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Local Counsel for Plaintiffs

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

RALPH MAUGHAN, DEFENDERS OF)
WILDLIFE, WESTERN WATERSHEDS)
PROJECT, and WILDERNESS WATCH,)
Plaintiffs,)
v.)
TOM VILSACK, U.S. Secretary of Agriculture;)
TOM TIDWELL, Chief, U.S. Forest Service;)
NORA RASURE, Regional Forester of Region)
Four of the U.S. Forest Service; KEITH)
LANNOM, Payette National Forest Supervisor;)
and VIRGIL MOORE, Director, Idaho)
Department of Fish and Game,)
Defendants.)

Case No. 4:14-cv-00007-EJL

**RENEWED MOTION FOR EX PARTE
TEMPORARY RESTRAINING ORDER
AND FOR EXPEDITED BRIEFING
SCHEDULE**

Yesterday, January 7, 2014, plaintiffs Ralph Maughan, et al. filed a motion for an immediate temporary restraining order to halt an ongoing program undertaken by the Idaho Department of Fish and Game (“IDFG”) to exterminate two wolf packs within the Frank Church-River of No Return Wilderness. Plaintiffs contend that such immediate relief is warranted because the U.S. Forest Service’s approval and facilitation of that program violates the National Forest Management Act, the Wilderness Act, the National Environmental Policy Act, and the Forest Service’s special use permitting regulations and is reviewable under the Administrative Procedure Act, 5 U.S.C. §§ 704, 706(1), 706(2)(A). Moreover, the challenged wolf extermination program is ongoing and immediate relief is necessary to preserve the status quo and the targeted wolf packs pending a full adjudication of plaintiffs’ claims.

As described in the attached Second Declaration of Timothy J. Preso, plaintiffs contacted counsel for the federal defendants and defendant Virgil Moore today, January 8, 2014, to attempt to coordinate an expedited briefing schedule to propose to the Court. Plaintiffs learned from counsel for defendant Virgil Moore that, as of January 2, 2014, IDFG’s hired hunter-trapper had killed seven wolves within the targeted wolf packs, six by trapping and one by hunting, and that more wolves may have been killed as of today. Defendant Moore’s counsel further advised that IDFG’s only means of communication with the hunter-trapper is a satellite telephone in the hunter-trapper’s possession, and that, to preserve the phone’s batteries, the hunter-trapper turns on the phone only when he places a call.

Defendant Virgil Moore has refused plaintiffs’ requests to temporarily suspend the challenged extermination program to allow this Court an opportunity to rule on plaintiffs’ pending motion. Additionally, counsel for the federal defendants has advised the plaintiffs that

they will be unable to file a response to plaintiffs' pending motion for a temporary restraining order and preliminary injunction until next Tuesday, January 14, 2014.

In light of the large number of wolves that have already been killed as part of the challenged extermination program, plaintiffs hereby renew their request for an immediate ex parte temporary restraining order. Without immediate relief to maintain the status quo, this Court's ability to rule on plaintiffs' claims and afford meaningful relief is compromised. IDFG's hunter-trapper remains in the Frank Church Wilderness and may exterminate all of the wolves at issue in this case before the Court can act. Moreover, given the communication challenges involved in conveying any instructions to IDFG's hunter-trapper, it appears likely that there may be a lag time between issuance of any relief by this Court and effective relief on the ground.

If plaintiffs' requested ex parte temporary restraining order is granted, plaintiffs are willing to accommodate the defendants' scheduling proposal and would be amenable to reasonable further extension of the proposed deadlines provided the status quo and the targeted wolves are preserved while briefing proceeds.

In the absence of immediate relief to preserve the status quo, plaintiffs move the court to expedite the briefing schedule on plaintiffs' pending motion for a temporary restraining order and preliminary injunction by ordering the defendants to file their response by midnight tomorrow, Thursday, January 9, 2014, with plaintiffs' reply due by noon the following day, Friday, January 10, 2014.

For the foregoing reasons, plaintiffs respectfully renew their request for an immediate ex parte temporary restraining order or, in the alternative, for expedited briefing on the schedule herein proposed.

Respectfully submitted this 8th day of January, 2014.

/s/ Timothy J. Preso
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Local Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of January, 2014, I caused the foregoing document to be served via this Court's ECF system on the following:

John Tustin
Trial Attorney
U.S. Department of Justice
Natural Resources Section
John.tustin@usdoj.gov

In addition, I caused the foregoing document to be served by email on the following:

Kathleen Trever
Lead Deputy Attorney General
Idaho Department of Fish & Game
kathleen.trever@idfg.idaho.gov

In addition, I caused the foregoing document to be served on the following by first-class mail, postage prepaid, addressed as follows:

Tom Vilsack
Secretary of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Tom Tidwell, Chief
U.S. Forest Service
1400 Independence Ave., SW
Washington, D.C.
20250-0003

Nora Rasure
Regional Forester
Intermountain Region
Federal Building
324 25th Street
Ogden, UT 84401

Keith Lannom
United States Forest Service
Supervisor
Payette National Forest
800 West Lakeside Ave
McCall, ID 83638-3602

Virgil Moore, Director
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