Timothy M. Bechtold
BECHTOLD LAW FIRM, PLLC
PO Box 7051
Missoula, MT 59807
406-721-1435
tim@bechtoldlaw.net

Alizabeth Bronsdon
Bronsdon Law Firm, PLLC
PO Box 7262
Missoula, MT 59807
267-664-3422
bronsdonlaw@gmail.com

Attorneys for Plaintiffs

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

SAVE THE BULL TROUT and ALLIANCE FOR THE WILD ROCKIES, Plaintiffs, vs. U.S. DEPARTMENT OF THE INTERIOR, and WEST SIDE DITCH COMPANY, Defendants.	CV-25-45-H-JTJ **COMPLAINT**

1. This is a challenge to the U.S. Department of the Interior's and West Side Ditch Company's ongoing, unpermitted incidental take of bull trout each year via entrainment and inducement of suboptimal instream flow on the section of the Upper Clark Fork River

downstream of the West Side Ditch , in violation of the Endangered Species Act.

2. This civil action also seeks judicial review under the Administrative Procedures Act of the U.S. Fish & Wildlife Service's inadequate Biological Opinion and Incidental Take Statement for the Grant Kohrs Ranch National Historic Site.

3. Defendants' actions or omissions violate the Endangered Species Act, 16 USC §§ 1532 et seq. and/or the Administrative Procedures Act, 5 USC §§ 701 et seq., and are arbitrary and capricious, an abuse of discretion, and/or otherwise not in accordance with law.

4. Plaintiffs here request that the Court declare that the U.S. Department of the Interior's allowance of unpermitted incidental take of bull trout violates Section 9 of the Endangered Species Act.

5. Plaintiffs here request that the Court declare that the West Side Ditch Company's unpermitted incidental take of bull trout violates Section 9 of the Endangered Species Act.

I. JURISDICTION

6. This action arises under the laws of the United States and involves the United States as a Defendant. Therefore, this Court has subject matter

jurisdiction over the claims specified in this Complaint pursuant to 28 U.S.C. §§ 1331, 1346.

7. An actual controversy exists between Plaintiffs and Defendants. Plaintiffs' members have been at the forefront of bull trout conservation for decades, and have fought against all odds, including immense political pressure and the vast resources of the federal government, to ensure the survival and recovery of bull trout under the Endangered Species Act. Plaintiffs' members use and enjoy the area affected by the operations of Grant-Kohrs Ranch National Historic Site and the West Side Ditch for hiking, fishing, hunting, camping, photographing scenery and wildlife, and engaging in other vocational, scientific, spiritual, and recreational activities. Plaintiffs' members intend to continue to use and enjoy the area frequently and on an ongoing basis in the future.

8. The aesthetic, recreational, scientific, spiritual, and educational interests of Plaintiffs' members have been and will be adversely affected and irreparably injured if Defendant fails to comply with the law. These are actual, concrete injuries caused by Defendant's failure to comply with mandatory duties under the ESA. The requested relief would redress these injuries, and this Court has the authority to grant

Plaintiffs' requested relief under 28 U.S.C. §§ 2201 & 2202, and 16 U.S.C. § 1540(g).

9. Plaintiffs sent Defendant a 60-Day Notice of Intent to Sue for violations of the ESA, and that 60-day notice period has expired. Thus, this Court has jurisdiction to review Plaintiffs' claims under the ESA.

II. VENUE

10. Venue in this case is proper under 28 U.S.C. § 1391(e) and Local Rule 3.2. The area at issue in this case—the Grant-Kohrs Ranch National Historic Site and the West Side Ditch—falls within Powell County, which is within the Helena Division of the United States District Court for the District of Montana.

III. PARTIES

11. Save the Bull Trout is a non-profit public interest organization dedicated to ensuring the survival and recovery of bull trout. Its registered office is located in Missoula, Montana.

12. Alliance for the Wild Rockies is a tax-exempt, public interest organization dedicated to the protection and preservation of the native biodiversity of the Northern Rockies Bioregion, its native plant, fish, and animal life, and its naturally functioning ecosystems. Its

registered office is located in Missoula, Montana. The Alliance has over 2,000 individual members, many of whom are located in Montana. Members of the Alliance work as fishing guides, outfitters, and researchers, who observe, enjoy, and appreciate Montana's native wildlife, water quality, and terrestrial habitat quality, and expect to continue to do so in the future. Alliance's members' professional and recreational activities are directly affected by Defendants' failure to perform their lawful duty to protect bull trout from unpermitted take under the ESA. Alliance for the Wild Rockies brings this action on its own behalf and on behalf of its adversely affected members.

13. Defendant UNITED STATES DEPARTMENT OF THE INTERIOR is an administrative agency of the United States government.

14. Defendant WEST SIDE DITCH COMPANY is the corporation that owns the West Side Ditch, which diverts water from the Upper Clark Fork River near Deer Lodge, Montana, to the Grant-Kohrs Ranch.

IV. FACTUAL ALLEGATIONS

15. The U.S. Department of the Interior (DOI) operates the Grant-Kohrs Ranch National Historic Site (GKR) in Deer Lodge, Montana. Three miles of the GKR abut the Upper Clark Fork River (UCF).

16. Congress established the GKR as a national historic site in 1972 to

commemorate the frontier cattle era of U.S. history, preserve the centuries-old Grant-Kohrs Ranch, and interpret those nationally significant values for the benefit and inspiration of present and future generations.

17. The DOI adopted the GKR's most recent management plan in 1993.

18. In 2010, the U.S. Fish & Wildlife Service (FWS) designated 62.8 miles of the UCF as critical habitat for bull trout, which is listed as threatened under the ESA. A portion of this stretch of the UCF abuts the GKR.

19. In furtherance of the GKR's purposes, the DOI diverts water from the West Side Ditch for "cultural" agricultural purposes—namely stock watering and flood irrigation—on 413 acres pursuant to a senior water right with an 1888 priority date.

20. The West Side Ditch is owned by the West Side Ditch Company. The DOI owns 16% of the shares of the West Side Ditch Company.

21. The West Side Ditch diverts water from the UCF near Deer Lodge, Montana, and conveys irrigation water 13.6 miles from its headgate located near the Racetrack Interstate 90 interchange, north to the GKR.

22. In most years, the GKR and the other West Side Ditch users divert

50% or more of the entire flow of the UCF in mid-to-late summer. In drought years, GKR and the other West Side Ditch users divert upwards of 90% of the flow.

23. The DOI's diversions for the GKR, combined with anomalously warm summer temperatures, have caused extremely low streamflows on the UCF in ten out of the last 16 years.

24. In July and August 2015, average daily flows at the Deer Lodge USGS gage dropped below 100 cfs for 47 days. The recommended volume for the Deer Lodge gage is 180 cfs.

25. On August 4, 2016, flows measured 2.6 cfs in the UCF below West Side Ditch. 2021 drought conditions similarly dropped flows to single digits in reaches of the UCF.

26. On July 27, 2022, flows in the UCF at the Deer Lodge USGS gauge dropped below 100 cfs and stayed below 100 cfs until September 20, 2022. Flows were as low as 39.7 cfs on August 16, 2022.

27. In 2023, flows in the UCF at the Deer Lodge USGS gauge dropped below 100 cfs for seven days in August.

28. Per the 2023 GKR Biological Opinion (BiOp) at 44, "The mean July, August, and September discharge for the Deer Lodge gage was below 90 cfs: ten times in July, 21 times in August and twice in September

in the past 43 years."

29. In 2024, discharge at the Deer Lodge gauge was below 90 cfs from July 12 through September 12, and again from September 15 through September 17 and September 26 through October 4, and below 110 cfs continuously from July through October 6, 2024.

30. Per the BiOp, 90 cfs is the minimal threshold to support a fishery.

31. Streamflow below 180 cfs at the Deer Lodge gage results in amplified channel exposure, while flows below 90 cfs cause rapid degradation of aquatic habitat. Bull trout rely on minimum instream flows for their spawning, migration, and survival.

32. As such, the DOI's "cultural" agricultural watering at the GKR and the West Side Ditch diversion practices have effectively dewatered the UCF at crucial time periods, resulting in not enough instream flow for the bull trout to survive.

33. The extent of dewatering by the DOI's agricultural practices at the GKR and the West Side Ditch diversion practices have so adversely modified the bull trout's critical habitat that the species cannot survive in that portion of the UCF, much less spawn or migrate to headwaters streams.

34. The DOI completed a biological opinion for the Grant Kohrs Ranch

National Historic Site on June 6, 2023.

35. The "action area" for the biological opinion is about 20 miles of the UCF that "begins at the WSD point of diversion and follows the CFR downstream until the point the CFR flows out of the GRKO legislative boundary."

36. The "action area" is part of the Middle Clark Fork Sub-Unit for critical habitat.

37. The biological opinion did not include the operation of the West Side Ditch diversion other than the ditch water that reaches GKR, which is at the end of the West Side Ditch.

38. The biological opinion fails to adequately consider the cumulative effects of the West Side Ditch diversion and the other UCF diversions on designated critical habitat for bull trout.

39. The biological opinion provides the following cumulative effects analysis concerning irrigation diversions: "Irrigation by private landowners reduces the water available for bull trout, decreases pool depth, and water diversions cause physical barrier impediments to migration. Entrainment of bull trout can occur in ditches without fish screens."

40. The Upper Clark Fork River within the action area is chronically

dewatered. The reach of river between the West Side Ditch diversion and Deer Lodge is the most dewatered reach in the UCF, as it contains many of the largest irrigation diversion canals on the mainstem of the river, and the most severe dewatering of the UCF in the action area is the stretch between the West Side Ditch diversion and Sager Lane.

41. The biological opinion concludes that, "After reviewing the current status of bull trout, the environmental baseline for the action area, the effects of the proposed management actions, and the cumulative effects, it is the Service's biological opinion that the actions as proposed, are *not likely to jeopardize the continued existence* of bull trout; *nor result in the destruction or adverse modification of designated bull trout critical habitat*."

42. The biological opinion concludes that, "Eleven of the 19 habitat indicators [in the action area] were rated as Functioning at Unacceptable Risk, the remaining [eight] indicators were rated as Functioning at Risk (no habitat indicators were rated as Functioning Appropriately)."

43. Lack of instream flows in the lower reaches of tributaries, and the effect the reduced flows have on the suitability of the river is a major limiting factor for bull trout in the UCF.

44. Low stream flow conditions are exacerbated due to irrigation withdrawals when stream flows are naturally diminishing during the summer months.

45. The existing water quality and quantity conditions for bull trout are considered to be "Functioning at Unacceptable Risk" within the action area during low-flow periods. A flow assessment using the wetted perimeter methodology and 90 cfs as a minimum base flow to maintain a fishery at Deer Lodge indicated that 40% of the time flows fall below this minimum.

46. The West Side Ditch diversion structure is over 100 years old and likely acts as a fish passage barrier during low flows. The Westside Ditch system impacts bull trout and its critical habitat through reduced habitat function (dewatering) impeding fish passage, degradation of water quality (i.e. irrigation return flow) and loss of individuals through fish entrainment into the irrigation system.

47. GKR irrigation practices are likely to adversely affect designated critical habitat. Improvements to degraded conditions are unlikely to occur. The proposed action will continue to contribute to critical habitats being non-functional 40% of the time during annual operation. That is, flows will likely continue to drop below 90 cfs.

The migration of bull trout through the action area will likely result in the loss of individuals from entrainment or will block fish passage and the resulting inability to escape will result in exposure to lethal habitat conditions (likely temperatures).

48. To resolve SBT's claims in *Save the Bull Trout v. U.S. Dept. Interior*, CV-22-42-H-BMM, a lawsuit alleging claims similar to this lawsuit, SBT and DOI entered into a settlement whereby the government agreed to fund multi-year projects providing replacement of the WSD diversion in return for dismissal of the lawsuit against DOI. Under the terms of the agreement, DOI agreed that SBT could file claims challenging the GKR BiOp and §9 takings claims against DOI if DOI did not continue to provide funding for multiple years until the projects were completed.

49. DOI has stopped funding the WSD replacement projects.

V. CLAIMS FOR RELIEF

COUNT 1

The DOI's failure to implement nondiscretionary reasonable and prudent measures in the Incidental Take Statement is an unpermitted take of bull trout in violation of ESA §9.

50. All previous paragraphs are incorporated by reference.

51. Pursuant to ESA §9, "it is unlawful for any person . . . to take any [listed] species within the United States." 16 U.S.C. § 1538(a)(1)(B).

52. The ESA states: "The term 'take' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." 16 U.S.C. § 1532(19).

53. ESA regulations state: "Harass in the definition of 'take' in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." 50 C.F.R. § 17.3.

54. ESA regulations state: "Harm in the definition of 'take' in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 C.F.R. § 17.3.

55. However, ESA §10 states: "The Secretary may permit . . . any taking otherwise prohibited by section 1538(a)(1)(B) of this title if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity." 16 U.S.C. § 1539(a)(1)(B).

56. Section 10 further clarifies: "In connection with any action alleging a violation of section 1538 of this title, any person claiming the benefit of any exemption or permit under this chapter shall have the burden of proving that the exemption or permit is applicable, has been granted, and was valid and in force at the time of the alleged violation." 16 U.S.C. § 1539(g).

57. If the offending party is a Federal agency, the permit for incidental take is usually issued as part of an "incidental take statement" under ESA §7, which "(i) specifies the impact of such incidental taking on the species, (ii) specifies those reasonable and prudent measures that the Secretary considers necessary or appropriate to minimize such impact . . . and (iv) sets forth the terms and conditions (including, but not limited to, reporting requirements) that must be complied with by the Federal agency or applicant (if any), or both, to implement the measures specified under clauses (ii) and (iii)." 16 U.S.C. § 1536(b)(4).

58. The Incidental Take Statement (ITS) provided by the Fish and Wildlife Service for GKR requires the implementation of certain nondiscretionary reasonable and prudent measures (RPM) to comply with the ITS.

59. Failure to implement the RPM is a violation of the ITS. A violation of the ITS is a violation of §9.

60. ITS RPM #1 requires assessment of all diversion structures for potential entrainment of fish; installation of fish screens; and end-of-year salvage of fish.

61. DOI has failed to implement these nondiscretionary terms and conditions of RPM #1.

62. ITS RPM #2 requires assessment of all related irrigation infrastructure for fish passage.

63. DOI has failed to implement this nondiscretionary term and condition of RPM #2.

64. ITS RPM #3 requires evaluation of water quality of CFR return flows from Westside Ditch/Taylor Creek and an instream flow study.

65. DOI has failed to implement these nondiscretionary terms and conditions of RPM #3.

66. Unless and until the DOI complies with the nondiscretionary terms and conditions of RPM #1, RPM #2, and RPM #3, it is in violation of the incidental take permit from the FWS, in violation of ESA §9.

COUNT 2

West Side Ditch Company's practices have resulted in unpermitted take of bull trout and bull trout critical habitat in violation of the ESA.

67. All previous paragraphs are incorporated by reference.

68. The West Side Ditch Company's failure to install a fish screen on the West Side Ditch point of diversion has taken bull trout by entrainment.

69. The West Side Ditch Company's diversion of UCF water has adversely modified designated bull trout critical habitat by dewatering the UCF.

70. The West Side Ditch Company has not applied for or been granted an incidental take permit for this take of bull trout or adverse modification of bull trout critical habitat.

71. The West Side Ditch Company is in violation of the ESA for unauthorized take of bull trout and bull trout critical habitat.

COUNT 3

The biological opinion's failure to adequately consider cumulative effects violates the APA.

72. All previous paragraphs are incorporated by reference.

73. The GKR biological opinion fails to adequately consider the cumulative impacts of the Westside Ditch diversion and other UCF

irrigation diversions in its assessment of adverse modification to bull trout critical habitat.

74. The GKR biological opinion does not seriously discuss the available information about these diversions and their effects on bull trout critical habitat.

75. This failure is arbitrary and capricious, an abuse of discretion, and otherwise not in accordance with law, including the ESA's mandate to use the best available information in §7 consultations.

VI. RELIEF REQUESTED

For all of the above-stated reasons, Plaintiffs request that this Court award the following relief:

A. Declare that the DOI is violating the ESA;

B. Declare that West Side Ditch Company is violating the ESA;

C. Declare that the GKR biological opinion violates the law;

D. Order the DOI to prepare a lawful biological opinion;

E. Order the DOI to immediately implement interim measures to protect bull trout and bull trout critical habitat until it receives a lawful incidental take permit;

F. Order the DOI to immediately implement the nondiscretionary reasonable and prudent measures delineated in the GKR biological

opinion until such time as it receives a lawful incidental take statement;

G. Order the West Side Ditch Company to cease its unpermitted take of bull trout and bull trout critical habitat;

H. Order DOI and the West Side Ditch Company to refrain from removing or diverting water from the Clark Fork River at any time when the Deer Lodge gauge falls below 110 cfs.

I. Award Plaintiffs their costs, expenses, expert witness fees, and reasonable attorney fees under ESA; and

J. Grant Plaintiffs any such further relief as may be just, proper, and equitable.

Respectfully submitted this 17th day of June, 2025.

/s/Timothy Bechtold
Bechtold Law Firm, PLLC

/s/Alizabeth Bronsdon
Bronsdon Law Firm, PLLC

Attorney for Plaintiffs

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Save the Bull Trout, Alliance for Wild Rockies

(b) County of Residence of First Listed Plaintiff Missoula
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Timothy Bechtold PO Box 7051 Missoula, MT 59807 406-721-1435
Alizabeth Bronsdon, PO Box 7262, Missoula, MT 59807 267-664-3422

DEFENDANTS

U.S. Department of Interior; West Side Ditch Company

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ☒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
42 USC 4331; 15 USC 1531; 5 USC 701

Brief description of cause:
lawsuit alleges violations of environmental laws

VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ❒ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
06/17/2025

SIGNATURE OF ATTORNEY OF RECORD
/s/Timothy M. Bechtold

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. **Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. **Origin.** Place an "X" in one of the six boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service

VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.