



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Central Washington Field Office
215 Melody Lane, Suite 103
Wenatchee, Washington 98801



Claire Loeb Davis
Animal and Earth Advocates, PLLC
20520 105th Ave., SW
Vashon, Washington 98070

Dear Ms. Davis:

Subject: Notice of Intent to Sue, LeClerc Grazing Permit

On November 23, 2022, we received your letter dated November 18, 2022, titled a “Notice of Intent to Sue for Inadequate Analysis of Impacts on Grizzly Bear and Bull Trout of Colville National Forest Grazing Permit for the LeClerc Creek Allotment” on behalf of The Lands Council, Kettle Range Conservation Group, and the Western Watersheds Project.

In the letter, you allege that the U.S. Forest Service (“Forest Service”) and the U.S. Fish and Wildlife Service (“Fish & Wildlife Service”) (collectively, the “Agencies”) are in violation of the Endangered Species Act by failing to adequately evaluate the impact of the May 28, 2021, issuance of a 10-year Term Grazing Permit for the LeClerc Creek Allotment on grizzly bear, bull trout, and bull trout critical habitat. You allege an “insufficient, flawed, and unsupported analysis” contained in the Forest Service’s April 29, 2021 Biological Assessment and in the Fish & Wildlife Service’s combined Biological Opinion and statement of concurrence (“combined 2021 BiOp”) signed on June 25, 2021. You allege that the Agencies have failed to meet their responsibility under the Endangered Species Act to ensure that grazing on the LeClerc Allotment will not jeopardize grizzly bear or bull trout or result in the destruction or adverse modification of bull trout critical habitat.

We write to inform you that the Agencies are reinitiating consultation to ensure compliance with the Endangered Species Act. Among other things, the Forest Service will include an updated assessment of the effects of the project on grizzly bear, bull trout, and bull trout critical habitat. In addition, the Forest Service will review the best available information to determine whether there are effects of the action on whitebark pine, which the Fish & Wildlife Service recently

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listed as a threatened species. Based on the Forest Service's analysis of effects of grazing on the LeClerc Allotment on whitebark pine, it will consult with the Fish & Wildlife Service as appropriate. The Forest Service expects to complete an updated biological assessment and to request reinitiation of consultation with the Fish & Wildlife Service, as appropriate based on its analysis, in February 2023. Thereafter, in accordance with the regulations implementing Section 7 of the Endangered Species Act, 50 C.F.R. § 402.13, 402.14, the Fish & Wildlife Service expects to render a consultation document which will supersede the combined 2021 BiOp. As such, any allegations regarding the combined 2021 BiOp will be moot. After the Forest Service has reinitiated consultation, the Forest Service will ensure that any activities authorized on the LeClerc Allotment will comply with 16 U.S.C. § 1536(d) until the Fish & Wildlife Service issues a new biological opinion.

We hope this information is helpful and that you and your clients refrain from unnecessary litigation while the Agencies undertake a reinitiated consultation.

Sincerely,

for Brad Thompson, State Supervisor
Washington Fish and Wildlife Office