The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COLUMBIA RIVERKEEPER, IDAHO RIVERS UNITED, SNAKE RIVER WATERKEEPER, PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS, and THE INSTITUTE FOR FISHERIES RESOURCES, Plaintiffs, v. SCOTT PRUITT, *et al.* Defendants.	No. 2:17-cv-00289-RSM **DECLARATION OF JAMES LINWOOD LAUGHY**

I, JAMES LINWOOD LAUGHY, state and declare as follows:

1. My name is James Linwood Laughy, and I make this declaration based on my own personal knowledge.

2. I reside near Kooskia, Idaho. I have lived in the Clearwater Valley for over 50 years, having moved as a child with my family to Lewiston, Idaho in 1948. During all those years I resided close to the Clearwater River and visited it frequently. My wife and I have owned three waterfront properties that border the Middlefork of the Clearwater River. The Clearwater River and its tributaries, including the Lochsa River, have played a special part in my life.

3. The Clearwater River is a tributary to the Snake River. The Middle Fork

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Clearwater and Lochsa were among the first eight rivers designated under the Wild and Scenic Rivers Act because of their outstanding scenic, historical, recreational, cultural, and fish and wildlife values.

4. The Clearwater River watershed is important to anadromous fish in the Columbia River basin, and these same fish are important to the Clearwater ecosystem. The upper Clearwater watershed provides some of the coldest and cleanest water in the Columbia basin, habitat that will become even more critically important to the survival of threatened and endangered salmon and steelhead with ambient and water temperature increases resulting from climate change. Salmon and steelhead also deliver nutrients to the upper Clearwater watershed important to many other species, including threatened bull trout.

5. As a young child I watched salmon and steelhead pass the low-head Washington Water Power dam at Lewiston on their upstream journey from the Pacific Ocean, up the Columbia and lower Snake Rivers, to the Clearwater and its tributaries to spawn. As a young man I fished for steelhead with my father on the Clearwater River near its confluence with the Snake River. As an adult I have fished for steelhead and salmon on the Middlefork Clearwater, and fly-fished for trout on the Lochsa and Selway Rivers. I have passed through a series of life phases in my interactions with wild salmon and steelhead, from food source to sport angling to a spiritual connection with these magical creatures. Their steady decline wounds me daily and deeply.

6. My wife, Borg Hendrickson and I have two daughters, two sons-in-law and five grandchildren who reside in the Clearwater Valley. We camp, float, swim, fish, hunt, hike, bicycle, and pick berries in the upper Clearwater Valley. Some of us also bird watch, engage in outdoor photography, gather firewood, and pick mushrooms in the river valleys and on the surrounding mountains.

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7. For 12 years my wife and I operated a heritage tour business that included outfitting on the Clearwater National Forest with a focus on the Lewis and Clark and Nez Perce National Historic Trails. We operated our own 6-day Elderhostel programs, and conducted one and two-day coach tours along Highway 12 between Lewiston, Idaho, and Missoula, Montana. Our guests included travelers with National Geographic, the Smithsonian, The Nature Conservancy, and various universities including Harvard, Stanford, and M.I.T. We guided over 5,000 visitors in Clearwater Country.

8. I have researched historic trails in the Clearwater Basin and co-authored, with my wife, the principal guide to the area titled *Clearwater Country! The Traveler's Historical and Recreational Guide,* which has sold over 14,000 copies.

9. Having been involved in the tourism industry in north central Idaho for over 20 years, I am aware of the detrimental impact poor runs of salmon and steelhead have on small businesses and communities that rely on tourism as a significant part of the local economy.

10. I served on the Southfork Clearwater Watershed Advisory Group. Through this experience, I became familiar with the TMDL concept and with temperature as a water pollutant.

11. I am a long-time member and supporter of Idaho Rivers United and support this organization's mission.

12. I am a member and supporter of Snake River Waterkeeper and support its mission.

13. Through all of the above personal and professional experiences, I have come to care deeply about salmon and steelhead and the ecosystems that support and depend on these species.

14. I am a serious student of the lower Snake River dams, including the impact these structures and their reservoirs have on threatened and endangered anadromous fish. Over the past

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20 years I have observed on the ground and through data provided by federal agencies a serious decline of adult salmon and steelhead returning to the Clearwater River. I have also studied the data affirming the continued, annual loss of approximately 50% of juvenile salmon and steelhead during their passage through the 8 dams and reservoirs on the lower Snake and Columbia Rivers.

15. I have read the draft temperature TMDL for the Columbia and lower Snake Rivers the EPA presented in 2003 and the findings regarding the causes and impacts of temperature pollution on these rivers.

16. I have read research reports regarding the effects of water temperature on migrating adult salmon and steelhead and am aware of the damage done to these fish when water temperatures exceed 68˚ F. I also know EPA has stated that multiple scientific studies have concluded water temperature of 70˚ F can result in severe infections and catastrophic outbreaks in salmonids. A thermal block to migration begins forming at 71.6˚ F. Water temperatures in the 72˚–73.5˚ F range characterize the upper lethal threshold when fish begin to die.

17. I have read the October 28, 2015 Fish Passage Center report regarding "Requested data summaries and actions regarding sockeye adult fish passage and water temperature issues in the Columbia and Snake Rivers." The stated "overall conclusion" of that report "is that elevated water temperatures in the Columbia and Snake rivers, including adult fishways, is a long-recognized problem that to date remains largely unmitigated."

18. I am aware that 4 species of salmonids in the Snake River are listed as threatened or endangered under the Endangered Species Act, and despite billions of dollars expended to bring about their recovery, those species are far from recovered and still at risk of extinction.

19. During salmon and steelhead migration seasons I monitor daily the forebay and tailwater temperatures at 8 dams on the Columbia and lower Snake Rivers, beginning with Bonneville Dam through to Lower Granite Dam. I find that water temperatures frequently exceed

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70˚ F, sometimes for weeks at a time. On August 10, 2017 for example, seven of the eight dams had average daily forebay temperatures exceeding 70˚ F. Water temperatures at two dams were 73.5˚, and at one dam, the water temperatures was 74.0˚ F.

20. I note the 2017 run of Idaho sockeye salmon has now ended, and that only 392 of these endangered fish passed Ice Harbor Dam**.** Equally disturbing is the fact that just 227 sockeye made it over Lower Granite Dam, reflecting the difficulties of passage through 7 dams and hot-water reservoirs.

21. During adult fish migration seasons I regularly monitor fish numbers on the lower Snake River. Compared to the weak run of spring/summer Chinook salmon in the Snake River in 2016, the 2017 run shows a decline of 68%. The Idaho Fish and Game Department has expressed doubt they will be able to capture sufficient brood stock to fill Idaho's hatcheries.

22. As of August 16, 2017, only eight wild sockeye salmon (and only 53 total) had reached the spawning grounds in the upper Stanley Basin. The combined total for 2015–2017 is just 52 wild fish. Spring/Summer Chinook numbers over Lower Granite Dam in 2015 were 21,000 wild fish, dropping to 15,900 in 2016, and dropping to 7,500 this year. Steelhead numbers in 2017 have collapsed, and fish managers are predicting the famous Clearwater River B-run wild steelhead numbers in this year will total only 770 fish.

23. Low numbers of threatened and endangered salmon and steelhead in the Snake River disturbs me daily because of my interest in these fish and their survival and my deep personal connection to the Clearwater River and its tributaries. I am dismayed by the negative impacts low fish numbers have on the Clearwater River ecosystem. I am emotionally distressed by the status of threatened and endangered wild salmon and steelhead in the lower Snake River and the failure of the EPA to meet its responsibilities with respect to water temperature in two of the nation's most important rivers for salmonids. Some species have already been extirpated.

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Others are on the very brink of extinction. The resulting ecosystem and spiritual losses are beyond calculation and will continue for me, my wife, my children, and my grandchildren.

24. Because EPA has failed to complete the temperature TMDL it drafted in 2003, years have been lost in combating temperature problems on the Columbia and lower Snake Rivers. Had EPA issued the nearly-completed draft temperature TMDL in 2003, EPA, Washington, and Oregon could have moved forward with implementing the TMDL and taking actions to address the extreme high temperatures and the staggering fish deaths that occurred in 2015, and to address the fish stress, disease, and death continuing to this very day. With a TMDL in place for the last 14 years the rivers might meet, or would be closer to meeting, temperature water quality standards today.

25. The low numbers of salmon and steelhead in the Clearwater River damages the special places I treasure today and which my wife, children, and grandchildren treasure. Ordering EPA to issue the TMDL is necessary to break the agency's excessive delay. Without a TMDL in place, high temperatures are not being addressed as called for in the Clean Water Act. With a TMDL in place, I believe progress can be made to reduce high water temperatures, achieve water quality standards, and protect salmon and steelhead before even more evolutionarily significant units of salmon and steelhead are lost forever.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 28th day of August, 2017, at Moscow, Idaho.

/s/ James Linwood Laughy
JAMES LINWOOD LAUGHY

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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Dated: August 30, 2017

/s/ Bryan Hurlbutt
BRYAN HURLBUTT

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