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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

IDAHO CONSERVATION LEAGUE, IDAHO RIVERS UNITED, and GOLDEN EAGLE AUDUBON SOCIETY *Plaintiffs*, vs. U.S. FOREST SERVICE *Defendant*.	No. 1:16-cv-25-EJL **DECLARATION OF JOHN ROBISON**

I, John Robison, declare as follows:

My name is John Robison. I am a resident of Boise, Idaho. I am personally aware of the matters set forth below, and if called as a witness I would and could truthfully testify thereto.

Background Information

1. I am employed as the Public Lands Director for the Idaho Conservation League (ICL). I have been employed by ICL for 14 years. I am a member of ICL.

2. I first came to visit Idaho in 1991 on a kayaking trip, where we paddled 10 rivers in 11 days. It was a formative experience. I was drawn back to Idaho in 2001, in large part, in order to enjoy the amazing opportunities afforded by Idaho's wild and pristine rivers and the surrounding deserts and forests. I grew up fishing, and learning how to fly fish in Idaho's streams is my new passion.

3. In addition to kayaking and fishing, I regularly camp, hike, ski, look for wildlife and their tracks, identify plants, study habitat conditions, conduct field inspections, and seek personal renewal on Idaho's public lands, including lands in the Boise National Forest.

4. I am a graduate of Bowdoin College, where I earned a BA in Biology; the Teton Science School's year-long Professional Residency in Environmental Education; and the University of Vermont's Field Naturalist Program where I earned a MS in Botany.

5. For my Master's degree Final Project, I studied and taught winter ecology, mammal tracking, and remote monitoring of pine martens. My area of emphasis was seeing how vegetation patterns and snow surface conditions affected winter habitat use by coyotes.

6. I am the lead staff person for ICL monitoring and interfacing with the Forest Service and project proponent Idaho CuMo (formerly Mosquito Gold and then CuMoCo) over the CuMo Exploration Project in the Boise National Forest. I have participated in many meetings and site inspections about the Project proposal, and I have corresponded and spoken with agency staff and others about the exploration activities there. I have also closely reviewed and am very familiar with the Forest Service's *Supplemental Environmental Assessment* (SEA)

and its *Supplemental Decision Notice and Finding of No Significant Impact* (SDN/FONSI) for the CuMo Exploration Project, as well as other project record materials.

Overview of ICL

7. ICL was founded in 1973 and currently has approximately 20,000 supporters. ICL's mission is to work to protect Idaho's clean water, wilderness, and quality of life.

8. One of the primary ways we work to achieve our mission is through participating in the public review and comment process for mining and mineral exploration projects on Forest Service-administered lands. ICL supports responsible mining on public land, but we have found that past mining-related operations have not been adequately protective of the environment. According to the United States Environmental Protection Agency, mining is the biggest toxic polluter in the US. Over 40 percent of watersheds in the West have been impacted by historic mining activities.

9. As ICL's Public Lands Director, I regularly scrutinize mining proposals in Idaho to determine whether they pose unacceptable risks to human health and the environment. Additionally, I advocate that mining activities take place outside of environmentally sensitive locations and that these activities are conducted using methods which minimize environmental impacts. For example, I have engaged in cooperative work with Formation Capital's Idaho Cobalt Project outside of Salmon, Idaho, to improve mining operations and create a habitat restoration funding program. I am also working with several phosphate mining companies in southeastern Idaho (Monsanto, Agrium and Simplot), on a collaborative habitat restoration program called the Upper Blackfoot Confluence. I have been involved in community education efforts on the values of the Boise River and the threats posed by arsenic pollution from Atlanta Gold's mining project in the Boise River watershed and Boise National Forest. I have also

worked with the Forest Service and other mining companies to avoid, minimize, and mitigate impacts for exploration projects. One of the factors that we carefully assess is the adequacy of baseline monitoring for water quality, vegetation, and other conditions. When necessary, ICL uses the Forest Service objection process in an effort to improve mineral exploration projects where we have concerns. ICL has filed administrative objections and then later resolved objections on several mineral exploration projects, including Otis Gold's North Kilgore Gold exploration project on the Caribou-Targhee National Forest and Midas Gold's Golden Meadows exploration project on the Payette National Forest. For the Golden Meadows project, the Forest Service collected additional pre-decisional baseline monitoring information, and this information was presented to the public for additional review and comment. Based on the public review of this additional baseline monitoring, the project was refined to better avoid, minimize, and mitigate impacts before the Golden Meadows project was approved.

10. ICL's staff, members, and volunteers include many outdoor enthusiasts, expert scientists, and former federal and state agency employees. I am personally familiar with many of our members and volunteers and know that many of them regularly use and visit public lands in Idaho, including the Grimes Creek, Mores Creek, and South Fork Payette River watershed, and adjacent lands near the CuMo Exploration Project site, for a variety of professional, recreational, personal, aesthetic, spiritual, and other purposes.

ICL's Involvement with the CuMo Exploration Project

11. ICL became aware of exploration at the Project site in 2005 through our regular involvement in mineral exploration and other public land issues in the Boise National Forest and the Boise River watershed.

12. ICL was immediately concerned with the potential impacts to water quality, natural habitat, and wildlife from CuMo's extensive exploration activities and a potential large open pit mine. The CuMo site is located in headwaters of Grimes Creek in the Boise River watershed. The Boise River supplies over twenty percent of the municipal drinking water supply for the City of Boise. I have toured historic and current mining operations throughout the Grimes Creek and Mores Creek watersheds, and the majority of these watersheds have been heavily impacted by historic mining activities. However, the upper stretch of Grimes Creek adjacent to the project area is a relatively ecologically intact portion of these watersheds, and it is an important area worth protecting for native fish and wildlife and their habitats. I have fly fished for, and caught, native redband trout in the upper stretches of Grimes Creek.

13. Since learning of the CuMo Exploration Project, ICL has been actively involved in gathering information about the exploration, engaging in advocacy and public outreach programs, and participating in the Forest Service's administrative process. As discussed in more detail below, I toured the Project site on two occasions with staff from CuMo and the Forest Service, and visited areas near the site for investigatory and outreach purposes on several other occasions. I have been in regular contact with the Forest Service concerning the CuMo Exploration Project, including submitting FOIA requests pertaining to the exploration and working with the Forest Service to ensure that public meetings would be held in Boise, Garden Valley, and Idaho City for the benefit of ICL members.

14. When the Project was first approved in 2011, ICL submitted public comments to the Forest Service throughout the NEPA process, filed an administrative appeal with Forest Service, and filed litigation successfully challenging that approval. When the Forest Service

approved the Project again in 2015, ICL submitted public comments throughout the NEPA process and filed administrative objections with the Forest Service prior to filing this lawsuit.

15. Additionally, ICL has held media events and held informational meetings for ICL members and the public, and has undertaken various other activities all aimed at educating and organizing interested people about the CuMo Exploration Project and its potential impacts to the environment. For example, in 2010 ICL held its own open house in conjunction with the Forest Service's Boise open house on the Project. ICL published editorials in the Idaho Statesman concerning the exploration. In Garden Valley and Idaho City, ICL posted information about the Forest Service's public meetings being held on the Project. In 2010 I met with the Boise County Commissioners to discuss the impacts of mining on water quality, and I organized a field trip with the Commissioners and members of conservation groups where we toured the Thompson Creek molybdenum mine near Clayton, Idaho in 2011 in order to learn about large-scale, open-pit mining.

16. ICL and partner organizations have also held a series of mining discussions in Boise to inform ICL members and other members of the public about the CuMo Exploration Project and other concerning mining activities in Idaho. Most recently, we held such an event at the MK Nature Center in February of 2016.

17. In sum, ICL has expended significant time and resources over the last eleven years to monitor the proposed exploration and development of the Project site, educate the public on the environmental impacts of the CuMo Exploration Project, and participate in the Forest Service's administrative proceedings.

Personal Visits to the Project Site & Surrounding Areas

18. I have visited the CuMo Exploration Project site, or surveyed the site from adjacent Forest Service land across Grimes Creek, five times by vehicle and on foot since learning of the proposed Project. In October 2008 and October 2009, I visited the site with representatives of the Forest Service and Mosquito Gold (now Idaho CuMo). On these two trips, we toured the site and discussed details of the Project and its impacts, including topics such as drilling techniques, the mineral exploration process, locating and building roads, the presence of and impacts to wildlife, impacts to water quality, and sources of water to be used during exploration.

19. I visited upper Grimes Creek in November 2011, to enjoy a scenic fall drive in the mountains, hike in the forest, observe wildlife and nature, and investigate conditions at the Project site with members of other conservation groups. We visited the ridge separating Grimes Creek from the South Fork Payette River, from which we could see a large portion of the Project site. On our way to this viewing spot, I observed wolf tracks in the mud and snow on the road not far from the Project site. I enjoyed finding these tracks and showing them to others on the trip. From the ridge, I observed road cuts through the trees on the Project site, and I observed and heard a drilling rig operating on the site.

20. I returned to upper Grimes Creek in August of 2013 on an ICL field trip. I led ICL supporters on a hike to a viewpoint overlooking the South Fork Payette River to the north and Grimes Creek to the south. We could see exploration roads carved into the hillside across Grimes Creek on the Project site. While it was likely too late in the year to observe Sacajawea's bitterroot, we observed other wildflowers and kept our eyes open in hopes of seeing this

critically imperiled plant. I brought along photos of Sacajawea's bitterroot so we would be able to recognize it in case we came across plants on the hike.

21. I returned to Grimes Creek again in 2014 on a fishing excursion and was thrilled to catch native redband trout in the upper stretches adjacent to the Project site.

22. Each time I visited the site, I was surprised by and impressed with how ecologically intact and scenically beautiful Upper Grimes Creek and the surrounding area is compared to the heavily degraded areas of Grimes Creek further downstream. Upper Grimes Creek is a scenic mountain stream and is well-shaded which helps support aquatic life. Although there are signs of historic mining in the area, Upper Grimes Creek does not appear to have undergone the extensive dredge mining which has devastated lower portions of Grimes Creek. And while trees in the Upper Grimes Creek area have been harvested in the past, the area is heavily wooded, and I observed many large diameter trees which are still standing. Upper Grimes Creek also has a series of beautiful meadow complexes and beaver ponds, which provide a diversity of habitat for natural wildlife.

23. However, the times I visited the area while exploratory drilling was underway, I was struck by how noisy and disruptive the operating drilling rigs are. And each time I visited the area, I was struck by the impacts of the extensive road system carved through the Project site. I was disappointed to see that many of the exploration roads on the site are built on steep slopes and through areas of otherwise intact forested habitat. I was also disappointed to see that many of roads cut through the portion of the Project site where Sacajawea's bitterroot have been found. Based on my familiarity with the problems associated with such road-building, I believe it is likely that these roads will become sources of sedimentation and even mass wasting; that they have already fragmented and will further fragment plant and wildlife habitats; that they serve as

corridors that facilitate the spread of invasive plants; and that it will be difficult if not impossible to fully reclaim many of these roads.

24. I have also gone on six airplane flyovers of the Project site in the last eight years. The purpose of these flyovers was to learn about the site and CuMo's exploration activities on both private and public lands; observe and enjoy the stunning surrounding environment; see the connection of the site and its streams to nearby communities, towns, and cities; educate others onboard the flights; and educate ICL members and the public by reporting back afterward.

25. I also regularly fly over the Boise National Forest on other work-related overflights and when traveling for work and personal purposes. When I fly, I bring my gazetteer to see where I am and use my camera to document what I see for both professional purposes and for my own pleasure.

26. I also recreate near the Project site and downstream. In January of 2000 I went on a yurt trip on the west side of Highway 21 near the Gold Fork Park N' Ski Area. Since around 2004, I have gone backcountry snowboarding and skiing in the Pilot Peak/Freeman Peak area and cross-country skiing in the Whoop Um Up Park N' Ski Area. My last visit to the Pilot Peak area was a backcountry snowboard trip in January of 2016. These areas are all located in the Boise National Forest near Mores Creek Summit on Idaho Highway 21 and vary between 7 and 9 miles from the Project site, and I enjoy looking for animal tracks on these trips.

27. Since moving to Boise, I regularly canoe and kayak in the Boise River near the city of Boise, particularly during spring and summer. During spring and summers, I kayaked and surfed around three times per week in the Boise River. I also fish in the Boise River near the city of Boise, usually once a week from July through October in the last seven years. Sometimes I

eat the fish that I catch. Since 2008, I have visited the Idaho Bird Observatory (IBO) above the Boise River and Mores Creek to observe and learn about birds about one time per year.

28. I also regularly recreate and work throughout the Boise National Forest in other locations. I regularly kayak, hike, fish, and enjoy nature on the North Fork Boise River, the Middle Fork Boise River, and South Fork Boise River, and I regularly visit these locations for work and recreation purposes.

Irreparable Harm

29. I intend to continue regularly visiting the Project site as I have since 2007 and will go on both flyovers and on-the-ground visits. Since CuMo submitted its application, staff and members of ICL, including myself, have become increasingly concerned about the harmful impacts exploratory drilling could have on the rare plant Sacajawea's bitterroot, fish, wildlife, water quality, and recreation in and near the Project site. On these visits, I plan to investigate, monitor, and observe CuMo's exploration activities and their impacts on the conditions of the natural environment in and around the site. I have submitted a request to a pilot with dates for an overflight over the Project area, and I have scheduled field trips to the Boise National Forest to look for Sacajawea bitterroot later this spring or early summer, including near the Project site.

30. On these trips to the site, I hope to enjoy the scenic beauty of Upper Grimes Creek and walk amongst large-diameter trees in the Boise National Forest. I hope to observe the Sacajawea's Bitterroot, a critically imperiled native plant which inhabits the CuMo site and may be found in adjacent parts of the Boise National Forest. I hope to spot animal tracks and observe wildlife, including wolverine, northern goshawk, and great grey owl. Through these activities, I hope to experience the professional and spiritual renewal and fulfillment I find in visiting relatively pristine areas in Idaho's mountains.

31. However, based on my personal and professional knowledge and experience with the impacts of such activities as road-building, heavy truck traffic, and noise from drilling rigs, I believe that the CuMo Exploration Project, as approved by the Forest Service, will degrade these experiences by clearing large trees, driving wildlife elsewhere, destroying Sacajawea's bitterroot and harming its habitat, and causing noise and increased activity. By clearing vegetation to build roads and drill pads, CuMo will degrade or destroy ecologically important habitat for the wildlife and plants that I and other ICL supporters enjoy viewing and care about. These cleared areas will facilitate the spread of noxious weeds, such as rush skeleton weed, spotted knapweed, and Dalmatian toadflax, as I have witnessed in other similarly disturbed areas. The noise, light, and human activity associated with CuMo's twenty-four hour per day drilling will also render much of the site and adjacent areas unsuitable for sensitive species of wildlife and, thereby, decrease my chances of viewing them in the wild.

32. Currently, I am coordinating a trip to the CuMo site in June of 2016 to be taken with ICL staff and supporters and other conservation organizations to observe the rare Sacajawea's bitterroot. The trip is scheduled to overlap with the brief window during which Sacajawea's bitterroot is flowering and observable. I am concerned about the effects of CuMo's exploration activity on the environment, on plants and wildlife, and the impacts it will have on ICL members who use the area and who live downstream.

33. I hope to see Sacajawea's bitterroot on the summer 2016 field trip, and show it to others on the trip. I have seen Sacajawea's bitterroot in one other location on the Boise National Forest. Sacajawea's bitterroot is a rare, native plant with a very limited range, and it is my understanding that the plant is not well understood. According to the SEA, the Project site is

home to the largest population of Sacajawea's bitterroot in the world, including over one-third of all Sacajawea's bitterroot plants.

34. I would very much like to see Sacajawea's bitterroot continue to persist throughout the Boise National Forest and to be abundant at the Project site. However, I am concerned that the harmful impacts of the Project, particularly when considered along with past and ongoing threats and factors of decline identified in the SEA, put this species long-term survival at great risk.

35. I have reviewed *Sacajawea's Bitterroot and Other Sensitive Plant Survey Report, CuMo Exploration Project* (Tetra Tech, July 2015), which CuMo had prepared last summer to survey for Sacajawea's bitterroot at and near locations where the company plans to construct 44 drill pads, and construct and/or reopen 6 road segments under the Project. I am alarmed by the extensive amount of exploration activity CuMo has planned in the Plant Conservation Area (PCA) for Sacajawea's bitterroot. Prior to this July 2015 survey, the Forest Service had already designated the PCA, which the Forest Service described as "essential" plant and pollinator habitat. Prior to July 2015, the Forest Service had already developed mitigation measures that would require CuMo to try to avoid activity in the PCA. Unfortunately, the July 2015 survey shows that despite the mitigation measures and the designation of the PCA, CuMo still plans to embark on substantial exploration within the PCA.

36. Building roads and drill pads can kill Sacajawea's bitterroot plants, fragment habitat, harm critical pollinators, and introduce competing noxious weeds that may further endanger this population. The SEA admits that the plant is "critically imperiled", that adverse impacts to plants at the Project site could threaten the entire species' survival, and that plants at the site may be harmed by CuMo's exploration activities. Thus, not only will exploration

activities in the PCA and other potential habitat destroy and harm individual plants and habitat at the Project site, but it puts the entire species at great risk. Nevertheless, the Forest Service approved the Project without putting areas populated by Sacajawea's bitterroot off limits and without placing any caps on the total amount of roads and drill pads CuMo can locate in occupied and potential habitat. Such restrictions would help protect this critically imperiled plant from Project activities.

37. The Forest Service dismissed the impacts of the Project as insignificant without actually disclosing the extent of the amount of exploration activities CuMo may perform in plant habitat and without evaluating the extent of the resulting impact on Sacajawea's bitterroot. For example, the SEA does not disclose how many roads and drill pads might be built in the PCA, or estimate how many acres of occupied and potential Sacajawea's bitterroot habitat and pollinator habitat would be destroyed and degraded as a result of such roads and drill pads. Without indicating how many roads and drill pads CuMo may build within the PCA and in other potential habitat at the Project site, there is no way to know what the impacts of the Project might be. Had the Forest Service considered this basic information about the Project (and other basic information, including dust generation and habitat fragmentation) and made it available to the public for review, the agency would have better understood the Project's potential impacts and how the Project could impact the survival of this sensitive species. With the added benefit of public comment, the agency may have developed alternatives for avoiding, minimizing and mitigating impacts and made a final decision that is consistent with NEPA, NFMA, and the Organic Act.

38. Furthermore, the Forest Service approved the Project without assessing the full extent to which Sacajawea's bitterroot inhabits the area and without up-to-date information about

the status of plants at the site. The Grimes Fire and associated fire-fighting activities (including plowing and digging a fire break, and piling cut vegetation) passed through the site's densest populations of Sacajawea's bitterroot. According the SEA, the fire burned through 75 percent of occupied Sacajawea's bitterroot habitat at the site. Knowing the baseline status of Sacajawea's bitterroot plants and habitat at the Project site is critical to understanding, avoiding, and mitigating potential impacts. But the Forest Service approved the Project without getting up-to-date, post-fire information. Had the Forest Service done new surveys before approving the Project, it may have reached a better decision, such as by placing critical areas off limits.

39. Part of my job involves reviewing recent studies showing the potential effects of climate change on vegetation and wildlife. It is estimated and now evident that climate change will result in more precipitation falling as rain instead of snow, earlier snow melt, higher temperatures, and earlier drying out of forested vegetation. These trends may adversely affect Sacajawea's bitterroot, and in the SEA, the Forest Service found that the plant's susceptibility to climate change is high. Some organisms are able to adapt to these conditions by dispersing to higher elevations or latitudes. Because the known populations of Sacajawea's bitterroot are located at or near the top of high ridgelines that are isolated from each other by large drainages, this species will likely have a difficult time adapting to climate change. Given the geographic isolation of this species, it is important to carefully track population trends and to minimize impacts to current population strongholds.

40. In addition, it is unknown if the best form of mitigation is collecting specimens, propagating them on adjacent sites or in captivity, then replanting them during reclamation or collecting seeds, in which case knowing how to induce germination is critical.

41. In sum, allowing CuMo to build roads and drill pads, reopen existing closed roads, and conduct other exploration activities approved under the Project within the PCA and other potential Sacajawea's bitterroot habitat is likely to harm individual plants, pollinators, and their habitat at the site. I and ICL supporters will be irreparably harmed by these activities. Given the plant's critically imperiled status and the importance of plants at the Project site to the species as a whole, the Project appreciably decreases the chance that Sacajawea's bitterroot will recover to sustainable levels in and near the Project site and places the entire species at risk. This directly harms my interests and other ICL members' interests in seeing, enjoying, and preserving this rare, native plant in the wild.

42. I am also injured, as are other members of ICL and the public, by the Forest Service's decision to approve the Project without adequately assessing and disclosing other baseline environmental conditions at the Project site; and without giving sufficient consideration to the impacts that CuMo's exploration could have on the environment and human health. I and ICL members are particularly concerned about water contamination that could result from CuMo's plan to drill over 250 exploration holes 1,500 to 3,000 feet below ground.

43. In our lawsuit challenging the Forest Service's first approval of this Project in 2011, the Court found that the Forest Service had failed to consider how drilling so many deep holes may impact hydrology at the site. And while the SEA now includes at least some information on this issue, the information is very general and not based on sufficient site-specific data. The SEA states that springs and seeps will be identified for monitoring once drilling sites are identified. I am concerned that, should the drill sites be identified in late summer or during a drought year, it will be more difficult to identify important monitoring locations. If these groundwater expressions are intermittent, it may be difficult to assess water quality and quantity

information. Should drilling operations affect water quantity or quality at these locations during or following drilling activities, it will be difficult to determine whether the drilling itself was the cause without baseline information. Accurate monitoring based on baseline information will enable the operator to adjust operations and mitigate activities as needed. We note that Midas Gold drilling operations on private property were adjusted after monitoring revealed drilling fluids were seeping out of the hillside and flowing into the East Fork South Fork Salmon River. These slopes were determined to be dry before drilling operations so it was clear that these were new discharges. As a result of this monitoring, Midas Gold modified its drilling and monitoring operations. With regard to the CuMo Exploration Project, had the Forest Service gathered more on-the-ground information on important hydrologic information, it could have adequately considered the potential impacts to water quality from drilling, disclosed these to the public, and considered public comments on a monitoring plan to protect these water resources. From my experience with mineral exploration operations, it is important to have a plan in place that establishes baseline information, monitors for impacts, mitigates for any unintended impacts, and adjusts operations as needed before the same mistake is made at other drilling sites.

44. I intend to continue kayaking and fishing in the Boise River and its tributaries numerous times every year as I have during the past 10 years. I also plan to kayak the lower canyon stretch of Grimes Creek, which is downstream from the Project site and below New Centerville, this spring or early summer if conditions are suitable. I would like to fly fish in Grimes Creek again, too. However, I worry that the Forest Service failed to consider some of the impacts that the Project could have on water quality and, thus, made its decision to approve the exploration without knowing or publicly disclosing the severity and likelihood of these potential impacts. It is my understanding that drilling up to 259 drill holes up to 3,000 feet deep could

alter groundwater hydrology in upper Grimes Creek, such that hazardous substances which have been exposed by historical mining operations adjacent to the Project site could flow into Grimes Creek at elevated levels. I therefore worry that about the unknown health risks I face by boating and fishing these waters.

45. I also intend to continue visiting the Idaho Bird Observatory (IBO) about once a year to observe birds, as I have in the past to observe wild birds and help biologists sight raptor during migrations. It is my understanding that some of the migrating birds that are observed at IBO may utilize habitat and nest in the Mores Creek and Grimes Creek watersheds at certain points during their migration. Based on my visits to the area and overflights, I believe that Upper Grimes Creek provides some of the best habitat remaining in the Mores Creek and Grimes Creek watershed. However, I worry that increased human disturbance of important habitats in southwest Idaho, including the extensive surface disturbance and continuous noise and light disturbance at the Project site, may decrease nesting success, harm birds and drive them to other areas, decreasing my chances of seeing them at the IBO.

46. Additionally, I plan to continue my regular pattern of visiting many locations throughout the Boise National Forest to kayak, hike, and work on numerous occasions every year, including this next year.

I declare under penalty of perjury that the foregoing is true and correct, executed this 4th day of April, 2016, at Boise, Idaho.

/s/ *John Robison*
John Robison