

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

WESTERN WATERSHEDS	)	
PROJECT,	)	Case No. CV-06-277-E-BLW
	)	
Plaintiff,	)	MEMORANDUM DECISION
	)	AND ORDER
v.	)	
	)	
UNITED STATES FOREST	)	
SERVICE,	)	
	)	
Defendant.	)	
_____	)	

The Court has before it plaintiff’s motion for leave to file a first supplemental complaint. In an earlier decision, the Court remanded this case to the Fish and Wildlife Service (FWS) to further consider whether the sage grouse should be listed under the Endangered Species Act (ESA). *See Memorandum Decision (docket no. 118)*. In a separate Judgment, the Court directed the Clerk to close the case. *See Judgment (docket no. 119)*.

The FWS has now issued its ruling deciding not to list the sage grouse under the ESA. Without seeking to reopen this case, plaintiff asks leave to file a “supplemental complaint” to challenge the new decision by the FWS.

The Court discussed the very issues raised here in *Western Watersheds*

*Project v. United States Forest Service*, 2009 WL 3151121 (D.Idaho. September 26, 2009). In that case, the Court denied the motion, but directed that any new action be assigned to this Court.

For the reasons expressed there, the Court will make the same ruling here. Like that case, this case has been resolved and closed. There is no claim that the FWS failed to comply with the Court's remand order, and there are no extraordinary circumstances that require the Court to reconsider earlier decisions made in this case. Under these circumstances, "WWP's new claims are more appropriately raised in a new cause of action." *Western Watersheds*, 2009 WL at \*4.

### **ORDER**

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED that defendant's Motion for Leave to File Supplemental Complaint (docket no. 188) is DENIED.

IT IS FURTHER ORDERED that if plaintiff brings a new action raising allegations set forth in the proposed Supplemental Complaint, it shall be assigned to the undersigned judge for purposes of judicial economy.



DATED: April 27, 2010

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

Honorable B. Lynn Winmill  
Chief U. S. District Judge