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Federal suit charges Forest Service with abdicating responsibility over Clearwater and Lochsa rivers

BOISE — The U.S. Forest Service violated the Wild & Scenic Rivers Act and other federal laws by allowing the Idaho Transportation Department to issue permits for hundreds of road-closing, mega-sized shipments of mining and industrial equipment via U.S. Highway 12, Idaho Rivers United charged in a lawsuit filed here today.

Filed in Boise's U.S. District Court, the lawsuit is the first federal action to challenge Exxon Mobil's proposal to transport hundreds of so-called mega-loads up Highway 12 and through the Clearwater and Lochsa Wild & Scenic River corridors, for which the Forest Service has management responsibility. The equipment — up to 24-feet wide, 200 feet long and three stories tall — was manufactured in Korea and is bound for the companies' destructive Kearsy Tar Sands mines in Alberta, Canada.

Idaho Rivers United is a non-profit river conservation group with 3,500 members, most of whom live in Idaho. The group's mission is to protect and restore the rivers of Idaho. The non-profit law firm Advocates for the West is representing IRU.

The Middle Fork of the Clearwater and its tributary, the Lochsa, were among the first rivers protected under the Wild & Scenic Rivers Act in 1968. Idaho Sen. Frank Church championed the act, which also included among its first designations the Selway and Middle Fork of the Salmon rivers.

The Clearwater and Lochsa rivers were singled out for designation because of their scenic, recreational, cultural, historic and other unique values.

"These rivers represent the embodiment of what the Wild & Scenic Rivers Act was meant to protect," said IRU Conservation Director Kevin Lewis. "These rivers anchor cathedral-like forests that inspire awe, reflection and reverence. They are recreational Edens for fishermen, campers, hikers, hunters, bicyclists, history buffs, whitewater kayakers and rafters.

"We have a responsibility to protect the Clearwater and Lochsa — the way we see them now and enjoy them now — for our children and for their children. The Forest Service shares that responsibility and should be leading the charge for protection."

The complaint says the agency made many legal errors in its handling of the loads. First, the suit charges, the Forest Service abdicated its authority to enforce federal laws within the highway corridor — which runs through the protected river corridors and over Clearwater National Forest land.

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Wild & Scenic River Lawsuit

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“Rather than acting to prevent the establishment of a high-and-wide corridor through the Clearwater National Forest, the Forest Service has cooperated with ITD and authorized modifications to the right-of-way,” wrote Advocates attorney Natalie Havlina in the suit. “As a result, the Forest Service has facilitated and effectively approved the mega-shipments to proceed up Highway 12.”

The lawsuit outlines that at least four companies, in addition to ExxonMobil, are eyeing the corridor for megaload shipments. One firm, ConocoPhillips, has already shipped two super-sized loads through the corridor to its oil refinery in Billings, Montana. Those two shipments took weeks longer than expected to make the trip through the forest, scraping rock faces and pulling down tree branches as they went, and causing lengthy traffic delays and other problems.

“Allowing the Lochsa and Clearwater river corridor to be converted into a permanent high-and-wide route would be like building a seven-story hotel on the banks of Redfish Lake,” IRU’s Lewis said. “It doesn’t fit. There are certain special places that should be inviolate. And this rugged river corridor, so rural, so beautiful and so full of history and cultural significance, is one of them.”

Tying up the winding, narrow, two-lane road — along with its scenic pullouts — during the spring and summer tourist season would also restrict recreational access to the Wild & Scenic rivers and adjacent forest, the lawsuit says.

Peter Grubb, the owner of ROW Adventures, a Lochsa outfitter and the owner of River Dance Lodge along the Clearwater River, has fought the megaloads in state court and before state transportation officials because he believes they will devalue the river corridor, guest experiences and his businesses.

IRU member Justin Walsh of Bearpaw River Expeditions out of Missoula, Mont., also runs trips on the Wild & Scenic Lochsa River almost every day during the spring and early summer. He said the river corridor’s unique wildlife, geology and botany — as well as its world-class whitewater — make it one of the most valuable places in America.

“The amazing whitewater is only part of the reason people buy trips from me,” Walsh said. “It’s the scenery, the ambiance, the overall grandeur of the place. There’s no question that the river remains the way it is because of the Wild & Scenic Rivers Act, and there’s no question that those qualities would be impacted by these loads of super-sized equipment sitting along the river.

“Our forefathers found this special enough to declare it one of the most important river corridors in the nation, and the Forest Service has a responsibility to protect it now.”

IRU’s Lewis agrees:

“Idaho’s Sen. Frank Church recognized the values of these rivers when he engineered their inclusion in the original Wild & Scenic Rivers Act,” Lewis said. “Were he alive today, I think he would be horrified to see the Forest Service abdicate its responsibility as it has.

“Having the first two ConocoPhillips loads proceed was unfortunate. But allowing 200-plus ExxonMobil loads to go forward, plus the others we expect to follow, would be a tragedy.”