

PRESS RELEASE

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On February 21, 2023, Carney Bates & Pulliam and Earthrise Law Center, on behalf of the Buffalo River Watershed Alliance, filed a [Complaint for Vacatur of Illegal Agency Decision, Declaratory and Injunctive Relief](#) challenging the U. S. Forest Service's October 27, 2021, Decision Notice and Finding of No Significant Impact resulting in approval of the 40,000 acre Robert's Gap Project in the headwaters of the Buffalo National River, which includes approximately 11,000 acres of timber thinning and harvest, 11,000 acres of prescribed burning, 70 miles of road construction for timber removal, 20 miles of dozer lines for fire breaks, and 3,000 acres of herbicide treatment.

Robert's Gap is a 40,000-acre tract of US Forest Service (USFS) land in the headwaters of the Buffalo River. It is immediately upstream from the Buffalo National River boundary. In this area, the Buffalo River is designated as a Wild and Scenic River. The Upper Buffalo Wilderness Area is also immediately adjacent to this tract.

In addition to the Buffalo River, the White River, King's River, Mulberry River and War Eagle Creek all originate in the Robert's Gap area. BRWA contends that this fragile, yet majestic region is deserving of enhanced protection.

BRWA's mission is to educate and advocate for the protection of the Buffalo River and the Headwaters Buffalo River watershed, including the area within the Robert's Gap Project, by monitoring and addressing adverse environmental impacts to the river and watershed.

In 2017 the USFS introduced a sweeping proposal to manage the Robert's Gap tract. It includes approximately 11,000 acres of timber thinning and harvest, 11,000 acres of prescribed burning, 70 miles of road construction for timber removal, 20 miles of dozer lines for fire breaks, and 3,000 acres of herbicide treatment.

While recognizing that the USFS has a mandate to improve forest health and reduce fuels that could intensify fire capacity, BRWA has had serious concerns about the project's potential to degrade water quality in the river and streams, diminish old-growth forest, impair wildlife habitat and the species that depend on these wild areas, and harm the recreational opportunities of the area that represent a significant portion of the local Arkansas recreation and tourism economy. In 2021, 1.5 million park visitors spent an estimated \$74.3 million in local gateway regions while visiting Buffalo National River.

BRWA and other entities submitted formal comments to the plan to address these concerns. When these issues were not adequately addressed by the USFS, BRWA submitted formal objections, requesting that the project be delayed until an Environmental Impact Statement can be prepared to fully examine the consequences of implementing this plan.

A final decision on these objections was released by the USFS in October of 2021 with a "Finding Of No Significant Impact". However, they did amend the plan to add water quality monitoring, including testing for herbicide residue, and arguably protective measures for an Indiana bat maternity colony that was discovered in the area in July 2021.

These amendments were added without doing a Supplemental Environmental Analysis in light of this discovery, without providing for public input with regard to these newly discovered species impacts, and without doing adequate and timely baseline water testing of the rivers and streams prior to their initial Environmental Analysis.

BRWA believed that the potential impacts of the plan could be significant and that the amendments did not adequately address these impacts. With the help of the Earthrise Law Center, BRWA submitted a Freedom of Information Act request to the USFS in August, 2021 and again in November, 2021 to try to understand what facts and data led to the Finding of No Significant Impact.

When the USFS did not respond to these requests adequately or in a timely way, Earthrise requested on BRWA's behalf in December 2021 that the Forest Service prepare either a Supplemental Environmental Analysis or a full Environmental Impact Study of the Robert's Gap Project in conformance with the National Environmental Policy Act. The Forest Service did not respond to this request.

Consequently, BRWA has filed a challenge to the USFS' Finding of No Significant Impact and its decision to not fully examine the environmental impacts of the Robert's Gap Plan, along with the impacts to the local economy, farmers, hikers, bikers, photographers, and the wild areas that are so important to recreation and tourism in Arkansas.

BRWA requests that the USFS delay the Robert's Gap implementation until after a Supplemental Environmental Assessment or Environmental Impact Statement is completed.

From the complaint:

“The challenged decision approves the prescribed burning, logging, and woodland herbicide treatment of approximately 40,000 acres of forest within the Headwaters Buffalo River watershed, including the known habitat of the Indiana bat, an Endangered species. Implementation of the Project will result in the loss of Cedar, Oak, and Pine trees, destruction of old growth forest as eighty six percent of the Project contains forest stands 70 years old or more, wildlife habitat, and potential degradation of water quality. The terrestrial features of the area, including the steep slopes with erodible soils atop the highly permeable ground karst structure makes both surface and groundwater susceptible to contamination. Furthermore, Project implementation would cause significant impairment of outdoor recreation activities in the Project including hiking, kayaking, and photography, and negatively impact the aesthetic and social aspects of the Buffalo River watershed's current and beloved sense of place and natural beauty.”

Earthrise Law Center and local attorney Hank Bates are representing the Buffalo River Watershed Alliance in filing this challenge to the USFS decision.

The court filing can be found at the following link:

<https://buffaloriveralliance.org/resources/Documents/doc%20%20filed%20complaint.pdf>

*** Spokespeople available upon request for interviews.***