

## **Protect the Humboldt-Toiyabe National Forest** ***Bull trout and Jarbidge River threatened by phony road claim***

*The Humboldt-Toiyabe National Forest covers 6.3 million acres in Nevada and eastern California. The Forest's northeastern Nevada section includes the Jarbidge Wilderness with thriving wild flowers, pine, aspen, cottonwood, and willow, as well as mule deer, Rocky Mountain elk, mountain lion, and bald eagles. The Jarbidge River and its rushing tributaries extend 42 miles from the 10,000-foot mountain peaks in the Wilderness, carving deep canyons across a volcanic plateau. These streams provide habitat for the bull trout, a native char that once thrived across the Pacific Northwest and Canada.*



***The Humboldt-Toiyabe, the largest national forest outside of Alaska, is renowned for its breathtaking high-elevation scenery.***

### **Concern for the Jarbidge River**

In 1995, the Jarbidge River flooded, altering its location and washing out portions of South Canyon Road, a dirt road that ran alongside the river to the Jarbidge Wilderness boundary. Following the washout, the Forest Service proposed to reconstruct the road despite an analysis of existing environmental conditions that found erosion, loss of riparian vegetation, and a declining bull trout population. After reanalyzing the road impacts and specifically taking into account the

dwindling bull trout population based on an appeal of its original road proposal, the Forest Service proposed establishing a hiking and equestrian trail in place of rebuilding the 1.5-mile section of washed out South Canyon Road. That decision was sidetracked when Elko County claimed to own the road and trespassed on Forest Service land to illegally reconstruct the road in July 1998. The Forest Service took the dispute to U.S. District Court, and the matter was settled in an agreement that charged the agency with preparing an environmental review to determine the future of public access in the South Canyon.

In April 2003, the Forest Service issued its draft environmental impact statement, which found that road reconstruction would lead to vehicle use, "directly increasing the potential for damage to streambanks in areas immediately adjacent to the Jarbidge River. Less stable streambanks would indirectly affect migratory and holding bull trout..." The Environmental Protection Agency also has expressed strong concerns, stating that rebuilding the road "will cause violations of water quality standards for both the short term (construction) and long term (future operations)..."

Beyond the Forest Service and Environmental Protection Agency's warnings of likely environmental damage, the Forest Service must specifically consider the long-term affects of road building on the listed bull trout. Years before the Jarbidge River flood, the Fish and Wildlife Service and other State and Federal agencies discovered that bull trout populations were declining in many watersheds across several northwestern states. In 1999, the Fish and Wildlife Service listed the Jarbidge River bull trout population as threatened under the Endangered Species Act due in part to "habitat degradation from past and ongoing land management activities such as road construction and maintenance."

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--*The Environmental Protection Agency*

### **Elko County's Road Proposal**

Elko County, Nevada, claims ownership of South Canyon Road as a right-of-way under an outdated provision in the Lode Mining Act of 1866 commonly referred to as Revised Statute 2477 or "RS 2477." This provision is a loophole in the Federal Land Policy and Management Act of 1976 that allows states and counties with valid existing rights to retain ownership if they can prove the right-of-way existed and was constructed before that public land was reserved. Because the Humboldt-Toiyabe National Forest was established in 1909, to make a valid RS 2477 claim, Elko County would have to demonstrate a road existed before the Forest was established. A June 1909 Forest Service map does not show any road along the Jarbidge River. The Forest Service itself acknowledged this omission in a July 1998 letter stating they were "unaware of any evidence that would support" the existence of such a right-of-way.

### **Conclusion**

The Forest Service, Fish and Wildlife Service, and Environmental Protection Agency acknowledge that the health of the Jarbidge River and its bull trout population would be at risk if Elko County's road proposal moves forward. We urge the Forest Service to protect the Humboldt-Toiyabe National Forest and the Jarbidge River by supporting a hiking and equestrian trail for people to enjoy the canyon.

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