

FAQ: Lawsuit over Absaroka-Beartooth Wilderness fish poisoning and stocking project
By Wilderness Watch
November 8, 2023

What exactly is the Forest Service action we're challenging?

- The Gallatin National Forest issued a decision memo in August 2023 authorizing a project to poison miles of streams and wetlands in a mountain watershed in the Absaroka-Beartooth Wilderness. The aim of the project is to kill all the fish present (a rainbow trout population derived from 1930s stocking) and then to stock a new species (Yellowstone cutthroat trout) that is not native to those waters. This alpine watershed, above a waterfall that acts as a fish barrier, evolved to be naturally fishless and only contains, or would contain, any trout as a result of human stocking efforts for sportfishing.

- The Forest Service's project as approved would include the following:
 - Up to five years of application of rotenone (a piscicide that kills gill-breathing organisms) across 46 miles of streams and over 30 acres of lakes and wetlands.
 - Transport of project personnel to backcountry worksites by helicopter.
 - The erection of three remote field camps and the delivery of over 6,000 pounds of gear each summer to support them.
 - Helicopter landings to facilitate the delivery of over 12,000 pounds of equipment and rotenone into the Wilderness.
 - The construction of fish barriers, wrapped in irrigation tarp, at the outlet of a Wilderness lake, to persist for up to five years.
 - The use of gasoline-powered pumps to distribute rotenone within the lakes and wetlands.
 - The aerial spraying of rotenone over 25 acres of open water in two large wetland meadows.
 - The restocking of most of the poisoned waterways with Yellowstone cutthroat trout over a subsequent period of five years.
 - The installation of remote site incubators to distribute Yellowstone cutthroat trout eggs into the stocked streams.
 - Up to 60 days of motorized use including up to 81 aircraft landings in the Wilderness.

Why is it a big deal?

- The Absaroka-Beartooth Wilderness was designated in order to be protected as a place where the human hand does not shape the landscape and its ecosystems—where nature reigns supreme and species and habitats live and develop of their own will. The Forest Service's project contravenes the Wilderness-level protection of this area in several key respects.
- First, it imposes human reengineering on the environment to make it reflect managers' desired conditions. The Wilderness Act serves to save certain protected areas from people's penchant for action to constantly meddle with ecosystems. We're constantly learning about the unforeseen consequences of such actions, such as how introduced lake

trout decimated native species in nearby Yellowstone Lake. Under the Wilderness Act, federal land managers are required to check their hubris, leave nature be, and not assume this time we know best.

- Second, the project involves the extensive use of motorized equipment, helicopters, and other activities that the Wilderness Act expressly prohibits in its provisions to protect these landscapes. It should be obvious that a project that requires ten years' worth of activity heavily facilitated by industrial technology is a project at a scale incompatible with protecting a place as untrammelled Wilderness, where humanity's expanding imprint on the earth is kept at bay.
- Finally, the Forest Service's justifications for the project are also grounded in contradiction with Wilderness-level ecosystem protection. In essence, what the agency argues is that because human activity has had undesirable effects on fish species elsewhere on the wider landscape (such as on cutthroat trout in the Lamar River in Yellowstone National Park and further downstream in developed river valleys), then to make up for those harms, it should be permitted to modify ecosystems in the Wilderness area to act as a holding pen for additional, artificial populations of species we have harmed elsewhere. This logic is a double affront to sound environmental stewardship—violating the inherent integrity of self-directed nature in our most strictly protected areas in order to compensate for our failures to protect species and habitat elsewhere. Wilderness areas should serve as exemplars of nature unafflicted, from which we can model broader environmental stewardship, not as proving grounds for ecosystem manipulation experiments or as savings against which to discount environmental harms we refuse to abate in other areas.

Why is maintaining wilderness character in the Absaroka-Beartooth Important?

- For starters, it's the law. The Wilderness Act mandates that the Forest Service must, first and foremost, preserve the area's wilderness character. This means allowing the area to be "untrammelled" (unmanipulated) by modern civilization. In designated Wilderness, we exercise our humility and restraint to allow Nature (not agency managers) to call the shots.
- The Forest Service itself has developed policies acknowledging the need to "maintain wilderness in such a manner that ecosystems are unaffected by human manipulation and influences so that plants and animals develop and respond to natural forces" and so that "natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist."
- In fact, for this very project, the Forest Service prepared an internal analysis that documented a net *detriment* to wilderness character by all the activity.
- And a broader reason for protecting wilderness character in the Absaroka-Beartooth Wilderness here is that such a misguided project could set a dangerous precedent for similar development, manipulation, and species reorganization in other Wildernesses across the National Wilderness Preservation System.

Is Wilderness Watch against Yellowstone cutthroat trout conservation? Aren't we concerned about hybridization with rainbows threatening the species?

- Our opposition to this project is not rooted in disagreement about the value of conservation efforts to safeguard and sustain native Yellowstone cutthroat trout

populations—we see that as important work. But such ends cannot simply justify any means. We're also concerned about excessive human impact and ecosystem meddling to the detriment of special protected areas, especially when it violates the letter of the law.

- A key issue with the Forest Service's logic for the project as approved here is its arbitrary nature. The subjective and fallible human assumptions that go into decisions to manipulate nature are the sort of things that have led to disasters in the past, and designated Wilderness areas are meant as places where we keep such actions at bay on the principle (and statutory rule) that in these places, we allow nature to proceed unhindered by our decisions about things like "desired conditions." If humans modify too much of the landscape to constantly reflect the "corrections" we think places need, then where will be the natural controls against which we understand how nature behaves and develops in the absence of our pervasive impact?
- In this case, the Forest Service's documented justifications for the project have misstated or misapplied the relevant science and have otherwise been dependent upon circular logic. Pursuing the genetic makeup necessary to sustain a "pure" cutthroat trout population outside the Wilderness is an exercise riddled with scientific uncertainty and constantly being updated by new understandings. Where, like here, the threat of hybridization is stated as no more than the mere existence of hybridization, the agency's basis for action is too arbitrary to justify such incursions in a Wilderness area.

Isn't it more "natural" to have cutthroats in Buffalo Creek than it is to have rainbows?

- It's not natural to have either fish species present in the Wilderness reaches of this watershed. Historically, the area evolved without fish present. It's only because of people's past (and present) penchant for mucking around with nature to serve our desires that there are any fish there at all. Fisheries managers used to refer to fishless waterways as "barren" despite their abundance of other life, and it's this kind of thinking that illustrates the problems with active and intensive management that wilderness-level protection is all about clawing back.
- Trading one stocked species of fish for another is a flimsy and unsupportable logic for benefitting "naturalness." The fact that rainbows evolved natively in waterways that are slightly farther away than where cutthroats are native is an illogical reason to heap a decades' worth of human engineering on this wild, naturally fishless habitat. All the intensive manipulation, poisoning, and motorized and mechanized activity of the project, not to mention the long-term maintenance of another exotic species, is a great injury to the wilderness landscape. And that injury is not an acceptable or lawful trade-off for the subjective, human-centric benefit of artificially stocking the fish species that anglers and managers would now prefer.
- Even the Forest Service's own handbook acknowledges that Yellowstone cutthroat trout must be categorized as "exotic" species in these waterways—the agency's own definitions preclude anything "introduced by man" from being argued to be an "indigenous" or "native" species. And the Forest Service's express policy is not to stock "exotic" species—something they are ignoring in the arbitrary decision to pursue this project.

Why not introduce cutthroat trout to new high-mountain streams where they are more likely to persist with climate change?

- First of all, state agencies like Montana Fish Wildlife and Parks already spread fish species around in extensive habitats where they did not naturally occur. This practice will continue, Yellowstone cutthroat trout included, and there are many areas where the agency could plant populations in “climate refugia” habitat that are *not* in designated Wilderness.
- Violating the provisions of the Wilderness Act to pursue such goals threatens to leave Americans without any system of unmanipulated nature. Especially in the face of climate change and the increasing ubiquity of human effects on nature in the 21st century, it’s never been more important to maintain areas of wild habitat, like in the National Wilderness Preservation System, where we can allow nature to operate freely without our intervention and appreciate and observe and learn from what happens when we do. If we insist upon imposing our will and our active management everywhere, there will be no unmanipulated areas to act as scientific controls, and all of our potential for understanding natural processes will be tainted by the unescapable impact of human hubris.
- Among other things, protection of untrammeled nature under the Wilderness Act stands for the proposition that ecosystems have a right to persist and evolve regardless of people’s subjective preferences or what kind of “fixes” we think are necessary to guide nature and species persistence along. This means that fishless watersheds have a right to persist, too, and all the frogs and invertebrates and other aquatic life that developed in Buffalo Creek before humans introduced trout have immense intrinsic value in this place and deserve to be protected.
- Just because we’ve excessively damaged trout habitat outside of our remote protected lands does not mean managers should have a license to meddle with those lands, too. Wilderness areas should serve to demonstrate our respect nature’s value on its own and inspire better conservation measures across our more developed landscapes. To try to compensate for our harms downstream by stuffing wilderness areas with the species whose habitat we have failed to protect elsewhere—that kind of logic cuts directly against the environmental stewardship ethic and wildland protections exemplified in the Wilderness Act.

Doesn’t Montana Fish Wildlife and Parks have the authority to decide what kind of fish get stocked where?

- No. Federal case law has made explicitly clear that the federal government’s constitutional authority over federal public lands extends to the power to regulate and protect the wildlife living there, despite the traditional role that state governments play in managing wildlife within their borders. Under the Constitution’s Supremacy Clause, federal legislative directives may therefore override conflicts with state wildlife management activities under state law.
- Despite often leaning on state agencies as an excuse, federal land managers like the Forest Service do not need to roll over for every state request reshape habitats and species compositions and carry out other projects. In fact, in many instances—like where the states seek to contravene federal land protections under statutes like the Wilderness Act—federal agencies are obligated to say no, to put the priorities set by Congress above those of, say, state fisheries managers who want to stock populations for sportfishing.