

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

Alliance for the Wild Rockies v. Ben Johnson, et al.; American Forest
Resource Council

Alliance for the Wild Rockies · No. CV 25-136-M-DLC · Decided February 11, 2026

SUMMARY

The United States District Court for the District of Montana granted Plaintiff’s motions for leave to file a second amended complaint and to conduct discovery. The action challenges Forest Service and Fish and Wildlife Service actions concerning the Redd Bull 2 Project under the Endangered Species Act, NEPA, NFMA, and the APA. The Court held that the proposed ESA claims were not futile or untimely and permitted discovery on the ESA citizen-suit claims beyond the administrative record.

CASE DETAILS

COURT	United States District Court for the District of Montana, Missoula Division
WRITING FOR THE COURT	Dana L. Christensen
JURISDICTION	United States District Court for the District of Montana, Missoula Division
DECIDED	February 11, 2026
DOCKET	CV 25-136-M-DLC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to file a second amended complaint and for permission to conduct discovery concerning its Endangered Species Act claims. The district court granted both motions.
STANDARD OF REVIEW	Motions for leave to amend are reviewed under Federal Rule of Civil Procedure 15(a)(2), which calls for freely granting leave when justice so requires and requires consideration of bad faith, undue delay, prejudice, and futility. A proposed amendment is futile only if no set of facts could be proved under it that would constitute a valid claim or defense. ESA claims are reviewed under the APA's arbitrary-and-capricious standard, but ESA citizen-suit claims may be reviewed using evidence outside the administrative record for the limited purpose of evaluating the ESA claims.

PRECEDENTIAL VALUE	Unknown
PARTIES	Alliance for the Wild Rockies v. Ben Johnson, et al., American Forest Resource Council

TOPICS

endangered species act administrative procedure act judicial review of agency action discovery dispute
motion to amend

PRACTICE AREAS

environmental law administrative law civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff should be granted leave under Federal Rule of Civil Procedure 15(a)(2) to file a second amended complaint adding an ESA Section 7 claim and clarifying its ESA Section 9 claim.
2. Whether the proposed amendments were futile because the ESA claims were not legally cognizable against the agencies.
3. Whether Plaintiff's ESA Section 7 claim was barred by the ESA's 60-day notice requirement.
4. Whether the court could permit discovery and consider evidence outside the administrative record on ESA citizen-suit claims.

HOLDINGS

1. Leave to file the second amended complaint should be granted because the proposed amendments were not shown to be undertaken in bad faith, would not cause undue delay or undue prejudice, and were not futile.
2. The proposed ESA Section 7 and Section 9 claims were not futile at the pleading stage because the allegations, construed as directed primarily at the Forest Service, could support claims under the ESA citizen-suit provision or APA review.
3. The ESA claims in the amended complaint and proposed second amended complaint were not barred by the 60-day notice requirement because they were filed after the notice period expired and sufficiently corresponded to the notice of intent to sue.
4. Discovery was permissible and warranted on the ESA Section 7 and Section 9 citizen-suit claims, and review of those claims was not confined to the administrative record.

KEY QUOTATIONS

“The Court therefore concludes that the amendments contained in the SAC are not in bad faith, are timely brought, will not unduly prejudice the Defendants, and are not futile.” (Discussion § I)

“Therefore, the Court concludes that pursuant to Kraayenbrink and its progeny, review of Counts II and III of the SAC shall not be confined to the administrative record.” (Discussion § II)

FACTUAL BACKGROUND

The action concerns the Forest Service's Redd Bull Decision Notice for the Redd Bull 2 Project and the related Biological Opinion and Incidental Take Statement issued by the Fish and Wildlife Service. The project authorizes regeneration, intermediate, and non-commercial restoration harvesting on 6,421 acres in the Lolo National Forest west of St. Regis, Montana, and one timber sale had already been auctioned. Plaintiff alleges that the agencies violated the ESA, NEPA, NFMA, and APA in authorizing the project and in addressing effects on bull trout and its habitat.

PROCEDURAL HISTORY

Plaintiff filed its original complaint on August 22, 2025, and an amended complaint on November 14, 2025, challenging Forest Service and Fish and Wildlife Service actions concerning the Redd Bull 2 Project. Plaintiff then sought leave to add an ESA Section 7 claim and clarify its ESA Section 9 claim, and sought discovery on those claims. The court granted both motions and directed the parties to refile an updated proposed joint case management plan.

DISPOSITION

other

CASES CITED

- DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 185-87 (9th Cir. 1987)
- United States v. Webb, 655 F.2d 977, 979 (9th Cir. 1981)
- Lockheed Martin Corp. v. Network Solutions, 194 F.3d 980, 986 (9th Cir. 1999)
- Miller v. Rykoff-Sexton, 845 F.2d 209, 214 (9th Cir. 1988)
- Bennett v. Spear, 520 U.S. 154, 173, 175, 178-79 (1997)
- Environmental Protection Information Center v. Simpson Timber Co., 255 F.3d 1073, 1079 (9th Cir. 2001)
- Ashcroft v. Iqbal, 556 U.S. 662, 677-78 (2009)
- Southwest Center for Biological Diversity v. U.S. Bureau of Reclamation, 143 F.3d 515, 520 (9th Cir. 1998)
- Community Association for Restoration of the Environment v. Henry Bosma Dairy, 305 F.3d 943, 951 (9th Cir. 2002)
- Klamath-Siskiyou Wildlands Center v. MacWhorter, 797 F.3d 645, 651 (9th Cir. 2015)
- Western Watersheds Project v. Kraayenbrink, 632 F.3d 472, 496-97 (9th Cir. 2011)
- Northwest Ecosystem Alliance v. U.S. Fish & Wildlife Service, 475 F.3d 1136, 1140 (9th Cir. 2007)
- San Luis & Delta-Mendota Water Authority v. Jewell, 747 F.3d 581, 602 (9th Cir. 2014)
- Alliance for Wild Rockies v. Probert, 412 F. Supp. 3d 1188, 1197 (D. Mont. 2019)
- Alliance for Wild Rockies v. Kruger, 950 F. Supp. 2d 1172, 1177 (D. Mont. 2013)

- Native Ecosystems Council v. Marten, 334 F. Supp. 3d 1124, 1129 (D. Mont. 2018)
- Wildwest Institute v. Ashe, 2013 WL 12134034, at *2 (D. Mont. Oct. 18, 2013)
- Northern Plains Resource Council v. United States Army Corps of Engineers, 454 F. Supp. 3d 985, 991 (D. Mont. 2020)
- Friends of the Clearwater v. Higgins, 523 F. Supp. 3d 1213, 1219-22 (D. Idaho 2021)
- National Family Farm Coalition, 966 F.3d 893, 926 n.11 (9th Cir. 2020)
- Center for Biological Diversity v. Ross, 349 F. Supp. 3d 38, 43-44 (D.D.C. 2018)

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