

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

NO. 2:15-CV-42-BO

RED WOLF COALITION,)
DEFENDERS OF WILDLIFE, and)
ANIMAL WELFARE INSTITUTE,)
)
Plaintiffs,)
)
v.)
)
THE UNITED STATES FISH AND)
WILDLIFE SERVICE; DAN ASHE, in his)
official capacity as Director of the United)
States Fish and Wildlife Service; CYNTHIA)
K. DOHNER, in her official capacity as)
Regional Director of the United States Fish)
and Wildlife Service Southeast Region.)
)
Defendants.)
_____)

**MOTION FOR
PRELIMINARY INJUNCTION**

[Fed. R. Civ. P. 65]

NOW COME plaintiffs Red Wolf Coalition, Defenders of Wildlife, and Animal Welfare Institute, pursuant to Fed. R. Civ. P. 65(a) and (b), and hereby move this Court to temporarily enjoin the United States Fish and Wildlife Service (“USFWS” or “Service”), USFWS Director Dan Ashe, and USFWS Southeast Regional Director Cynthia K. Dohner (collectively, “Defendants”) from conducting or authorizing the take of red wolves that are not posing a threat to human safety or the safety of livestock or pets. The Service’s current implementation of 50 C.F.R. § 17.84(c) is violating and will continue to violate the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, and its implementing regulations, and the National Environmental Policy Act, (“NEPA”), 42 U.S.C. §§ 4321-47.

The red wolf is a critically endangered species, with only 45 known wolves existing in the wild in the five-county Red Wolf Recovery Area in northeastern North Carolina. Over approximately the last two years, the Service has overseen and directly contributed to the population plummeting by over 50%. At the same time, the Service has fundamentally reinterpreted long-standing regulations that until recently had served to make this one of the most successful endangered species reintroductions in U.S. history. Under its new reading of the red wolf regulations, the Service is removing and authorizing the removal from private lands any wolves landowners request to be removed, regardless of whether the wolves have caused any problems or pose any threat to health or private property; it is holding such wolves for extended periods of time rather than releasing them as soon as possible; and it is authorizing landowners to kill such wolves on their property when such landowners will not let Service employees enter. It is taking these actions even as it has stopped the reintroduction of wolves into the wild in North Carolina and stopped its adaptive management practices which have been essential to combatting hybridization with coyotes. Moreover, it has made these dramatic and destructive changes in management of the wild red wolf population without undergoing any environmental analysis or public participation.

The Service's actions and inactions are violating the ESA's substantive mandates that its protective regulations "further the conservation of [the] species," 16 U.S.C. §§ 1533(d); 1536(a)(1); 1539(j)(2)(A); 50 C.F.R. § 17.81(b); that its actions be "not likely to jeopardize the continued existence" of any listed species, 16 U.S.C. § 1536(a)(2); and that it not illegally take or cause take of red wolves to occur, 16 U.S.C. § 1538(a)(1)(G); 50 C.F.R. § 17.84(c). Moreover, its informal rewrite of the red wolf regulations has occurred without the procedural protections guaranteed by NEPA, 42 U.S.C. § 4332(C), and the ESA, 16 U.S.C. § 1536(a)(2). Indeed, the

Service has taken these actions without even completing the 5-year status review required for the red wolf in 2012, 16 U.S.C. § 1533(c)(2).

By capturing and authorizing the capture of red wolves from the wild, as well as in some cases authorizing the killing of red wolves, without any evidence of a problem or threat of harm caused by the wolf, the Service is directly contributing to the recent catastrophic decline in the red wolf population. The removal of red wolves from the wild, whether by death or by capture, not only impacts the animal directly taken, but also impairs red wolf breeding. The removals open space for coyotes to take over territory, increasing the risk of coyote-red wolf interbreeding, which is detrimental to the genetic integrity of the red wolf population.

A preliminary injunction barring the Service from taking—either directly or through authorizations to private landowners—red wolves pursuant to 50 C.F.R. §§ 17.84(c)(10) and (c)(4)(v) without first demonstrating such wolves are a threat to human safety or the safety of livestock or pets is necessary to prevent irreparable injury to Plaintiffs, and is in furtherance of the public interest. Further justification for this motion is discussed in the attached Memorandum and Exhibits.

Respectfully submitted, this the 20th day of June, 2016.

/s/ Sierra B. Weaver
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CERTIFICATE OF SERVICE

I hereby certify that on June 20, 2016, I electronically filed the foregoing **MOTION FOR PRELIMINARY INJUNCTION** with the Clerk of the Court using the CM/ECF system, which will automatically send notification of such filing to counsel for Defendants.

This the 20th day of June, 2016.

/s/ Sierra B. Weaver
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