



Western Wildlife Conservancy

1021 Downington Av., Salt Lake City, Utah 84105 801-468-1535 lynx@xmission.com

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Rebecca Hotze
District Ranger, Salt Lake Ranger District
Uinta-Wasatch-Cache National Forest
6944 S. 3000 E.
Salt Lake City, UT 84121

Re: UDWR mountain goat capture and collar via helicopter in wilderness

Dear Ranger Hotze,

This letter is to inform you that the not-for-profit conservation organizations listed at the end of this letter are opposed to the Utah Division of Wildlife Resources' proposal that the Forest Service allow the agency (UDWR) to employ helicopter landings in Wasatch Mountain wilderness areas in order to capture and collar Rocky Mountain goats. We will remain opposed to this project until our questions and concerns, listed below, are satisfactorily addressed.

As the agency charged with managing the Wasatch wilderness areas, the Forest Service has an enforceable statutory duty to preserve the areas' wilderness character including natural and experiential values (16 U.S.C. § 1133(b)). Where a choice must be made between wilderness values and visitor or any other activity, preserving the wilderness resource [character] is the overriding value. Economy, convenience, commercial value, and comfort are not standards of management or use of wilderness (FSH 2320.6). The following questions and comments are meant to assist the FS in this matter.

1) The pending case from Idaho, Wilderness Watch v. Vilsack, addresses nearly the same issue as raised by UDWR's proposal to use helicopter landings to collar mountain goats in Wasatch Mountain wildernesses, albeit in that case the species to be studied is the Rocky Mountain elk (*Cervus elaphus*), which is indisputably a species native to the Frank Church-River of No Return Wilderness, while the Rocky Mountain goat (*Oreamnos americanus*) is not, by any reasonable standard, native to the Wasatch Mountains. Since Wilderness Watch v. Vilsack has not yet been decided, we believe it would be prudent to wait and see what the decision in that case is before considering UDWR's proposal.



2) The Wilderness Act expressly prohibits any “landing of aircraft” and any “installation” within designated wilderness “except as necessary to meet minimum requirements for the administration of the area” as wilderness. 16 U.S.C. § 1133(c). Radio telemetry collars on wildlife constitute “installations” that are generally prohibited by the Wilderness Act. Thus, in order to avoid violating the Wilderness Act, the FS must determine that the proposed project is necessary to meet minimum requirements for the administration of each of the three affected wilderness areas as wilderness. How will collaring and monitoring the activities of the mountain goats assist the FS in meeting the minimum requirements for administering the Twin Peaks, Lone Peak, and the Mount Timpanogos wildernesses so as to preserve or enhance their wilderness character?

3) Why is this specific project, which will involve helicopter landings in wilderness and collaring of mountain goats, necessary for obtaining the desired information about the mountain goats? Are there alternative ways in which UDWR can acquire the information it seeks that isn't a *prima facie* violation of the Wilderness Act triggering the “minimum requirements” exception? To meet minimum needs for protection and administration of the area as wilderness, the use of motorized equipment or mechanical transport may be allowed only if: 1) a delivery or application problem necessary to meet wilderness objectives cannot be resolved within reason through the use of nonmotorized methods, or 2) an *essential activity* is impossible to accomplish by nonmotorized means because of such factors as time or season limitations, safety, or other material restrictions (FSH 2326.1; emphasis added). While wildlife and fish research is an appropriate activity in wilderness, in all cases research shall be conducted in such a way as to minimize any adverse impacts on the wilderness resource or its users (FSH 2323.37; See FSH 2309.19 for specific direction and guidelines for approving these activities). Did the Forest Service conduct a documented minimum requirement analysis? Have any alternatives been identified, discussed or investigated? For example, temporarily suspending hunting is a viable alternative for increasing the goat population. Overhunting is implicated in the decline of mountain goats in their native range in the Cascade Mountains of Washington.¹ If so, what are they and why have they been rejected? Please provide us with a copy of the MRA or MRDG document.

4) UDWR states in its management plan for Rocky Mountain goats, “This will allow the Division to expand both hunting and viewing opportunities for mountain goats while ensuring their long-term viability in Utah.” How will management of mountain goats for the purposes of hunting and viewing help the Forest Service administer the Twin Peaks, Lone Peak and Mount Timpanogos wildernesses so as to preserve or enhance their wilderness character? The Forest Service’s statutory duty to protect wilderness character applies regardless of the states’ traditional role in managing wildlife on federal public lands within their borders (See ER 63-64 (Fed. Br.). It is well established that “the ‘complete power’ that

¹Rice, Clifford G. and Don Gay. “Effects of Mountain Goat Harvest on Historic and Contemporary Populations.” *Northwestern Naturalist* 91(1):40-57. 2010



Congress has over public lands necessarily includes the power to regulate and protect the wildlife living there,” (Kleppe v. New Mexico, 426 U.S. 529, 540-41 (1976)), and state wildlife management that conflicts with federal objectives for federal public lands is preempted, (see Nat’l Audubon Soc’y, Inc. v. Davis, 307 F.3d 835, 854 (9th Cir. 2002) (affirming that “Congress has the authority under the Property Clause to preempt state action” affecting management of federal public lands); (see also 43 U.S.C. § 1732(b) (authorizing Secretary of Agriculture to prohibit hunting and fishing in designated areas of national forest lands when necessary to effectively administer such lands or comply “with provisions of applicable law”).

5) What type of collars will be used – radio collars or satellite collars?

6) Will UDWR request future helicopter landings to replace collars? In other words, is this likely part of an ongoing project?

7) Will there be ongoing flyovers to gather information from the collars once the goats have been collared?

8) The reintroduction of wildlife species is permitted only if the species was once indigenous to an area and was extirpated by human-induced events. Reintroductions shall be made in a manner compatible with the wilderness environment. Motorized or mechanical transport may be permitted if it is impossible to do the approved reintroduction by nonmotorized methods (FSH 2323.6) What positive evidence is there that *Oreamnos americanus* was indigenous to the Wasatch Mountains within, say, the last 10,000 years? (By ‘positive evidence’ we mean fossils, any sort of physical remains, DNA, verified sightings by trained zoologists, including locations or photographs (not just reports of estimates or statements of their presence.)

9) The Forest Service must also complete an appropriate National Environmental Policy Act (“NEPA”) analysis for the project addressing the above concerns, fully analyzing direct, indirect and cumulative impacts as well as a reasonable range of alternatives that may avoid or lessen adverse impacts. The Environmental Impact Statement is NEPA's core requirement. Does the Forest Service intend to do an EIS on this project with further public input? If not, will there be an opportunity to comment on an EA? Will the Forest Service consider options such as no hunting of the goats, taking samples of dead goats (hunted and natural mortality) to determine general health, and using field workers, including volunteers, to monitor goat populations on foot to comply with the Wilderness Act?

Please notify us when a decision has been made and inform us of objection opportunities.

Sincerely, 



Kirk Robinson, PhD
Executive Director
Western Wildlife Conservancy
1021 Downington Ave.
Salt Lake City, UT 84105
801-468-1535

Kim Crumbo, Western Conservation Director
Wildlands Network
3275 Taylor Avenue
Ogden, UT 84403

Allison Jones
Executive Director
Wild Utah Project
824 S 400 W # B117
Salt Lake City, UT 84101

Carl Fisher
Executive Director
Save Our Canyons
68 Main St #400
Salt Lake City, UT 84101

Mark Clemens
Chapter Manager
Utah Chapter, Sierra Club
423 West 800 South, Ste A103
Salt Lake City, UT 84101-4803

Jason Christensen
Manager, Yellowstone to Uintas Connection
PO Box 280
Mendon, Utah 84325

George Nickas
Executive Director
Wilderness Watch
PO Box 9175
Missoula, MT 59807