UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

JOSHUA SMUNK *and* BLUERIBBON COALITION, INC., *Plaintiffs*, *v.* KENNETH COFFIN, *in his official capacity as* FOREST SUPERVISOR OF THE SHOSHONE NATIONAL FOREST; WILLIAM FROST, *in his official capacity as* WILDERNESS PROGRAM MANAGER OF THE SHOSHONE NATIONAL FOREST *and* UNITED STATES FOREST SERVICE *Defendants*.	§ § § § § § § § § § § § § § § §	Case No. _____

COMPLAINT

Plaintiffs Joshua Smunk and BlueRibbon Coalition, Inc., seek relief from this Court against Defendants Kenneth Coffin, Forest Supervisor of the Shoshone National Forest, sued here in his official capacity; Shoshone National Forest Wilderness Program Manager, William Frost, sued here in his official capacity; and United States Forest Service ("Forest Service").

INTRODUCTION

1. This lawsuit seeks to answer a simple question: Can the government prohibit you from using a small camera to film video, in a federally designated wilderness area, on the basis that the footage you shoot might mention a business, or subsequently be "commercialized"? This dispute arose when Plaintiff Joshua Smunk was told by Defendants that he had violated the Wilderness Act of 1964 (the "Act")

because one the llamas that he rents to hunters appeared in the background of a YouTube video that was shot in a wilderness area within the Shoshone National Forest. But millions of people film themselves in the outdoors every day, and some of them do so in this nation's 843 wilderness areas, which comprise more than 112 million acres of federal land. Some of them subsequently upload those videos to YouTube and other internet sites for their friends and followers to enjoy. Little do they know that, if they make one penny off that content, or if the content is somehow seen as promoting a business, they are violating a federal statute.

2. Defendants' incredibly broad use of the Act, to outlaw any filming that could conceivably be considered "commercial," constitutes an ultra vires exercise of Defendants' authority under the Act. In the alternative, if the Court finds that the Act *does* permit such restrictions, then the Act itself is an unconstitutional content-based restriction on speech under the First Amendment.

3. Josh, who regularly visits and films in designated wilderness areas, like Wyoming's Shoshone National Forest, and BlueRibbon Coalition, whose members and staff regularly film in wilderness areas, seek a declaration that this prohibition on "commercial" filming is either ultra vires under controlling legislation, or else an unconstitutional restriction on speech, and the enforcement of this prohibition beyond the forest system is unlawful.

4. Plaintiffs further seek an injunction preventing Defendants from taking enforcement actions against themselves, their members, and others similarly situated.

PARTIES

5. Plaintiff Joshua Smunk is a resident of Clark, Wyoming.

6. Josh is the CEO of Hooves, Horns & Hideaways, in Clark, Wyoming, a business focusing on outdoor recreation. Plaintiff's business provides services for hiking, hunting, and guided tours, including pack llama rentals, pack llama training, European taxidermy, and canine blood tracking.

7. Josh frequents Wyoming's Shoshone National Forest, where he often films videos. Some of these videos are later posted to social media.

8. Plaintiff BlueRibbon Coalition is a 501(c)(3) nonprofit organized, existing, and doing business under the laws of Idaho, with its principal place of business located in Boise, Idaho. BlueRibbon has worked on public lands issues and protected public access to public lands since 1987. Both members and staff of BlueRibbon Coalition regularly film videos in designated wilderness areas and are therefore concerned that they may be violating the Act if those videos are subsequently monetized or seen as advertising for their organization. BlueRibbon brings this action on its own behalf, as well as on behalf of its members.

9. Josh is a dues-paying member of BlueRibbon Coalition.

10. Defendant Kenneth Coffin is the Forest Supervisor of the Shoshone National Forest.

11. Defendant William Frost is a Wilderness Program Manager of the Forest Service for the Shoshone National Forest.

12. Defendant United States Forest Service ("Forest Service") is an agency of the United States Department of Agriculture.

13. All Defendants are named only in their official capacities.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 (federal question jurisdiction) because this action arises under the United States Constitution; 28 U.S.C. §1346(a)(2), because this suit constitutes a civil action against an executive department of the United States; and 5 U.S.C. §§ 702 and 706 (providing for judicial review of agency action), and because this matter involves questions arising under the Administrative Procedure Act ("APA"). 5 U.S.C. § 551 et seq.

15. There is an actual controversy among the parties concerning the lawfulness of the Wilderness Act of 1964 (16 U.S. Code §§1131–1136). As a result of the Act and Defendants' illegal enforcement actions thereunder, Plaintiffs have suffered, and will continue to suffer concrete injuries to their First Amendment speech rights. Those injuries are redressable by this Court through declaratory and injunctive relief.

16. This Court has the authority to grant declaratory relief under 28 U.S.C §2201 and preliminary and permanent injunctive relief under 28 U.S.C. §2202. Equitable relief is authorized through this Court's inherent equitable authority.

17. This Court may also award attorneys' fees and costs under 28 U.S.C. §2412(b).

18. The Federal Government's sovereign immunity is no bar to this constitutional action for declaratory and injunctive relief. *See, e.g.,* 5 U.S.C. §702; *Garfield County v. Trump,* 179 F.4th 814, 820 (10th Cir. 2026); *Chamber of Com. of U.S. v. Reich*, 74 F.3d 1322, 1328-32 (D.C. Cir. 1996).

19. Venue is proper within this judicial district pursuant to 5 U.S.C. §703 and 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions asserted by

Plaintiffs arose within this judicial district. Venue is proper within this district pursuant to 28 U.S.C. §131.

FACTUAL ALLEGATIONS

THE WILDERNESS ACT OF 1964

20. The Wilderness Act gives Congress the ability to designate areas of federal land as "wilderness areas." 16 U.S.C. §1131(a).

21. Federal statute defines a "wilderness area" as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." 16 U.S.C. §1131(c).

22. The Act provides that "there shall be no commercial enterprise" in wilderness areas. 16 U.S.C. §1133(c).

23. Commercial services may only be performed in wilderness areas "to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas." 16 U.S.C. §1133(d)(5).

24. It is undisputed that personal photographs and videos may be recorded in wilderness areas.

25. Violating the prohibition against commercial enterprises in a wilderness area subjects one to penalties that include a ban from use of public lands, imprisonment of up to 12 months, and fines up to $100,000. 43 C.F.R. §6302.30.

26. Defendants interpret the ban on "commercial enterprises" to include any photography or videography, that occurs in a wilderness area, that either promotes a business or is subsequently monetized on a social media platform, such as YouTube.

27. Congress enacted the EXPLORE (Expanding Public Lands Outdoor Recreation Experiences) Act in January of 2025. That law expressly provides that filming will be *allowed* on public lands without a permit. 54 U.S.C. §100905(a)(2).

28. However, the EXPLORE Act expressly states that no provision of the Act "is intended to or shall be construed to conflict with the provisions of the Wilderness Act of 1964." 54 U.S.C. §100905(a)(4)(B).

29. Therefore, the EXPLORE Act is, unfortunately, no bar to Defendants' ongoing illegal and unconstitutional conduct.

DEFENDANTS THREATEN JOSH OVER HIS LLAMAS APPEARING IN A VIDEO

30. In September, 2025, Josh participated in a 14-day backcountry elk hunt in the Shoshone National Forest with three other individuals. One of those individuals recorded the hunt and later published it as an episode of the PEAX Thrive Vodcast. Josh supplied three of the eight pack llamas used on the hunt. During the podcast episode, Josh and another individual describe repeated nighttime encounters with grizzly bears, black bears, and wolves. They discuss how the llamas sounded the alarm in camp. At one point, one of the individuals states that Josh offers llama training and conditioning services, and that he and Josh are jointly offering llama rentals in the Cody, Wyoming and Red Lodge, Montana areas.

31. This video was later posted to YouTube and other social media channels.

32. On or about March 19, 2026, Josh was invited to an in-person meeting with the Forest Service to discuss obtaining a permit for his llama guiding business. Defendant Frost and two law enforcement officers were present at this meeting.

33. At the meeting, instead of answering Josh's questions regarding his permit request, Defendant Frost began accusing Josh of violating the Wilderness Act. Josh was told that the hunting video, discussed above, ran afoul of the commercial filming prohibition because the video was subsequently monetized on YouTube.

34. Even though Josh was not the one who posted or monetized the video, Defendants told Josh that the video constituted an advertisement for Josh's business because one of his llamas, shown in the background, constituted a "prop" for the business and Josh was, therefore, violating the Act's commercial enterprise ban.

35. After this meeting, Josh engaged in follow up communications with the Forest Service to clarify the details of the prohibition on commercial enterprise. He was then told that not only did the prop llama and discussion of his business violate the Act, but that the commercialization of any video filmed in a wilderness area would, as well.

36. To wit, on April 21, 2026, Defendant Frost sent an email to Plaintiff stating "Bottom line is no commercial filming in the wilderness. You can film BUT it has to be for your personal use… You can not [sic] monetize it thru 'clicks', etc." Exhibit A attached hereto is a copy of the e-mail exchange between Plaintiff Joshua Smunk and officials with United States Forest Service from March 30, 2026 through May 21, 2026.

37. On April 23, 2026, Josh sought further clarification asking whether the Act would be violated for simply posting on a platform that can monetize videos even if the content creator does not have that option enabled.

38. Defendant Frost replied via email on May 21, 2026, advising Plaintiff to either use still photos or avoid posting videos on platforms with the ability to monetize. Defendant Frost also stated, "As soon a [sic] money is involved it becomes a commercial enterprise." Defendant Frost also emphasized that the Forest Service is actively surveilling social media, looking for videos that violate the Act. "As people post these types of 'commercial' filming products, and we find them, we do go after them."

39. Defendants have therefore asserted that at least two types of expressive activity are illegal under the Act. First, it is illegal to film content that includes discussions of commercial activity, such as the discussion of Josh's llama guiding business and use of his llamas as "props." Second, it is illegal to film content that is later monetized on a platform such as YouTube. These prohibitions inherently call into question expressive conduct and speech.

BLUERIBBON COALITION

40. Plaintiff BlueRibbon is a membership-based organization. BlueRibbon has thousands of members—both individuals and businesses. BlueRibbon also has hundreds of organized clubs that have their own members. BlueRibbon works on behalf of its members, its clubs, and its clubs' members as an umbrella organization. Collectively, BlueRibbon represents hundreds of thousands of outdoor recreation enthusiasts across all 50 states. And those members come from all walks of life—from veterans, to the disabled, to hikers, to motorcycle enthusiasts, and everything in between—all united by a shared appreciation for outdoor recreation, and in particular, motorized recreation.

41. BlueRibbon's mission is to champion responsible use of public lands for the benefit of recreationists. BlueRibbon educates and empowers its members to: secure and expand shared outdoor recreation access and use; work collaboratively with natural resource managers and other recreationists; support recreation on, and promote respect for, public lands; showcase and enjoy the responsible use of public lands; promote equitable, responsible, and sustainable natural resource management; educate the general public, media, elected officials, and other decision-makers on recreation and access issues; and affect the political and administrative process.

42. BlueRibbon monitors issues related to access to public lands across all federal and state land management agencies. BlueRibbon regularly works on issues related to off-road recreation hunting, snowmobiling, motorized watercraft, dispersed camping, biking, e-bikes, motorcycles, backcountry aviation, search and rescue, rockhounding, and more. BlueRibbon regularly participates in administrative processes at the federal, state, and local level.

43. BlueRibbon's work requires regular visits to land managed by all of the major federal agencies—National Park Service, Bureau of Land Management, and the Forest Service. BlueRibbon visits these lands to learn how proposed changes in policies and plans may affect its members. And BlueRibbon uses this information to both inform its advocacy efforts, and also to educate its members and the public, so that they can participate in the administrative and political processes bringing about

these policy changes. And as part of this, BlueRibbon has produced educational content for its members and the public.

44. Filmmaking is essential to BlueRibbon's educational and advocacy efforts—as is the ability to post those videos to social media platforms. BlueRibbon is accordingly on Facebook, LinkedIn, YouTube, Instagram, X (formerly Twitter), and TikTok. BlueRibbon's film content allows it to educate hundreds of thousands of viewers on a regular basis about BlueRibbon's positions on administrative, political, and legislative actions. When it comes to the actual filmmaking, BlueRibbon's operations are quite modest in scope. The majority of BlueRibbon's videos have been shot by a single person holding their smartphone.

45. BlueRibbon uses its videos to generate income for the organization. Among other things, BlueRibbon regularly makes "direct fundraising solicitations" in its videos and produces certain films just for that purpose. BlueRibbon also uses its videos to promote educational products—in particular, its Lost Trails Guidebook—which help generate further income and donations for the nonprofit.

46. BlueRibbon also receives a modest income from monetizing its videos on certain social media platforms, such as Facebook.

PLAINTIFFS' CONSTITUTIONALLY PROTECTED SPEECH IS RESTRICTED

47. Plaintiffs face two threats of illegal enforcement. The first is a prohibition on discussing commercial products or activities in a video filmed in a wilderness area. This was the original threat that was issued by Defendants at the in-person meeting,

where Josh was told that his llamas constituted "props" for his business, and that this amounted to illegal commercial activity.

48. The second is a prohibition on monetizing video content that was filmed in a wilderness area. Monetization is the act of entering into an agreement with a social media platform to receive compensation proportionate to ad revenue derived from combined user engagement with a content producer's original content. Under a typical arrangement, a content producer might make a quarter-cent ($0.0025) every time an end user on YouTube views their video.

49. As discussed above, in their communications with Josh, Defendants have asserted that both of these activities are illegal.

50. Josh films videos while engaging in outdoor recreational activities in the Shoshone National Forest. Some of these videos are filmed within federally designated wilderness areas.

51. Josh does not use a film crew or large film equipment, usually recording footage on his personal cell phone or small handheld camera.

52. Josh does not post his videos to social media simultaneously while filming (e.g. he does not livestream them); instead, it may be days, weeks, or months before a video is posted.

53. Josh also sometimes appears in other individuals' videos, such as the video of the September, 2025, hunt in the Shoshone National Forest that triggered Defendants' investigation.

54. When Josh appears in someone else's videos, or posts his own videos, he does not know whether any monetary gain will be realized.

55. Sometimes Josh, or others, discuss his llama guiding business in the videos.

56. Sometimes Josh's rental llamas appear in his videos and the videos of other individuals.

57. Josh is still under threat of fines, imprisonment, and banishment from public lands if the Forest Service discovers a video on social media with monetization at any point in the future.

58. Due to this threat, Josh's ability to film in wilderness areas is chilled.

59. Members of BlueRibbon Coalition, and its staff, sometimes take photographs and film videos in federal wilderness areas. They sometimes post those videos to social media platforms, where they are sometimes monetized. Their speech is also chilled by the Act.

60. Out of fear of violating the Act, BlueRibbon and its members are either modifying their speech, or refraining from speaking. They, therefore, have standing to bring a pre-enforcement challenge against the Act. *See, e.g., Scott v. Allen*, 153 F.4th 1088, 1097 (10th Cir. 2025).

DEFENDANTS ENFORCE THE PROHIBITION BEYOND THE JURISDICTION GRANTED TO THEM UNDER THE WILDERNESS ACT

61. Law enforcement officers of the Forest Service have the power to make arrests "for offenses committed within the National Forest System or which affect the administration of the National Forest System." 16 U.S.C. §559c.

62. This power to arrest does not include the ability to pursue enforcement for actions performed outside the National Forest System.

63. Enforcement of the commercial enterprise prohibition for actions performed outside of the National Forest System is beyond the authority of enforcement powers provided to Defendants under 16 U.S.C. §559c.

COUNT I

AGENCY ENFORCEMENT EXCEEDS JURISDICTION AND AUTHORITY

64. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

65. This Court has authority under Article III of the Constitution to issue an injunction against federal officials acting in their official capacities when that injunction will prevent an ongoing violation of federal law or an ongoing violation of constitutional rights.

66. The Administrative Procedure Act compels a reviewing court to set aside and declare agency action unlawful if the action is found to be "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. §706.

67. Defendant Frost is a federal official with authority to interpret and enforce the Wilderness Act.

68. Acting in his official capacity, Defendant Frost gave written directives to Josh to refrain from filming in wilderness areas if the footage would later be monetized, telling him: "Bottom line is no commercial filming in the wilderness. You can film BUT it has to be for your personal use… You can not [sic] monetize it thru 'clicks', etc." Exhibit A.

69. The Forest Service has the power to make arrests for offenses that occur within the National Forest System or for offenses that affect the administration of the National Forest System. 16 U.S.C. §559c.

70. 16 U.S.C. §559c does not give the Forest Service law enforcement power for activities that occur outside of the National Forest System.

71. The Wilderness Act does not grant the Forest Service jurisdiction over actions that are not performed on federal property, such as at someone's home or place of business.

72. Defendants have threatened Josh with enforcing violations of the Act on the basis of actions that occurred outside of any wilderness area and beyond the Defendants' lawful jurisdiction. Defendants allege that a video may be legal to *film* in a wilderness area, but that it is *illegal* to subsequently monetize that video on YouTube, or in any other way.

73. Defendants' enforcement centers on actions that occur outside of the Forest System and beyond the jurisdiction or authority of the Forest Service and is, therefore, unlawful.

74. Furthermore, the Act does not, by its plain language, give Defendants the authority to regulate speech *at all*. 16 U.S.C. §1133(c) provides that "there shall be no commercial enterprise and no permanent road within any wilderness area ... [and] there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area[.]"

75. This subsection does not contemplate the regulation of speech. Instead, it addresses things like roads, motorized vehicles, aircraft, and structures. These are things that humans build, use, and do in ways that can have actual physical effects on a wilderness area. Speech has no physical effect on a landscape and only the most strained reading of the Act can include speech in this prohibition. Defendants therefore lack the legal authority to regulate pure speech under the Act.Each day that the policy prohibiting commercial filming remains in effect, therefore, constitutes an ongoing violation of federal law, which injures Plaintiffs.

COUNT II

THE ACT VIOLATES THE FIRST AMENDMENT

76. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

77. The Act violates the First Amendment.

78. When the government regulates speech based on its content, the law is presumptively unconstitutional and only survives if it meets strict scrutiny. *Reed v. Town of Gilbert,* 576 U.S. 155, 163 (2015).

79. The United States Supreme Court has stated that a law is content-based if it "applies to particular speech because of the topic discussed or the idea or message expressed." *Id.*

80. Making this determination requires consideration of whether the law, on its face, makes a distinction of the message being conveyed. *Id.* This is not limited to the subject the speech focuses on, however, and includes laws that regulate the function or purpose of the speech. *Id.*

81. The Act covers all of this nation's 843 wilderness areas. And in so doing, the restriction reaches across scores of traditional and designated public forums. *See Perry Educ. Ass'n v. Perry Loc. Educators' Ass'n*, 460 U.S. 37, 45-46 (1983) (defining different types of constitutional forums).

82. Here, Defendant Frost's emails to Josh make clear that the Forest Service interprets the commercial enterprise prohibition to include any filming that is connected to a monetary gain, whether that be monetizing content on YouTube (or similar platform) or discussing a business in a video, as Josh did in the video that triggered Defendants' investigation.

83. The Act targets income-generating speech—what it labels "commercial" filming. This is content-based regulation. *See Aptive Env't, LLC v. Town of Castle Rock*, 959 F.3d 961, 983 (10th Cir. 2020) (holding that a restriction on "commercial" speech is content-based). Federal officials cannot discern whether the Act applies to a given film without first reviewing the film's content, or determining whether it was distributed with intent to generate income. *See Sorrell v. IMS Health Inc.*, 564 U.S. 552, 570-71 (2011) (reasoning a similar law is content-based). Indeed, that is exactly what happened to Josh: The Government pulled up a video he appeared in, watched it, and assessed that he had likely violated the Act based on the content of the video.

84. According to the Forest Service, anytime Plaintiffs film a video to advertise their non-profit or business, or reap any monetary gain from any video they may post to social media, the prohibition applies and Plaintiffs are subject to civil and criminal penalties.

85. The Act gives its enforcers boundless discretion. Where a regulatory scheme stretches so broadly—here, covering every mention of a business in a video and every ad-supported YouTuber who happens to film in a wilderness area—the Government must pick-and-choose who faces sanction. But inherent to that open-ended enforcement authority is the ability to pick-and-choose based on *speaker* or *speech*—the very potential of which renders the restriction defective. *See, e.g.*, *City of Houston, Tex. v. Hill*, 482 U.S. 451, 466-67 (1987).

86. The ban on all commercial enterprise cannot survive strict scrutiny as it applies to speech. There is no compelling governmental interest in prohibiting Plaintiffs (or anyone else) from discussing their business in a video filmed in a wilderness area, nor prohibiting them from monetizing their videos on social-media platforms after the fact.

87. The ban on all commercial enterprise is not narrowly tailored, as it prohibits speech based on whether its purpose is "personal" or "commercial," a distinction unrelated to any effect on a wilderness area. It is not tailored to prohibit activities that might actually impact a wilderness area, such as bringing in a large film crew with heavy equipment. Instead, it bans all speech with any hint of commercial activity, including individuals filming alone, using their smartphones, if they later monetize that content on the internet.

88. The Act prohibits all "commercial enterprise" and leaves it up to Defendants to determine the meaning of that phrase. An ordinary citizen would not understand that this prohibition includes a ban on mentioning a business in a video filmed in a

wilderness area, or later monetizing that content. It further encourages arbitrary and discriminatory enforcement by law enforcement officials, who told Josh that, as people post monetized videos, or videos discussing a business, "we find them, we do go after them." Exhibit A.

89. Even if it were content-neutral, the Act flunks intermediate scrutiny. Under that tier, a law must be narrowly tailored to serve a substantial government interest. *Cozy Inn, Inc. v. City of Salina*, 2026 U.S. App. LEXIS 33335, *11-12 (10th Cir. 2026). Here, it does neither since the government has no interest in preventing people from shooting a video that mentions a business or will later be commercialized, versus one that does not.

90. Finally, even if the Act applied only to nonpublic forums, and even if the Act were content-neutral, its far-reaching system of prior restraints *still* could not survive First Amendment review, because its restrictions are not reasonable.

91. Congress never intended for federal agencies to adopt commercial-filming regulations that would reach every person with a smartphone, or that would come to meaningfully suppress core First Amendment expression. The goal was far different, and far more circumscribed: If big companies with big operations want to use wilderness areas for their films, the government needs to be able to regulate those operations and, perhaps, obtain some return for renting out certain federal property. But Defendants' interpretation of the Act dwarfs that narrow object, at the expense of ordinary Americans' First Amendment rights. Worse, it does so while doing little

to advance its asserted aims. That is unreasonable, and thereby unconstitutional under any standard.

92. Facial relief is the traditional remedy for a sprawling restriction like this one that targets expression, and facial relief is the appropriate remedy here. Under First Amendment doctrine, a law is facially unconstitutional if it "prohibits a substantial amount of protected speech" relative to its "plainly legitimate sweep." *United States v. Hansen*, 599 U.S. 762, 770 (2023).

93. At a bare minimum, the Act is unconstitutional as applied to Josh and to BlueRibbon and its members with respect to any small-scale filming operations (*i.e.*, those shot on a cellphone, handheld camera, or similar device), (ii) conducted in areas where analogous non-commercial filming is permitted.

COUNT III

EQUITABLE RELIEF FOR ONGOING VIOLATION OF FEDERAL LAW

94. Plaintiffs reallege and incorporate by reference the preceding paragraphs.

95. This Court has authority under Article III of the Constitution to issue an injunction against federal officials acting in their official capacities when that injunction will prevent an ongoing violation of federal law or an ongoing violation of constitutional rights.

96. Defendant Frost is a federal official with authority to interpret and enforce the Wilderness Act.

97. Acting in his official capacity, Defendant Frost sent email communications to Plaintiff Smunk containing the Forest Service's interpretation of the commercial enterprise ban in wilderness areas. Exhibit A.

98. In these emails, Mr. Frost communicated the Forest Service's interpretation that anytime money becomes a factor with videos filmed in wilderness areas, the ban applies.

99. Mr. Frost also emphasizes that any time the Forest Service discovers these videos on social media, they enforce the ban.

100. Upon information and belief, Defendants will continue enforcing the Act in this manner in the future.

101. On information and belief, this is a longstanding national policy of Defendant Forest Service, based on its interpretation of the Wilderness Act.

102. This content-based restriction on speech violates the First Amendment.

103. The Forest Service's enforcement for activity that occurs outside the boundaries of the Forest System is beyond the jurisdiction of the Forest Service and is unlawful.

104. The continued existence and enforcement of the commercial enterprise ban constitutes an ongoing violation of the constitution and federal law which injures Plaintiffs.

105. A declaration from this Court that the commercial enterprise ban violates the First Amendment, that enforcement of that ban by the Forest Service outside of their jurisdiction violates federal law, and an injunction preventing its enforcement against Plaintiffs would remedy those injuries.

DECLARATORY RELIEF ALLEGATIONS

106. Plaintiffs incorporate the allegations in the foregoing paragraphs as if set forth fully herein.

107. An actual and substantial controversy exists between Plaintiffs and Defendants as to legal rights and duties with respect to whether the prohibition on commercial enterprise violates the United States Constitution and whether enforcement of that prohibition exceeds the jurisdiction and authority of the Forest Service.

108. The case is presently justiciable because the prohibition on commercial enterprise applies to Plaintiffs as they are subject to possible prosecution, which Defendant Frost has indicated is vigorously enforced by the Forest Service.

109. Declaratory relief is therefore appropriate to resolve this controversy.

PRAYER FOR RELIEF

Pursuant to 28 U.S.C. §2201 and Fed. R. Civ. P. 57, it is appropriate and proper that a declaratory judgment be issued by this Court, declaring that the Wilderness Act's prohibition on commercial filming is unconstitutional and the Forest Service's enforcement of that prohibition is unlawful.

Furthermore, pursuant to 28 U.S.C. §2202 and Fed. R. Civ. P. 65, it is appropriate and hereby requested that the Court issue a permanent injunction prohibiting Defendants from enforcing the prohibition on commercial filming.

WHEREFORE, Plaintiffs pray for judgment against Defendants and that the Court:

(1) Declare that the enforcement of the ban on commercial enterprise by the Forest Service is unlawful because the Wilderness Act of 1964 does not permit the regulation of pure speech, and because enforcement occurs outside the Forest Service's authority and jurisdiction.

(2) Declare that the ban on commercial enterprise under the Wilderness Act of 1964 violates the constitution, because it suppresses Plaintiffs' free-speech rights;

(3) Issue a permanent injunction against the Defendants, as well as all agents, administrators, employees, or other persons acting on behalf of the Defendants, from enforcing the prohibition;

(4) Award Plaintiffs costs and expenses incurred in bringing this action, including, but not limited to, reasonable attorney fees pursuant to 28 U.S.C. §2412; and

(5) Grant such other and further relief as the Court deems equitable, just, and proper.

Dated: November 18, 2026

Respectfully submitted,



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**Application for pro hac vice admission pending*

Exhibit A

Outlook

RE: [External Email]Film Permit

From Frost, William - FS, WY <william.frost@usda.gov>
Date Thu 5/21/2026 1:18 PM
To Josh Smunk <joshsmunk@gmail.com>

Josh:
I recommend you use still photos or not post your videos on platforms that can monetize them. As soon a money is involved it becomes a commercial enterprise and you have to have a permit.

Bill Frost
Outfitter & Guide Permit Administrator
Wilderness Program Manager

Forest Service
Clarks Fork, Greybull and Wapiti Districts
Shoshone National Forest

p: 307-578-5235
c: 307-250-5585
william.frost@usda.gov

203A Yellowstone Ave
Cody, WY 82414

From: Josh Smunk <joshsmunk@gmail.com>
Sent: Thursday, May 14, 2026 6:50 PM
To: Frost, William - FS, WY <william.frost@usda.gov>; Hickel, Michael - FS, WY <Michael.Hickel@usda.gov>
Subject: Re: [External Email]Film Permit

Hey Bill,
I am just following up on this last email I sent with the questions pertaining to filming in wilderness areas.
On Thu, Apr 23, 2026 at 9:53 PM <joshsmunk@gmail.com> wrote:

> Hi Bill,
>
> Thank you for the clarification. I appreciate you taking the time to explain your position.
>
> I do want to make sure I fully understand where the actual legal line is, because that is where I'm struggling.
>
> If filming itself is allowed for personal use, but later posting that content online creates a concern because of the potential for monetization, that seems to make the standard very difficult to define in practice. For example, platforms like YouTube automatically create the possibility of monetization even if the creator does not enable ads, accept sponsorships, or receive direct compensation from that specific footage.
>
> My question is: if footage is captured during otherwise lawful personal recreation or permitted outfitting activity in wilderness, and that footage is later shared publicly without monetization enabled, is that still considered prohibited "commercial filming" solely because the platform itself has monetization capability or because the creator operates a business in the same industry?

I am trying to distinguish between:

1. Intentional commercial production where filming itself is conducted for advertising, sponsorship, or direct business promotion, and
2. Personal documentation of lawful activity that is later shared publicly without direct compensation.

I want to stay compliant, but I also want to understand the actual statutory or regulatory basis for where that distinction is made, especially since the EXPLORE Act specifically addresses incidental filming tied to permitted activities outside of wilderness.

If there is specific Forest Service policy, manual direction, CFR citation, or case law that defines this standard, I would greatly appreciate being pointed to it so I can review it directly.

Thank you again for your help.

Best,
Josh

On Tue, Apr 21, 2026 at 2:00 PM Frost, William - FS, WY <william.frost@usda.gov> wrote:

> Josh-
>
> The Wilderness Act takes precedence over the EXPLORE Act. Bottom line is no commercial filming in wilderness. You can film BUT has to be for your personal use – just like we explained that day here at the office. You can not monetize it thru “clicks”, etc. As people post these types of “commercial” filming products, and we find them, we do go after them.
>
> As far as charges for a violation of this nature, it depends on the violation. Can range up to several hundred dollars. The federal court can also impose forest-wide bans that do not allow any use on the forest, ranging from 6 months to several years.
>
> **Bill Frost**
> **Outfitter & Guide Permit Administrator**
> **Wilderness Program Manager**
> **Forest Service**
> **Clarks Fork, Greybull and Wapiti Districts**
> **Shoshone National Forest**
> **p: 307-578-5235**
> **c: 307-250-5585**
> **william.frost@usda.gov**

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

JOSHUA SMUNK and BLUERIBBON COALITION, INC.

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Robert Henneke, Chance Weldon, Matthew Miller, Heidi Walusimbi, TEXAS PUBLIC POLICY FOUNDATION, 901 Congress Ave., Austin, Texas 78701

DEFENDANTS

KENNETH COFFIN, in his official capacity as FOREST SUPERVISOR OF THE SHOSHONE NATIONAL FOREST; [illegible]

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
16 U.S. Code §§1131–1136, 5 U.S.C. §§ 551 et seq, and 28 USC § 1346

Brief description of cause:
Lawfulness and review of the U.S. Forest Service's enforcement of the Wilderness Act of 1964 (16 U.S. Code §§1131–1136), 5 U.S.C. §§ 551 et s

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE
Nov 18, 2026

SIGNATURE OF ATTORNEY OF RECORD
[signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below**; NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. Origin. Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.