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March 20, 2001

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PRELIMINARY INJUNCTION MOTION FILED TO PREVENT ANY WATER DIVERSIONS FROM OTTER CREEK

On Tuesday March 20, 2001, Western Watersheds Project (WWP) and the Committee for Idaho's High Desert (CIHD) filed a motion for a preliminary injunction under the Endangered Species Act (ESA) in federal district court in Boise, Idaho against Verl and Tuddie Jones and the Salmon/Challis National Forest to prevent any diversion of water from Otter Creek, a tributary of Panther Creek in central Idaho's Custer County. The diversion and the entire length of the ditch occur on land administered by the U.S. Forest Service.

The Otter Creek diversion lawsuit is one of three filed in December 2000 to initiate WWP and CIHD's campaign to end unscreened and unmeasured diversions of water from all tributaries and the main stem of the Salmon River in central Idaho which provide critical habitat for ESA listed salmon, steelhead, and bull trout. WWP and CIHD have noticed by letter more than 60 water right owners in the upper Salmon River watershed that they may be sued under the take provisions of the ESA.

The Otter Creek diversion removes 95-100% of the flow of Otter Creek, a main headwater tributary of Panther Creek, and diverts it to Morgan Creek, an entirely different watershed. The diversion is unscreened and unmeasured, and has been operating under an expired Forest Service special use permit for at least two years. Otter Creek contains listed bull trout which are entrained into the ditch where they die.

WWP and CIHD are suing both the Forest Service and the water rights holders, the Jones, and anticipate that this diversion will be closed by judicial order this year absent the installation of screening and measurement devices and provision for adequate instream water flows to ensure full protection for bull trout.

The court hearing on the motion for preliminary injunction will occur on May 3, 2001 in federal district court in Boise, Idaho. WWP and CIHD are represented by attorneys Laird Lucas of Boise and Bill Eddie and Mindy Harm of the Land and Water Fund of the Rockies, Boise Office.