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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 **DECLARATION OF LAURA LEIGH**

18 I LAURA LEIGH declare under penalty of perjury under the laws of the State of
19 Nevada and of the United States, that the following is true except for those matters
20 stated on information and belief and as to those matters I believe them to be true:

21 1. I incorporate what has been said in my prior Declarations.

22 2. After having reviewed the BLM's Interim report of July 15, 2010, and
23 having personally heard the testimony of Mr. Alan Shepard in court yesterday, I make
24 these observations, below.

25 3. I recall my attorney Gordon Cowan asking Mr. Shepard, paraphrased but
26 close (without benefit of transcript), the following questions to which Mr. Shepard
27 provided the following answers:
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Exhibit F

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Q. "Are there cows out there?" A. "No."

Q. "Are there fences out there?" A. "No."

4. I am informed and believe the following:

a. The final Environmental Assessment ("EA") for the Tuscarora area notes that in Owyhee there is cattle grazing: From Pg. 44 of EA –

3.2.6 Livestock Grazing Affected Environment The Owyhee, Spanish Ranch, Squaw Valley and Little Humboldt allotments were affected by the 2006 Winters Fire.

The Winters Fire burned approximately 17% of the Owyhee Allotment, resulting in the closure of all or portions of the Chimney Creek and Dry Creek Pastures to livestock grazing. More than 90% of the Castle Ridge Pasture of the Little Humboldt Allotment burned as a result of the Winters Fire and was also closed to livestock grazing. Due to the 2006 Amazon and Winters fires, 73% of the Spanish Ranch Allotment burned, and 100% of the Soldier Field Pasture burned in the Squaw Valley Allotment. As a result the burned portions of the Spanish Ranch Allotment were closed to authorized livestock grazing. The entire Soldier Field Pasture in the Squaw Valley Allotment was also closed to authorized livestock grazing.

The Burner Hills and Winters Creek Pastures of the Spanish Ranch Allotment and the Castle Ridge Pasture of the Little Humboldt Allotment were re-opened to limited livestock grazing in 2009. **Current monitoring data for all the allotments show that the fire rehabilitation objectives have been met and the allotments may be re-opened for livestock grazing during the 2010 grazing year.** (Emphasis added).

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- b. The language above is from a document in the Defendants possession and which is no longer accessible to the public on line. However, I can provide a copy of this to the court if this becomes necessary. But the Defendants can provide it faster.

- c. Mr. Alan Shepherd was part of a team created to discuss and outline a plan for euthanizing America’s wild horses. (See attached EUTH FOIA). Also please note this document was never made public until requested under the Freedom of Information Act.

- d. As to Mr. Shepard’s “No” to the fence question, please note the comments relative to the cattle allotment above. Each allotment is fenced as are most allotments that exist on public land. Also please see attached comments by Katie Fite on the BLM July 15, 2010 Interim Report. Ms. Fite represents the Western Watersheds project which is active in management of both private and public lands where wildlife and equine issues are involved. She notes fences and gates that exist within Owyhee and the potential issues involved with their existence there. The conclusion compellingly follows Mr. Shepards’ testimony is not accurate. Perhaps Mr. Shepard misunderstood Mr. Cowan’s direct question.

5. If the unprecedented conditions exist on the Owyhee HMA as are asserted in the Defendant’s Interim Report and as represented by Alan Shepherd, in that event I propose the following:

- a. The American people care about their horses so much as group we are ready to step in to help solve the issues in this unprecedented emergency situation. Advocates are prepared to amass a field team to go out and assess and respond the situation immediately.

- 1 b. Interim Report provided to this Court suggests that BLM's current strategy
2 to deal with this issue is to move ahead with a gather not only planned
3 during the disputed foaling season in the desert heat but now involves
4 animals that are in such a fragile state that the BLM concludes that in
5 three days we will have a 75 percent die-off rate on that range. Their
6 report shows no evidence that any other investigations are occurring,
7 investigations that could reveal fences that in fact are closed as
8 suggested in attached Comments report, above, by Katie Fite of Western
9 Watersheds, or that there may be an illegal diversion of water, which
10 water historically has been present and available to the animals in this
11 area.
- 12 c. Defendant's attorney yesterday made a statement to this Court
13 referencing budget constraints. The advocate community is willing to step
14 in and help these horses they love so much at no cost to the BLM.
- 15 d. Defendant has put forth to the advocate community that they are willing to
16 look for cooperative efforts among the public. Director Bob Abbey refers
17 to this as a "new direction."
- 18 e. Towards that end, a two-day workshop and meeting initiated by the BLM,
19 which occurred last month in Denver, Colorado, brought advocates to the
20 table in large numbers, ready and willing to enter into this "new direction."
21 Proposals have sat on the table, some of them for over a year, where the
22 public has offered cooperative solutions to help fill the gaps and fix the
23 issues within many facets of the Wild Horse and Burro program. Viable
24 alternatives to long-term holding have been proposed and sit, ready to
25 implement immediately, i.e., Madeleine Pickens' plan, Return to
26 Freedom's "*Soldier Meadows*" plan, and others. These proposals are
27 being looked at by BLM to this time, but no action has been taken to date.
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- d. Herd-Watch, of which I am Project Manager, offered at the meeting in Denver to help BLM solve some of its problems on the range *on a completely volunteer basis*.
- e. According to Defendant BLM's *Interim Report*, a death rate of 75 percent awaits these horses if left alone. And as we have already seen from the alarming mortality rate among this Owyhee herd as a result of the first day's gather, the potential exists for a 100% mortality.
- f. After the hearing before this Court yesterday, volunteers stepped forward to assist in assessment and implementation of other available solutions rather than forcing these animals to face a helicopter in their fragile condition.
- g. The undersigned asks that the Court grant Plaintiff's request for a Temporary Restraining Order and lift restrictions to public access within Owyhee in order to facilitate an immediate independent intervention and assessment towards the new direction of cooperative management outlined by Bob Abbey at no cost to the BLM. I pray this Court recognize the magnitude of public interest and core belief that to Americans, these horses are integral to our landscape as declared by Congress and the American people in 1971, and that interest has not waned.

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THIS DECLARATION is made under penalty of perjury this 16th day of July 2010 in Carson City, Nevada.

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/S/

LAURA LEIGH, Declarant

CERTIFICATE OF SERVICE

[Pursuant to Fed. R. Civ. P. 5(b) & Local Rules for Electronic Filing]

I certify that I am employed at 1495 Ridgeview Drive, #90, Reno, Nevada, 89519; and, on this date I served the foregoing document(s) on all parties to this action by:

Electronic service:

Erik Petersen, Esq. erik.peterson@usdoj.gov
Ayako Sato, Esq. ayako.sato@usdoj.gov

_____ Placing an original or true copy thereof in a sealed envelope with postage prepaid in the United States Mail at Reno, Nevada, following ordinary business practices

Erik Peterson, Esq.
U.S. Dept. of Justice
Wildlife & Marine Resources Section
Ben Franklin Station
P.O. Box 7369
Washington, D.C. 20044

Ayako Sato, Esq.
U.S. Dept. of Justice
Natural Resources Section
Ben Franklin Station
P.O. Box 663
Washington, D.C. 20044

_____ Overnight or hand delivery to:

Erik Peterson, Esq.
U.S. Dept. of Justice
Wildlife & Marine Resources Section
601 D Street, N.W., Room 3909
Washington, D.C. 20004

Ayako Sato, Esq.
U.S. Dept. of Justice
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Washington, D.C. 20004

_____ Facsimile to:

Erik Peterson, Esq. 202 305 0275
Ayako Sato, Esq. 202 305 0506

DATED this 16th day of July 2010

/s/

G.M. Cowan

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