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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

**OREGON NATURAL DESERT ASS’N,
CENTER FOR BIOLOGICAL DIVERSITY,
and WESTERN WATERSHEDS PROJECT,**

Case No. 07-1871-KI

Plaintiffs,

v.

ABIGAIL KIMBELL, Chief, U.S. Forest Service,
GARY L. BENES, Supervisor, Malheur National
Forest, **UNITED STATES FOREST SERV.**,
D. ROBERT LOHN, Regional Administrator,
Nat’l Marine Fisheries Serv., **NAT’L MARINE
FISHERIES SERV.**, **DAVID R. ALLEN**,
Regional Director, U.S. Fish & Wildlife Service,
GARY S. MILLER, Field Supervisor, U.S. Fish
& Wildlife Service, **U.S. FISH & WILDLIFE
SERV.**,

**DECLARATION OF CHRISTOPHER
CHRISTIE**

Defendants,

DECLARATION OF CHRISTOPHER CHRISTIE

I, CHRISTOPHER L. CHRISTIE, state and declare as follows:

1. I am a member of the Oregon Natural Desert Association (“ONDA”), the Center for Biological Diversity (“CBD” or “Center”), and Western Watersheds Project (“WWP”), the plaintiffs in the above-captioned case. I have been a member of ONDA for over 8 years, a member of CBD for over 11 years, and a member of WWP currently and for several of the last 15 years. I am a resident of Baker City, Oregon and my previous home in Prairie City, Oregon was sold in 2006.

2. As I understand it, the mission of ONDA is to protect, defend, and restore eastern Oregon’s native deserts and forests.

3. As I understand it, one of the Center’s primary missions is to protect and restore endangered species as well as trout habitat and populations throughout western North America.

4. As I understand it, WWP’s mission is to protect and restore western watersheds and wildlife through education, public policy initiatives and litigation.

5. I am a member of ONDA, CBD and WWP because I believe in these organizations’ missions and their efforts to protect and restore the natural environment, in particular to preserve and restore habitat for imperiled species. I believe that ONDA’s, CBD’s and WWP’s efforts to protect and restore steelhead and bull trout habitat are particularly important. As a frequent user of eastern Oregon rivers and lands, I support ONDA’s, CBD’s and WWP’s advocacy, education, and litigation on behalf of these ecosystems and their inhabitants.

6. I moved to Prairie City, Oregon in 1999. In 2004, I moved to Baker City, Oregon. I have used and continue to use and enjoy public lands in the area, including the Malheur National Forest, on a regular basis. My activities include bird watching, nature observation of

DECLARATION OF CHRISTOPHER CHRISTIE

fish and wildlife, hiking, field botany, nature photography and fire wood cutting. I have enjoyed all of these activities in the Malheur National Forest, and intend to continue to do so.

7. I have a B.S. in microbiology (Honors, with distinction) from San Diego State University, and have worked as a medical technologist and microbiologist. In the mid-1980s I became interested in western ecosystems and native plants, completing a field botany course in 1989. Since the late 1980s I have observed and been deeply concerned about the destruction, including in some cases the permanent impairment and alteration, of western public ecosystems by livestock grazing. Throughout this period, I have educated myself about the effects of livestock grazing through personal observation and extensive reading of articles and scientifically oriented papers.

8. For over a decade, I have photographed thousands of western wildflowers in their native settings on the public lands of the West, including in the Malheur National Forest. Over 2,000 of these are now posted at CalPhotos, a part of the University of California-Berkeley Digital Library, and many others are posted on the Internet at www.RangeNet.org. I also photograph Lepidoptera in both Grant and Baker County, and have contributed to range extensions for three moths, one of which was in the Malheur National Forest. Because domestic livestock grazed most of the public lands where I have photographed wildflowers and Lepidoptera, I have become painfully aware of the struggle the wildlife in these ecosystems faced in unforgiving environments under the persistent onslaught of unnaturally high levels of grazing by non-native herbivores. In fact, whenever I enter an area where heavy grazing has occurred, I am saddened to see the changes and the impacts that have occurred. Forest habitat that has not been as intensely grazed has a sense of wildness and wonder and a glimpse of what natural healthy forest ecosystems used to be. It is important to me that lands be protected and

DECLARATION OF CHRISTOPHER CHRISTIE

managed in a way that preserves the natural characteristics and provides habitat to native species that have been there for thousands of years.

9. My interest in monitoring public land grazing activities was well developed prior to my moving to Grant County in 1999, and it was natural for me to immediately involve myself in continuing that activity. I had worked with the Malheur National Forest staff on grazing problems since my move to Prairie City in 1999. I had done so by attending agency-organized field tours when allowed and by reporting to the Forest Service about incidents of cattle trespassing, violation of grazing standards, and areas of chronic damage caused by cattle grazing. I donated fencing material to the Prairie City district of the Malheur National Forest to help protect declining aspen stands from cattle grazing. In recent years, working with them has become more difficult because of continuing lawsuits I have given testimony in. Some will speak to me off the record when I run into them in the Forest, but some have told me that they are prohibited from speaking with me. I have spent many days looking at and familiarizing myself with many of the Malheur National Forest's allotments. In more recent years, except for photography trips and fire wood cutting, I have primarily investigated the allotments involved in litigation, photographing much of what I have seen.

10. I have been to the allotments at issue in these lawsuits, including allotments in the Middle Fork, North Fork, and South Fork John Day River sub-basins, as well the North Fork and Main Stem Malheur River sub-basins. The Middle Fork and South Fork John Day River and its tributaries, which include Big Boulder Creek and Murderers Creek, have been severely and chronically impacted by livestock grazing, and other activities, although some areas are worse than others. Over-utilization of riparian shrubs, excessive removal of soil and bank-protecting graminoid vegetation, and severe bank alteration are serious problems in these watersheds.

DECLARATION OF CHRISTOPHER CHRISTIE

11. I have regularly and systematically collected quantitative data regarding the conditions of the grazing allotments on the Malheur National Forest since 2001, and have been gathering photographic data since 1999. I have attached a DVD-Rom containing photographs and captions of the segments of the Murderers Creek Allotment and Lower Middle Fork Allotment that I measured and photographed in 2006 and 2007. The photographs, dates, locations, and my captions accompanying them, are accurate, true and correct to the best of my knowledge. The photographs are a true and accurate depiction of the streams and areas within the Murderers Creek Allotment and Lower Middle Fork Allotment that I monitored in 2006 and 2007.

12. I have observed that recovering and somewhat healthy riparian areas along the Middle Fork and South Fork John Day River and their tributaries should exhibit riparian and stream channel characteristics similar to those in the nearby Nature Conservancy property and on various protected, recently un-grazed segments that can be found on some streams in the these sub-basins. Attachment 1 to this Declaration contains photographs and captions showing un-grazed stream segments within exclosures or pastures that have experienced several years of rest from grazing to illustrate recovering and relatively healthy riparian areas. However, on the Lower Middle Fork and Murderers Creek Allotments, and on all other allotments, I observed stream segments exhibiting graminoid “stubble” heights of remaining grasses that were below, often far below, prescribed standards; banks that were severely altered by livestock-caused trampling, shearing and sloughing; and chronically over-utilized, struggling alders and willows. Excessive removal of bank-protecting graminoid vegetation and the yearly growth of riparian shrubs, and livestock-caused movement of bank soil into streams is a problem for aquatic

DECLARATION OF CHRISTOPHER CHRISTIE

systems and endangered fish across the Forest--particularly on tributaries to Murderers Creek and on streams within the borders of the Lower Middle Fork Allotment.

13. In my monitoring, I used implementation protocols for stubble height measurements that the Malheur National Forest has used. I modeled my field stubble height data form after theirs, with some improvements. I ran a transect, either along the green line or across a terrace for approximately 180 feet, or 30 measurements. In some cases I took more than 30 measurements. Measurements were taken on both sides of a stream. At each toe or "step-point" I would sample a 3-inch circle using my ruler to determine the average stubble height within the 3-inch circle. For each transect, I then determined the median of these average stubble heights, as is called for by the protocol.

14. I have used two different methodologies for measuring bank alteration. From the fall of 2001 through 2005, I used a Forest Service implementation protocol. In those years, I laid out a steel measuring tape over a hundred foot transect and measured the amount of alteration on both sides of the stream. In some cases, where there was continuous trampling, or where it was otherwise obvious that the alteration was greater than 10%, I estimated the alteration to be over 10%. In 2006, on the recommendation of hydrologist Jon Rhodes, the bank monitoring methodology was simplified slightly as follows:

At each monitoring reach I used at least a 100 pace transect. At every other (2nd) pace, I stopped and made a point observation of conditions on both banks, and categorized the banks at the measurement point as stable or unstable, overhanging stable bank, and/or whether banks were altered (altered by trampling, chiseling, etc.) and recorded the results. Stability criteria used came from the USEPA publication by Bauer and Burton, 1993. Banks were considered unstable if they were vertical (80-100 degree angle from horizontal), if they were cracked, caving, or slumped,

DECLARATION OF CHRISTOPHER CHRISTIE

whether they had been visibly trampled or chiseled by ungulates, even if they have been laid flat (low angle). All other banks were considered stable for the purposes of monitoring. Banks were considered overhanging only if stable, when the overhang extended outward at least 4 inches, and was within 6 inches vertical distance of high water mark. The 100-pace transect with measurements at every other pace provided 50 measurements on each bank for a total of 100 measurements on the combined banks over about 300 feet of monitored stream length. In some cases I took more point measurements over a longer length of monitored streams. The number of point measurements with stable or unstable, or overhanging and stable, and/or altered banks were recorded. The number of points for each category was divided by the total number of point measurements over the monitored stream length and then multiplied by 100 to yield the percentage of points for that category that existed within the monitored stream length.

15. I estimated the degree of shrub use by comparing leader lengths left after grazing to any un-browsed leaders that still remained on the shrub, or on nearby shrubs, if available.

16. At each transect I took one or more pictures with a Nikon digital camera pointed along the green line, or along a bearing for the transect across a terrace. In many cases I also photographed bank alteration, suppressed or over-utilized shrubs, or other relevant subjects.

17. The Murderer's Creek and Lower Middle Fork Allotments, as well as others, such as the Blue Mountain Allotment on the Middle Fork John Day, the Dollar Basin/Star Glade on the Malheur River, and allotments along the North Fork Malheur River, have been severely and chronically impacted by livestock grazing. I have been periodically monitoring bank alteration, stubble height, and shrub utilization on these allotments since 1999, including 2006 and 2007. My field evaluations indicate that over -utilization of riparian shrubs, excessive removal of soil and bank protecting graminoid vegetation, and severe bank alteration (where any developed bank

DECLARATION OF CHRISTOPHER CHRISTIE

