

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

Attorney for Plaintiffs

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

WOLF RECOVERY FOUNDATION, and)	No. 09-cv-686
WESTERN WATERSHEDS PROJECT)	
)	COMPLAINT
Plaintiffs,)	
)	
v.)	
)	
U.S FOREST SERVICE and USDA APHIS)	
WILDLIFE SERVICES,)	
)	
_____ Defendants.)	

INTRODUCTION

1. This Court, per Chief Judge Winmill, held in 2002 that wolves within the Sawtooth National Recreation Area (SNRA) of central Idaho are wildlife protected by the SNRA Organic Act; and that livestock grazing is a secondary use that may not “substantially impair” wolves or other wildlife in the SNRA. *See Western Watersheds Project et al. v. Sawtooth National Forest*, No. 01-cv-389-E-BLW, Docket No. 50 (June 13, 2002). Based on these rulings, the Court entered interim relief prohibiting federal agencies from undertaking wolf control measures due to livestock conflicts in the SNRA during 2002. *Id.*, Docket Nos. 79 & 93.

2. Regrettably, the federal government has ignored these rulings by the Court. Over the last several years, the federal government has continued to kill wolves in and around the SNRA due to livestock conflicts, without imposing livestock management measures to prevent

those conflicts. As a result, several more wolf packs that have occupied the SNRA since the Court's rulings have been unnecessarily exterminated or dispersed, thereby causing the substantial impairment of wolves on the SNRA in violation of the SNRA Organic Act.

3. Most recently, the federal government – acting through APHIS Wildlife Services, an agency within the U.S. Department of Agriculture (USDA) – used a helicopter hovering on the outskirts of Stanley to gun down several members of the popular Basin Butte wolf pack during the Thanksgiving holiday this year, because of alleged predation on livestock in and around the SNRA. Yet even though APHIS Wildlife Services continues to eradicate these and other wolves and wolf packs throughout central Idaho, including in and around the SNRA, it lacks any current or valid environmental analysis under the National Environmental Policy Act (NEPA); and is thus acting unlawfully.

4. At the same time, Defendant U.S. Forest Service – its sister agency in USDA – continues to authorize livestock grazing in and around the SNRA irrespective of the conflicts that such grazing causes with wolves, and irrespective of the fact that such conflicts have and will continue to cause further wolf killings – again without adequate NEPA analysis and in violation of the SNRA Organic Act and other statutory mandates.

5. In addition, the Forest Service has just authorized helicopter intrusions into the nearby Frank Church-River of No Return Wilderness, so that wolves can be darted and collared in the Wilderness by the Idaho Department of Fish and Game (IDFG) – which claims it needs to use the helicopters to “research” wolves in the wilderness. This highly controversial action was approved without any environmental analysis under NEPA, even though the federal government has previously acknowledged that a full Environmental Impact Statement (EIS) would need to be prepared to evaluate such a proposal and alternative courses of action; and even though federal

agency managers have recognized that the 1964 Wilderness Act prohibits such use of motorized equipment in Wilderness Areas.

6. Moreover, the Forest Service approved this action without even considering the fact that the Nez Perce Tribe – which managed wolves in Idaho for a decade after their reintroduction in the mid-1990’s – trapped and collared approximately 30 wolves within the Frank Church Wilderness, without using helicopters. Yet the Forest Service never even mentioned this fact in approving IDFG’s proposed use of helicopters now, even though it reveals that helicopters are not the “minimum tool” needed to monitor wolves in wilderness areas, as required under the Wilderness Act.

7. Because the Forest Service and APHIS Wildlife Services are thus violating the SNRA Organic Act, the Wilderness Act, NEPA and other federal statutes in these wolf-related actions, Plaintiffs seek declaratory and injunctive relief from this Court.

JURISDICTION AND VENUE

8. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Administrative Procedure Act (“APA”), 5 U.S.C. § 701 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; the SNRA Organic Act, 16 U.S.C. § 460aa *et seq.*, NEPA, 42 U.S.C. § 4321 *et seq.*; the Wilderness Act, 16 U.S.C. § 1131; and the Equal Access to Justice Act, 28 U.S.C. § 2214 *et seq.* An actual, justiciable controversy now exists between Plaintiffs and Defendant, and the requested relief is therefore proper under 28 U.S.C. §§ 2201-02 and 5 U.S.C. §§ 701-06.

9. Venue is proper in this Court pursuant to 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; Plaintiffs reside in this district; and the public lands and resources in question are located within Custer County and other counties in this district.

10. The Federal Government has waived sovereign immunity in this action pursuant to 5 U.S.C. §§ 552 & 702.

PARTIES

11. Plaintiff WOLF RECOVERY FOUNDATION is an Idaho non-profit organization, located in Pocatello, Idaho. The Wolf Recovery Foundation was founded more than two decades ago to foster our heritage of wild wolf communities by advocating their presence forever in places where they have been extirpated, including central Idaho. The Wolf Recovery Foundation accomplishes its mission through public representation, information and outreach, networking with the agencies, organizations, tribes and universities, and through diverse workshops, conferences and special events.

12. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a regional, membership, not-for-profit conservation organization with over 1,400 members dedicated to protecting and conserving the public lands and natural resources of watersheds in the American West. WWP is headquartered at the Greenfire Preserve in Custer County, Idaho; and has offices or staff in Idaho, Montana, Wyoming, Arizona, California, and Utah. WWP members and staff have frequently seen wolves on and around the Greenfire Preserve, which is located in the East Fork Salmon River drainage; and have been irreparably harmed by the killing of East Fork wolves that has occurred in recent years.

13. Plaintiffs, and their staff and members, use and enjoy the wildlife, public lands, and other natural resources in central Idaho, including the SNRA and Frank Church Wilderness, for many health, recreational, scientific, spiritual, educational,

aesthetic, and other purposes. Plaintiffs, and their staff and members, are also deeply committed to the protection and recovery of wolves in central Idaho, and other places; and they spend considerable time on the public lands searching for, observing, studying, and enjoying wolves for a range of aesthetic, spiritual, scientific, emotional, recreational, and other reasons.

14. Plaintiffs' interests are directly harmed by Defendants' actions as challenged herein. Unless the relief prayed for herein is granted, Plaintiffs as well as the public will suffer irreparable harm and injury to their interests.

15. Defendant UNITED STATES FOREST SERVICE is an agency or instrumentality of the United States, under the U.S. Department of Agriculture, and is statutorily charged with managing the National Forests and other public lands at issue here, including the SNRA and Frank Church-River of No Return Wilderness (both of which are located wholly or partially in Custer County, Idaho).

16. Defendant APHIS WILDLIFE SERVICES is an agency or instrumentality of the United States, also under the U.S. Department of Agriculture, which is responsible for carrying out wolf eradication and killings on behalf of the federal government in central Idaho and elsewhere.

STATEMENT OF FACTS

Wolves in Central Idaho.

17. Central Idaho is a special place, as those of us lucky enough to live or visit here know well. One of the wildest regions remaining in the continental United States, central Idaho features rugged mountain ranges and world-class streams and rivers. A

wide variety of wildlife make their home here, including deer, elk, moose, bears, bighorn sheep, salmon, steelhead – and wolves.

18. Congress has recognized the remarkable natural values of central Idaho by, among other actions, designating the Sawtooth National Recreation Area and the Frank Church-River of No Return Wilderness Area. As alleged further below, the SNRA and Frank Church Wilderness have special management requirements and mandates imposed by Congress, which Defendants have violated in their actions complained of herein.

19. The gray wolf (*Canis lupus*) was historically an integral part of the central Idaho landscape and ecology, until wolves were persecuted by European settlers and nearly exterminated within the last century.

20. Because of this human persecution, the gray wolf was listed as a protected species under the Endangered Species Act (ESA) for several decades, until it was recently (and unlawfully) removed from ESA protection.

21. In the mid-1990's, the federal government launched a Northern Rockies wolf reintroduction program, which included releasing gray wolves in and around the Frank Church Wilderness in central Idaho. The federal government carried out the wolf reintroduction program pursuant to a rulemaking under Section 10(j) of the ESA, which called for removal or destruction of wolves that depredate domestic livestock. As this Court held in the prior litigation referenced above, however, the EIS for this 10(j) rulemaking was a programmatic document that did not evaluate the SNRA Organic Act's requirement that wildlife not be "substantially impaired" due to livestock grazing in the

SNRA. See *Western Watersheds Project et al. v. Sawtooth National Forest*, No. 01-cv-389-E-BLW, Docket No. 50 (June 13, 2002).

22. Because of the State of Idaho's refusal to cooperate with the wolf reintroduction program, the Nez Perce Tribe contracted with the federal government to manage the wolves reintroduced in central Idaho.

23. Under the Nez Perce Tribe's wolf management program, the Tribe successfully trapped and collared approximately 30 wolves in the Frank Church-River of No Return Wilderness Area, without using helicopters. This experience is well known to both the Idaho Department of Fish and Game (IDFG), and federal management agencies, including the Forest Service and APHIS Wildlife Services.

24. Over the last fifteen years or so, wolf populations have increased in parts of central Idaho, including the Frank Church Wilderness. Sighting wolves has become a popular activity for Idaho residents and visitors alike, particularly in areas around Stanley and Ketchum; and represents a new source of economic vitality for the region.

25. The federal government, however, has continued to destroy individual wolves and wolf packs in and around the SNRA, as result of alleged livestock depredations. APHIS Wildlife Services has been the wolf-killing arm of the federal government, responsible for many wolf killings in and around the SNRA.

26. Plaintiffs are informed and believe, and allege thereon, that APHIS Wildlife Services has caused the killings of individual wolves and/or destruction of virtually every wolf pack that has used the SNRA since the wolf reintroduction program occurred in the mid-1990's. Packs located in or around the SNRA that have had wolves killed include, but are not necessarily limited to the following: Stanley Basin, White

Cloud, Whitehawk, Pass Creek, Buffalo Ridge, Galena, Phantom Hill, and Basin Butte packs, as well as B283 and other individual wolves.

27. APHIS Wildlife Services seeks to avoid public disclosure, scrutiny or accountability for its actions. It typically undertakes wolf killing operations without any public notice, and seeks to preclude the public from learning of its operations.

28. Yet its actions have dramatic impacts on central Idaho wolves, and on Plaintiffs and the public. Available information indicates that APHIS Wildlife Services has shot or otherwise killed potentially hundreds of wolves in central Idaho in recent years, including in and around the SNRA.

29. In one of the most recent examples of this agency's rogue behavior, APHIS Wildlife Services used a helicopter – which hovered close to the ground on the outskirts of Stanley, Idaho – to gun down several wolves in the Basin Butte pack during the Thanksgiving holiday week this year. Stanley residents and visitors had no advance notice of this wolf killing operation, which occurred just outside of town and frightened many residents and visitors with the gunfire.

30. As a result of this action, one of the most beloved – and most watched – wolf packs in and around the SNRA has now been eliminated or destroyed by the federal government, causing irreparable harm to Plaintiffs and the public.

31. The killing of central Idaho wolves by APHIS Wildlife Service is in addition to the hunting of wolves under current IDFG management, as well as other wolf killings by private parties (both reported and unreported). The Idaho Fish and Game Commission has designated the Sawtooth zone as the region in Idaho for the heaviest

legal wolf hunting this year, allowing 55 wolves to be lawfully hunted there in a season that extends until the end of March 2010.

32. According to IDFG and other information available to Plaintiffs, in the Sawtooth zone there have been at least 28 wolves killed in APHIS Wildlife Services “control” actions this year, plus 35 wolves killed lawfully by hunters, 4 others killed illegally, 3 more killed by “other” causes, and 5 more killed by unknown causes. Many more wolves in central Idaho also have been hunted or killed in control actions this year.

The Sawtooth National Recreation Area.

33. The Sawtooth National Recreation Area (SNRA) encompasses about 778,000 acres of public lands in central Idaho, near the town of Stanley (in Custer County). The SNRA was established in 1972; and it is administered by the Forest Service as part of the Sawtooth National Forest.

34. In the SNRA Organic Act, Congress mandated that the Forest Service administer SNRA lands “in a manner that will best provide (1) the protection and conservation of the salmon and other fisheries; [and] (2) the conservation and development of scenic, natural, historic, pastoral, wildlife and other values, contributing to and available for public recreation and enjoyment.” 16 U.S.C. § 460aa (Public Law 92-400; 86 Stat. 612).

35. The SNRA Organic Act expressly makes grazing and other extractive activities on the SNRA secondary to these primary SNRA values, providing that such activities may only proceed “insofar as their utilization **will not substantially impair** the purposes for which the recreation area is established.” *Id.* (emphasis added). *See also* 36 C.F.R. § 292.17(a) (Forest Service regulations for SNRA, adopting SNRA Organic Act).

36. Despite these legal commands, the Forest Service continues to authorize livestock grazing across the SNRA, irrespective of the many resource harms that grazing has caused, and continues to cause, to wildlife, fisheries, recreation and other primary values for which the SNRA was established.

37. In the prior SNRA litigation, as referenced above, this Court ruled that wolves constitute “wildlife” that are among the primary values for which the SNRA was established; and that grazing is a secondary value that cannot be allowed to substantially impair the primary SNRA values (including wildlife). *See Western Watersheds Project et al. v. Sawtooth National Forest*, No. 01-cv-389-E-BLW, Docket No. 50 (June 13, 2002). Based on these rulings, the Court entered interim relief prohibiting federal agencies from undertaking wolf control measures due to livestock conflicts in the SNRA during 2002. *Id.*, Docket Nos. 79 & 93.

38. That litigation was resolved by settlement among the parties, under which the Forest Service committed to undertake NEPA analysis of grazing on numerous SNRA allotments, and to include analysis of whether grazing causes “substantial impairment” of wolves or other wildlife in the SNRA.

39. The Forest Service subsequently completed an Environmental Impact Statement (EIS) for the Upper and Lower East Fork allotments, located in the East Fork Salmon River drainage; and a separate EIS for the four “North Sheep” allotments, including the Smiley Creek and Baker Creek headwaters areas.

40. In subsequent litigation brought by WWP, this Court, per Judge Winmill, held that the North Sheep EIS and associated grazing authorizations were arbitrary, capricious, and contrary to law under NEPA and NFMA. *See Western Watersheds*

Project v. USFS, 2006 WL 292010 (D. Idaho 2006). The Court remanded for the Forest Service to prepare a supplemental EIS to rectify the legal violations.

41. However, the Supplemental EIS that was subsequently issued by the Forest Service for the North Sheep allotments remains defective, and is currently being challenged by WWP in other litigation pending before this Court. *See Western Watersheds Project v. United States Forest Service*, No. 09-cv-629-BLW (D. Idaho).

42. Despite the Court's prior rulings in these cases, the Forest Service continues to authorize livestock grazing across much of the SNRA irrespective of the adverse impacts such grazing causes to fisheries, wildlife, and recreational uses of the SNRA – the primary values for which the SNRA was established.

43. Moreover, even though the Court expressly rejected the argument that grazing is a primary SNRA value, the Forest Service continues to treat livestock grazing that way – and is allowing private parties to graze livestock on federal lands in and around the SNRA in ways that have caused, and will continue to cause, “conflicts” with wolves as well as other wildlife and fisheries resources. Rather than exclude livestock from the SNRA, as the Forest Service is statutorily authorized and even mandated to do in order to protect primary SNRA values, the agency has issued term grazing permits and annual grazing authorizations that allow domestic sheep and cattle grazing to proceed in and near known wolf denning sites and other areas frequented by wolves. The agency has refused to require livestock operators to adopt management techniques needed to prevent wolf/livestock conflicts and depredations, thus ensuring that wolves will be killed by APHIS Wildlife Services in and around the SNRA as a result of such conflicts.

44. As a result, as noted above, virtually all wolf packs that have inhabited the SNRA to date – since the wolf reintroduction program began some 15 years ago – have been eradicated or had individual wolves killed due to livestock conflicts. Moreover, wolf packs around the SNRA – including packs that inhabited the East Fork Salmon River area, where WWP manages the Greenfire Preserve (and on which the wolves were frequently seen by WWP staff, members and supporters) – have been destroyed or decimated by APHIS Wildlife Services as well.

45. Along with the now-legal hunting administered by IDFG, the result of these federal actions is the continued persecution and elimination of wolves that successfully become established in the central Idaho region, outside the designated Wilderness Areas. Not even the SNRA is available as a refuge for these persecuted central Idaho wolves.

The Frank Church-River of No Return Wilderness.

46. Congress adopted the Wilderness Act in 1964 “for the permanent good of the whole people,” in order to “secure for the American people of present and future generations the benefits of an enduring resource of wilderness.” Pub. L. 88-577 (1964); 16 U.S.C. § 1131.

47. The Wilderness Act defines “wilderness” as a “an area where the earth and its community of life are untrammelled by man . . . retaining its primeval character and influence. . . which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by forces of nature, with the imprint of man’s work substantially unnoticeable; (2) has outstanding opportunities for

solitude or a primitive and unconfined type of recreation,” and possesses other characteristics. 16 U.S.C. § 1132(c).

48. Section 4 of the Wilderness Act addresses “use of Wilderness Areas,” and expressly provides that “there shall be . . . **no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport**” in Wilderness Areas, except as may otherwise be specifically provided by law or “as necessary to meet minimum requirements for the administration of the area for the purpose of this Act.” 16 U.S.C. § 1133(c) (emphasis added).

49. The River of No Return Wilderness was Congressionally-designated in 1980, subject to these provisions of the Wilderness Act, Pub. L. No. 96-312 (1980); and later renamed the Frank Church-River of No Return Wilderness, in recognition of the leading role played by Idaho Senator Frank Church in securing its protection.

50. At 2.3 million acres, the Frank Church Wilderness is the largest contiguous area of protected wilderness in the continental United States. Together with the adjacent Gospel Hump Wilderness and surrounding roadless Forest Service land, it is the core of a 3.3 million acre roadless area. It is separated from the Selway-Bitterroot Wilderness, to the north, by a single dirt road (the Magruder Corridor). The wilderness contains parts of several mountain ranges, including the Salmon River Mountains and the Bighorn Crags. The ranges are split by steep canyons of the Middle and Main Forks of the Salmon River.

51. The Middle Fork Salmon River itself is one of the world’s most highly prized wilderness rivers, offering whitewater rafting, fishing, hiking, and abundant wildlife viewing opportunities. Particularly during winter, big game populations (elk,

deer, moose, bighorn sheep) congregate in lower elevation areas and suitable winter habitats along the Middle Fork Salmon River corridor and tributaries; as well as along the Main Salmon River upstream and downstream from the confluence with the Middle Fork. Because of this, wolves are also found along the Middle Fork and other areas in the Frank Church Wilderness where the big game concentrations occur.

52. Under the Wilderness and Central Idaho Wilderness Acts, aircraft landings are strictly prohibited in the Frank Church-River of No Return Wilderness, except at designated landing strips that were in regular use at the time of the Wilderness designation; or as may be “necessary to meet minimum requirements for the administration of the area” for its wilderness values. *Id.*; 16 U.S.C. § 1133(c) & (d)(1).

53. Plaintiffs are informed and believe, and alleged thereon, that shortly after the wolf reintroduction program began in central Idaho, the U.S. Fish and Wildlife Service considered a proposal to use helicopters within the Frank Church Wilderness to dart and collar wolves for purposes of monitoring wolf populations there. After meetings with the U.S. Forest Service, APHIS Wildlife Services, and others – at which federal agency personnel, including wilderness managers, expressed strong opposition to this proposal – the Fish and Wildlife Service determined that an EIS would have to be prepared under NEPA in order to evaluate the proposal; and so advised the other agencies.

54. In 2006, after it entered into an agreement with U.S. Fish and Wildlife Service to become the lead agency for managing wolves in Idaho, IDFG requested that the Forest Service issue special use permits authorizing it to use aircraft (mainly helicopters) within the Frank Church and Selway-Bitterroot Wilderness Areas, for

purposes of shooting wolves with tranquilizing darts and then inspecting and collaring them. IDFG asserted that such use of motorized equipment in the wilderness areas was necessary for research and wolf management.

55. Again, the Forest Service received substantial opposition to this proposal, including from Plaintiffs' members and other members of the conservation community, and from its own staff and former staff. Ultimately, the Forest Service did not approve the IDFG request; and advised IDFG that NEPA would require preparation of an Environmental Assessment (EA) or an EIS to assess any such use of helicopters in wilderness.

56. In 2009, following the delisting of wolves from the ESA, IDFG again requested permission from the Forest Service to carry out a program of using helicopters to locate, shoot with tranquilizing darts, and collar wolves in the Frank Church Wilderness. According to a public statement issued by IDFG, the agency contends that “[f]ourteen years of efforts to trap and collar wolves in wilderness areas on foot and by horseback have proved largely unsuccessful,” and hence use of helicopters to hover above the ground and land in the wilderness are needed to carry out wolf collaring operations in the Frank Church Wilderness.

57. As noted above, however, the Nez Perce Tribe – which managed wolves in Idaho for a decade after the reintroduction started, when the State of Idaho refused to do so – has successfully trapped and collared dozens of wolves in wilderness areas without need for helicopter use.

58. The Forest Service approved the IDFG request in December 2009, based on a “categorical exclusion” and “minimum tools analysis” which both repeated IDFG’s

assertions that past efforts to trap and collar wolves in wilderness were unsuccessful, and hence use of helicopters was deemed necessary.

59. As in 2006, the Forest Service received a huge outcry of opposition from the conservation community as well as its own present and former staff, all of which underscored the Forest Service's legal obligation to comply with the mandates of the 1964 Wilderness Act and 1980 Central Idaho Wilderness Act and disallow IDFG's proposed use of helicopters to dart and collar wolves in the Frank Church Wilderness.

60. Despite this controversy and the precedent that its action may establish, the Forest Service refused to prepare either an EA or EIS under NEPA; and premised its approval of the IDFG proposal on the assertion that past efforts to trap and collar wolves in wilderness have been unsuccessful, when that is not the case.

61. In approving the IDFG request, the Forest Service did not disclose the Nez Perce Tribe's past trapping and collaring of wolves in wilderness; nor did it assess other alternatives for monitoring wolf populations in wilderness, which may include use of howl boxes and other available techniques.

62. In refusing to prepare either an EA or EIS over the IDFG proposal, the Forest Service violated its duties under NEPA to fully explore and assess highly controversial actions, and to examine publicly all reasonable alternatives to the proposed action.

63. Moreover, the Forest Service did not evaluate, in any public NEPA document, whether using helicopters to conduct "research" on wolf populations is actually necessary for administration of the Frank Church Wilderness; when in fact it is

not. To the contrary, wolves are an integral part of the wilderness area now, and essential to the proper ecological functioning of the wilderness; and IDFG's proposal does not further those values.

64. Because of the Forest Service's decision, IDFG is now authorized to take helicopters into the Frank Church Wilderness from mid-January until April 2010, but likely mainly during March 2010, for purposes of locating wolves, hovering over them so that shooters can dart wolves, and landing within wilderness for purposes of collaring and measuring wolves.

65. Such use of helicopters to hover above the ground and land in wilderness threatens to cause irreparable harm to Plaintiffs and other members of the public, including by destroying their wilderness experiences and subjecting wild wolves to further persecution.

66. Plaintiffs are informed and believe, and allege thereon, that the Forest Service will continue to authorize livestock grazing in the SNRA during 2010 and future years that will perpetuate livestock "conflicts" with wolves in and around the SNRA, thus resulting in further wolf killings and persecution by APHIS Wildlife Services, as seen in the past.

67. Based on the large number of wolves already killed in the Sawtooth region under IDFG's hunting regulations and control, and by private parties and/or APHIS Wildlife Services due to livestock depredation or other reasons, it is evident that wolves are now "substantially impaired" in the SNRA and will continue to be so for the foreseeable future, unless the Court intervenes to prevent further illegal actions by Defendants.

68. Accordingly, Plaintiffs pray for entry of injunctive and declaratory relief to prevent further irreparable harm and unlawful actions by Defendants with respect to central Idaho wolves.

FIRST CLAIM FOR RELIEF
FOREST SERVICE'S VIOLATIONS OF SNRA ORGANIC ACT
AND NEPA IN AUTHORIZING SNRA GRAZING

69. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

70. This first claim for relief challenges the Forest Service's violations of the SNRA Organic Act and NEPA in continuing to authorize domestic livestock grazing upon the SNRA that has caused, and will continue to cause, substantial impairment of wolves and other wildlife on the SRNA.

71. Despite the prior litigation and settlement referenced above, the Forest Service has no current comprehensive and adequate analysis of whether and how its SNRA livestock grazing authorizations may be causing or facilitating livestock/wolf conflicts and depredations, thus resulting in elimination of SNRA wolves and wolf packs.

72. The Forest Service's challenged grazing authorizations include the term grazing permits it has issued within the last six years for SNRA allotments, to the extent not already subject to other litigation before this Court; and its 2010 and future annual grazing authorizations, which will continue to allow domestic livestock grazing to occur in and around the SNRA in ways that will foreseeably result in continued conflicts between wolves and livestock and thus further wolf eradication efforts by APHIS Wildlife Services or others.

73. By failing to adequately study these likely impacts and changed circumstances (including the delisting of wolves and heavy hunting of Sawtooth wolves

approved by IDFG), the Forest Service has violated NEPA and the SNRA Organic Act.

74. Plaintiffs are substantially prejudiced and harmed by the Forest Service's challenged SNRA grazing authorizations and legal violations as alleged herein, and will suffer irreparable harm absent judicial relief.

75. Defendant Forest Service's challenged actions herein are arbitrary, capricious, an abuse of discretion, and contrary to law, and hence must be reversed and remanded by this Court pursuant to the APA, 5 U.S.C. § 706(a)(2).

WHEREFORE, Plaintiffs pray for relief as set forth below.

SECOND CLAIM FOR RELIEF
APHIS WILDLIFE SERVICES' VIOLATIONS OF NEPA
IN CARRYING OUT WOLF ERADICATIONS
IN CENTRAL IDAHO

76. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

77. This second claim for relief challenges APHIS Wildlife Service's violations of NEPA in carrying out continued and future wolf killings and other eradication or "control" activities within central Idaho, without any current and legally valid environmental analysis as required by NEPA.

78. APHIS Wildlife Service has to date refused to provide documents sought under the Freedom of Information Act relating to its current NEPA coverage for wolf control activities in central Idaho. Accordingly, Plaintiffs lack all information necessary to fully understand the scope of APHIS Wildlife Service's NEPA documentation.

79. From publicly available documents and conversations with agency staff, however, Plaintiffs are informed and believe, and allege thereon, that APHIS Wildlife Service has not prepared any current and legally adequate EIS for its current wolf killings and other wolf control activities, as required by NEPA; and that the agency is relying on

one or more long-outdated EAs and/or “categorical exclusions” to supposedly provide NEPA coverage for its activities, when in fact those documents are not legally adequate to satisfy the agency’s NEPA duties.

80. Plaintiffs are further informed and believe, and allege thereon, that APHIS Wildlife Service has never addressed, in any public NEPA EA or EIS, the delisting of wolves under the ESA along with the effects of IDFG-sanctioned hunting and other wolf killings upon the wolf populations and packs in central Idaho; nor has APHIS Wildlife Service ever assessed the impacts of its wolf eradication activities in “substantially impairing” wolves in violation of the SNRA Organic Act.

81. Plaintiffs are substantially prejudiced and harmed by APHIS Wildlife Service’s past and foreseeable future actions to kill individual wolves and destroy wolf packs in central Idaho, including in and around the SNRA; and will suffer irreparable harm absent judicial relief.

82. Defendant APHIS Wildlife Service’s challenged actions herein are arbitrary, capricious, an abuse of discretion, and contrary to law, and hence must be reversed and remanded by this Court pursuant to the APA, 5 U.S.C. § 706(a)(2).

83. Moreover, a present and actual controversy now exists between Plaintiffs and Defendant APHIS Wildlife Services over its legal obligations to comply with NEPA in its central Idaho wolf control activities, including with respect to foreseeable future wolf killings in and around the SNRA and other parts of central Idaho. Accordingly, the Court may properly enter declaratory relief under these circumstances with respect to APHIS Wildlife Service’s legal obligations under NEPA.

WHEREFORE, Plaintiffs pray for relief as set forth below.

THIRD CLAIM FOR RELIEF
FOREST SERVICE'S VIOLATIONS OF LAW IN
APPROVING HELICOPTER ACTIVITIES WITHIN
FRANK CHURCH-RIVER OF NO RETURN WILDERNESS

84. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

85. This third claim for relief challenges the Forest Service's December 2009 decision to approve IDFG's proposed use of helicopters to hover and land within the Frank Church-River of No Return Wilderness for purposes of darting and collaring wolves.

86. The Forest Service's December 2009 decision violates NEPA, as well as the 1964 Wilderness Act and the 1980 Central Idaho Wilderness Act for multiple reasons, including but not limited to the following:

A. The Forest Service relied on false statements by IDFG concerning the success of past efforts to trap and collar wolves in wilderness area, and has misled the public and violated NEPA in so doing;

B. The high degree of controversy and precedential impact of the Forest Service decision require full evaluation of likely environmental impacts and alternatives under NEPA; and the adverse environmental impacts of the proposed actions will be significant for wilderness values, wildlife, and Plaintiffs as well as the public, thus again requiring full evaluation of impacts and alternatives under NEPA; and

C. The approved use of helicopters to hover and land within the Frank Church Wilderness violates the express mandates of the 1964 Wilderness Act and the 1980 Central Idaho Wilderness Act, both because such actions are not necessary to administer the wilderness area and are not the "minimum tool" necessary for wolf monitoring.

87. Plaintiffs are substantially prejudiced and harmed by the Forest Service's unlawful December 2009 decision authorizing helicopter landings in the Frank Church Wilderness as alleged herein, and will suffer irreparable harm absent judicial relief.

88. Defendant Forest Service's challenged actions herein are arbitrary, capricious, an abuse of discretion, and contrary to law, and hence must be reversed and remanded by this Court pursuant to the APA, 5 U.S.C. § 706(a)(2).

WHEREFORE, Plaintiffs pray for relief as set forth below.

PRAYER FOR RELIEF

Based on the foregoing allegations and legal violations, Plaintiffs respectfully pray that the Court grant them relief as follows:

A. Adjudge and declare that the Forest Service has violated NEPA, the SNRA Organic Act, and/or their implementing regulations, in continuing to authorize livestock grazing in the SNRA under terms and conditions that have caused, and will continue to cause, substantial impairment of wolves and other primary wildlife and recreation values for which the SNRA was established;

B. Reverse and set aside the Forest Service's current SNRA grazing authorizations challenged herein as being arbitrary, capricious, an abuse of discretion, and/or contrary to law, pursuant to the judicial review standards of the APA, 5 U.S.C. § 706(2);

C. Adjudge and declare that APHIS Wildlife Services has violated and continues to violate NEPA and its implementing regulations in carrying out past and foreseeable wolf control actions in central Idaho, including the killing of individual wolves and wolf packs in and around the SNRA;

D. Adjudge and declare that such actions are arbitrary, capricious, an abuse of discretion, and/or contrary to law, pursuant to the judicial review standards of the APA, 5 U.S.C. § 706(2);

E. Adjudge and declare that the Forest Service has violated NEPA, the 1964 Wilderness Act, the 1980 Central Idaho Wilderness Act, and/or their implementing regulations, in its December 2009 decision approving IDFG's proposed use of helicopters to dart and collar wolves in the Frank Church-River of No Return Wilderness; and

F. Reverse and set aside such decision as being arbitrary, capricious, an abuse of discretion, and/or contrary to law, pursuant to the judicial review standards of the APA, 5 U.S.C. § 706(2);

G. Enter such temporary, preliminary, and/or permanent injunctive relief as may be prayed for hereafter by Plaintiff, including but not limited to:

(1) enjoining livestock grazing within the SNRA that threatens to cause future conflicts between wolves and wildlife;

(2) enjoining APHIS Wildlife Services from further killing or persecution of central Idaho wolves, at least until it has complied with NEPA; and

(3) enjoining the Forest Service from authorizing the IDFG proposed helicopter actions in the Frank Church Wilderness;

H. Award Plaintiffs their reasonable costs, litigation expenses, and attorneys' fees associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 et seq., and/or all other applicable authorities; and/or

I. Grant such further relief as the Court deems just and proper in order to provide Plaintiffs with adequate relief and protect the public interest.

Dated: December 31, 2009

Respectfully submitted,

/s/ Laird J. Lucas

Laurence ("Laird") J. Lucas
Attorney for Plaintiffs