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 KEVIN L. LEWIS**

I, KEVIN L. LEWIS, state and declare as follows:

1. My name is Kevin L. Lewis, and I make this declaration based on my own personal knowledge.

2. I am the Executive Director of Idaho Rivers United ("IRU"), and have worked in this position since June 2016. Prior to executive director, I worked as IRU's conservation director for over 11 years. Since 2004, I have been a member and volunteer of IRU. Before becoming conservation director for IRU, I was self-employed as a small business owner in northern California.

3. As conservation director for IRU, I was responsible for the implementation of the

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organization's conservation program. As executive director, I work with the IRU board of directors to develop the organization's conservation priorities. I also supervise IRU's conservation staff and various contractors and volunteers to carry out the organization's conservation policies and goals. I am actively engaged in IRU's conservation work while managing the day-to-day operations of the organization.

4. IRU is a nonprofit corporation with its principal place of business in Boise, Idaho. IRU has approximately 3,500 members throughout the state of Idaho.

5. The mission of IRU is to protect and restore the rivers of Idaho and the native fish that call Idaho rivers home. Restoring salmon and steelhead populations in Idaho is IRU's top organizational goal.

6. IRU is a founding member of the Save Our Wild Salmon coalition. For the last 20 years, IRU has promoted the coalition's largest and most important campaign: The Columbia and Snake Rivers Restoration Campaign. IRU's Wild Salmon Legacy Campaign is IRU's effort to complement the coalition campaign and sets out to bring Snake River salmon and steelhead populations back to Idaho at sustainably harvestable levels.

7. IRU pursues its mission and goals by practicing direct advocacy work, working with governmental agencies and through governmental processes, educating the general public about salmon and steelhead populations in Idaho, and educating and enlightening decision makers, community leaders, and politicians. When necessary, IRU will also seek to enforce compliance with the environmental laws in court. IRU mobilizes grassroots support for salmon and steelhead restoration via its membership.

8. IRU members are anglers, sport fishermen, and whitewater boaters who have a strong desire to protect and preserve the natural ecosystems of Idaho that they float through, fish, and enjoy. Salmon and steelhead are an incredibly important resource for the river ecosystems in

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Idaho and, therefore, are the most important aspect of Idaho's rivers for many IRU members.

9. Like other IRU members, my friends and I rely on Snake River salmon and steelhead and their habitat for recreational, fishing, conservation, and aesthetic benefits. As a native Northwesterner, salmon and steelhead have been a part of my family for generations. My grandfather was born on the northern California coast in 1895. His early existence depended, in part, on subsidence fishing for salmon and steelhead. In his mid and later life he was consumed with offshore salmon fishing where his catch was preserved in his backyard smokehouse for consumption during the long winters. I have many fond memories of my grandfather's salmon stories while sharing meals of fresh or smoked salmon.

10. Personally, I am an avid whitewater boater and photographer, and the rivers of Idaho and the diverse fish and wildlife they support are important to me. As a whitewater boater, I float the great rivers of Idaho, such as the Hells Canyon reach and the South Fork of the Snake River and Snake River tributaries, including the Middle Fork and Main Salmon River, the Lochsa River, the Selway River, the Clearwater River, the Payette River, the Bruneau River, and the Boise River. Historically, each of these rivers supported anadromous Columbia basin salmon and steelhead species, and some of these rivers still do.

11. Spending time on the rivers in Idaho affords me some of the happiest times my friends and I spend together. As an Idahoan, salmon and steelhead are especially important to my use and enjoyment of these rivers. And as a whitewater boater, photographer, and nature lover, it is extremely important to me to know there are salmon and steelhead returning to places like the Middle Fork of the Salmon River in Idaho. The mere chance to see them in their natural habitat is a rare, but overwhelming, source of inspiration and enjoyment for me.

12. Occasionally, I have been lucky enough to see first-hand a few wild summer Chinook spawning in their natural habitat in the Middle Fork Salmon and its tributary streams

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and in the main stem of the Salmon River. It was a moving experience for both me and my friends. Salmon and steelhead are both aesthetically and biologically important to me and these rivers, and without the fish, the river corridors will change forever and for the worse. Just knowing that salmon and steelhead are there and fulfilling their vital ecological role in this web is an essential part of these experiences for me. But their continued low numbers makes it impossible for me to fully enjoy these experiences or the landscape in which I pursue them.

13. I spend an average of 40-50 days a year whitewater boating and photographing on the Snake River and its tributaries in Idaho. I plan to spend just as much time whitewater boating and photographing on the Snake River and its tributaries in the future, as long as wild salmon and steelhead return to these rivers. For example, in the year ahead I have planned a 7-day Middle Fork Salmon raft trip in mid-September and a raft trip through Hells Canyon on the Snake River in October. Next spring and summer I will spend at least 20 days on the Lochsa, Clearwater, Payette, and Boise Rivers.

14. I make frequent annual photography excursions throughout the year to the Snake River and its many tributaries, starting with trips to the Bruneau, Clearwater, and lower Snake Rivers. As the summer and fall progress, I make photo excursions to the Salmon, Snake, and Lochsa Rivers. I will revisit many of these same locations to photograph fall colors and icy winter landscapes.

15. If salmon and steelhead runs improve, I would spend even more time on the rivers and better enjoy my time on them. As it stands, however, my recreational and aesthetic experiences on the Snake River and its tributaries are extremely diminished and harmed by the lack of salmon and steelhead. The entire ecosystem where I boat, photograph, and recreate is degraded and harmed by the greatly diminished levels or even absence of salmon and steelhead from their historic habitat.

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16. Idaho's wild salmon and steelhead populations and their habitat are also important to the IRU membership. Indeed, IRU members have instructed me, through our board of directors, to make restoration of harvestable salmon and steelhead runs in Idaho my number one priority as IRU's executive director.

17. The dams of the Federal Columbia River Power System (FCRPS) have a variety of adverse impacts on salmon. The dams have turned what used to be a swift, cold river into a series of warm, slackwater reservoirs. Due to the operation of the dams for hydropower and other uses, juvenile salmon and steelhead suffer direct and related mortality as they are forced through turbines and bypass systems (especially in the case of Snake River sockeye) and are exposed to increased predation, disease, migration delays, and high water temperatures in the reservoirs. In addition, dams inundate historical spawning and rearing habitat. These deadly impacts on out-migrating juvenile salmon have been a major cause of massive declines in the Columbia basin salmon populations. The combined impacts of the hydropower system on salmonids (including direct mortality as fish pass through turbines, predation, delayed migration timing, and high water temperatures in reservoirs) are responsible for up to 80% of human-inflicted mortality to Snake River salmon and steelhead.

18. High water temperatures are a persistent problem, harming Columbia and Snake River salmon and steelhead. In 2015, water temperatures were so high and for such a long period that nearly all of that year's run of adult Snake River sockeye salmon perished on their way upriver to Idaho. This year, the returns of ESA listed salmon and steelhead populations are at a 40-year low, since the construction of the lower Snake River dams, which highlights the critical need to take additional steps to help prevent the extinction of a keystone species in Idaho.

19. Since I became an Idaho resident, I have seen how the salmon and steelhead populations are hurt in Idaho's rivers. Idaho is blessed with the lion's share of the best salmon

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habitat left in the Columbia basin, yet that habitat continues to go largely unused. This is due, in part, to high water temperatures in the Columbia and Lower Snake Rivers, which harm juvenile fish migrating from Idaho to the Pacific Ocean, and adult fish returning to Idaho to spawn.

20. In 2000, EPA entered into an agreement and committed to producing a temperature TMDL for the mainstem Columbia and Snake Rivers. EPA released a draft TMDL in 2003 and planned to issue the final TMDL soon thereafter. But EPA never issued the TMDL. EPA's failure to issue the TMDL means that no pollution budget is in place to address warm water temperatures that harm fish on the mainstem Columbia and Snake Rivers, like the high temperatures and catastrophic impact on sockeye that occurred in 2015. Had EPA followed through with its commitment, the TMDL could have been in place for roughly 14 years now, and EPA, other agencies, states, and stakeholders could have made progress addressing high temperatures during that time.

21. The current conditions in the Columbia and Lower Snake Rivers cause tremendous harm to salmon and steelhead. Those harms affect me personally and professionally. On a personal level, through my work and my time in Idaho's wild places, I have gained a great affinity and deep respect for the salmon and steelhead who fight their way to and from the Pacific to the mountain streams of Idaho. Knowing that these remarkable fish are still being disrupted, stressed, made susceptible to disease, and even killed by high water temperatures causes injury to me personally.

22. When I see prime salmon habitat without salmon in central Idaho I am saddened and angry because I know we could restore the fish if we could only break the death grip of the status quo. I have discussed the causes of salmon declines with both friends and family and spend as much time tracking salmon runs out of personal concern as I do for the requirements of my job.

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23. As just one example, I was saddened, anxious, and outraged as the disastrous consequences of the summer of 2015 unfolded and it became clear that we lost 96% of Idaho's endangered sockeye salmon run that summer. It makes me equally sad and angry to realize that EPA is not doing everything the agency can to help the progeny of the salmon that survived that summer (and subsequent generations) by issuing a temperature TMDL and thereby initiating the process called for in the Clean Water Act for addressing polluted waters.

24. Addressing high water temperatures will reduce Idaho salmon mortality and will lead to increases in fish returning to Idaho's rivers and help set us up for a faster and lasting recovery. EPA's failure to follow through on its commitment to prepare a temperature TMDL contributes to the factors that cause fish to continue to exist at low levels and be exposed to a high risk for extinction. It should go without saying, that this continued harm to salmon directly harms my interests in these fish. Fewer salmon mean fewer opportunities to see and enjoy them, and because healthy salmon and steelhead populations are essential to my ability to enjoy completely the wonders of Idaho's rivers, fewer salmon directly harm my enjoyment of these activities.

25. In the longer term, I am both personally and professionally invested in ensuring that Snake River salmon and steelhead are recovered. Failing to address high water temperatures perpetuates and likely lengthens the current harms to the fish and to me and other IRU members who rely on wild Snake River salmon and steelhead for recreational, aesthetic, and scientific use and enjoyment.

26. Perpetuating these harms to fish also harms IRU as an organization and harms our thousands of members and supporters. For many years, IRU has invested significant staff time and resources in informing its members about Idaho salmon and steelhead, the harms (including high water temperature) dams pose to these fish, and the available solutions. IRU and its staff,

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including me, have participated in meetings, public outreach and education, evaluating and commenting on proposed agency actions and litigation. We will do the same in the coming months and years to advocate for Idaho's wild salmon and steelhead. These resources are wasted, however, if EPA fails to follow through with a TMDL and temperature problems go largely unaddressed.

27. My experiences, and the experiences of many IRU members, on the Snake River and its tributaries are extremely diminished and harmed by the lack of healthy salmon and steelhead populations. High river temperatures harm listed salmon and steelhead species and diminish my, and other IRU members' recreational, fishing, scientific, and aesthetic use and enjoyment of the salmon and steelhead on the rivers of Idaho. Without taking available and reasonable steps to address high water temperatures to protect fish, there will continue to be less salmon and steelhead in our rivers, and I and other IRU members will continue to be harmed.

28. These harms can be alleviated in part by a court order that compels the EPA to promptly issue the temperature TMDL and end the agency's delay and inaction since committing to issue the TMDL in 2000. The TMDL is an important step in the Clean Water Act process for restoring our nations polluted rivers, and ordering EPA to issue the TMDL will help ensure that more of remarkable Columbia basin fish return to Idaho's rivers in both the short and long-term, reversing trends toward extinction, refreshing the ecosystem, and making it possible for me to continue and increase my enjoyment of boating, photography, and other activities on the Snake River and its tributaries.

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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 25th day of August, 2017, at Boise, Idaho.

/s/ Kevin L. Lewis
KEVIN L. LEWIS

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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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