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

DEFENDERS OF WILDLIFE, et al.,)
)
Plaintiffs,)
)
v.)
KEN SALAZAR, et al.)
_____)
)
GREATER YELLOWSTONE COALITION,)
)
Plaintiffs,)
)
v.)
KEN SALAZAR, et al.,)
)
Defendants)
_____)

Case No. CV-09-77-M-DWM
CV-09-82-M-DWM
(consolidated)

**DEFENDANT-INTERVENORS
STATE OF MONTANA AND
MONTANA DEPARTMENT OF
FISH, WILDLIFE AND PARKS'
RESPONSE TO JOINT
MOTION FOR AN
INDICATIVE RULING
PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE
62.1**

Defendant-Intervenors State of Montana and Montana Department of Fish, Wildlife and Parks (Montana) respectfully submit this Response to Joint Motion for an Indicative Ruling Pursuant to Federal Rule of Civil Procedure 62.1. ECF Doc. # 187.

The Settlement Agreement entered by Federal Defendants and Settling Plaintiffs is a significant breakthrough in wolf conservation and management. ECF Doc. # 187-1. Montana lauds the efforts of the Federal Defendants and Settling Plaintiffs in reaching a settlement agreement on this long-running and contentious litigation. Montana agrees with the Settling Plaintiffs that diminishing the public controversy that surrounds wolf management in the Northern Rockies will best serve all resident species. To that end, wolf conservation is best served by deflating the conflict over who manages the species and instead focusing on how best to manage the species. Montana has long believed that it is a goal of the Endangered Species Act to achieve state management of a recovered species.

Montana is more than ready to demonstrate its ability to manage and conserve wolves among other resident wildlife. The Montana Department of Fish, Wildlife and Parks has a clear legal duty to “manage wildlife, fish, game, and nongame animals in a manner that prevents the need for listing under” the state or federal Endangered Species Acts. Mont. Code Ann. §87-1-201(9)(a)(i). Mont. Code Ann. §87-1-201(9)(a)(ii) also requires the state to manage species in a

manner that keeps them recovered. Mont. Admin. R. 12.9.1301 (2008) implements those statutes and requires Montana to assure that the wolf population meets or exceeds the federal recovery criteria. The State of Montana's 2003 Final Gray Wolf Conservation and Management Plan, which further implements statute and rule, is in full force and effect.

Montana's regulatory mechanisms are working to keep the wolf a recovered species. The authority to respond to on the ground challenges that wolves present allows Montana to cultivate a broader social tolerance for a species that is here to stay and will remain an important part of the state's wildlife heritage.

Montana recognizes that as part of the Settlement Agreement, the United States Fish and Wildlife Service relied on the continued implementation of Montana's wolf management plan and continued commitment to sustainable and responsible management of wolf populations. As part of that challenge and responsibility, Montana agrees to the Settlement Agreement's requirements regarding ongoing monitoring, annual evaluation of the status of the species, and continued reporting on wolf and livestock losses. Indeed, these are monitoring efforts that the state undertakes as a matter of course and are especially appropriate for a controversial and potential precedent setting action.

The settling parties' hard work at reaching a settlement of two lawsuits is a step forward in refocusing our energies on the long term conservation and management of a recovered species.

Respectfully submitted this 22nd day of March 2011.

Steve Bullock
Attorney General
State of Montana

/s/ Martha Williams
Martha Williams
Attorney for State of Montana and
Montana Fish, Wildlife and Parks

Robert N. Lane
Chief Legal Counsel
Montana Fish, Wildlife and Parks

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing will be electronically filed this 22nd day of March 2011, and will be automatically served upon counsel of record, all of whom appear to be subscribed to receive notice from the ECF system.

/s/ Martha Williams
Martha Williams
Attorney for State of Montana and
Montana Fish, Wildlife and Parks