

Kelly E. Nokes
(Mont. Bar No. 39465862)
Western Environmental Law Center
208 Paseo del Pueblo Sur, No. 602
Taos, NM 87571
Ph: (575) 613-8051
nokes@westernlaw.org

Susan Jane M. Brown
admitted pro hac vice
Western Environmental Law Center
4107 NE Couch St.
Portland, OR 97232
Ph: (503) 680-5513
brown@westernlaw.org

John R. Mellgren
admitted pro hac vice
Western Environmental Law Center
120 Shelton McMurphey Blvd., Ste. 340
Eugene, OR 97401
Ph: (541) 359-0990
mellgren@westernlaw.org

*Counsel for Plaintiffs WildEarth
Guardians and Western Watersheds
Project*

Marla Fox
admitted pro hac vice
P.O. Box 13086
Portland, OR 97213
Ph: (651) 434-7737
mfox@wildearthguardians.org

*Counsel for Plaintiff WildEarth
Guardians*

Timothy J. Preso
Earthjustice
313 East Main Street
Bozeman, MT 59715
(406) 586-9699 | Phone
(406) 586-9695 | Fax
tpreso@earthjustice.org

*Counsel for Plaintiffs Swan View
Coalition and Friends of the Wild
Swan*

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

WILDEARTH GUARDIANS, *et al.*,
Plaintiffs,

and

SWAN VIEW COALITION, *et al.*,
Consolidated Plaintiffs,

Lead Case No.
CV 19-56-M-DWM

Member Case No.
CV 19-60-M-DWM

vs.

KURTIS STEELE, Forest Supervisor,
FLATHEAD NATIONAL FOREST, *et al.*,
Defendants,

and

DAVID BERNHARDT, Secretary, U.S.
DEPARTMENT OF THE INTERIOR, *et*
al.,
Consolidated Defendants,

and

MONTANA LOGGING ASSOCIATION,
et al.,
Defendant-Intervenors.

**PLAINTIFFS'
MOTION FOR
SUMMARY
JUDGMENT**

Plaintiffs in Case No. CV 19-56-M-DWM, WildEarth Guardians and Western Watersheds Project, and Plaintiffs in consolidated Case No. CV 19-60-M-DWM, Swan View Coalition and Friends of the Wild Swan, hereby move for summary judgment on all of their claims pursuant to Federal Rule of Civil Procedure 56(a).

As required by the Court's Case Management Order (ECF No. 55), all Plaintiffs submit a single joint Brief in support of this motion for summary judgment. As detailed in that Brief, Federal Defendants violated the Endangered Species Act, National Environmental Policy Act, and U.S. Forest Service Travel Management Rule in reviewing, approving, and adopting the 2018 revision to the Land Management Plan for the Flathead National Forest. Given that the parties in the two consolidated cases have certain overlapping claims and certain different claims, they have included a parenthetical note in each point heading in the accompanying joint Brief as to which claim in which case is discussed in each section.

Plaintiffs' motion is supported by their joint Brief and Plaintiffs' Statement of Undisputed Facts in Support of Summary Judgment. Plaintiffs' standing to seek the relief requested in this motion is demonstrated by the declarations of Peter Gynn, Keith Hammer, Chris Krupp, Sarah McMillan, Erik Molvar, Arlene Montgomery, and George Wuerthner filed with this motion. Because there are no

genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law, this Court should enter summary judgment for Plaintiffs. See Fed. R. Civ. P. 56(a).

This Court's Case Management Order directed that there will be no separate briefing to address remedies and the parties shall address remedies in their summary judgment briefs. Plaintiffs' joint Brief addresses the reasons why this Court should vacate the challenged actions of Federal Defendants, including the challenged provisions of the revised Land Management Plan for the Flathead National Forest. Specifically, Plaintiffs request that the Court vacate the following plan provisions:

- Standard FW-STD-IFS-01 to -04; Guideline FW-GDL-IFS-01 to -02; associated Glossary definitions of "baseline," "decommissioned road," "impassable road," "intermittent stored service/intermittent service road, closed to traffic," "temporary road," "secure core/grizzly bear," and "total motorized route density"; and any other provisions that replace or supersede Amendment 19 to the 1986 Land Management Plan for the Flathead National Forest;
- Guideline FW-GDL-CWN;
- Appendix B, Figure B-12; all references to Figure B-12 or designations of specific areas or routes for over-snow vehicle use; and any other provisions

of the Revised Plan that retain site-specific winter motorized use designations from Amendment 24 to the 1986 Land Management Plan for the Flathead National Forest.

Pursuant to Local Civil Rule 7.1(c)(1), counsel for Plaintiffs contacted counsel for Federal Defendants and Defendant-Intervenors concerning the relief requested in this motion. Federal Defendants and Defendant-Intervenors oppose this motion.

Respectfully submitted this 5th day of August, 2020.

/s/ Marla Fox

Marla Fox

admitted pro hac vice

WildEarth Guardians

P.O. Box 13086

Portland, OR 97213

Ph: (651) 434-7737

mfox@wildearthguardians.org

*Counsel for Plaintiff WildEarth
Guardians*

/s/ Kelly E. Nokes

Kelly E. Nokes

(Mont. Bar No. 39465862)

Western Environmental Law Center

208 Paseo del Pueblo Sur, No. 602

Taos, NM 87571

Ph: (575) 613-8051

nokes@westernlaw.org

/s/ Susan Jane Brown

Susan Jane M. Brown
admitted pro hac vice
Western Environmental Law Center
4107 NE Couch St.
Portland, OR 97232
Ph: (503) 680-5513
brown@westernlaw.org

/s/ John R. Mellgren

John R. Mellgren
admitted pro hac vice
Western Environmental Law Center
120 Shelton McMurphey Blvd.
Ste. 340
Eugene, OR 97401
Ph: (541) 359-0990
mellgren@westernlaw.org

*Counsel for Plaintiffs WildEarth
Guardians and Western Watersheds
Project*

/s/ Timothy J. Preso

Timothy J. Preso
Earthjustice
313 East Main Street
Bozeman, MT 59715
(406) 586-9699 | Phone
(406) 586-9695 | Fax
tpreso@earthjustice.org

*Counsel for Plaintiffs Swan View
Coalition and Friends of the Wild
Swan*

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2020, I filed the foregoing with the Clerk of the Court using the CM/ECF system, which will cause a copy to be served on all counsel of record.

/s/ Timothy J. Preso

Timothy J. Preso