FILED
JUN 20 2012
PATRICK E. DUFFY, CLERK
By _____
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

MISSOULA DIVISION

WILDERNESS WATCH & FRIENDS OF THE CLEARWATER Plaintiffs, vs. JULIE KING, Supervisor of the Bitterroot National Forest, FAYE KRUEGER, Regional Forester for Region 1 of the United States Forest Service, UNITED STATES FOREST SERVICE, an agency of the U.S. Department of Agriculture, Defendants.	)	CV 12-102-M-DWM ORDER

Before the Court is Plaintiffs' motion for issuance of a Temporary Restraining Order "and/or" a Preliminary Injunction. (Doc. 3.) Plaintiffs seek to enjoin Defendants' Decision Memo of July 7, 2011. The Decision Memo authorizes dam owner Fred Burr High Lake, Inc. to conduct two helicopter flights

and landings in the Selway-Bitterroot Wilderness in order to transport a catwalk and log boom to the Fred Burr Dam, which lies 6.8 miles within the wilderness boundary.

Plaintiffs electronically filed the motion. However, Defendants have not yet appeared in this action so would not have received notice via CM/ECF. Plaintiffs also sent Defendants CDs containing the motion, brief, and exhibits by regular mail. (Doc. 3 at 4.) But Defendants have not yet had the opportunity to be heard.

Though Plaintiffs argue that helicopters flights could commence at any time, they do not provide "specific facts in an affidavit or a verified complaint [that] clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition." Fed. R. Civ. P. 65(b)(A) (emphasis added). While it appears Plaintiffs have raised serious questions on the merits of their claims, there are no specific facts suggesting an irreparable injury is imminent here.

Accordingly, IT IS ORDERED that Plaintiffs' motion for a temporary restraining order is DENIED.

IT IS FURTHER ORDERED that a hearing on Plaintiffs' motion for a preliminary injunction is set for **July 3, 2012**, at 9:00 a.m. in the Russell Smith Courthouse in Missoula, Montana.

IT IS ALSO ORDERED that Plaintiffs shall serve a copy of this order on Defendants no later than June 22, 2012.

Dated this 20th day of June 2012.

12:07 pm

Donald W. Molloy, District Judge
United States District Court