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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO**

IDAHO CONSERVATION LEAGUE,	)	No. 1:16-cv-25-EJL
IDAHO RIVERS UNITED, and	)	
GOLDEN EAGLE AUDUBON SOCIETY	)	
	)	
<i>Plaintiffs,</i>	)	<b>DECLARATION OF</b>
	)	<b>SEAN FINN</b>
vs.	)	
	)	
U.S. FOREST SERVICE	)	
	)	
<i>Defendant.</i>	)	

I, Sean Finn, declare as follows:

My name is Sean Finn. I reside in 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**

1. I volunteer with the Golden Eagle Audubon Society (GEAS) a registered Chapter of National Audubon Society. I have served on the board of GEAS since 2006. I currently serve as Board President of GEAS. I have also served as Vice President (2008-2011), Treasurer (2012-2013), and Conservation Committee Chair (2009-2015).

2. I am also a member of GEAS. As a member, I work with the 1,000+ members of the organization to represent and achieve the organization's mission which parallels my personal interest in protecting and restoring the natural world in southwest Idaho.

3. Since 1996, I have traveled extensively throughout southern Idaho to study and enjoy its public lands for my own professional and recreational purposes. Through my professional work and as a GEAS volunteer, I regularly study the wildlife population dynamics, habitat condition and change, and conservation status and opportunity throughout the western US, including southwest Idaho and the Boise National Forest. In addition to the significant amount of time I spend volunteering for GEAS, as an avid nature enthusiast and birdwatcher, I spend much of my free time enjoying Idaho's natural environment, birding, biking, hiking, and backpacking, including in the Boise National Forest.

4. I have a strong personal and professional interest in native plants. Eighty percent of the landscaping on my property is composed of plants native to southwest Idaho. Native plants, especially rare species, are critical to maintaining biodiversity as they provide food and habitat for rare and often undescribed insect and other invertebrate species. Where possible, I try to cultivate rare plants in my yard, and I regularly hike to natural areas, like Boise National Forest, to observe and enjoy plants and the animals they support.

## **Overview of GEAS**

5. GEAS was founded in 1974. GEAS is Southwestern Idaho's chapter of the National Audubon Society, a non-profit organization founded in 1905.

6. The National Audubon Society has hundreds of thousands of members, and its mission is to conserve and restore natural ecosystems, focusing on birds and other wildlife for the benefit of humanity and the earth's biological diversity.

7. GEAS currently has around 1,100 members, and its mission is to build understanding, appreciation, and respect for the natural world in order to conserve and restore natural ecosystems for birds and other wildlife. GEAS works to fulfill this mission through a combination of field trips, conservation and restoration activities, advocacy, research, and public outreach and education.

8. Much of GEAS's work is focused on the Boise River watershed. GEAS regularly organizes river restoration and cleanup activities and birding fieldtrips throughout the Boise River watershed and the Boise National Forest. Additionally, GEAS participates in administrative proceedings and other public processes concerning land management in the Boise River watershed and in the Boise National Forest.

9. Every June for over twenty years now, GEAS has hosted a fieldtrip to picnic, hike, and observe birds at a member's property on Daggett Creek, which is a tributary of Mores Creek below the confluence of Mores Creek and Grimes Creek.

10. I also help plan and lead some of GEAS's four annual fieldtrips to the Intermountain Bird Observatory (IBO, formerly Idaho Bird Observatory). GEAS has organized these fieldtrips to IBO for approximately the last five to six years, and I have lead three of the fieldtrips and participated in others. The IBO is located near the top of Lucky Peak, above

Mores Creek and the Boise River. Our July and August trips are for observing songbirds during their migration through the area. Our September trip is for observing raptors as they migrate through the area. Our October trip is for observing owls that may be either resident to the Boise National Forest or passing through on migration.

11. GEAS has sponsored the annual Kokanee Outdoor Day each of the three years it has been held. On Kokanee Outdoor Day hundreds of people take a road trip from Boise to a festival in Idaho City, stopping along the way at designated stopping points on Mores Creek to take part in educational and experiential activities. GEAS hosted the first stopping point, which provides participants with the opportunity to watch birds along Mores Creek.

12. GEAS volunteers and members include many enthusiasts of conservation. At least ten members of GEAS own property in the Garden Valley area, and at least three members own property in the Idaho City area. Many GEAS members regularly use and visit the Grimes Creek and Mores Creek watersheds for a variety of professional, recreational, aesthetic, spiritual, and other purposes, including birding and enjoying nature.

#### **GEAS's Involvement with the CuMo Exploration**

13. Because of the detrimental effects that mining can have on the environment, particularly bird habitat, GEAS has been involved in public outreach and advocacy efforts related to mining.

14. In 2007, through my work with other conservation organizations on mining issues related to the Atlanta Gold mine in the Boise National Forest, GEAS was first alerted to the CuMo Exploration Project.

15. Since then, I and other GEAS members have researched details of the Project. We have read NEPA documents prepared by Boise National Forest, reviewed the Mining Law of

1872, and studied historical and current open pit mining operations in the US. GEAS has also reached out to people who may be affected by the project through our involvement in Kokanee Outdoor Day, through our monthly Newsletter, the “Golden Eagle”, and during presentations at some of our monthly membership meetings.

16. In July of most years since 2010, GEAS helped organize an outreach event with Idaho Rivers United and other organizations on Grimes Creek downstream from the Project site for people who live in the area. Typically, twenty or more people attend and take part in river restoration activities aimed at improving aquatic habitat and reversing the impacts of historical mining operations as well as providing information about the Project. GEAS members attended and participated in the event each year it was held.

17. Since learning of the proposed CuMo Exploration Project, GEAS has been involved in the Forest Service’s decisionmaking process. GEAS contacted the Forest Service in 2010, and on multiple occasions since, to encourage the Forest Service to adhere to an open and extensive public process. Together with other organizations, GEAS submitted comments on the draft Environmental Assessment (EA) and filed an administrative appeal and subsequent lawsuit challenging the Forest Service’s approval of the Project in 2011.

18. After the Court remanded the Forest Service’s approval of the Project, GEAS continued to stay involved by meeting with the Forest Service, gathering information, informing our members, submitting public comments, and filing Objections and this lawsuit challenging the March 2015 Supplemental Environmental Assessment (SEA) and the September 2015 Supplemental Decision Notice and Finding of No Significant Impact (SDN/FONSI).

19. In sum, GEAS has expended significant time and resources through its involvement with the CuMo Exploration Project.

### **Personal Visits to the Project Site and Nearby Areas**

20. I have visited the Project site on two occasions in order to observe the environmental conditions and CuMo's activities at the site and to learn about and enjoy the forest, streams, birds, and other wildlife in the area.

21. I first visited the site in May 2011. I visited Boise National Forest land near the borders of the patented private land upon which Mosquito had recently commenced drilling operations. I observed the roadwork and property markings in the area. I also spent time enjoying the natural environment, observing streams, walking in the forest, and looking for birds and other wildlife. I noted the healthy environment and diverse and abundant plant and animal life at the Project site. The site was densely stocked with trees, and the riparian areas looked healthy and functional despite the evident history of streamside surface disruption.

22. I also visited the site in September 2013. Fall is a great time to visit the area. I was able to observe the abundant productivity of the trees and plants as well as the added diversity of migratory birds using the area for resting and feeding. I was disappointed to see changes to the area in the form of new access roads and landings areas at the Project site, which I presumed were exploration sites.

23. Since 2013, I have continued to visit and enjoy the Boise National Forest, including upper Grimes Creek to enjoy its solitude and biodiversity despite the alterations and disturbances occurring there.

24. I intend to visit Project site again in the summer of 2016 with other GEAS members to check back in on the status of the Project and observe any environmental impacts to the Boise National Forest and Grimes Creek in the vicinity of the project, as well as to look for birds and native plants and enjoy the natural environment. Because of my interest in native and

rare plants, I hope to view Sacajawea's bitterroot on this trip and on future trips. I hope to find plants at or near the Project site.

25. Additionally, GEAS will continue to schedule field trips to the upper Grimes Creek area to look for white-headed woodpeckers and other forest wildlife near the Project site. On my previous visits to the Project site, I was struck by how intact the natural environment was compared to lower Grimes Creek and Mores Creek. I believe that the upper Grimes Creek area provides the best habitat in the Mores Creek and Grimes Creek watersheds, and I would like to look for birds there and share that experience with GEAS members.

### **Irreparable Harm**

26. GEAS (as an organization and on behalf of its members) and I will be harmed by the large-scale operations the Forest Service has approved. In the SDN/FONSI, the Forest Service authorized CuMo to build over 10 miles of new roads throughout the forested project site at the headwaters of Grimes Creek. This will remove important plant, bird, and wildlife habitat. CuMo will also clear land to build up to 137 drill pads, from which it will drill up to 259 drill holes deep underground.

27. Such extensive surface disturbance will alter habitat at the Project site and adversely impact plants, birds, and wildlife at the site and beyond.

28. I have a strong personal interest in native plants. I have looked for Sacajawea's bitterroot in the Grimes Creek area but have yet to be lucky enough to observe any. I understand through reading the SDN/FONSI and SEA that the largest populations of Sacajawea's bitterroot in the world are found at the Project site. I also understand through these documents that Sacajawea's bitterroot is extremely rare, that the species faces ongoing threats, and that it is designated as "critically imperiled" due to risks to its continued survival.

29. It alarms me that the Sacajawea's bitterroot populations that live at the Project site may be adversely impacted by exploratory mining there. Rare plants have natural value in their own right but also support uncommon micro-ecosystems often supporting specialist pollinators, herbivores and symbiotic fungi. Sacajawea's bitterroot also has deep cultural value, being named after a one of the most famous and important Native Americans, who played a crucial role in allowing the original exploration of Idaho.

30. I intend to return to upper Grimes Creek, and would like to see Sacajawea's bitterroot in its natural abundance. I will to continue looking for Sacajawea's bitterroot when I visit areas at or near the Project site. However, I am deeply concerned that these populations are at risk of extirpation.

31. I am particularly concerned that the Forest Service has authorized CuMo to clear land to construct an undisclosed amount of roads and drill pads within Sacajawea's bitterroot habitat. The SEA admits that exploration activities in and near Sacajawea's bitterroot habitat can directly harm plants and fragment their habitat and threaten the species' continued survival. Furthermore, a wildfire burned through the Project site in 2014. The fire burned through Sacajawea's bitterroot habitat, and a long fire break was cleared through some of the densest populations of the plant. The Forest Service said in the SEA that it did not know what impact the fire and fire break had on Sacajawea's bitterroot, but it approved the Project anyway.

32. I and GEAS are being irreparably harmed by the Forest Service's approval of these intrusions into Sacajawea's bitterroot habitat. Not only did the Forest Service approve the Project without knowing the status of plant populations after fire, but the Forest Service never disclosed in the SEA the extent of exploration activities it has approved in Sacajawea's bitterroot habitat. Without this information, I and GEAS have no way to understand the potential impacts

of the Project to this critically imperiled species. The Forest Service also should have taken the time to assess the damage that the fire and fire-fighting activities may have had on Sacajawea's bitterroot habitat before additional disturbance is permitted.

33. Further, the Forest Service approved the Project without placing any important areas populated by plants off limits and without capping the amount of activity CuMo may undertake within Sacajawea's bitterroot habitat and pollinator habitat. Thus, the impacts to the species may be substantial.

34. I and GEAS are also harmed by the short- and long-term adverse impacts to birds at and beyond the Project site. The SEA shows that the Project site is home to a large amount of suitable habitat for great grey owl, northern goshawk, white-headed woodpecker and other bird species. Each of these species are identified as Species of Greatest Conservation Need by the Idaho Department of Fish and Game. I care about and would like to see these species on my visits to the Project area and other locations in the Boise National Forest. However, the loss of habitat caused by CuMo's surface disturbing activities decreases the chances of these species using the area because they need special habitats and are sensitive to excessive disturbance.

35. Additionally, the constant noise from the drilling operations will directly degrade my experience visiting and leading other GEAS members to upper Grimes Creek. Noise and lights from the drilling operations could cause avian wildlife to avoid the area and will, thus, decrease my chances of observing birds, and will take away from the solitude I enjoy when birdwatching.

36. I am also concerned that access will be closed to portions of the upper Grimes Creek area that I enjoyed on my past visits and intend visit again and share with GEAS members on the fieldtrip. This area is designated public land and should be open to the public for multiple

uses, not a single use for few beneficiaries. It will harm me and other GEAS members if parts of upper Grimes Creek are closed to public access.

37. I plan to attend the longstanding GEAS fieldtrip to Daggett Creek in future years, and plan to continue organizing and attending the annual fieldtrips to the IBO site at Lucky Peak. However, it is my understanding that some of the birds we look for in Daggett Creek and at the IBO may also use and depend on habitat in the upper Grimes Creek area and that the habitat destruction and disruption caused by the CuMo Exploration Project may direct these birds to different locations or threaten their survival. Therefore, I worry that the project will decrease the likelihood of my seeing these birds on these trips.

38. I am concerned that the Forest Service did not have enough information on the presence of important avian wildlife species at the Project site in order for it to be able to make an informed decision. Had the Forest Service gathered additional information, it could have better evaluated the disruptive impacts of CuMo's activities on avian wildlife which may have lead to a better decision.

39. GEAS and I are also harmed by the Forest Service's failure to adequately evaluate risks to water quality. Under my Board presidency, GEAS intends to continue to help organize lower Grimes Creek restoration event in future years. Next year, I hope to attend the event. However, it is my understanding the CuMo Exploration Project poses risks to the water quality in Grimes Creek and downstream confluents like the Boise River. Even preliminary exploration is likely to increase sedimentation, water temperatures, and toxic pollution to the waters. I am deeply concerned that these impacts from the Project could ultimately impede the successful restoration of the ecological health of Grimes Creek. I believe that the Forest Service failed to consider all of these potential water quality impacts before it approved Mosquito's activities.

40. GEAS, under my presidency, intends to support and help organize Kokanee Outdoor Day in future years should the annual tradition be revived, and work at the bird watching stopping point, as we have in prior years. However, I worry that the water quality impacts which the CuMo Exploration Project might have will endanger the kokanee salmon runs which are the focal point of the festival and which I enjoy viewing. I also worry that Mosquito's activities will decrease the chance of observing raptors and other birds at the bird watching stopping point.

41. GEAS and I will also be harmed by any adverse impacts to water quality caused by CuMo's deep drilling. Groundwater is inextricably linked to surface water. Both groundwater and surface water are used extensively by downstream residents of the Boise River watershed. The groundwater and surface water, including waters sources from the Grimes Creek area are used for drinking water, crop irrigation, livestock development, urban and residential needs, fisheries, and for recreation and aesthetic enjoyment. Any damage to the ground and surface waters of Grimes Creek and downstream confluents would adversely impact human populations. But the SEA fails to adequately evaluate potential impacts to groundwater caused by CuMo's plans for deep drilling. Had the Forest Service gathered more site-specific information, it could have better understood (and disclosed to the public) potential impacts to water quality, and may have made a better decision.

I declare under penalty of perjury that the foregoing is true and correct, executed this 1st day of April, 2016, at Boise, Idaho.

/s/ Sean Finn  
Sean Finn