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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 ERIK
MOLVAR**

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

I, Erik Molvar, 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 the Executive Director of Western Watersheds Project, a nonprofit conservation group working to protect and restore watersheds and wildlife throughout the West. I have served in this position since October of 2016. In this capacity, I manage staff, set strategic conservation priorities, work to advance improvements in public lands conservation and stewardship, and engage directly in conservation advocacy on behalf of western public lands.

3. I am also member of Prairie Hills Audubon Society and WildEarth Guardians.

4. I hold a Master's degree in Wildlife Management from the University of Alaska Fairbanks. I have authored scientific research articles that have been published in peer-reviewed scientific journals including *Journal of Mammalogy*, *Alces*, *Oecologia* (Berlin), *Journal of Conservation Planning*, and *Canadian Field-Naturalist*.

5. I am the author or editor of 17 books that are guides to western public lands, including *Wild Wyoming* (which covers wilderness and potential wilderness throughout the state) and *Wyoming's Red Desert: A Photographic Journey*. These books are based on my statewide travels to public lands, during the course of which I documented the values of the most natural remaining public lands through mapping and photography. My photography of Wyoming public lands appears in these and other books. In the process of writing these books, I have explored and photographed western public lands extensively, especially in Wyoming, Utah, Nevada, and Montana.

6. Before beginning my present work with Western Watersheds Project, I served as Sagebrush Sea Campaign Director for WildEarth Guardians from 2013 to 2016, and as Executive Director and Wildlife Biologist for Biodiversity Conservation Alliance

(BCA) from 2004 to 2103; I was a staff member of BCA responsible for wilderness field inventories and oil and gas watchdogging starting in September 2000.

7. I have advocated for sage grouse conservation since 2001. The Biodiversity Conservation Alliance was a signatory to the petition to list the greater sage-grouse as “endangered” under the ESA, and I also advocated for stronger sage-grouse protections in the context of land-use plans (including the Jack Morrow Hills Coordinated Activity Plan, the Rawlins Resource Management Plan, and the Thunder Basin National Grassland Land and Resource Management Plan), and oil and gas leasing and development projects and proposals (including the Jonah Infill project, the Seminole Road coalbed methane project, the Desolation Flats natural gas project, the Continental-Divide – Creston Project, and the Atlantic Rim coalbed methane project).

8. I have also conducted comprehensive reviews of sage-grouse science to inform publications and advocacy for improved sage-grouse conservation. I am author of the Western Heritage Alternative, a comprehensive, science-based land-use plan alternative drafted for the Rawlins Resource Management Plan revision, and the Bighorn Basin Community Alternative, a similar science-based citizens’ alternative that would have increased sage-grouse protections for the Cody and Worland BLM Field Offices, both of which were BCA documents. I also am author of the following science-based WildEarth Guardians reports: *The Shrinking Geography of Sage Grouse Conservation* (2015); *Sage Grouse Conservation Efforts and Population Trends* (2015); and *Nevada Sagebrush Landscape Bill: An Analysis of Sage Grouse Conservation Potential* (2014). I continue to monitor advances in sage-grouse science and incorporate these findings into sage-grouse advocacy on behalf of Western Watersheds Project.

9. During my tenure with Biodiversity Conservation Alliance, I personally visited and field inventoried over half a million acres of wilderness-quality lands in Wyoming, including the following units in the Red Desert, which will be affected by the 2019 Sage Grouse Plan Amendments: Kinney Rim South, Adobe Town, Kinney Rim North, Oregon Buttes, Oregon Buttes Badlands, The Big Empty, The Pinnacles (including Parnell Creek), and Wild Cow Creek.

10. While working for Western Watersheds Project and WildEarth Guardians, I have advocated for the protection of wildlife migration corridors that would confer habitat conservation benefits for sage-grouse. These include the Path of the Pronghorn migration corridor, the second-longest land-mammal migration running from summer ranges in Grand Teton National Park to winter ranges neighboring Seedskaadee National Wildlife Refuge, and the Red Desert-to-Hoback mule deer migration corridor, currently recognized as the longest land-mammal migration in the lower 48 states.

11. I am personally invested in western public lands not only because of my professional efforts to protect them over the past decade and a half, but also for aesthetic, recreational, scientific, and spiritual reasons. They harbor unique, high-value habitats for mule deer, sage-grouse, and other wildlife, and irreplaceable paleontological and cultural resources.

12. I have extensively explored these areas for personal recreation over the past two decades. I regularly camp, hike, boat, backpack, hunt, fish, photograph, observe birds and wildlife, study habitat conditions, conduct field inspections, and seek spiritual renewal through my work and recreation involving public lands. I intend to continue this work into the future for as long as I am able and regularly return to areas that I know to

be beautiful and ecologically valuable because of the explorations that formed the basis for my hiking guides.

13. In particular, I intend to continue to visit the Sagebrush Sea in Wyoming and other states, in hopes of observing greater sage-grouse, pygmy rabbits, mule deer, and other sagebrush species.

14. For example, I return to the Red Desert (encompassed by the Wyoming 2019 Plan Amendment) almost every year, often multiple times, for recreational reasons with my family to engage in camping, hiking, photography, wildlife viewing, wild horse viewing, hunting, and spiritual renewal. Specific places I tend to visit between State Highway 28 and Interstate Highway 80 are the Honeycomb Buttes (hiking and photography), Oregon Buttes (hiking), White Mountain Petroglyph site (cultural resource appreciation), Boars Tusk and associated dunes (geology appreciation and photography), The Pinnacles (hiking), Parnell Creek and Joe Hay Rim (hunting, camping, hiking, nature photography), and East Sand Dunes Wilderness Study Area (hiking, photography). I put in for antelope and elk tags almost every year in this area, and plan to return there to hunt each year I am awarded a tag. Lands south of Interstate 80 in the Red Desert that I visit regularly for the purposes of hiking, camping, wild horse viewing, wildlife viewing, photography, and nature enjoyment include the Adobe Town Wilderness Study Area and surrounding lands, the Power Rim, the Kinney Rim, and Flattop Mountain, all west of State Highway 789, as well as the Wild Cow Creek watershed, east of State Highway 789 and south of Interstate 80. The Red Desert is one of the most spectacular and relatively undisturbed pieces of public land left in the United States. It is inspiring in its biological diversity and its scenic beauty. It would cause me immeasurable grief to see these places

fragmented or degraded. I intend to return to the Red Desert next in June 2019 to visit Adobe Town and the Jack Morrow Hills area.

15. I have visited the Bighorn Basin of north-central Wyoming at least once a year in years past for the purposes of camping, hiking, photography, nature appreciation, and enjoyment of historic and cultural resources, and intend to return here to recreate in the future. I last visited in August 2018 when I visited the Legend Rock petroglyph site with my children. I next have concrete plans to visit the Bighorn Basin in the first week of July 2019, in conjunction with a scheduled revision of my book *Hiking Wyoming's Cloud Peak Wilderness*, which includes hikes on BLM lands within the Bighorn Basin.

16. I visit lands falling within the Buffalo RMP on an annual basis for the purposes of pronghorn hunting, wildlife viewing and photography, and camping. I last visited in October 2018, when I enjoyed a successful hunt for pronghorn on private split-estate ranch lands underlain by federal minerals where mineral development is managed under the Buffalo RMP. I have also made numerous visits to the Thunder Basin National Grassland, also managed under the sage-grouse RMP, since summer of 1999, for the purpose of camping, hiking, wildlife photography, and appreciation of the grassland region. I next intend to visit this area on a scheduled trip to the Thunder Basin in the third week of July, 2019.

17. I also make an annual tour of the Colorado Plateau and Great Basin in March of each year—in Nevada and southern Oregon—to view sage-grouse, enjoy the spectacular beauty of our western public lands, engage in photography, enjoy historic and cultural sites, and engage in spiritual renewal. My travels have included the Monitor Valley (camping and wildlife photography) and Big Smoky Valley (visiting ghost towns

and landscape photography), both south of Austin, Nevada; the Lake Valley and Spring Valley north of Pioche, Nevada (appreciation of natural scenery); the Thousand Springs Valley southeast of Jackpot, Nevada (elk viewing); the headwaters of Salmon Falls Creek (O'Neil Basin) east of Jarbidge, Nevada (photography); the Trout Creek Range of south-central Oregon immediately northeast of Denio, NV (photography); and the uplands east of Adel, Oregon to the north of State Highway 140 (camping, wildlife photography); and the Kings Valley north of Nevada State Highway 140 and west of Orovada, NV (photography). These areas are all encompassed by the 2019 Sage Grouse Plan Amendments in Nevada in Oregon. I intend to return to this region in March 2020 and March 2021.

18. I also visit sage-grouse habitats and photograph sage-grouse during my many trips to visit public lands in Wyoming and my yearly trips to the Colorado Plateau and Great Basin. I visit an area south of the Ferris Mountains in BLM-Wyoming's Rawlins Field Office in the Red Desert one or more times each Spring to view and photograph sage grouse. I intend to return on Saturday, April 20, 2019, to view sage grouse. I have on several occasions camped in the vicinity of the Alton sage grouse lek during the course of revisions of my book Hiking Zion and Bryce Canyon National Parks, due to the free dispersed camping opportunities here and the opportunity to view sage grouse; due to late snows I changed plans and did not visit this lek in March 2018. I have also viewed and photographed sage grouse at a lek in the Monitor Valley (southeast of Austin, NV), and at a lek in the Ruby Valley south of Wells, NV to the west of U.S. Highway 93 and south of State Highway 229. My visit to these two leks was precluded in

March 2019 by inclement weather (the access roads turn to impassable mud when wet), but I plan to return in March 2020 and March 2021, weather permitting.

19. During my yearly sage-grouse viewing trips in March, I have also visited parcels in BLM-Nevada's Battle Mountain District, which provide important sage-grouse habitat. I frequently travel to Nevada, including to Monitor Valley, where BLM has recently auctioned off oil and gas lease parcels. I have viewed and photographed sage-grouse on a lek (sage-grouse mating ground) in Monitor Valley that is adjacent to one of the lease parcels in years past, and plan to return there in 2019 and other future dates in hopes of viewing this iconic species. Based on my knowledge of sage-grouse science, oil and gas development in this area could cause lek abandonment and I fear that once the lease parcels in this area are developed under the weaker provisions of the 2019 Plan Amendments, I will no longer be able to view and enjoy sage-grouse there. This causes me great concern and anxiety.

20. On several occasions, I have visited the area where the Normally Pressured Lance (NPL) oil and gas development is proposed in western Wyoming, often as a side trip on drives to Jackson, Wyoming when the opportunity to get out of the car and experience a quiet and natural landscape is a welcome respite from driving. I most recently visited these lands in October 2018, viewing and photographing undeveloped landscapes as well as pronghorns and wild horses. My next planned visit to this area will be in May 2019. During these visits, I have engaged in wildlife viewing— particularly pronghorn and golden eagles, looked for sage grouse, and enjoyed the unspoiled scenic vistas and undisturbed sage-grouse habitats in these areas. Major portions of the NPL project area are in sage-grouse Priority Habitat Management Areas and/or winter

concentration that serve the entire sage-grouse population in the Upper Green River Valley. The 'Path of the Pronghorn' migration corridor, for which I have advocated strong conservation protections, also passes through this project area.

21. The 2015 Greater Sage-Grouse Plans placed insufficient protective restrictions on oil and gas development to maintain the habitat capability for either sage-grouse breeding, nesting, and wintering, or pronghorn migration, and the protections were only further weakened under the recent 2019 Plan Amendments. I am concerned that the imminent approval of drilling permits for the NPL project under the 2019 Plan Amendments will result in significant decreases in (or extirpations of) sage-grouse populations, and loss of the pronghorn migration corridor. Along with the industrialization of a currently-undeveloped landscape, this will impair my use and enjoyment of these lands on planned future visits.

22. I have also visited public lands within the Converse County oil and gas development area, particularly numerous visits to the Thunder Basin National Grassland, also managed under the sage-grouse RMP, since summer of 1999, for the purpose of camping, hiking, wildlife photography, and appreciation of the grassland region. I next intend to visit this area on a scheduled trip to the Thunder Basin in the third week of July, 2019. This upcoming Converse County project is anticipated to result in drilling 5,000 new oil and gas wells over 10 years on 1.5 million acres, and the development of associated roads and infrastructure. It will affect thousands of acres of sage-grouse habitat in the Thunder Basin National Grasslands and further fragment high-value sage-grouse habitats that are already showing the impacts of human development through flagging sage-grouse populations. The Final EIS for this project was expected to be

released in October 2018 with ROD to come out in January 2019, so they are overdue. Drilling permits for that project will now be approved under the 2019 Plan Amendments, if those Amendments are not enjoined.

23. Oil and gas development not only degrades wildlife habitats through fragmentation and displacing wildlife for miles adjacent to roads and wellsites, but also directly negatively affects my recreational experience. The stink and dust from air pollution destroys the wild and pristine sense of developed public lands, and the brown cloud of ozone and other toxic pollutants (benzene ethylene, toluene, and xylene) that waft constantly off of condensate tanks at wellsites create a brown cloud that ruins photographs. Waterway pollution—which I myself have seen and documented—poisons aquatic life. I was diagnosed with asthma in my 51st year of life, and it is entirely likely that ozone pollution from oil and gas production in areas where I recreate are a primary cause of or major contributing factor to this health condition. Oil and gas development industrialized landscapes that otherwise would have a wild and natural appearance, destroying the opportunity for nature photography in developed areas.

24. The majority of the BLM public lands in Wyoming, Nevada, Oregon, and other states that visit are also grazed. The 2019 Plan Amendments have eliminated quantifiable, enforceable habitat standards necessary to protect sage-grouse and sagebrush ecosystems from the effects of excessive livestock grazing. Livestock grazing reduces or damages ecosystem elements (like mid-stature cool season bunchgrass cover, wet meadows, and native vegetation) that sage-grouse need to survive. Excessive livestock grazing also impacts my personal recreational experience on public lands by depleting populations of native herbivores, making them scarce and more difficult to

view and photograph. In addition, I have had to abandon planned camp locations on multiple occasions due to high concentrations of cattle. The 2019 Plan Amendments will only amplify these deleterious effects of livestock grazing.

25. Because of my personal and professional interests in continuing to visit and protect public lands across the West, I am deeply concerned about BLM's 2019 Greater Sage-Grouse Plan Amendments. Fewer meaningful protections for greater sage-grouse will accelerate the decline of the species and intact sagebrush habitats across the West. Additional road building, pipelines, powerlines and lax range-management practices will make it harder to find active leks with healthy grouse populations, depriving me of my ability to engage in bird-watching and wildlife photography in the future. Implementation of the 2019 Plan Amendments will also cause irreparable harm to my recreational and aesthetic enjoyment of the areas described above. My enjoyment of public lands is predicated on their wild and pristine qualities, their ability to support abundant wildlife, their natural appearance and soundscapes, their beautiful scenery, and their ability to provide solitude and distance from human intrusions. Each of these attributes would be destroyed by the intrusions of more roads, more oil and gas rigs, more grazing, and other human impacts.

26. A ruling 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 both uses and follows the best available science in its sage-grouse conservation efforts. A favorable ruling will also prevent irreparable harm—to greater sage-grouse, and to my interests and those of other WWP staff and members—that will otherwise occur if this Administration moves forward to implement the weakened sage-

grouse plans through new approvals of oil and gas leasing and development, grazing, mining, roads, and other activities across the sage-grouse range.

27. Attached to my declaration is a compilation of photographs I have taken on my yearly sage-grouse viewing trips and other excursions mentioned above.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 19th day of April, 2019, in Laramie Wyoming.


Erik Molvar



Above: Sage grouse hen with chicks, Powder Rim just south of Adobe Town, Wyoming, 2003.

Below: Sage grouse lekking in northeastern Red Desert, 2016.





Above: Camping near Alton sage-grouse lek, Utah, March 2016.

Below: Sage-grouse lekking in the Monitor Valley, Nevada, 2015.





Above: sage-grouse lekking in the Ruby Valley, Nevada, 2018.

Below: Pronghorn in the Normally Pressured Lance project area, Wyoming, 2018.





Above: Trout Creek Range, Oregon, 2015.

Below: Habitat destruction in the Jonah Field, western Wyoming, 2017.





Above: Cattle degrading sage grouse brood-rearing habitats, Atlantic Rim, Red Desert WY 2017.

Below: Habitat destruction, Lost Creek In Situ Uranium Mine, Red Desert, 2012.

