

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WESTERN WATERSHEDS PROJECT, )  
 ALLIANCE FOR THE WILD ROCKIES, and )  
 YELLOWSTONE TO UINTAS CONNECTION, )

No. 1:20-cv-00860-APM

*Plaintiffs,*

v.

**APPLICANTS IN  
 INTERVENTIONS’ PROPOSED  
 ANSWER TO PLAINTIFFS’  
 COMPLAINT FOR  
 DECLARATORY AND  
 INJUNCTIVE RELIEF**

DAVID BERNHARDT, in his official capacity as )  
 Secretary of the United States Department of the )  
 Interior; UNITED STATES FISH AND )  
 WILDLIFE SERVICE; and UNITED STATES )  
 FOREST SERVICE, )

*Defendants,*

and

UPPER GREEN RIVER CATTLE )  
 ASSOCIATION; SOMMERS RANCH, LLC; )  
 PRICE CATTLE RANCH; MURDOCK LAND )  
 AND LIVESTOCK CO., and WYOMING STOCK )  
 GROWERS ASSOCIATION, )

*Applicants in Intervention.*

Applicants in Intervention, the Upper Green River Cattle Association; Sommers Ranch, LLC; Price Cattle Ranch; Murdock Land and Livestock Co., and the Wyoming Stock Growers Association (collectively, “Ranchers”), hereby respond to Plaintiffs’ Complaint for Declaratory and Injunctive Relief (“Complaint”) (ECF No. 1) as follows:

**INTRODUCTION**

1. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 1 and, therefore, deny the same.

2. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 2 and, therefore, deny the same.

3. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 3 and, therefore, deny the same.

4. Ranchers deny the first sentence of Paragraph 4. The remainder of Paragraph 4 appears to characterize provisions of the Record of Decision reauthorizing livestock grazing under the Upper Green River Area Rangeland Project, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 4 not consistent therewith. Ranchers note that livestock grazing has occurred in this area for over 100 years, beginning in the late 1800s, and continues virtually unchanged today.

5. Paragraph 5 appears to characterize provisions of the April 29, 2019 Biological Opinion (“2019 BiOp”) at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 5 not consistent therewith.

6. Paragraph 6 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 6 not consistent therewith.

7. Paragraph 7 appears to characterize provisions of the April 29, 2019 concurrence letter at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 7 not consistent therewith.

8. Paragraph 8 consists of a summary of the claims and assertions of Plaintiffs’ Complaint, which are responded to below and to which no separate response is required. To the extent a response is necessary, Ranchers deny every allegation not specifically admitted below.

9. Paragraph 9 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

10. Paragraph 10 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

11. Paragraph 11 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

12. Paragraph 12 consists of a summary of Plaintiffs' prayer for relief, to which no response is required. To the extent a response is necessary, Ranchers deny that Plaintiffs are entitled to any relief whatsoever.

### **JURISDICTION AND VENUE**

13. Denied.

14. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 14 and, therefore, deny the same.

15. Denied.

### **PARTIES**

16. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 16 and, therefore, deny the same.

17. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 17 and, therefore, deny the same.

18. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 18 and, therefore, deny the same.

19. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 19 and, therefore, deny the same.

20. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 20 and, therefore, deny the same.

21. Admitted.

22. Admitted.

23. Admitted.

### **THE ENDANGERED SPECIES ACT**

24. Paragraph 24 purports to characterize, and quotes from, provisions of the Endangered Species Act (“ESA”), which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 24 not consistent therewith.

25. Paragraph 25 purports to characterize, and quotes from, provisions of the ESA, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 25 not consistent therewith.

26. Paragraph 26 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 26 not consistent therewith.

27. Paragraph 27 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 27 not consistent therewith.

28. Paragraph 28 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 28 not consistent therewith.

29. Paragraph 29 purports to characterize, and quotes from, provisions of the regulations implementing the ESA and related caselaw, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 29 not consistent therewith.

30. Paragraph 30 purports to characterize, and quotes from, provisions of the regulations implementing the ESA, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 30 not consistent therewith.

31. Paragraph 31 purports to characterize, and quotes from, provisions of the regulations implementing the ESA, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 31 not consistent therewith.

32. Paragraph 32 purports to characterize, and quotes from caselaw, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 32 not consistent therewith.

33. Paragraph 33 purports to characterize, and quotes from caselaw, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 33 not consistent therewith.

34. Paragraph 34 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 34 not consistent therewith.

35. Paragraph 35 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 35 not consistent therewith.

36. Paragraph 36 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 36 not consistent therewith.

37. Paragraph 37 purports to characterize, and quotes from caselaw and provisions of the Administrative Procedure Act, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 37 not consistent therewith.

38. Paragraph 38 purports to characterize caselaw and provisions of the Administrative Procedure Act, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 38 not consistent therewith.

39. Paragraph 39 purports to characterize, and quotes from caselaw, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 39 not consistent therewith.

40. Paragraph 40 purports to characterize provisions of the ESA, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 40 not consistent therewith.

### **FACTUAL BACKGROUND**

41. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 41 and, therefore, deny the same.

42. Paragraph 42 purports to characterize, and quotes from the 1975 listing determination, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 42 not consistent therewith. Ranchers note that the 1975 listing determination expressly authorized the removal of nuisance grizzly bears. *See* 40 Fed. Reg. 31,734, 31,736 (July 28, 1975) (“A grizzly bear constituting a demonstrable but non-immediate threat to human safety, or *committing significant depredations to lawfully present livestock*, may be taken . . . .” (emphasis added)).

43. Paragraph 43 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 43 not consistent therewith.

44. Paragraph 44 purports to characterize a National Park Service document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 44 not consistent therewith.

45. Paragraph 45 purports to characterize a United States Geological Survey document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 45 not consistent therewith.

46. Paragraph 46 purports to characterize a United States Geological Survey document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 46 not consistent therewith.

47. Paragraph 47 purports to characterize provisions of the 2019 BiOp at issue in this case, and purports to characterize, and quote from caselaw, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 47 not consistent therewith.

48. Paragraph 48 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 48 not consistent therewith.

49. Paragraph 49 purports to characterize, and quotes from the Revised Grizzly Bear Recovery Plan, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 49 not consistent therewith.

50. Paragraph 50 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 50 not consistent therewith.

51. Paragraph 51 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 51 not consistent therewith.

52. Paragraph 52 purports to characterize, and quotes from the 2016 Final Conservation Strategy, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 52 not consistent therewith.

53. Paragraph 53 purports to characterize an Interagency Grizzly Bear Study Team document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 53 not consistent therewith.

54. Paragraph 54 purports to characterize the Grizzly bear Recovery Plan Supplement, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 54 not consistent therewith.

55. Paragraph 55 purports to characterize, and quotes from the Grizzly bear Recovery Plan Supplement, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 55 not consistent therewith.

56. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 56 and, therefore, deny the same.

57. Paragraph 57 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 57 not consistent therewith.



58. Paragraph 58 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 58 not consistent therewith.

59. Paragraph 59 purports to characterize provisions of the Final Environmental Impact Statement and Record of Decision at issue in this case, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 59 not consistent therewith.

60. Paragraph 60 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 60 not consistent therewith.

61. Paragraph 61 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 61 not consistent therewith.

62. Paragraph 62 purports to characterize a United States Geological Survey document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 62 not consistent therewith.

63. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 63 and, therefore, deny the same.

64. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 64 and, therefore, deny the same.

65. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 65 and, therefore, deny the same.

66. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 66 and, therefore, deny the same.

67. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 67 and, therefore, deny the same.

68. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 68 and, therefore, deny the same.

69. Paragraph 69 purports to characterize an Interagency Grizzly Bear Study Team document, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 69 not consistent therewith.

70. Paragraph 70 purports to characterize various publications, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 70 not consistent therewith.

71. Paragraph 71 purports to characterize various publications, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 71 not consistent therewith.

72. Paragraph 72 purports to characterize various publications, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 72 not consistent therewith.

73. Paragraph 73 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 73 not consistent therewith.

74. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 74 and, therefore, deny the same.

75. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 75 and, therefore, deny the same.

76. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 76 and, therefore, deny the same.

77. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 77 and, therefore, deny the same.

78. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 78 and, therefore, deny the same.

79. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 79 and, therefore, deny the same.

80. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 80 and, therefore, deny the same.

81. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 81 and, therefore, deny the same.

82. Paragraph 82 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 82 not consistent therewith.

83. Paragraph 83 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 83 not consistent therewith.

84. Paragraph 84 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 84 not consistent therewith.

85. Paragraph 85 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 85 not consistent therewith.

86. Paragraph 86 purports to characterize provisions of the 2019 BiOp at issue in this case and various publications, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 86 not consistent therewith.

87. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 87 and, therefore, deny the same.

88. Paragraph 88 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 88 not consistent therewith.

89. Paragraph 89 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 89 not consistent therewith.

90. Paragraph 90 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 90 not consistent therewith.

91. Paragraph 91 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 91 not consistent therewith.

92. Paragraph 83 purports to characterize a 1999 biological opinion, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 92 not consistent therewith.

93. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 93 and, therefore, deny the same.

94. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 94 and, therefore, deny the same.

95. Paragraph 95 purports to characterize a 2013 biological opinion, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 95 not consistent therewith.

96. Paragraph 96 purports to characterize, and quotes from provisions of a 2014 biological opinion (“2014 BiOp”) at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 96 not consistent therewith.

97. Paragraph 97 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 97 not consistent therewith.

98. Paragraph 98 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 98 not consistent therewith.

99. Paragraph 99 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 99 not consistent therewith.

100. Paragraph 100 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 100 not consistent therewith.

101. Paragraph 101 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 101 not consistent therewith.

102. Paragraph 102 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 102 not consistent therewith.

103. Paragraph 103 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 103 not consistent therewith.

104. Paragraph 104 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 104 not consistent therewith.

105. Paragraph 105 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 105 not consistent therewith.

106. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 106 and, therefore, deny the same.

107. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 107 and, therefore, deny the same.

108. Paragraph 108 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 108 not consistent therewith.

109. Paragraph 109 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 109 not consistent therewith.

110. Paragraph 110 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 110 not consistent therewith.

111. Paragraph 111 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 111 not consistent therewith.

112. Paragraph 112 purports to characterize provisions of the 2014 BiOp and 2019 BiOp at issue in this case, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 112 not consistent therewith.

113. Paragraph 113 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 113 not consistent therewith.

114. Paragraph 114 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 114 not consistent therewith.

115. Paragraph 115 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 115 not consistent therewith.

116. Paragraph 116 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 116 not consistent therewith.

117. Paragraph 117 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 117 not consistent therewith.

118. Paragraph 118 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 118 not consistent therewith.

119. Paragraph 119 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 119 not consistent therewith.

120. Paragraph 120 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 120 not consistent therewith.

121. Ranchers deny the first sentence of Paragraph 121. The remainder of Paragraph 121 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 121 not consistent therewith.

122. Paragraph 122 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 122 not consistent therewith.



123. Paragraph 123 purports to characterize, and quotes from provisions of the 2014 BiOp and 2019 BiOp at issue in this case, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 123 not consistent therewith.

124. Paragraph 124 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 124 not consistent therewith.

125. Paragraph 125 purports to characterize a final listing decision, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 125 not consistent therewith.

126. Paragraph 126 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 126 not consistent therewith.

127. Paragraph 127 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 127 not consistent therewith.

128. Paragraph 128 purports to characterize, and quotes from the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 128 not consistent therewith.

129. Paragraph 129 purports to characterize the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 129 not consistent therewith.

130. Paragraph 130 purports to characterize, and quotes from the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 130 not consistent therewith.

131. Paragraph 131 purports to characterize, and quotes from the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 131 not consistent therewith.

**FIRST CAUSE OF ACTION**  
**Violation of the Endangered Species Act § 7**

**Failure to Evaluate and Consider Anticipated Take Across the GYE**

132. Ranchers resubmit their answers to Paragraphs 1–131 of Plaintiffs’ Complaint.

133. Paragraph 133 purports to characterize, and quotes from, provisions of the ESA and its implementing regulations, which speak for themselves and are the best evidence of their contents; as such, Ranchers deny every allegation in Paragraph 133 not consistent therewith.

134. Paragraph 134 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 134 not consistent therewith.

135. Paragraph 135 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 135 not consistent therewith.

136. Paragraph 136 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

137. Paragraph 137 purports to characterize, and quotes from provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 137 not consistent therewith.

138. Paragraph 138 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

139. Paragraph 139 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

**Failure to Consider Implications of Disproportionate Lethal Take of Female Grizzly Bears**

140. The first sentence of Paragraph 140 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations. The remainder of Paragraph 140 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 140 not consistent therewith.

141. Paragraph 141 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 141 not consistent therewith.

142. Paragraph 142 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 142 not consistent therewith.

143. Paragraph 143 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

**Failure to Consider Effects of Shits in Food Sources on Grizzlies in the UGRA Project Area and the Creation of a Fracture Zone**

144. Paragraph 144 purports to characterize, and quotes from, provisions of the regulations implementing the ESA, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 144 not consistent therewith.

145. Paragraph 145 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

146. Paragraph 146 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

147. Paragraph 147 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 147 not consistent therewith.

148. Ranchers have insufficient information to form a belief as to the truth of the allegations of the first sentence of Paragraph 148 and, therefore, deny the same. The remainder of Paragraph 148 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 148 not consistent therewith.

149. Paragraph 149 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 149 not consistent therewith.

150. Paragraph 150 appears to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 150 not consistent therewith.

151. Paragraph 151 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

152. Paragraph 152 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

153. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 153 and, therefore, deny the same.

**SECOND CAUSE OF ACTION**  
**Violation of the Endangered Species Act § 7**

**Unlawful Reliance on Uncertain and Ineffective Conservation Measures**

154. Ranchers resubmit their answers to Paragraphs 1–153 of Plaintiffs’ Complaint.

155. Paragraph 155 purports to characterize provisions of the 2019 BiOp at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 155 not consistent therewith.

156. Paragraph 156 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

157. Paragraph 157 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

158. Paragraph 158 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

159. Paragraph 159 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

160. Paragraph 160 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

161. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 161 and, therefore, deny the same.

**THIRD CAUSE OF ACTION**  
**Violation of the Endangered Species Act § 7**

**Unlawful Reliance on Legally Flawed Biological Opinion and Incidental Take Statement**

162. Ranchers resubmit their answers to Paragraphs 1–161 of Plaintiffs’ Complaint.

163. Paragraph 163 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

164. Paragraph 164 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

165. Paragraph 165 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

166. Paragraph 166 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

167. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 167 and, therefore, deny the same.

**FOURTH CAUSE OF ACTION**  
**Violation of the Endangered Species Act §§ 7 and 9**

**Unlawful Take on Endangered Kendall Warm Springs Dace  
and Failure to Undertake Formal Consultation**

168. Ranchers resubmit their answers to Paragraphs 1–167 of Plaintiffs’ Complaint.

169. Paragraph 169 purports to characterize provisions of the Record of Decision at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 169 not consistent therewith.

170. Paragraph 170 purports to characterize, and quotes from the Final Environmental Impact Statement at issue in this case, which speaks for itself and is the best evidence of its contents; as such, Ranchers deny every allegation in Paragraph 170 not consistent therewith.

171. Paragraph 171 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

172. Paragraph 172 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

173. Paragraph 173 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

174. Paragraph 174 asserts legal conclusions to which no response is required; however, to the extent that a response is necessary, Ranchers deny the allegations.

175. Ranchers have insufficient information to form a belief as to the truth of the allegations of Paragraph 175 and, therefore, deny the same.

The remainder of Plaintiffs' Complaint consists of Plaintiffs' prayer for relief, to which no response is required. Insofar as a response is required, Ranchers deny that Plaintiffs are entitled to any relief whatsoever.

Ranchers hereby deny all allegations in Plaintiffs' Complaint not specifically admitted herein.

#### **AFFIRMATIVE DEFENSES**

- A. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
- B. Plaintiffs lack standing to assert the causes of action contained in Plaintiffs' Complaint.
- C. This Court lacks jurisdiction over Plaintiffs' Complaint and the causes of action asserted therein.
- D. Plaintiffs' Complaint is barred by Plaintiffs' failure to exhaust administrative remedies.
- E. Plaintiffs' claims are barred by the applicable statute of limitations.
- F. Ranchers reserve the right to assert any other claims or defenses as may be available or may become available during the course of these proceedings.

DATED this 20th day of May, 2020.

Respectfully submitted by:

MOUNTAIN STATES LEGAL FOUNDATION

/s/ Zhonette M. Brown

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 20, 2020, I electronically transmitted the attached document to the Clerk's office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all parties or counsel of record, as more fully reflected on the Notice of Electronic Filing.

/s/ Brian E. Gregg