Laurence J. ("Laird") Lucas (ISB # 4733)
llucas@advocateswest.org
Todd C. Tucci (ISB # 6526)
ttucci@advocateswest.org
Sarah Stellberg (ISB #10538)
sstellberg@advocateswest.org
Advocates for the West
P.O. Box 1612
Boise, ID 83701
(208) 342-7024
(208) 342-8286 (fax)

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

WESTERN WATERSHEDS PROJECT, et al., *Plaintiffs*, v. DAVID BERNHARDT, Acting Secretary of Interior; JOSEPH R. BALASH,* Assistant Secretary of Interior; BUREAU OF LAND MANAGEMENT; and U.S. FOREST SERVICE, *Defendants*.	Case No. 1:16-cv-00083-BLW **DECLARATION OF JOHN CARTER**

** Official Defendant automatically substituted per Fed. R. Civ. P. 25(d)*

I, John Carter, declare as follows:

1. The following facts are personally known to me, and if called as a witness I would and could truthfully testify to these facts.

2. I am a member of the Center for Biological Diversity and Western Watersheds Project (WWP). I currently serve on the WWP Advisory Board.

3. I live in Paris, ID, on a property called Keisha's Preserve. I began living at the Preserve full time in 2011, but began acquiring the property in 1993 to set it aside for wildlife, including greater sage grouse. Today, the Preserve is nearing 1,000 acres with over 800 acres set aside in conservation easements to preserve habitat.

4. In 1966, I obtained a Bachelor of Mechanical Engineering from Georgia Institute of Technology. In 1972, I received my Masters of Business Administration from Georgia State University. In 1980, I received my PhD in Ecology from Utah State University.

5. In 1996, I founded the nonprofit Willow Creek Ecology, Inc. ("WCE") and served as its President for several years. WCE was dedicated to (1) the conservation and preservation of wildlife and wildlife habitat and (2) the protection of public health and the environment in the Intermountain West, including the National Forests and public lands in Utah and Idaho. WCE worked to achieve its goals using scientific approaches.

6. In May 2001, WCE joined with the Western Watersheds Project ("WWP"). After WCE joined with WWP, I served from 2001 to 2010 as the Director of WWP's Utah Office. I also served on the WWP Board of Directors during the same time. I left those positions with WWP in 2010 to dedicate my time to Kiesha's Preserve and its protection and habitat restoration.

7. In 2012, with the help of a Board of professionals, I established the Yellowstone to Uintas Connection (Y2U), a 501c3 non-profit corporation. This step was taken in order to address phosphate mining and habitat fragmentation in areas affecting our goals for Kiesha's Preserve. The Y2U is focused on the regional wildlife corridor connecting the Greater Yellowstone Ecosystem and northern Rockies to the Uinta Wilderness and southern Rockies.

Y2U assesses proposals by Federal Agencies and private interests, provides scientific analysis and comments and works to mitigate the damage through a variety of mechanisms, including monitoring, publication of research, public outreach, negotiation and litigation. We also address these impacts in other special places outside this corridor, such as Grand Staircase Escalante National Monument.

8. Until 2014 I owned and operated environmental consulting companies, including the most recent, Environmental and Engineering Solutions, LLC ("EES"). EES provided environmental consultation for industry, government, nonprofit organizations, and private citizens. I provided scientific expertise regarding (1) human-induced impacts to watersheds, water quality, surface and ground water hydrology, air quality, soils, vegetation and wildlife and (2) design and implementation of corrective actions. My clients have included various nonprofit groups, the Colorado Attorney General, the Denver Water Board, the National Park Service, and the Forest Service.

9. I presently donate my time to work as an ecologist with the Yellowstone to Uintas Connection and Keisha's Preserve.

10. Keisha's Preserve is a roughly 1,000 acre wildlife preserve and research area in southeast Idaho and Wyoming. It consists of sagebrush steppe habitat, with streams, sagebrush, conifer, aspen, and other plant communities. When I acquired it, Keisha's Preserve was heavily degraded from over a century of livestock grazing, but it has begun to recover. I have observed that livestock exclusion from the area has resulted in dramatic improvement in riparian and upland plant communities. Specifically, upland bunchgrasses, a diversity of riparian trees, and various shrub species that were greatly diminished by livestock grazing have all been restored. Soils that were undergoing accelerated erosion due to loss of ground covering vegetation and

biological crusts are now covered with vegetation and biological soil crusts and the erosion is greatly reduced. Streams, springs, and riparian habitats are lush, productive, and diverse. In addition, large numbers of deer, elk, greater sage grouse, sharp-tail grouse, moose, migrant birds, and other animals inhabit the property. Since I have owned this property, I have managed it to serve as an ecological reference against which the effects of management elsewhere can be judged and I monitor standardized locations every year to quantify the effects of that management.

11. I love that we have sage-grouse on Keisha's Preserve. There are four greater sage-grouse leks on bordering lands, including BLM and private lands. Kiesha's Preserve provides undisturbed nesting and brood-rearing habitat for the greater sage grouse. When I hike through the sagebrush habitat and sage-grouse fly up, it's always a thrill. Exploring my property, I frequently have sage-grouse burst up from under my feet, or find their nests. I love going out walking and seeing these birds and am happy that they persist on our property and we are able to provide this habitat for them. I'll be out looking for them on our preserve this spring.

12. I grew up thinking of wilderness and natural landscapes as mountains, forests, and lakes. But when I came to Utah and started visiting the sagebrush steppe, I discovered a different kind of beauty. I was awestruck by the vastness and remoteness of the sagebrush landscape. When you begin to discover the sagebrush steppe it is heartbreaking because the few pockets that haven't been grazed reveal what's been done to this landscape. The natural heritage we've lost is unbelievable. Were it not for omnipresent and unsustainable livestock grazing, sagebrush landscapes would be filled with green meadows, seeps and springs, like those sage-grouse use for brood-rearing and summer habitat. But those have been beaten down by cows and

destroyed through soil erosion and gullying. I believe it is imperative to expose that loss and to expose the agencies—BLM in particular—for practicing willful blindness to it.

13. In my professional work, I have devoted substantial time to collecting, studying, and assessing scientific literature and data relating to livestock grazing management and its effects on plants, soils, watersheds and streams—including in Utah and Idaho. I have extensively reviewed grazing management systems to assess their effectiveness and then used that information to help design grazing management systems for clients. I have also conducted numerous surveys and studies on my own, addressing various aspects of range management and the ecological impacts of grazing. I have published papers relating to my own work. In addition, I have provided extensive scientific information and data to the Forest Service, BLM, and other agencies and environmental organizations in the form of reports, comments, and analysis relating to livestock grazing management and grazing impacts.

14. I have conducted this type of monitoring and field work throughout Utah and southern Idaho, but in particular in Northern Utah on the Salt Lake Field Office in Rich County, Box Elder County, and Toole County. For ten years, while I was working for WWP, I surveyed these areas and commented on grazing decisions in these areas.

15. My work focused intensively in Rich County, Utah, because of its large and robust sage-grouse population and a landscape devoid of major infrastructure and human activity aside from livestock grazing, leaving large expanses of sagebrush intact. BLM NEPA decisions threatened to worsen the existing damage without adequate quantitative monitoring and while adopting unproven upland water troughs and rotation grazing systems. Because of this, I began a long-term data collection and monitoring project on the Duck Creek allotment in Rich County in 2001. In 2004, BLM was intending to implement an intensively managed grazing regime

modeled after the "Holistic Management" trumpeted by Allan Savory, intended to maintain forage for livestock while also protecting the land. We instituted our monitoring efforts on Duck Creek in an effort to independently judge the effect of that grazing regime. The project consisted of visiting the Duck Creek allotment during spring and fall each year to set utilization cages, observe conditions, measure habitat structure with a focus on greater sage grouse cover requirements, determine the impacts of upland water developments, and ultimately calculating the amount of vegetation removed by grazing in upland and riparian areas (the "utilization" percentage).

16.

17. These studies continue today. I returned to the study area in 2018, once to set riparian utilization cages, once with the Salt Lake BLM Field Office Manager and Aquatic Specialist, and a couple of additional times to try to get BLM and others to go out with us and observe our monitoring sites. They have refused all requests.

18. In a 2017 paper in the *Rangelands* journal, a publication of the Society of Range Management, I and my co-authors described the effects of upland water developments and a rotation grazing system similar to Savory's time-controlled system in the Duck Creek allotment based on 8 years of quantitative data collection. BLM used claims of reduced use in riparian areas (used as brood-rearing for sage-grouse) and no increased use by livestock in uplands to justify renewing the grazing permits with these additional water troughs and rotation grazing system. Our study refuted these claims. We found no reduction in use by livestock in riparian areas, while use became extreme in uplands. This makes the current degraded state even worse. The uplands are used by sage-grouse for nesting habitat.

19. I plan to return to the Duck Creek allotment, and Rich County more generally, this spring, and probably again in the fall, in September or October following the livestock grazing season. I want to redo these line-intercept data points. To date, we have approximately 40,000 measurements. I want to go back and get one more data set before beginning the process of summarizing the data and writing a paper about it.

20. Working with current WWP Utah Director Jonathan Ratner, we implemented a water quality monitoring program in Utah, and specifically, in Rich County. Water quality data we have collected include E.coli and temperature in a number of streams in Rich County. These data demonstrated exceedances of State of Utah water quality criteria and have been used by the State of Utah to list several streams as water quality impaired. The original study was completed in 2009. This year, I plan to return to Rich County with Y2U staff to collect additional E. coli data. In 2004 and again in 2012, Mr. Ratner and I collected sediment core samples in cutthroat trout habitat in tributaries to the Bear River in Idaho and Utah. These data showed that livestock grazing-induced sediment has impaired spawning gravels for native cutthroat trout, lowering reproductive success. In particular, this year, we plan to do sediment core sampling in the Three Creeks project area in Rich County as well as in other tributaries of the Bear River we previously sampled. This is a time-intensive process because we monitor several locations in Rich County alone, as well as many in northern Utah, and we can only cover about one to two locations in a day. This year, we have several sites we won't be able to sample because they are too far away.

21. I have visited sage-grouse habitats in numerous other places in Utah, including southern Utah, on the West Desert, Price, Monticello and Moab Field Offices, Grand Staircase Escalante National Monument, Capitol Reef and others.. In these areas, I have generally observed habitat conditions and used those observations to inform public comments and protests

I submitted comments on the Land and Resource Management Plans there. These were submitted on behalf of WWP. Pick any Field Office in Utah that has an RMP and I have been to that Field Office to observe habitat. I periodically visit the lands managed by these six Field Offices, and in particular areas near Monticello, Moab, and Cedar City as well as the Salt Lake Field Office lands in Rich and Box Elder Counties. I will return to the Box Elder and Rich County locations later this year to observe monitoring locations we established in 2001. I see the same degraded habitat conditions wherever I go—sagebrush habitats with gully erosion that are nothing but bare ground and sagebrush. Such areas provide little habitat for nesting and brood-rearing sage-grouse, migrant birds, small mammals, reptiles, and amphibians, and are depleted of forage for larger animals such as deer or bighorn sheep.

22. I have also recently visited sagebrush habitats in southeastern Idaho, where I see similar degradation. Within the last 6 months, BLM and the Forest Service have issued three Draft Environmental Impact Statements for proposed phosphate mines or mine expansions in southeastern Idaho. These project sites are located directly east of Soda Springs on the Caribou National Forest and/or BLM and private lands between Soda Springs and Afton, Wyoming, just north of Bear Lake. In analyzing the effects of these mine projects on sage-grouse, BLM assumed that the habitat there is only "marginal". However, it did not substantiate its assumption by actually going out on the ground to look for sage-grouse or observe the habitat quality. Instead, BLM relied on Doherty et al. and other population studies used to support the 2015 ARMPAs, which consider only a few years' worth of population data after populations have been nearly extirpated. In fact, sage-grouse population data show that sage-grouse historically used this area,but have been largely driven out as mining there increased. I have a graph of the increase of the mined area and the sage-grouse population of the region, and it

shows unmistakably that as the mined area increased, sage-grouse populations decreased. In fact, I have visited this area, and seen that it would be excellent sage-grouse habitat, were it not subject to continuous, ongoing degradation from mining, roads and livestock grazing. Indeed, a portion of one of the project areas is actually a sage-grouse GHMA, but BLM assumes the sage-grouse and other wildlife will just go somewhere else once the area is destroyed or degraded by mining or transmission lines, without analyzing where that replacement habitat is, or for that matter, what its habitat structure and productivity might be.

23. BLM's decision to largely ignore the sage-grouse impacts of these projects based upon unsubstantiated assumptions risks regional population-level impacts. The Bear Lake plateau population just west and north of Bear Lake and the populations that occurred in the phosphate mining region are or were likely connected to the remaining relatively robust, but rapidly declining, sage-grouse population in Rich County. Sage-grouse make large seasonal movements and can travel long distances and these populations are not located that far apart. Genetic exchange between populations like these is necessary to maintain the genetic diversity and long-term health of populations—without connectivity between populations, sage-grouse populations may become isolated and blink out. BLM has ignored that these phosphate mining projects would cut off this connectivity and harm sage-grouse.

24. I plan to return to this area of southeastern Idaho later this year to look for sage-grouse, observe the habitat in the proposed project areas, and take photos. I am planning on filing objections and appeals of these projects on behalf of Y2U.

25. It is my understanding that the Bureau of Land Management (BLM) has recently finalized its 2019 Amendments to the 2015 Greater Sage-Grouse Plans. These Amendments perpetuate and amplify the errors underlying the 2015 Plans. BLM is not basing its decisions on

updated sage-grouse population data. It doesn't have adequate sagebrush habitat data, either, because it has not completed recent Rangeland Health Assessments on the vast majority of the grazing allotments in sage-grouse habitat and even those Rangeland Health Assessments that have been completed do not adequately characterize habitat structure and function needed for wildlife, including greater sage grouse. The 2015 Plans already did not adhere to the recommendations from the Western Association of Fish and Wildlife Agencies and the National Technical Team concerning fragmentation of sagebrush habitats, and by relaxing the 2015 Plans' restrictions, BLM makes those failures even worse.

26. As a result of this failure to follow the best available science, I believe sage-grouse are headed for extinction. Through the 2019 Sage-Grouse Plan Amendments, BLM is sanctioning habitat degradation. BLM's failure to adequately protect sage-grouse and their habitat needs harms my scientific, aesthetic, spiritual, recreational, professional, and other interests in the survival and recovery of these splendid birds and their natural habitats. It negates the investment of time and money we have spent on Kiesha's Preserve to protect, restore and preserve habitat for sage-grouse and many other species. I am directly harmed by this damage to sage-grouse and sagebrush habitats in the Y2U Connection wildlife corridor by mining, oil and gas development, livestock grazing and other human-induced impacts that the BLM has refused to adequately address through the 2019 Plan Amendments.

27. A ruling by the Court that BLM violated the law in adopting the 2019 Sage-Grouse Plan Amendments and enjoining those Amendments from taking effect will help ensure that BLM fully and fairly discloses the impacts of its sage-grouse management activities to the public and follows the best available science, and will prevent irreparable harm to sage-grouse and my own interests, as well as those of other WWP members, that will otherwise occur if this

Administration moves forward to implement the weakened sage-grouse plans through new approvals of mining, oil and gas development, livestock grazing, and other projects in Idaho, Utah, and other states in the sage-grouse range where I frequently visit in hopes of viewing and enjoying greater sage-grouse in their natural habitats.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 13th day of April, 2019, in Paris, Idaho.

John G Carter