrupting the natural state of the ecosystem as well as the wildlife that reside there. As I mentioned above, proper implementation of the Wilderness Act requires prohibiting human modifications and intrusions into wilderness areas and keeping these areas as wild as possible. The use of helicopters as well as the installation of radio-collars on wolves are human intrusions into wilderness that diminish the wildness of the area.

11. Moreover, the use of helicopters is not necessary to install radio-collars on wolves because other non-motorized methods to collar wolves are possible. I am very familiar with the terrain of the Middle Fork Salmon River, where the radio-collaring will occur, and can verify that it would be possible to use traps to capture and collar wolves. As the District Ranger in Stanley I was responsible for managing that area, which often required sending employees into that area in early spring to conduct work on the ground. It is certainly feasible to send people in on the ground in March to trap and collar wolves in the Middle Fork Salmon River corridor. This would eliminate the need to use helicopters and significantly reduce the impacts to wilderness values.

12. Although using a helicopter might be more efficient or convenient to conduct this work, the Forest Service Manual itself directs that the agency is not to use comfort, convenience, or economics as criteria for administering the wilderness to allow intrusions. FS Manual 2320.6. Managing wilderness requires reliance on primitive skills even if the result means harder or more time consuming work. For instance, this entails using cross-cut saws instead of chain saws for trail maintenance, and using pack trains and backpacks instead of helicopters, airplanes, or parachutes to get supplies into and out of wilderness areas. Simply because one method is easier is not a justification for why it is necessary for wilderness management. The Forest Service did not adequately consider the option of trapping wolves rather than using helicopters in its analysis or explain why helicopters were absolutely necessary rather than simply more convenient or easier.

13. It is true that the Frank Church River of No Return Wilderness Act allows for the continued use of certain airstrips within the wilderness by small planes as an exception to the general prohibition on motorized equipment and landing of aircraft. However, the Act does not

contain an exception for helicopters to hover at low elevations and touch down in the middle of the wilderness beyond any airstrip to assist with managing wildlife. This type of activity by a helicopter is far different than planes flying into and out of designated airstrips and causes more severe impacts to the wilderness character.

14. Forest Service policy calls for planes to fly at or above 2000 feet elevation when flying over wilderness areas, and to fly directly to and from airstrips without detouring to sightsee at low elevations. This policy was intended to protect people and their experience in the backcountry and disrupt them as little as possible. Having helicopters hover much lower than 2000 feet to dart wolves and then touch down to drop off and pick up gear and personnel is a much different activity, and far more disruptive of the solitary backcountry experience. The Forest Service should be limiting additional disruptions as much as possible to promote wilderness values instead of harming the wilderness experience by expanding motorized disruptions.

15. The use of motorized equipment, particularly helicopters, in Forest Service wilderness areas has repeatedly been rejected because it is contrary to the plain language and intent of the Wilderness Act. For example, the Forest Service rejected a proposal to use helicopters to drop people off in Alaska wilderness to establish vegetation transects for research purposes. The researchers stated that helicopters were necessary because of the vast size of the wilderness they were trying to cover, and their use would occur in winter when no one was around. However, the Forest Service denied the use of a helicopter in that circumstance.

16. Similarly, the Forest Service also rejected the use of helicopters to drop people off in wilderness to test water quality in wilderness lakes for acid rain impacts. Instead, the project occurred fully on the ground, without the use of helicopters, and ended up being cheaper and

faster. The Forest Service has also denied the use of motorized equipment in wilderness areas when Department of Defense and other federal agencies requested such use even when they deemed it necessary for purposes of national security.

17. Allowing IDFG to use helicopters to dart and radio-collar wolves in the Frank Church River Of No Return Wilderness Area would destroy the Forest Service's past record on administration of wilderness and forever change the management of wilderness areas. This permit would be the start of motorized use in wilderness all over the United States, whether it be helicopters, off-road vehicles, or motorcycles, for activities that do not fall explicitly within a Congressional exception and are not truly necessary for protection of wilderness.

18. The precedent would be set for a new and broader interpretation of the Wilderness Act that allows for far more motorized intrusions and would thus destroy the integrity and intent of the Act. The exceptions to the Wilderness Act and the Frank Church River of No Return Wilderness designation should be interpreted narrowly, not broadly, to fulfill the purpose of the Act by preserving as much as possible the wilderness character of the area. The Forest Service did not even mention the precedential nature of this decision for future management of wilderness in its decision notice.

19. The Forest Service did not adequately consider the potential for significant impacts to wilderness values and any backcountry recreationists in the Middle Fork of the Salmon River corridor from using helicopters to dart and radio-collar wolves. This corridor is fairly narrow so any helicopter use in the corridor would surely disrupt the solitary experience of any backcountry users, and as noted above this disruption would far exceed that of small airplanes flying directly to or from the designated airstrips.

20. I am aware of many former Forest Service employees with experience managing wilderness who are dismayed at this decision and its ramifications to the wilderness system. Issuing this permit simply for the purpose of making it easier for IDFG to manage wildlife is contrary to past Forest Service practices and decisions and thus is very controversial; but the Forest Service did not adequately consider this controversy or the action's potentially significantly impacts in an EA or EIS.

21. In my opinion, based on my many years with the Forest Service implementing the 1964 Wilderness Act and managing various wilderness areas, the Forest Service's decision to allow IDFG to use helicopters to dart and collar wolves is harmful to the wilderness character of the area and thus is contrary to the Wilderness Act. The use of helicopters to manage wildlife is not necessary for the purpose of preserving wilderness values nor is it even necessary to collar wolves in the Middle Fork Salmon River corridor, but will severely degrade the experience of any backcountry users in that corridor who are seeking to enjoy the wilderness and wildlife in their natural state. The Forest Service at least should have completed an EA or EIS for this project before issuing the decision to fully consider its potentially significant impacts to wilderness, its potential to set new precedent for wilderness management, and its controversial nature.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated this 11th day of January, 2010

s/Thomas Kovalicky
Thomas Kovalicky