

RESOLUTION 21- 61
Intervention Lynx/Wolverine Case
Defense U.S. Fish & Wildlife Service

A **RESOLUTION** authorizing and consenting to Bonner County, State of Idaho, to join in and participate in, as part of a class consisting of other counties and recreational interest groups, in certain litigation described herein and for the purposes set forth herein, in order to protect and preserve public access to federal lands, and to protect and preserve economic sustainability for said county and its citizens.

BE IT RESOLVED by the Board of County Commissioners, Bonner County, Idaho:

WHEREAS, a certain civil action is now pending before the United States District Court for the District of Montana (Missoula Division), Case No. 9:20-cv-00173-DWM, challenging and seeking to reverse that certain decision by the United States Fish and Wildlife Service, dated December 20, 2017, to forego ESA recovery planning for the Canada lynx and determining that Canada lynx have recovered and are not a threatened species under the ESA (hereinafter “the Lynx Case”); and

WHEREAS, a certain civil action is now pending before the United States District Court for the District of Montana (Missoula Division), Case No. 9:20-cv-00181-DWM, challenging and seeking to reverse that certain decision by the United States Fish and Wildlife Service, dated October 13, 2020, that the North American wolverine is not in need of ESA protection, is not a threatened species, and thereby withdrawing a proposed rule to list said species as threatened under the ESA (hereinafter “the Wolverine Case”); and

WHEREAS, the citizens, businesses, property owners and visitors of this county share a common appreciation of and for federally-owned and managed lands within this county, including the geological areas and natural features encompassed thereby, the forestlands encompassed thereby, the river systems encompassed thereby, and the recreational access and opportunity provided thereby; and

WHEREAS, this county, citizens, businesses, property owners and visitors, use and enjoy a variety of access, recreational, aesthetic, and commercial activities within the federally-owned and managed lands within this county, which requires continued access and use of federal public lands, including winter motorized recreational use thereof, particularly by snowmobile; and

WHEREAS, the local economy of this county is significantly stimulated by winter recreation activity, motorized and non-motorized, as well as non-winter recreation activity, on and about federal public lands; and

WHEREAS, motorized travel on federal lands is a tremendous recreation asset, as well as an increasingly significant economic asset for this county and, accordingly, preserving responsible motorized access to federal lands is an extremely high priority for the county and for stabilization and sustenance of the local economy; and

WHEREAS, this county, through its representatives and its citizens, regularly attends public meetings, submits input, and otherwise participates in collaborative groups, planning processes, research projects and study activities of federal agencies, including those initiated by or coordinated by the U.S. Fish and Wildlife Service, and is otherwise actively involved in travel management planning and land use planning activities on lands owned and/or managed by the U.S. Forest Service and the U.S. Bureau of Land Management, which often involves review, comment and analysis upon biological opinions, as well as other NEPA and ESA implications; and

WHEREAS, this county has a significant interest in the outcome of the Lynx Case and the Wolverine Case as a decision in favor of the litigating plaintiffs threatens the economic vitality of the local economy and presents the likelihood of loss of winter motorized access for snowmobiling and other recreation, leading inevitably to a decline in the local economy, the loss of recreation and aesthetic enjoyment, including for simple enjoyment of the environment, appreciation of historic and cultural resources, for the intrinsic enjoyment of leisure travel in nature, to sightsee, to hunt, to fish, to camp and adventure, to view wildlife, to view plants, to bird watch, to seek thrill, to engage in photography, and to entertain family and friends; and

WHEREAS, any ESA action with respect to lynx and/or wolverine that is unwarranted or unfounded will likely result in reduced winter motorized recreation opportunity in this county, will harm local economic interests, and will impair the ability of all persons to use and enjoy federal public lands in this county; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners, Bonner County, Idaho that the county desires to protect and defend the decisions of the U.S. Fish and Wildlife Service being challenged in the Lynx Case and the Wolverine Case, and it is in the best interests of the county to participate in the Lynx Case and the Wolverine Case for that purpose and for the purpose of protecting and preserving the interests of the county expressed above, and to do so by intervening in said cases, and if intervention is not possible then by appearing before the court as a friend of the court to express the interests of the county in the litigation and its outcome, and **THEREFORE**:

1. The county is authorized to, and shall take steps to, obtain intervenor status (or alternatively, *amicus curiae* status) in the Lynx Case; and
2. The county is authorized to, and shall take steps to, obtain intervenor status (or alternatively, *amicus curiae* status) in the Wolverine Case; and

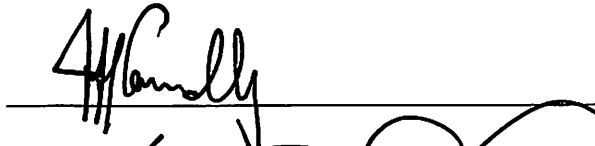
3. Intervention (or alternatively, *amicus curiae* status) shall be sought in conjunction with, and in common with, as part of a class, similar relief sought by nonprofit motorized recreation groups and interests seeking to achieve the same purposes of the county; and
4. The county is authorized to direct, employ and engage private legal counsel for the foregoing purposes, and to otherwise represent the county in the proceedings and before the relevant court, and to take all other reasonable and necessary actions to advance and promote the interests of the county in the said proceedings, said legal counsel consisting of Sawtooth Law Offices, PLLC (of Boise, Idaho) as lead counsel, and Monforton Law Offices, PLLC (of Bozeman, Montana) as local counsel, provided that the professional fees of said counsel shall not be the obligation of the county and shall be paid from and by the nonprofit recreation groups with whom the county will seek relief in common; and
5. That the county designates Chairman Dan McDonald as lead contact for the county in achieving and effectuating the foregoing, who is authorized to bind the county in this regard and who shall regularly report to the county on the course of the relevant proceedings (as litigation proceedings reports are expected to be made in executive session).

RESOLVED this 27th day of July, 2021.

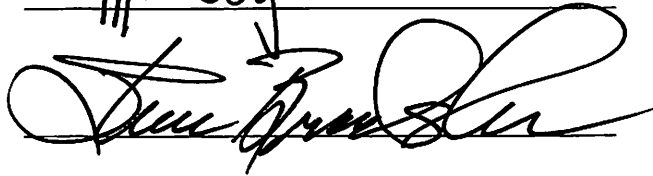
Commissioner



Commissioner

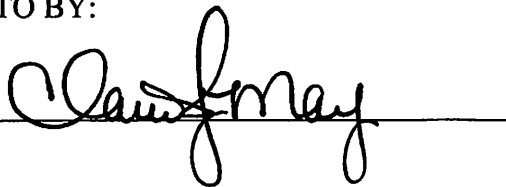


Commissioner



ATTESTED TO BY:

Clerk





Bonner County Commissioners

BOCC
Item #1

July 27, 2021

Memorandum

To: Commissioners

Re: Intervention – Lynx/Wolverine Case – U.S. Fish & Wildlife

Bonner County desires to protect and defend the decisions of the U.S. Fish and Wildlife Service being challenged in the Lynx Case and the Wolverine Case, and it is in the best interests of the county to participate in the Lynx Case and the Wolverine Case for that purpose and for the purpose of protecting and preserving the interests of the county expressed above, and to do so by intervening in said cases, and if intervention is not possible then by appearing before the court as a friend of the court to express the interests of the county in the litigation and its outcome.

Distribution: Original Resolution to BOCC Office
Copies to

A suggested motion would be: **Mr. Chairman based on the information before us I move to approve Resolution 21 - 61 allowing Bonner County to participate in the lynx and wolverine case defending the decisions of U.S. Fish and Wildlife Service.**

Recommendation Acceptance: yes no


Commissioner Dan McDonald, Chairman

Date: 7/27/21