

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

WILDLANDS CPR, a non-profit organization;
FRIENDS OF THE BITTERROOT, a non-profit
organization,

Plaintiffs,

vs.

TOM TIDWELL, in his official capacity as
Regional Forester for the United States Forest
Service, Region One; the UNITED STATES
FOREST SERVICE, an agency of the United
States Department of Agriculture; and the
UNITED STATES DEPARTMENT OF
AGRICULTURE, a federal department,

Federal-Defendants.

CV-09-75-M-DWM

STIPULATED
SETTLEMENT
AGREEMENT

WHEREAS, on January 4, 2008 the Forest Service issued a Decision Memo authorizing a five year challenge cost share agreement to continue snowmobile grooming operations on forest roads and trails in the Pioneer, Big Hole and Upper Clark Fork landscape areas on the Beaverhead and Deerlodge National Forests (hereafter “Grooming Decision”);

WHEREAS, Plaintiffs have challenged the Forest Service’s Grooming Decision under NEPA, NFMA and the Montana Wilderness Study Act;

WHEREAS, the Parties desire to settle and compromise this dispute without further expenditure of time and resources;

NOW THEREFORE, the Parties hereby agree as follows:

1. The Forest Service agrees that it shall modify the Grooming Decision for the 2009-2010 snowmobile season within the West Pioneers Wilderness Study Area (WSA) to only allow grooming on those trails depicted on the Map attached

to this agreement as Exhibit A.

2. The Forest Service agrees that it shall terminate the Grooming Decision after the 2009-10 snowmobile season with respect to the West Pioneers WSA and thereafter no snowmobile grooming shall be conducted in the West Pioneers WSA pursuant to the Grooming Decision.

3. The Parties agree that nothing herein shall preclude the Forest Service from proposing future snowmobile grooming within the West Pioneers WSA. The Forest Service agrees that in the event it should propose to authorize snowmobile grooming within the West Pioneers WSA it shall comply with all applicable laws regarding analysis of such proposal and agrees to notify Plaintiffs and provide them the opportunity to participate in such analysis as provided by applicable law and regulation.

4. The Parties agree that monitoring of snowmobile use within the West Pioneers WSA is important and to that end agree to coordinate on such monitoring. The Forest Service agrees to monitor snowmobile use in the West Pioneers WSA. Plaintiffs agree to coordinate any monitoring they wish to fund or undertake with the Forest Service to help insure that such monitoring efforts are scientifically valid, and provide useful information. The Parties agree to meet in the fall of 2010 to discuss both future monitoring needs and previous years' monitoring results of snowmobile use in the West Pioneers WSA.

5. Nothing in this agreement shall constitute or be interpreted as an admission of fact or law by any party. It is understood by the signatories to this agreement that the facts supporting this agreement, to the extent there are any, may hereafter prove to be other than or different from the facts now known or believed to be true. The Parties expressly accept and assume the risk of such facts proving to be different, and agree that all the terms of this agreement shall be

effective and not subject to termination or rescission by any such difference in facts.

6. This agreement shall be binding on, and inure to the benefit of, the Parties and their respective legal representatives, successors, and assigns. The undersigned representatives of each party certify that they are fully authorized by the party or parties they represent to execute this agreement. This agreement includes and embodies the entire terms and conditions of the agreement between the Parties.

7. The Forest Service agrees to pay Plaintiffs \$15,560 as a full and final resolution of any and all claims for attorneys' fees, costs, and other expenses that Plaintiffs have or may have in the above captioned case. This payment is the lump sum result of settlement negotiations, and does not represent any acknowledgment that Plaintiffs' attorneys are entitled to any particular hourly rate or any particular expenses. This agreement cannot be cited as precedent of any kind. Upon payment of these fees and costs, this case will be completely resolved with no recourse to appeal or further litigation, and Plaintiffs waive all claims for fees and costs connected to this dispute, and this agreement, going forward. Payment will be by electronic funds transfer to Plaintiffs through the Western Environmental Law Firm, in accordance with the information provided by Plaintiffs. The Forest Service agrees to submit all necessary paperwork to the Department of Agriculture's processing office within thirty (30) days after the filing of this stipulated agreement.

8. Nothing in this agreement may be construed to require any of the Federal Defendants to obligate to pay funds or in any other way take action in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other applicable appropriations law. The Federal Defendants will make all reasonable efforts to obtain the

resources necessary to carry out the terms of this agreement and to have the necessary funds allocated.

9. Nothing in this agreement may be construed to limit, direct or modify the discretion accorded to the Federal Defendants by the statutes they administer or by general principles of administrative law.

10. Nothing in this agreement affects the legal rights or obligations of the Forest Service or Plaintiffs in other settlement agreements.

11. The terms of this Agreement shall become effective upon entry of an order by the Court ratifying the Agreement.

12. Upon approval of this Agreement by the Court, all counts of Plaintiffs' complaint shall be dismissed with prejudice.

Respectfully submitted this 17th day of December, 2009.

WILLIAM W. MERCER
United States Attorney

/s/ Mark Steger Smith
Mark Steger Smith
Assistant U.S. Attorney
Attorney for Defendants

WESTERN ENVIRONMENTAL LAW CENTER

/s/ Matthew Bishop
Matthew K. Bishop
103 Reeder's Alley
Helena, MT 59601
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of December, 2009 I filed a copy of this document electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Matthew Bishop
Matthew Bishop