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

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|-------------------------------|---|--------------------------|
| NEZ PERCE TRIBE, and |) | Case No. 3:13-cv-348-BLW |
| IDAHO RIVERS UNITED, |) | |
| |) | |
| Plaintiffs, |) | DECLARATION OF |
| |) | ANGELA R. PICARD |
| vs. |) | |
| |) | |
| UNITED STATES FOREST SERVICE, |) | |
| Defendant, |) | |
| |) | |
| and |) | |
| |) | |
| RESOURCES CONSERVATION |) | |
| COMPANY INTERNATIONAL, |) | |
| <u>Defendant-Intervenor.</u> |) | |

I, ANGELA R. PICARD, declare as follows:

1. I am an enrolled member of the Nez Perce Tribe. I am married, and the mother of three children: Joseph, Max, and Ella Payne.
2. I graduated from Lapwai High School, in Lapwai, Idaho. I earned a Bachelors Degree in Political Science and a Masters Degree in Public Administration from the University of Washington. I am presently serving as the Site Manager for the Northwest Indian College’s Nez Perce (Nimiipuu) branch.

3. I am writing this declaration to describe why I participated in the protests; to describe what I witnessed in participating in the protests; and to describe the unity that exists within the Tribe and among Tribal and non-Tribal members in opposing the transformation of U.S. Highway 12 through the Wild and Scenic River/Nez Perce-Clearwater National Forests – and through the Nez Perce Reservation – into a high-and-wide industrial corridor.

4. As Nimiipuu, we are of this land, and we have been since time immemorial. Our oral traditions, including our creation story (which involves the “Heart of the Monster” site near Kamiah, Idaho along present-day U.S. Highway 12) teach us to protect our Mother Earth and respect the land and waters for the benefit of all creatures. Our sovereignty as an Indian nation pre-dates the United States, and is confirmed in the 1855 Treaty between the United States and the Nez Perce Tribe. These realities shape our identity as a people. Today, we have the responsibilities brought forth by our ancestors as well as by the Treaty of 1855 to speak, walk, live, and breathe for these resources and our sovereignty. Our people honor our traditional teachings, and many, like me, have also earned formal degrees that will help us help our future generations.

5. Our history shapes our identity as Nimiipuu as well. Our people welcomed the starving and struggling Lewis and Clark expedition who had traversed the route of our Nimiipuu Trail. In 1855, Nimiipuu leaders like Looking Glass travelled back over the Nimiipuu Trail from buffalo country to the treaty grounds in Walla Walla. When gold was discovered on the Nez Perce Reservation, the United States did not protect our Reservation and our people from trespass; the harm was allowed to happen first, and the United States’ after-the-fact “fix” was the 1863 Treaty (commonly referred to as the “Steal Treaty”). In the Nez Perce War of 1877, our ancestors travelled the Nimiipuu Trail on their journey towards Canada.

6. I am proud that in more recent times my ancestors survived the era when the Federal policy towards Indians was “termination.” During the termination era, and under that policy, the United States ignored the Tribe, its rights, and its interests. Among the many consequences for the Nez Perce was the United States Army Corps of Engineers’ construction of Dworshak Dam on the Nez Perce Reservation that dammed the North Fork of the Clearwater river, and the Bureau of Reclamation’s assumption of the Lewiston Orchards Project on the Reservation that diverts water off the Reservation. My generation of Nimiipuu is still dealing with the impacts of these projects on our resources and our people today. I am also proud that the United States renounced the termination policy, and adopted a policy of self-determination. A hallmark of the self-determination era, that Presidents – both Republican and Democrat — have emphasized, is that meaningful Government-to-Government consultation between the United States and the Tribe must occur before actions are underway.

7. Our people have stood up to protect our treaty rights and our sovereignty, and, in doing so, courts have acknowledged our rights and the role of consultation with the Tribe. In 1980, Idaho banned fishing for salmon at Rapid River near Riggins, Idaho. With Idaho Fish and Game

officers wielding shotguns, Tribal members both peacefully protested and exercised our Treaty-reserved fishing rights guaranteed in our 1855 Treaty with the United States and caught fish; they were charged with unlawful fishing in a closed season. Each one of these 33 counts were dismissed with an acknowledgement that our Treaty-reserved fishing rights are the supreme law of the land under the United States Constitution, and with an order from a state court to a state agency that it had failed to consult with the Tribe prior to closing the fishery. Today, the Tribe's role as a fisheries co-manager is well-established and well-respected. The Tribe has one of the largest fisheries programs in the United States. As a result of the Tribe's shared responsibilities, and the Tribe's restoration actions, tribal members and non-Tribal members have both benefitted and have had additional fishing opportunities throughout Nez Perce country.

8. In every newspaper article about the mega-loads that I have read, and every letter I have seen from the Forest Service about the mega-loads, I was pleased to see the Forest Service acknowledging – and telling the world – that it must first consult with the Nez Perce Tribe. On August 3, 2013, the Lewiston Morning Tribune quoted Nez Perce-Clearwater National Forests Supervisor Rick Brazell as stating, “Until we consult [with the Nez Perce Tribe], we are not approving anything from our end.” And, on August 5, 2013, the Forest Service's letter to the Idaho Transportation Department referenced the importance of consultation with the Nez Perce Tribe and stated that “the Forest Service does not consent, approve or otherwise authorize over legal loads meeting the interim criteria on US Highway 12 between MP 74 and 174.”

9. Given this, I was surprised to learn the Chief of the U.S. Forest Service had denied the request from the Chairman of the Nez Perce Tribe that the Forest Service stop this mega-load, and that this mega-load would be proceeding up U.S. Highway 12 on August 5, 2013.

10. To me, this was exactly the opposite of how Government-to-Government consultation between the United States and the Nez Perce Tribe must occur under the United States' laws and policies—consultation must occur beforehand, not after-the-fact.

11. The impact to me and the Tribe of the Forest Service not stopping this mega-load was immediate. First, the Forest Service not stopping this mega-load meant that this mega-load would be transported before the Forest Service had even initiated—much less completed – meaningful consultation with the Tribe about our rights, interests, and concerns with respect to the Wild and Scenic River Corridor and the Nez Perce-Clearwater National Forests. Second, the Forest Service not stopping this mega-load meant that the burdens of the mega-loads were being immediately transferred to our Reservation and our people—within a matter of hours.

12. The foregoing reasons were why I participated in the protests. On August 5, 2013, hundreds of protestors (including women, men, Tribal Council members, and non-Tribal members) set up a non-violent protest of the mega-load at the western boundary of the Nez Perce Reservation. On August 6, 2013, hundreds of protestors showed up at the north side of the Spalding Bridge on U.S. Highway 12. And, on August 7, 2013, protestors showed up at Canoe

Camp along U.S. Highway 12. During these protests, hundreds-of-years-old songs were sung by old and young men, songs that were sung during the Nez Perce war. Speeches were told about the history of this trail, and the endless historical landmarks that tie our people to this land. Protestors, Tribal and non-Tribal alike, held signs high while standing, walking, and running together.

13. I participated in the protests peacefully. On August 7, 2013, I was arrested for walking too slowly in my Native regalia. I was charged with “disorderly conduct.” A photograph of my arrest is attached to this declaration.

14. After my arrest, while I was sitting in the back of a paddy wagon, I was so full of emotions. I was happy, proud, mad, and confused. I was happy that this cause is getting noticed. I was proud – so proud – of all those who stood for their beliefs those three days. I was mad that I was arrested for walking too slow. That night I had travelled in the paddy wagon for over three hours into three different counties, and even off the Reservation following behind the mega-load upriver. Natives were everywhere, and non-Native protestors were everywhere too. There were about 200 people at Canoe Camp, another 40 past Orofino at Teeweepuu, even more at the entrance to Kamiah, more at the bridge in Kamiah, more after the bridge. I thought that was the end. Then there were more Natives near First Church (First Indian Presbyterian Church). More Natives were at Heart of the Monster, and more all the way to Kooskia. I am not sure how there were so many Natives everywhere along with non-Native protestors; it was like magic, because there always ended up being more Natives and non-Native protestors in front of us.

15. I have witnessed the unity of my fellow Tribal members and many non-Tribal members in opposing the transformation of U.S. Highway 12 into a high-and-wide industrial corridor. I am pleased that newspapers from the Los Angeles Times to the Calgary Herald have reported what is at stake for the Wild and Scenic River corridor, the Nez Perce Reservation, and the Nez Perce people and are dispelling some of the myths. It is certain that if future mega-loads are allowed to roll through this area, they will encounter more protests and more acts of civil disobedience. This is because we, as Nimiipuu, have the responsibilities brought forth by our ancestors as well as by the Treaty of 1855 to speak, walk, live, and breathe for these resources and for our sovereignty.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

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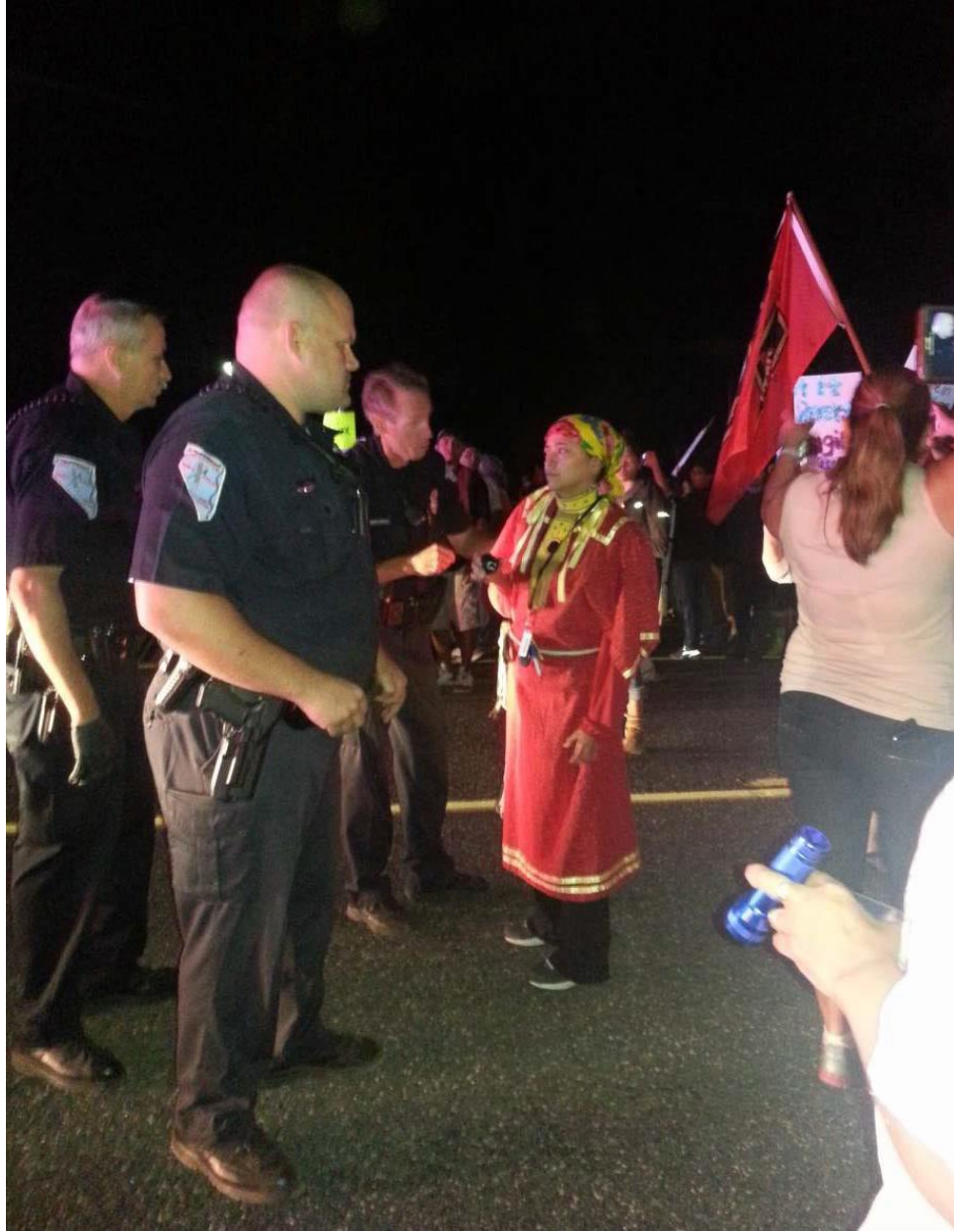
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DATED: September 6, 2013



Angela Picard



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of September, 2013, I electronically filed the foregoing with the Clerk of the United States District Court for the District of Idaho by using the CM/ECF system. All participants in the case are registered CM/ECF users, and will be served by the CM/ECF system:

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