

Deborah A. Sivas (Calif. Bar No. 135446)
Robb W. Kapla (Calif. Bar No. 238896)
ENVIRONMENTAL LAW CLINIC
(*Pro Hac Vice* Applications to be filed)
Mills Legal Clinic at Stanford Law School
559 Nathan Abbott Way
Stanford, California 94305-8610
Telephone: (650) 723-0325
Facsimile: (650) 723-4426
dsivas@stanford.edu
rkapla@law.stanford.edu

Brian K. Gallik
GOETZ, GALLIK & BALDWIN, P.C.
P.O. Box 6580
Bozeman, Montana 59771-6580
Telephone: (406) 587-0618
Facsimile: (406) 587-5144
bgallik@goetzlawfirm.com

Attorneys for Plaintiff

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

GREATER YELLOWSTONE)	Cause No. CV-09-82-M-DWM
COALITION,)	
)	
Plaintiff,)	
)	COMPLAINT FOR
v.)	DECLARATORY JUDGMENT
)	AND INJUNCTIVE RELIEF
KEN SALAZAR, Secretary of the)	
Interior; ROWAN GOULD, Acting)	
U.S. Fish and Wildlife Service Director;)	
and UNITED STATES FISH AND)	
WILDLIFE SERVICE,)	
)	
Defendants.)	

INTRODUCTION

1. This case challenges the decision of the U. S. Fish and Wildlife Service (“FWS”) to remove the northern Rocky Mountain gray wolf from the federal list of endangered and threatened wildlife despite significant threats to wolves’ survival and the lack of regulatory mechanisms to achieve and maintain genetic connectivity within the wolf population. *See* Final Rule to Identify the Northern Rocky Mountain Population of the Gray Wolf as a Distinct Population Segment and To Revise the List of Endangered and Threatened Wildlife, 74 Fed. Reg. 15,123 (Apr. 2, 2009) (“Delisting Rule”).

2. Last summer, this Court enjoined FWS’s 2008 decision to remove the northern Rocky Mountain gray wolves from the list of endangered and threatened species. *See* Defenders of Wildlife v. Hall, 565 F. Supp. 2d 1160 (D. Mont., July, 2008). Two weeks after this Court remanded the 2008 decision, FWS simply reopened the public comment period on the same underlying delisting proposal without addressing any of the violations on which the 2008 decision was enjoined. The resulting Delisting Rule retains the Endangered Species Act (“ESA”) violations of the enjoined 2008 decision. Further, the Delisting Rule includes new ESA violations resulting from FWS’s haste to delist the northern Rocky Mountain gray wolves without addressing or evaluating new state regulatory mechanisms and new information on the gray wolf population.

3. In this action, Plaintiff, Greater Yellowstone Coalition, seeks a judgment from the Court setting aside the Delisting Rule and ordering that the wolves in the northern Rockies be returned to the federal list of threatened and endangered species until their long-term viability is assured.

JURISDICTION, VENUE, AND ADMINISTRATIVE REMEDIES

4. Plaintiff brings this action pursuant to the ESA citizen-suit provision, 16 U.S.C. § 1540(g), which waives Defendants' sovereign immunity, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 551 *et seq.* This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201 (declaratory relief), and 16 U.S.C. § 1540(c) and (g) (action arising under ESA citizen suit provisions).

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 and 16 U.S.C. § 1540(g)(3)(A) because Plaintiff resides in the District of Montana; land affected by the challenged action is located within the District of Montana; and a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. Venue is proper in the Missoula Division because every county within the Missoula Division is also within the northern Rocky Mountain gray wolf's range that is affected by the challenged action.

6. Plaintiff attempted to resolve these claims administratively by commenting on the proposed delisting rule that appeared in the Federal Register

and by providing Defendants with notice of Plaintiff's intent to sue on April 3, 2009. *See* 72 Fed. Reg. 6,105 (Feb. 8, 2007); 72 Fed. Reg. 36,939 (July 6, 2007); 73 Fed. Reg. 63,926 (Oct. 28, 2008); 16 U.S.C. § 1540(g).

PARTIES

7. Plaintiff, GREATER YELLOWSTONE COALITION ("GYC"), is a non-profit membership organization based in Bozeman, Montana, with offices in Idaho Falls, Idaho, and Cody and Jackson, Wyoming. GYC is dedicated to the protecting the lands, waters, and wildlife of the Greater Yellowstone Ecosystem. GYC was founded in 1983 and has over 8,500 members nationwide, including many residing in Montana, Wyoming, and Idaho. GYC's constituents include 80 conservation and outdoors groups, and 230 businesses that share the goal of preserving and protecting the Greater Yellowstone Ecosystem and the unique quality of life it sustains. GYC actively supported the reintroduction of gray wolves to Yellowstone National Park. GYC's staff and members regularly visit Yellowstone National Park and surrounding areas to observe and study the park's wildlife, including the gray wolves. GYC's members and staff derive scientific, recreational, conservation, educational, and aesthetic benefit from the existence, observation, and study of gray wolves. The decision to eliminate ESA protections for gray wolves in the northern Rockies will cause irreparable harm to the Yellowstone ecosystem and cause direct injury to the aesthetic, conservation,

recreational, scientific, educational, and wildlife preservation interests of GYC and its members.

8. Plaintiff's aesthetic, conservation, recreational, scientific, educational, and wildlife preservation interests have been, are being, and, unless the requested relief is granted, will continue to be adversely and irreparably injured by Defendants' failure to comply with federal law. The injuries to Plaintiff are actual, concrete injuries directly caused by Defendants' conduct that would be redressed by the requested relief. Plaintiff has no adequate remedy at law.

9. Defendant KEN SALAZAR is the United States Secretary of the Interior. In that capacity, Secretary Salazar has supervisory responsibility over the U.S. Fish and Wildlife Service. Defendant Salazar is sued in his official capacity.

10. Defendant ROWAN GOULD is the Acting Director of the U.S. Fish and Wildlife Service. Defendant Gould is sued in his official capacity.

11. Defendant UNITED STATES FISH AND WILDLIFE SERVICE is a federal agency within the Department of Interior. FWS is responsible for administering the ESA with respect to terrestrial wildlife such as gray wolves.

LEGAL BACKGROUND

12. The ESA was enacted to protect endangered and threatened species and provide a "means whereby the ecosystems upon which endangered species and threatened species depend may be conserved[.]" 16 U.S.C. § 1531(b).

13. The ESA defines an “endangered species” as “any species which is in danger of extinction throughout all or a significant portion of its range.” *Id.* at § 1532(6). A “threatened species” is defined as “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” *Id.* at § 1532(20).

13. In determining whether to list or delist a species, or a distinct population segment (“DPS”) of a species, the Secretary must make the decision “solely on the basis of the best scientific and commercial data available to him after conducting a review of the status of the species.” 16 U.S.C. § 1533(b)(1)(A).

FACTUAL BACKGROUND

14. Prior to European settlement of North America, gray wolves numbered more than 350,000 in the American West. Government eradication programs and hunting extirpated wolves from more than 95 percent of their range in the lower-48 states. *See* 68 Fed. Reg. at 15805; 72 Fed. Reg. 6,106 at 6125 (Feb. 8, 2007). By the 1930s, gray wolves were completely absent from Montana, Idaho, Wyoming, and southwestern Canada. 74 Fed. Reg. at 15,123.

15. Wolves were among the first species to be listed shortly after passage of the ESA, with the northern Rocky Mountain gray wolves first listed as an endangered subspecies in 1974 and then all wolves in the lower-48 listed as

endangered--with the exception of Minnesota wolves, which were listed as threatened--in 1978. *See* 74 Fed. Reg. at 15,124.

16. In 1987, FWS established the recovery goal of 10 breeding pairs of gray wolves residing in each of three separate areas for at least three consecutive years.

17. In 1994, FWS prepared an environmental impact statement (“EIS”) for the planned introduction of an experimental population of wolves into the northern Rockies. The EIS included the 1987 recovery goal of 10 breeding pairs in three separate areas for three consecutive years, but added the additional requirement that northern Rocky Mountain gray wolves form a metapopulation, with genetic exchange between subpopulations. *See* FWS, Final Environmental Impact Statement: The Reintroduction of Gray Wolves to Yellowstone National Park and Central Idaho, App. 9, at 38 (Apr. 1994).

18. In 1995, after a 60-year absence, FWS reintroduced 66 gray wolves from Canada into Yellowstone National Park and central Idaho. *See* 72 Fed. Reg. at 36,943. The wolf population has grown to approximately 124 wolves within Yellowstone National Park and roughly 1,639 wolves in the northern Rocky Mountain gray wolf DPS. *See* 74 Fed. Reg. at 15,138. FWS describes the DPS as having three core areas located in northwestern Montana, central Idaho, and the Greater Yellowstone Area (“GYA”).

19. Since reintroduction, gray wolves have become an important part of the northern Rockies ecosystem. By preying on the very young, old, and sick, wolves promote healthier elk and deer populations. Without fear of predation by wolves over the last 60 years, elk expanded their grazing areas and changed their grazing patterns, significantly impacting riparian habitats by destroying vegetation and increasing soil erosion. As wolf numbers increased in Yellowstone National Park, elk adopted their behavior and avoided wide-open spaces where they are vulnerable to attack. Riparian vegetation recovered, resulting in improvements to native bird, beaver, and other wildlife that are dependent upon healthy riparian ecosystems.

20. Shortly after the gray wolf population met the temporal recovery goal of 10 breeding pairs in each core area for three consecutive years, but without any evidence of genetic connectivity between each population, FWS initiated attempts to designate the northern Rocky Mountain gray wolves as a DPS and remove the DPS from the endangered species list. In 2003, FWS sought to split gray wolves nationwide into three regional (Eastern, Western, and Southwestern) and downgrade the Western and Eastern DPSs to “threatened” status. District courts in Vermont and Oregon struck down the downlisting rules based on FWS’s arbitrary treatment of the wolf’s historic range and failure to assess threats to wolves from outside the recovery areas. *See Defenders of Wildlife v. Sec’y, U.S. Dep’t of*

Interior, 354 F. Supp. 2d 1156 (D. Or. 2005); Nat'l Wildlife Fed. V. Norton, 386 F. Supp. 2d 553 (D. Vt. 2005).

21. In January, 2004, FWS determined that wolf management plans from Montana and Idaho would maintain the 1987 recovery standard of a minimum of 10 breeding pairs and 100 total wolves in each state. FWS rejected Wyoming's plan, but later approved the plan in 2007.

22. On February 27, 2008, FWS issued a final ruling designating the northern Rocky Mountain gray wolves DPS and removing the DPS from the endangered species list. *See* 73 Fed. Reg. at 10,514, 10,517.

23. The 2008 delisting decision was challenged on grounds that the gray wolves remained threatened due to their small population size, lack of genetic exchange, and inadequate regulatory mechanisms. This Court enjoined the delisting decision, finding that the plaintiffs were likely to succeed on the merits of their claim that FWS arbitrarily departed from FWS recovery standard requiring genetic exchange among wolves in northwestern Montana, central Idaho, and greater Yellowstone recovery areas. *See Defenders of Wildlife*, 565 F. Supp. 2d at 1171-72. This Court also found that FWS approval of Wyoming's wolf management plan was arbitrary given the lack of commitment to maintaining 15 breeding pairs in the state and excessive human-caused wolf mortality due to

aggressive defense of property statutes and the wolf's designation as a predator throughout most of the state. *Id.* at 1156-76.

24. Despite only four months expiring between the 2008 delisting effective date and this Court's enjoining the decision, over 100 wolves were killed in the Northern Rockies during that time. All three states proposed wolf hunts for the Fall of 2008. In Idaho, the Fish and Game Commission set a 2008 total mortality quota of 428 wolves. After several years of 20 percent population growth rates for gray wolves in the northern Rockies, 2008 saw the growth rate decline dramatically to just eight percent.

25. This Court granted FWS's motion to remand and vacate the 2008 delisting decision on October 14, 2008. Just two weeks later, and without offering any new information or justification, FWS reopened the public comment period on the February 8, 2007, proposed rule to delist the northern Rocky Mountain DPS. *See* 73 Fed. Reg. 63,926, 63,928-29 (Oct. 28, 2008); 72 Fed. Reg. 6,106 (Feb. 8, 2007).

26. On April 2, 2009, the Delisting Rule was published in the Federal Register. *See* 74 Fed. Reg. at 15,123. On April 3, 2009, Plaintiff sent 60-day notice of intent to challenge the new delisting rule pursuant to ESA's citizen-suit provision, 16 U.S.C. § 1540(g)

27. The 2009 Delisting Rule retains the ESA violations that resulted in enjoining the 2008 decision. FWS failed to provide any additional information that would indicate the northern Rocky Mountain gray wolf population has biologically recovered. Establishment of a metapopulation, with demonstrated genetic connectivity between the three subpopulations, is an essential recovery standard for the northern Rocky Mountain gray wolf DPS. This Court affirmed the importance of genetic exchange and concerns over the genetic isolation of GYA gray wolves in enjoining the 2008 delisting rule. FWS references new evidence showing genetic connectivity in the Delisting Rule, but the agency has not provided the evidence for public review. Further, the Delisting Rule fails to evaluate any specific threats to future genetic exchange under state management. Instead, FWS asserts that there is no reason to believe genetic isolation will occur as long as the population remains above 1,000 wolves. The assumption that total wolf population will remain above 1,000 is based on the stated intentions of state management plans and not upon legally binding commitments from any state to manage for any more than 100-150 wolves in each state.

28. In addition to retaining the 2008 delisting rule's violations, the 2009 Delisting Rule committed new violations of the ESA that render the rule unlawful. FWS reopened the comment period on the delisting proposal without addressing any new information regarding changes in the wolf population or propagation of

new regulations relevant to wolf management in Montana and Idaho. The Delisting Rule also violates the ESA by designating a northern Rocky Mountain DPS across Idaho, Montana, and Wyoming and then removing protections for the DPS in Montana and Idaho despite an acknowledged threat to the wolves in Wyoming, which represents “a significant portion” of the DPS’s range.

CLAIMS FOR RELIEF

First Cause of Action

(Violation of ESA § 4(a), (b): Arbitrary Assessment of Current and Future Genetic Connectivity)

29. Each and every allegation set forth in paragraphs 1 through 28 of this Complaint is incorporated herein by reference.

30. The ESA requires FWS assess whether the northern Rocky Mountain gray wolf DPS is threatened or endangered by “natural or manmade factors affecting its continued existence” before the DPS can be removed from the endangered species list. 16 U.S.C. § 1533(a)(1)(E). Genetic isolation, or the lack or genetic exchange, is an acknowledged threat to the northern Rocky Mountain gray wolf population. The 1994 EIS added genetic exchange to the 1987 recovery goals and this Court affirmed the importance of establishing genetic exchange in its ruling enjoining the 2008 delisting decision. *See Defenders of Wildlife v. Hall*, 565 F. Supp. 2d at 1168-72. FWS arbitrarily concluded the northern Rocky Mountain gray wolves have established “genetic exchange between

subpopulations” and thus are not threatened by a current or foreseeable lack of genetic exchange. *See* 74 Fed. Reg. at 15,175-78.

31. Despite FWS’s prior conclusion that wolves in GYA are genetically isolated, FWS arbitrarily determined that the northern Rocky Mountain gray wolf population has established genetic connectivity. *See id.* at 15,176. FWS failed to cite sufficient evidence to support this determination and ignored new information regarding declines in wolf population growth since the 2008 delisting decision.

32. FWS arbitrarily determined that the DPS will maintain genetic connectivity based upon the “belie[f]” that the DPS population will remain above 1,000 wolves for the foreseeable future. *See id.* at 15,133. FWS did not seek any enforceable commitments from Montana or Idaho to manage wolf populations above 100-150 wolves in each state. FWS simply relies upon “State projections indicat[ing] they will manage the population at least two to three times [the] minimal recovery level and likely over 1,000 wolves.” *Id.* at 15,177. FWS arbitrarily relied on these indications that the wolf population will remain above 1,000 wolves rather than assessing, as required under by the ESA, whether a much smaller, future population—based on the actual state commitments of 100-150 wolves and evidenced by the intent of the state of Idaho to drastically reduce the number of wolves—would retain genetic connectivity for the foreseeable future. FWS’s failure to consider the potential for a much smaller, future wolf population

to negatively impact genetic exchange represents a significant omission in the required evaluation of factors that may threaten the northern Rocky Mountain gray wolf DPS.

33. FWS arbitrarily relies upon “managed genetic exchange” to alleviate potentially negative impacts resulting from genetic isolation of wolf subpopulations. *See id.* at 15,142. FWS failed to identify or evaluate threats to genetic exchange. Instead, FWS arbitrarily determined that, should genetic isolation impact the gray wolf population, “managed genetic exchange” will be implemented. FWS’s failure to assess threats to the northern Rockies DPS violates the ESA requirement that FWS evaluate “natural or manmade factors” impacting DPS survival. 16 U.S.C. § 1533(a)(1)(E).

34. Additionally, FWS’s reliance on “managed genetic exchange” violates the ESA’s purpose of protecting functioning ecosystems. “Managed genetic exchange” contemplates active human intervention in the gray wolf ecosystem. The ESA’s purpose is to conserve, not intervene upon, the “ecosystem upon which endangered species and threatened species depend[.]” *Id.* § 1531(b).

35. Accordingly, FWS’s determination that the northern Rocky Mountain gray wolf population is not threatened by current or foreseeable lack of genetic exchange is arbitrary, capricious, and not based upon the best available scientific

information in violation of the ESA, 16 U.S.C. § 1533(a), (b), and the APA, 5 U.S.C. § 706(2), and should be set aside.

Second Cause of Action
**(Violation of ESA § 4(a), (b): Arbitrary Failure to Adequately Assess
Regulatory Mechanisms to Achieve Genetic Connectivity)**

36. Each and every allegation set forth in paragraphs 1 through 35 of this Complaint is incorporated herein by reference.

37. The ESA requires FWS assess whether the northern Rocky Mountain gray wolf population is endangered or threatened by “the inadequacy of existing regulatory mechanisms” before delisting the gray wolf DPS. 16 U.S.C. § 1533 (a)(1)(D). FWS failed to meaningfully assess whether regulatory mechanisms in Montana and Idaho are adequate to achieve and maintain genetic connectivity as required by the northern Rockies gray wolf recovery goals.

38. FWS arbitrarily failed to evaluate new regulations passed in Idaho and Montana after the 2008 delisting decision that could impact gray wolf dispersal and genetic exchange. FWS cannot determine the adequacy of regulatory mechanisms for maintaining genetic exchange without considering regulations passed immediately after 2008 delisting. For example, Idaho passed the 2008 Idaho Wolf Management Plan and altered its defense of property statute, neither of which were identified or evaluated by FWS in the Delisting Rule.

39. FWS arbitrarily failed to assess whether the minimum population level of 100-150 wolves per state, the only binding regulatory mechanisms concerning wolf populations in each state, are adequate to maintain genetic connectivity. FWS arbitrarily relied upon the “expected” wolf population of 1,000 wolves in determining that regulatory mechanisms are adequate for maintaining genetic diversity. The population of 1,000 wolves is not a mandated population minimum; it is merely an “expectation” based on “indications” within the state management plans. *See* 74 Fed. Reg. at 15,177. The only regulatory mechanisms regarding minimum population levels are the 100-150 wolves per state minimum population requirements. FWS failed to assess the adequacy of the 100-150 wolves per state regulations for maintaining genetic exchange. FWS’s determination that regulatory mechanisms are adequate to maintain genetic exchange is thus arbitrary and incomplete.

40. Accordingly, FWS’s determination that the northern Rocky Mountain gray wolf population is not threatened by current or foreseeable lack of genetic exchange due to inadequate regulatory mechanisms is arbitrary, capricious, and not based upon the best available scientific information in violation of the ESA, 16 U.S.C. § 1533(a), (b) and the APA, 5 U.S.C. § 706(2), and should be set aside.

Third Cause of Action
(Violation of ESA §§ 3, 4(a): Listing/Delisting Portion of DPS)

41. Each and every allegation set forth in paragraphs 1 through 40 of this Complaint is incorporated herein by reference.

42. The Delisting Rule violates the ESA by retaining endangered status for wolves in Wyoming and delisting the remainder of the northern Rockies DPS. *See* 74 Fed. Reg. at 15,182-82. A DPS is the smallest unit for listing and delisting decisions under the ESA. “Listing distinctions below that of a subspecies or a DPS of a species are not allowed under the ESA.” Alsea Valley Alliance v. Evans, 161 F. Supp. 2d 1154, 1162 (D. Or. 2001), *appeal dismissed for lack of jurisdiction*, 358 F.3d 1181 (9th Cir. 2004). The ESA requires that a species, subspecies, or DPS be listed in its entirety if it is endangered “throughout ... a significant portion of its range.” 16 U.S.C. § 1532(6).

43. FWS evaluated Wyoming’s regulations and found: (a) wolves in Wyoming remain endangered; and (b) Wyoming constitutes a significant portion of the northern Rocky Mountain gray wolf population’s range. *See* 74 Fed. Reg. at 15,182-83. By making these findings, FWS is required to list the entire northern Rocky Mountain gray wolf DPS as endangered. 16 U.S.C. § 1532(6)(20); *id.* §§ 1532(16), 1533(a). It is a clear violation of the plain language of the ESA to subdivide a DPS and list only the endangered portion of the DPS’s range.

Accordingly, FWS's Delisting Rule is a violation of the ESA and should be set aside.

Fourth Cause of Action
(Violation of ESA § 4(a): Failure to Consider Loss of Historic Range)

44. Each and every allegation set forth in paragraphs 1 through 43 of this Complaint is incorporated herein by reference.

45. Before designating and delisting the northern Rocky Mountain gray wolf DPS, the ESA requires FWS determine whether the DPS is endangered or threatened due to “destruction, modification, or curtailment of its habitat or range.” 16 U.S.C. § 1533(a)(1)(A). Identifying and evaluating threats to gray wolves’ historic range is essential for conserving the ecosystem upon which the species depends. FWS arbitrarily decided not to evaluate threats to gray wolves’ historic range. Instead, the agency asserted “most historic wolf habitat in the contiguous United States has been so modified by people that it is currently unsuitable for wolves.” *See* 74 Fed. Reg. at 15,143. However true this statement may be, FWS must assess how these modifications to the wolves’ historic range impact the status of the species before removing the DPS from the list of endangered species.

46. FWS decision is arbitrary, capricious, and not in accordance with the ESA and must be set aside. *See* 16 U.S.C. § 1533; 5 U.S.C. § 706(2).

Fifth Cause of Action
(Violation of ESA § 10(j): Designating Wyoming Wolves
“Non-Essential, Experimental” Population)

47. Each and every allegation set forth in paragraphs 1 through 46 of this Complaint is incorporated herein by reference.

48. FWS’s designation of Wyoming wolves as an “experimental” population violates ESA section 10(j), 16 U.S.C. § 1539(j). “Experimental” status can only be granted to populations that are “wholly separate geographically” from non-experimental populations. 16 U.S.C. § 1539(j)(1). Wyoming wolves are not geographically separated from non-Wyoming wolves. FWS admits this fact in its determination that genetic exchange occurs across the three gray wolf DPS subpopulations.

49. Accordingly, Wyoming wolves cannot be designated as an “experimental” population pursuant to ESA section 10(j), 16 U.S.C. § 1539(j). The Delisting Rule thus violates the ESA and APA, 5 U.S.C. 706(2), and should be set aside.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that the Court enter judgment providing the following relief:

1. Declare that FWS has violated the ESA and its implementing regulations in delisting a portion of the northern Rocky Mountain gray wolf DPS;

2. Set aside FWS's Delisting Rule, and issue an injunction reinstating ESA protections for gray wolves in the northern Rockies.

3. Award Plaintiff's costs and reasonable attorneys fees for this case; and

4. Grant Plaintiff such further and additional relief as the Court may deem proper.

RESPECTFULLY SUBMITTED this 10th day of June, 2009.

Deborah A. Sivas
Robb W. Kapla
ENVIRONMENTAL LAW CLINIC
(*Pro Hac Vice* Applications to be filed)
Mills Legal Clinic at Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, California 94305-8610

-and-

Brian K. Gallik
GOETZ, GALLIK & BALDWIN, P.C.
35 North Grand
P.O. Box 6580
Bozeman, MT 59771-6580

By /s/ **Brian K. Gallik**
Brian K. Gallik

ATTORNEYS FOR PLAINTIFF