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5 Attorney for Plaintiff LAURA LEIGH

6 **IN THE UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 LAURA LEIGH,

9 Plaintiff,

10 **Case No. 3:10-cv-00417-LRH-VPC**

11 vs.

12 KEN SALAZAR, in his official capacity as
Secretary of the U.S. DEPARTMENT OF
13 THE INTERIOR, BOB ABBEY, in his official
capacity as Director of the BUREAU OF
14 LAND MANAGEMENT; RON WENKER in his
official capacity as Nevada State Director of
the BUREAU OF LAND MANAGEMENT, *et*
15 *al.*,

16 Defendants.
17 _____/

18 **DECLARATION OF KATIE FITE**

19 I, KATIE FITE, do hereby swear, under penalty of perjury under the laws of the
20 State of Nevada and of the United States of America, that the foregoing is true and
21 correct:

22 1. I am currently employed as a Biodiversity Director for the Western
23 Watersheds Project. Western Watersheds Project (“WWP”) is a non-profit
24 conservation group founded in 1993 with 1400 members and with field offices in Idaho,
25 Montana, Utah, Wyoming, Arizona and California. WWP is headquartered at the
26 Greenfire Preserve in Clayton, Idaho. The group works to influence and improve public
27
28

EXHIBIT C

1 lands management in 8 western states with a primary focus on impacts of livestock
2 grazing. The mission of Western Watersheds Project is to protect and restore western
3 watersheds and wildlife through education, public policy initiatives and litigation.

4 2. I personally, have significant experience involving the lands and issues of
5 the sagebrush ecosystem. Resultantly I have been to the areas known as the Owyhee
6 Herd Management Area, the Rock Creek Herd Management Area and the Little
7 Humboldt Herd Management Area numerous times. I am personally familiar with the
8 rangelands in the Owyhee Herd Management Area. My *curriculum vitae* follows this
9 Declaration.

10 3. I did not go into the area of the emergency the BLM announced for the
11 Owyhee HMA because of land closure signs posted, which I personally witnessed
12 remaining up and “posted” July 17, 2010. These closure signs were clearly official
13 signs of the BLM. These signs caused me to turn back and avoid breaking rules
14 pertaining to closed lands.

15 4. I returned July 24. I accessed the South Fork Owyhee from the YP
16 Desert side on the gas pipeline road. My goal was to get to the west side of the river
17 and the canyon rimrock above there. I wanted to see if perhaps there was a barbed
18 wire fence with closed gates, or some other human imposed barrier that had blocked
19 wild horse access to the river area. I never made it to the rimrock on the upper west
20 side on that day, due to the presence of flammable weeds in the road, including a hill
21 with windrowed tumbleweeds that had accumulated in the road. I parked a considerable
22 distance from the canyon, and hiked in the very high temperatures down the jeep trail to
23 the canyon.

24 5. From the moment I read BLM’s Interim Report of July 15, I was baffled at
25 why horses could not access the South Fork Owyhee River at the Gas Pipeline
26 Crossing below Devils Corral in the Owyhee HMA. I had visited this site in December
27 2008 from the Owyhee side, and it was clearly a primary wild horse access site to the
28 perennial South Fork Owyhee River. I had also visited the area and observed it from the

1 YP side in Fall 2009, and again recalled that both horses and cattle could readily have
2 access to the river here. I waited to visit the area until the BLM Press Releases showed
3 their Owyhee activity was winding down, lest BLM accuse me of somehow disturbing
4 the horses their Interim Report described in a precarious condition.

5 6. As I descended towards the canyon, I personally observed there were
6 several paths horses could use by both the upper and lower canyon rimrocks to access
7 water at the Owyhee River. I took general landscape photos to document this as I was
8 descending. The four sets of photos attached with this Motion are all taken by me.
9 They are of the Owyhee HMA by the Owyhee River. The photos accurately depict the
10 area and the subject matters they portray.

11 7. I decided the best course would be to leave, return to Boise, come back
12 into Owyhee HMA from the West, and bring another person out with me to observe the
13 conditions. I never did get to see if there was a fence or other barrier somewhere to the
14 west on that day.

15 8. I returned to Owyhee HMA with Paul Ruprecht on July 25 and 26, via the
16 pipeline road from the Little Owyhee that enters the west part of the Star Ridge Pasture
17 and Owyhee HMA, and runs to the river at the pipeline crossing site on the east. There
18 is no fence or other barrier blocking horse movement anywhere along this route through
19 the Star Ridge Pasture. I had spent a couple days in the field with Paul this summer. I
20 am informed and believe Paul has a keen eye for plants and animals and that he spent
21 considerable time in the outdoors.

22 9. I have personal knowledge from my visits to this area that in Spring,
23 horses (and any livestock that are being grazed) can obtain water in this large area
24 from puddles and whatever amount has run into the dug out stock ponds. However,
25 under normal circumstances, the dug out stock ponds dry up in summer, and horses
26 need to access the South Fork Owyhee River for water. This is how it's been in the
27 Owyhee HMA the past several years of which I'm personally aware and, I am informed
28 and believe, this is how the range presented to horses the several years prior to when I

1 was there; and I am informed and believe horses survived in the Owyhee HMA on the
2 same and similar conditions in the past as what I personally observed this July in
3 Owyhee HMA and as what I personally observed in my prior visits to Owyhee HMA.

4 10. I personally observed while Mr. Paul Ruprecht was with me, that there is
5 no barrier, either natural or manmade, that prevents wild horse movement to the
6 Owyhee River.

7 11. Paul and I camped down in the canyon. In the morning right after I was
8 awake, I heard a horse whinny out of sight. The sound came from the direction of the
9 area that was obviously a horse watering site. I quickly walked up the east side jeep trail
10 to where I could observe the horses on the west side come down to water. I observed
11 their behavior, and photographed them. Photos of my observations are attached to this
12 Motion. I am informed and believe these photos accurately depict horses coming and
13 going to and from the South Fork of the Owyhee River and the rimrock above, and
14 without difficulty.

15 12. I am informed and believe BLM or their chosen "gather" contractor
16 (Cattoor) claims that campers somehow kept horses from the river during the time the
17 Defendants were gathering. Based on my personal observations in the field, it is my
18 opinion from having extensively observed wild horses obtain water, that had campers
19 set up camp in the churned soils of the regular horse watering site, that the horses if
20 desperate for water, had no restriction to them to take other available paths present in
21 the area which gave horses on the rimrock above, to the South Fork of the Owyhee
22 River below. In fact, during my visit in the Owyhee HMA with Paul, I personally saw no
23 areas or sites where someone recently camped. Based on my personal experience in
24 this area, I am informed and believe this area is more frequented in the fall during
25 Chuckar hunting season and some spring river floating.

26 13. On this visit with Paul Ruprecht July 25 and 26, I observed hundreds of
27 horse tracks on bar/island areas of the South Fork of the Owyhee River upstream a
28 short distance of the traditional main watering site. I also observed the extensive

1 summer 2010 disturbance to soils and vegetation in an area upstream beyond the
2 hoofprints in the island/bar areas. This area I refer to as “the Bend.”

3 14. On my July 25 and 26 visit, I also observed extensive disturbance on the
4 bench above the river on the west side, as well as the side hill below toward the river.

5 15. The observations addressed herein lead me to the following opinions and
6 conclusions:

- 7 a. water was available to horses in the Owyhee HMA in and around the
8 South Fork of the Owyhee River during the BLM’s Owyhee HMA wild
9 horse gather. There was plenty of water for all horses inasmuch as the
10 Owyhee maintained excellent flow at all times during my observations;
- 11 b. nothing precluded or prevented horses from coming off the upper rimrock
12 down to water at the Owyhee River, or from the large trail network leading
13 onto the bench from the south that provides ready access to the high
14 plateau in areas with minimal to no rimrock. In fact, I personally observed
15 many horses easily negotiate the road down from the bench rim to the
16 waters of the Owyhee River;
- 17 c. Nothing I observed during my multiple visits to Owyhee HMA in July lead
18 me to conclude the range and water conditions were somehow different
19 from how the same range and water conditions were observed in prior
20 years by me; nor were they different from how I understand them to be in
21 normal years;
- 22 d. Nothing I observed July 2010 in the Owyhee HMA supported a conclusion
23 that an emergency gather was necessary because of a purported lack of
24 water in the very locations I observed. I observed nothing that would
25 support such an emergency gather.
- 26 e. The horses I observed walking to and from Owyhee River water,
27 appeared healthy and in good physical condition. None appeared, from
28 the distance I maintained, to be “water starved.” None drank water for

1 extended periods when making their way down to the river. These horses
2 drank in a manner and to the extent appearing customary and
3 appropriate.

4 16. I am prepared to provide additional information to the court concerning my
5 recent observations of the Owyhee HMA, at the court's request. I will make myself
6 available to the court as a witness if the court so desires.

7 THIS DECLARATION under penalty of perjury under the laws of the State of
8 Nevada and of the United States is made this 10th day of August 2010 in Idaho.

9
10 /S/

11 Katie Fite, Declarant

12
13 **KATIE FITE – C.V. AND SUMMARY OF MAJOR PROJECTS**

14 **2005-Present: Biodiversity Director, Western Watersheds Project**

15 I amassed and reviewed large body of BLM documents for successful litigation
16 challenging BLM Grazing Regulation changes that weakened protections (*WWP v.*
17 *Kraayenbrink*). Prepared lengthy declaration in support of claims.

18 Nickel Creek allotment. Appealed Owyhee Canyonlands grazing decision in allotment
19 with important Sage-Grouse Redband Trout, WSA, old growth western juniper and
20 other values. Assembled agency info and scientific articles, and testified during two
21 week administrative hearing. After several years, the Nickel Creek case was ultimately
22 resolved with federal court decision upholding portions of Appeal.

23 Soldier Meadows Grazing. Work on this vast Winnemucca BLM NCA and Wilderness
24 landscape over the years has resulted in removal of livestock use from all BLM
25 occupied Desert Dace habitat. Most recently, this work resulted in the closure of large
26 areas of the Black Rock Range Wilderness in Lahontan Cutthroat Trout watersheds to
27 livestock grazing use. Includes several Wild Horse HMAs. Expert witness in two week
28 BLM Hearing prior to Settlement.

Owyhee BLM Pole Creek, Trout Springs allotments. Provided site observations and
expertise for legal challenge to appealed grazing decisions in Redband Trout and
Columbia Spotted Frog habitats in Owyhee Canyonlands. Settlement resulted in
standards triggering livestock removal. Extensive follow-up field work resulted in
livestock removal after only brief period of use.

Owyhee Hardtrigger allotment. Participated in series of BLM decisions rare plant and
Sage Grouse habitats, includes Hardtrigger Wild Horse HMA.

North Sheep Sawtooth Forest Grazing EIS. Site visits and expertise used in work on

- 1 Sawtooth National Forest grazing EIS in Bull Trout, Gray Wolf and Wolverine habitat in
2 rugged Idaho batholith.
- 3 Spruce Mountain Vegetation Treatment. Appealed Elko BLM proposal for near-
4 complete deforestation of arid mountain range (burning, chaining, cutting). Wild Horse
5 HMA. Collected field data on site conditions and tree age in support of federal court
6 injunction that stopped the project. BLM then reconsidered its actions.
- 7 Central Idaho Grazing Challenges. Bull Trout, Pygmy Rabbit, Sage Grouse, Wilderness
8 Study Area protections are basis for series of ongoing legal challenges to decisions that
9 I appealed (Upper Salmon watersheds – Salmon, Lemhi, Pahsimeroi).
- 10 Humboldt-Toiyabe National Forest grazing. Wrote successful appeal of Bridgeport
11 Mono Basin area Rangeland EIS. Sage Grouse, Pygmy Rabbit (remnant) and Pika
12 (vanishing) populations.
- 13 Salmon-Challis Forest Weed EIS. Wrote successful appeal of Forest Service Weed
14 Control and Herbicide use EIS, which the Forest Service subsequently abandoned.
- 15 Humboldt-Toiyabe Forest Martin Basin Range EIS. Wrote Appeal resulting in new
16 analysis of impacts of livestock grazing on the Santa Rosa Range Paradise Peak
17 Wilderness, which includes Lahontan Cutthroat Trout and Sage Grouse habitat.
- 18 Humboldt-Toiyabe Forest Jarbidge Range EIS. Appealed Forest EIS that opened
19 vacant allotments inside Jarbidge Wilderness to grazing, in Lahontan Cutthroat Trout,
20 Jarbidge Bull Trout, Interior Redband Trout, Sage Grouse and Pygmy Rabbit habitat.
21 Forest withdrew, and is revising, the EIS.
- 22 Washington State Grazing. Provided comments and site visits for Washington state
23 proposal to open State Wildlife Areas (Whiskey Dick and Asotin) critical to biodiversity
24 protection in this highly fragmented landscape to livestock grazing. Recent victory in
25 Washington State Court overturned challenged leases.
- 26 Great Basin Sage Grouse Threats challenge. Last year I amassed hundreds of BLM
27 decisions on livestock grazing, oil and gas leasing, renewable energy, and vegetation
28 treatments in Idaho and Nevada that I had appealed or worked on. These agency
actions affected many Wild Horse HMAs. I then prepared a voluminous 100+ page
standing declaration in support of the challenge to these hundreds of decisions. The
district court found that we had standing on these lands.
- General agency document review: I have been receiving and reviewing agency
documents as an Interested Public across approximately 50 million acres of public
lands for the past five years.
- In the course of my work, I conduct extensive site field visits, and use the information to
try to affect positive changes in agency decisionmaking processes. I have much
familiarity with western landscapes in the sagebrush biome and arid forest landscapes
of Idaho, Nevada and Oregon. I have visited all mountain ranges in southern and
central Idaho, and nearly all ranges and valleys in the northern and central Great Basin
of Nevada, and have also visited many areas of eastern Oregon.

1 **1999-2005. Biologist/Ecologist with Committee for the High Desert**

2 Owyhee Canyonlands Grazing Lawsuit. Provided scientific information and expertise in
3 lawsuit that resulted in new Owyhee BLM RMP and NEPA analysis of adverse grazing
effects on 68 allotments, resulting in increased protective use standards.

4 Updated BLM Wilderness Inventory information across Idaho. Reviewed all data on
5 inventory process, and conducted extensive site visits in support of new mapping for an
Idaho Citizens Wilderness Proposal. Work also included highlighting OHV damage.

6 Prepared Slickspot Peppergrass Listing Petition. Wrote petition seeking ESA Listing of
7 Slickspot Peppergrass, an endemic species finally Listed as Threatened in 2009.

8 Tracked and participated in agency actions affecting species, submitted and reviewed
FOIAs to support rounds of litigation through nine year process. This species was finally
listed under the ESA in 2009.

9 Humboldt-Toiyabe Forest Plan Stream and Spring Protections. Employed knowledge of
10 Forest's riparian systems, ecological conditions and aquatic species occurrence for
litigation forcing grazing standard Compliance with riparian protections under Forest
11 Plan. Increased standards for Redband Trout, Jarbidge DPS Bull Trout, and Columbia
Spotted Frog in many watersheds in Settlement Agreement. For the first time, the
Forest applied protective use Standards to springs.

12 Ely-Mount Wilson Urban Interface Project. Conducted site visits and Appealed Ely BLM
13 Decision to deforest 50 square miles of pinyon-juniper habitats. Amassed data for
federal court challenge that resulted in a Settlement applying defensible space fire
14 science to greatly limit area of tree removal.

15 APHIS Grasshopper and Mormon Cricket Insecticide Spraying. Assembled information
and experts necessary to challenge APHIS NEPA coverage for insecticide spraying.
16 Resulted in new NEPA analysis that included "strip" treatments reducing land areas
sprayed.

17 Sage Grouse Predator Killing. Assembled scientific, habitat and population information
18 for challenge to state proposal to trap, shoot and poison Sage-grouse predators on
public lands across southern Idaho.

19 Squaw Valley/Spanish Ranch Elko allotments. Appealed BLM grazing decisions and
20 construction of almost 100 miles of new fence in two large allotments including
Lahontan Cutthroat Trout, Redband Trout, Sage-grouse and Pygmy Rabbit habitats as
21 well as wild horse HMAs. Following two week administrative hearing in Elko where I
provided extensive testimony, Administrative Law Judge upheld Appeal.

22 Prepared Pygmy Rabbit Listing Petition. This four month effort collected all available
23 scientific information at that time. I also assembled agency project documents showing
threats to the Pygmy Rabbit. I wrote the Petition, cited as Fite et al. 2003.

24 Jarbidge TNR "Conversion" Lawsuit. Appealed BLM grazing decisions increasing
25 stocking based on "Temporary" use that had occurred. Provided expertise and
Declarations for federal court challenge that resulted in tougher use standards and
26 removal of livestock from portions of a Jarbidge Bull Trout DPS watershed.

27 Jarbidge Field Grazing lawsuit. Appealed dozens of BLM grazing decisions. Appeals
were then bundled into Federal Court litigation challenging NEPA and FLPMA
28 violations, and highlighting Sage Grouse habitat losses. Provided Declaration for
federal court case. Injunction was granted, and case resolved through Settlement.

1 Jim Sage Mountain Range Juniper Chaining. Conducted site visits documenting BLM
2 juniper chaining activity under minimal NEPA. Prepared Declaration for litigation, and
BLM then withdrew its CE.

3 Elko BLM Sensitive Species EIS. Appealed grazing decisions across vast areas of
4 Goshute Mountains, Pequops Range and South Fork Owyhee region. Includes Owyhee
5 Wild Horse HMA. Federal court challenge resulted in BLM preparation of EIS to assess
6 effects on sensitive species. Litigation and subsequent EIS prevented large-scale
industrialization of lands with facilities to intensify livestock use (new wells, fences,
spring "developments").

7 **Volunteer Conservation Activities**

8 Worked with Committee for the High Desert in opposing a series of Air Force Bombing
9 Ranges in the Owyhee Canyonlands, and their work on BLM WSA protection, livestock
grazing and OHV issues. 1990s.

10 Aided Oregon Natural Desert Association in successful Owyhee Wild and Scenic River
11 lawsuit challenging BLM failure to protect Outstandingly Remarkable Values of the
Owyhee, West Little Owyhee, and North Fork Owyhee Rivers. 1990s.

12 Aided Western Watersheds Project in assessing wildlife habitat values of Idaho state
13 endowment lands for pursuit of grazing leases. 1990s.

14 Documented site conditions in support of Great Old Broads and TWS legal challenge to
15 Elko County RS 2477 Right of Way claim on Jarbidge Road in Bull Trout habitat.
Throughout 2000s.

16 **1990-1999. Wildlife Habitat Improvement Program, Idaho Fish and Game 17 Department**

18 Designed and implemented wildlife habitat plantings and restoration projects on upland
19 and riparian sites on public and private lands in southern Idaho. Provided expert advice
on retention of intact habitat components. Interacted with broad range of the public.

20 Provided input and comments to BLM and other agencies on wide range of activities in
21 southern Idaho (Land Use Planning, fire rehab, livestock grazing, vegetation
manipulation).

22 Conducted wildlife surveys: Bighorn Sheep, Antelope, Mule Deer, Sage Grouse lek
searches.

23 Collected data on Sage Grouse habitat conditions in southern Idaho.

24 Collected vegetation data for Redband Trout inventories across Owyhee region.

25 **Education**

26 B.S. Biology. Pennsylvania State University. 1976.
27 MS. Biology. Utah State University. 1984. Emphasis on ecology and evolutionary
28 biology. Thesis: *Vocal behavior and interactions among parents and offspring in the
American Dipper.*