

**FILED**

**OCT 31 2017**

Clerk, U.S. Courts  
District Of Montana  
Missoula Division

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

CROW INDIAN TRIBE, CROW CREEK  
SIOUX TRIBE, STANDING ROCK  
SIOUX TRIBE, PIIKANI NATION, THE  
CRAZY DOG SOCIETY, HOPI  
NATION BEAR CLAN, NORTHERN  
ARAPAHO ELDERS SOCIETY, DAVID  
BEARSHIELD, KENNY BOWEKATY,  
LLEVANDO FISHER, ELISE GROUND,  
ARVOL LOOKING HORSE, TRAVIS  
PLAITED HAIR, JIMMY ST.  
GODDARD, PETE STANDING ALONE,  
and NOLAN YELLOW KIDNEY,

Plaintiffs,

vs.

UNITED STATES OF AMERICA,  
RYAN ZINKE, Secretary, United States  
Department of the Interior, the UNITED  
STATED DEPARTMENT OF THE  
INTERIOR, JIM KURTH, Acting  
Director, United States Fish and Wildlife  
Service, or his Successor in Office, the  
UNITED STATES FISH AND  
WILDLIFE SERVICE, and HILARY  
COOLEY, Grizzly Bear Recovery  
Coordinator,

Defendants.

CV 17-89-M-DLC-JCL

ORDER

The State of Wyoming has filed a motion for leave to intervene in the  
above-captioned case as a matter of right under Federal Rule of Civil Procedure

24(a)(2) or, in the alternative, permissively under Fed. R. Civ. P. 24(b). Plaintiffs do not oppose the motion, and Defendants have stated that they take no position on the motion.

A litigant seeking to intervene under Fed. R. Civ. P. 24(a) bears the burden of establishing that the following criteria are satisfied: (1) the motion is timely; (2) the applicant has “significantly protectable” interest relating to the property or transaction that is the subject of the action; (3) the applicant is so situated that the disposition of the action may, as a practical matter, impair or impede the applicant’s ability to protect its interest; and (4) the applicant’s interest is not adequately represented by the existing parties in the lawsuit. *Wilderness Soc. v. U.S. Forest Service*, 630 F.3d 1173, 1177 (9<sup>th</sup> Cir. 2011) (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9<sup>th</sup> Cir. 1993); *DBSI/TRI IV Ltd. Partnership v. United States*, 465 F.3d 1031, 1037 (9<sup>th</sup> Cir. 2006).

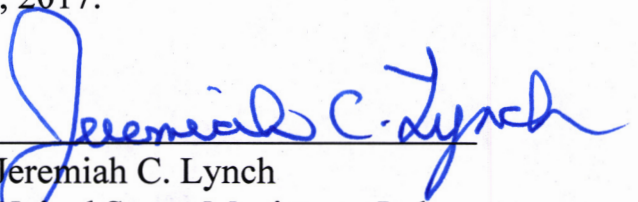
In evaluating these factors, “[c]ourts are to take all well-pleaded, nonconclusory allegations in the motion to intervene, the proposed complaint or answer in intervention, and declarations supporting the motion as true absent sham, frivolity or other objections.” *Southwest Center for Biological Diversity v. Berg*, 268 F.3d 810, 820 (9<sup>th</sup> Cir. 2001). While “the party seeking to intervene bears the burden of showing those four elements are met, ‘the requirements for

intervention are broadly interpreted in favor of intervention.” *Prete v. Bradbury*, 438 F.3d 949, 954 (9<sup>th</sup> Cir. 2006) (quoting *United States v. Alisal Water Corp.*, 370 F.3d 915, 919 (9<sup>th</sup> Cir. 2004)).

All four criteria for intervention as of right are satisfied in this case. This case is in its earliest stages, and there is no indication that allowing Wyoming to intervene will prejudice the existing parties. Wyoming moved to intervene without delay, and its motion is thus timely. As detailed in its supporting brief, Wyoming has significant protectable interests that may be impaired as a result of this litigation, which challenges the federal defendants’ decision to remove the Greater Yellowstone Ecosystem grizzly bear from the list of threatened and endangered species. Finally, Wyoming has shown that the federal defendants cannot adequately represent its interests in this action. Because Wyoming satisfies the criteria for intervention as of right and no existing party argues otherwise,

IT IS ORDERED that the State of Wyoming’s motion to intervene as a matter of right pursuant to Fed. R. Civ. P. 24(a) is GRANTED.

DATED this 31<sup>st</sup> day of October, 2017.

  
Jeremiah C. Lynch  
United States Magistrate Judge