

Summer L. Nelson
Western Watersheds Project
Montana Legal Counsel
P.O. Box 7681
Missoula, MT 59807
(406)830-3099
(406)830-3085 FAX
summer@westernwatersheds.org

Rebecca K. Smith
Public Interest Defense Center, P.C.
P.O. Box 7584
Missoula, MT 59807
(406) 531-8133
(406) 830-3085 FAX
publicdefense@gmail.com

Attorneys for Plaintiffs

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

<p>WESTERN WATERSHEDS PROJECT, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>SALAZAR, et al.,</p> <p>Defendants.</p>	<p>CV-09-159-M-CCL</p> <p>PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER</p>
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Plaintiffs Western Watersheds Project, *et al.*, respectfully move this court for a preliminary injunction and/or temporary restraining order against lethal removal of bison in and around Yellowstone National Park, and against use of the capture facilities to capture bison to be sent to slaughter or held in confinement for extended durations, pending a final judgment on the merits.

A preliminary injunction and/or temporary restraining order are required immediately because the National Park Service (Park Service) and cooperating agencies captured approximately 340 bison inside Yellowstone National Park (YNP) on January 30 and 31, 2011, and the agencies have publically expressed their intention to begin testing bison for exposure to brucellosis and then begin shipping bison to slaughter within days. Over 100 bison have already been killed this winter, and conditions mirror those of past years when the agencies killed hundreds of bison in a single season. This first major capture and the current winter conditions portend another season of mass slaughter as the bison and the Plaintiffs have suffered through in the past.

Years of mass bison removal led Park Service biologists to register concerns about the adverse impacts the removals and population fluctuations have on the genetics, social structure, and population demographics of the

bison population, and they have warned that continuing those removals could result in irreparable harm. The Park Service further documented stress, injury and harm to bison when they are held in confinement at the Stephens Creek trap for release months later.

Plaintiffs' interests in viewing wild bison undisturbed and free-roaming on the landscape, their cultural and spiritual connections with the bison, their desire to participate meaningfully and be informed in the federal agencies' decision-making regarding bison management, and their concerns over loss of genetic diversity and healthy future generations of bison will all be irreparably harmed if the federal Defendants are not enjoined and restrained from slaughtering bison and/or holding them in extended confinement, pending a final decision on the merits of this lawsuit.

Plaintiffs are entitled to a preliminary injunction and temporary restraining order because the public interest and balance of equities tips in Plaintiffs' favor by law, the imminent slaughter of up to 300 more bison and a season of additional slaughter threatens irreparable harm, and Plaintiffs are likely to succeed on the merits of their claims.

Defendants' counsel has been contacted, and Defendants oppose this motion. Plaintiffs file a brief in support of this motion. Plaintiffs seek expedited relief, as slaughter may begin within days. Having learned of the

capture and the intent of the agencies during the days of January 31 and February 1, 2011, Plaintiffs have filed this motion and brief as expeditiously as feasible. Defendants also recognize the need for expedited review, and have indicated they will be able to file a response brief within a few days, likely by end of the day on Monday, February 7, 2011. Plaintiffs respectfully request Defendants to provide a status report to the Court at the time of filing their brief, as slaughter appears imminent. Plaintiffs also respectfully request expedited review and consideration by the Court, as a failure to act on this motion while substantial numbers of bison are being shipped off for slaughter will be considered to be effective denial of relief. Mt. Graham Red Squirrel v. Madigan, 954 F.2d 1441, 1449-50 (9th Cir. 1992).

Respectfully submitted this 3rd day of February, 2011.

/s/Summer L. Nelson
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