



WILDERNESS WATCH

Keeping Wilderness Wild

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Court injunction stops U.S. Fish and Wildlife Service's unlawful decision to construct and operate a permanent water-diversion pipeline and permanently alter natural conditions within the Red Rock Lakes Wilderness in southwestern Montana

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MISSOULA, MONTANA—Today, U.S. District Court Judge Donald Molloy granted a preliminary injunction to Wilderness Watch, Alliance for the Wild Rockies, Gallatin Wildlife Association, and Yellowstone to Uintas Connection immediately halting the U.S. Fish and Wildlife Service's plans to begin constructing a permanent water-diversion pipeline within the Red Rock Lakes Wilderness in southwestern Montana. The plaintiff organizations challenged the pipeline project as a clear violation of the Wilderness Act, and Judge Molloy's preliminary injunction order recognizes the strength of their claims in preventing the Fish and Wildlife Service from breaking ground while further litigation proceeds.

"Put simply, the agency concluded that the Project would have a detrimental effect on the area's wilderness character--a conclusion inconsistent with [the Wilderness Act]--but approved it anyway," Judge Molloy writes. "[T]he question is not simply whether the agency met certain procedural requirements in analyzing the impacts of the Project under the Wilderness Act; rather, the Wilderness Act imposes substantive limits on wilderness management[.]"

"Judge Molloy's ruling shows the U.S. Fish and Wildlife Service chose a course of action it knew would violate the Wilderness Act, rather than address the root causes of grayling decline," said George Nickas, Wilderness Watch's executive director. "The agency decided it would rather try to change the effects of winter on the refuge than deal with the impacts of human use to the grayling and its habitat. As the court clearly stated, the Wilderness Act demands more of them than that. The agency needs to pursue a wilderness-compatible approach to grayling conservation at Red Rock Lakes Wilderness."

The Fish and Wildlife Service's (FWS) pipeline project would involve digging a six-foot deep, mile-long trench and installing a 14-inch pipeline to connect Upper Red Rock Lake to a man-made pond just outside the Wilderness boundary. Then, the agency would add oxygenated water to the lake during the wintertime in an attempt to artificially manufacture better Arctic grayling habitat.

The groups contend the project is a blatant violation of the Wilderness Act, which prohibits the agency from intentionally modifying the Wilderness' natural conditions and prohibits structures

and installations and the heavy equipment the agency plans to use in carrying out the project.

FWS has framed its project as needed to bolster the abundance of adfluvial Arctic grayling—a species of freshwater fish in the salmon family—in Upper Red Rock Lake, but the agency’s misguided plans are directed at intensively manipulating natural habitat and disrupting natural processes, rather than directed at more aggressively mitigating human sources of harm to the fish, like livestock grazing, human development, and fishing activity.

“This ruling reinforces the integrity of the Wilderness Act and places the responsibility on the Fish and Wildlife Service to actually address the causes, not treat symptoms, of the habitat issues for Arctic grayling in the Red Rock Lakes NWR,” stated John Carter, Ecologist for Yellowstone to Uintas Connection.

“We are thrilled that the court granted our request for a preliminary injunction,” said Mike Garrity, executive director of the Alliance for the Wild Rockies. “Montana Fish, Wildlife and Parks and the Fish and Wildlife Service’s plan was just an excuse to not list fluvial grayling in the Big Hole River as endangered under the Endangered Species Act, which would be a much more effective way to protect grayling than violating the Wilderness Act.

Red Rock Lakes National Wildlife Refuge lies in the high, remote Centennial Valley in the Greater Yellowstone Ecosystem. It has been protected since the 1930s when it was recognized for its importance as waterfowl and wildlife habitat. Trumpeter swans, which nearly faced extinction in the early 20th century, rely on Red Rock Lakes as a nesting ground. Congress designated 32, 500 acres—approximately one-half of the Refuge—as Wilderness in 1976. Wilderness is defined in the law as a place “untrammelled by man...without permanent improvements...which is protected and managed so as to preserve its natural conditions.”

Arctic grayling are a northern fish in extensive abundance in Alaska, Canada, and Russia. The only native populations of grayling in the Lower 48 occurred in the Upper Missouri River Basin in southwestern Montana and Wyoming and in a few waterways feeding the Great Lakes. The Great Lakes population was extirpated in the early twentieth century, but remnants of the Upper Missouri River Basin population remain. “Fluvial” arctic grayling, which reside in streams, have seen the greatest decline across their former Upper Missouri River Basin habitat. FWS has denied petitions from environmental groups to provide Endangered Species Act protections to the fluvial population around the Big Hole River, and those groups are currently suing the agency over its denial.

FWS has pointed to the presence and persistence of the grayling in Upper Red Rock Lake to justify its refusal of more aggressive regulatory action to protect habitat elsewhere in the region. But the abundance of these grayling is also threatened by human impacts to habitat connectivity, by livestock grazing and fishing, and by one entirely natural barrier that the grayling in Red Rock Lakes face: winter. A harsh winter with extensive ice and snow cover on a shallow lake like Upper Red Rock Lake can lead to oxygen depletion that affects grayling survival and abundance. The species has seen past population swings that correlate with such harsh winter habitat conditions.

Additional background information, including an FAQ about this issue, is available here: <https://www.wildernesswatch.org/lawsuit-filed-to-protect-red-rock-lakes-wilderness>

