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

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

I, PAULETTE SMITH, declare as follows:

1. I am an enrolled member of the Nez Perce Tribe. I am also a descendant of the Lummi, Tulalip and Spokane Tribes of the Northwest. I am a mother to two beautiful daughters, Samantha and Kiyana; a brilliant son, Aaron; and the light of my life, my only grandson, Nathan Ellenwood. I have 11 half-step-siblings that reside from Reno, Nevada all the way up to the First Nations in Canada. I am proud of that, and my heart holds dear all of them and all that they love and cherish. I come from a family of fishermen, hunters, gatherers, medicine-men, and leaders.

2. I graduated from Lewiston High School. I attended the University of Idaho for a year and a half, but decided at that time as a single parent to join the work force full-time. I have worked for the Nez Perce Tribe for almost 24 years in various capacities: health, legal, gaming,

and currently as an administrative specialist with the Tribe's Department of Fisheries Resource Management in the research division. I pride myself for learning along the way and researching everything that becomes an interest; I have taught my children to do the same. Though I have put off my formal education, I have emphasized the value of education to my family. My oldest daughter, Samantha, received a Gates Millennium Scholarship (awarded by the Bill and Melinda Gates Foundation to only 1000 students each year), and graduated from Washington State University last fall; my second daughter, Kiyana, graduated from Lapwai High School and has gone on to Lewis-Clark State College; and, my son, Aaron, will graduate from Lapwai High school this coming year.

3. I have always told my children that we may not be a rich tribe monetarily but we are rich in natural resources and if that were to be taken, we'd die out as a Tribe. Our people believe this because it is true. We take pride in our rivers, animals and plants that nourish our bodies and souls. Our Reservation is God's Country and it's not for sale or destruction!

4. I would like to tell my version of what happened during the August 2013 mega-loads protest here on the Nez Perce Reservation. In all honesty, I had been fairly ignorant on the whole mega-loads issue until I did some research on my own and came to my conclusion this would transform the Middle Fork Clearwater and Lochsa wild and scenic corridor of U.S. Highway 12—and in turn through our Reservation—into an industrial high-and-wide corridor.

5. On Saturday, August 3, 2013, the Lewiston Morning Tribune reported that Nez Perce-Clearwater National Forests Supervisor Rick Brazell said "Until we consult with the [Nez Perce Tribe], we are not approving anything from our end." On Monday, August 5, 2013, I learned that Forest Supervisor Brazell had told both ITD and Omega-Morgan that it did not "consent, approve, or otherwise authorize" this mega-load. Later that day, I learned that 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 the mega-load would be proceeding up U.S. Highway 12. I learned that our elected officials, the Nez Perce Tribal Executive Committee (NPTEC), would be protesting this mega-load shipment. I contemplated going in my mind, but in my heart, I was already there.

6. My daughter, Kiyana and her son (my grandson) joined me. At first, we stood at a turn out, but I felt this was too dangerous. We went back to the Reservation line at the entrance to the casino, as everyone else. So many people – both natives and non-natives — were gathered with pride in their eyes, united for the first time in a long time. It was as if we were at a pow-wow; there were prayers, drumming, singing, and laughter. We were truly Nimiipuu standing together to prepare for battle. Some of us, including me, were somewhat ignorant as to how this protest was all going to play out until a Lewiston Morning Tribune reporter approached me and asked me, "was I willing to go to jail?" I remember a nervous laugh escaping, and I told her, "If that's what it comes down to, yes!" During that little interview, I told her that I was standing there because I had just lost a dear friend and tribal elder, one who had fought so hard for our rights

back in the 1980's and for his whole life, and that he helped me to realize that I now must fight for what is in my heart. I got a bit teary and the reality of what the protest meant for not just the Nez Perce but Natives across the Nation sank in.

7. Signs that read anything from "GO HOME THIS IS OUR LAND" to "Grandma's Against Mega Loads" were scattered throughout the crowd. We waited for what seemed like forever to see the lights come flashing at us. I was getting nervous, excited but over-powered with this pride that drove me to stand in the front and not back down. I took pictures, many so I would not miss things. I also wanted my family and friends that were not able to be there to share what I was experiencing right at that moment. I stood behind the NPTEC members, proud of them for being at the front, showing respect and taking the lead as they should. Our traditional Nimiipuu Flag Song – sung at the treaty grounds in Walla Walla in 1855 – was sung as the mega-load approached. Our leaders made it clear that we, the Nimiipuu, were not backing down. Brooklyn Baptiste, one of our NPTEC members, picked up the mega-phone and told them, "We are the People of the Nez Perce Tribe and you do not have permission to cross over our Reservation!" That was one of the most powerful things I have heard and it woke up our souls. Brooklyn Baptiste continued, "We deem this an unlawful act as you try to cross the Reservation, we deem this a threat to the environment, to our people, to the future of our children, and we are here as the Nez Perce, as people – tribal and non-tribal alike – to protest. We want the state and federal agencies to recognize their duties to the Nez Perce people and to our environment and to Mother Earth." The Lewiston Morning Tribune documented this in a video, "Megaload Standoff," available at the following address: <http://www.youtube.com/watch?v=XW271jI3HUI&feature=c4-overview-vl&list=PL7FDAF96CD28C9D00> Our NPTEC leaders – Silas Whitman, Brooklyn Baptiste, Samuel Penney, Joel Moffett, Leotis McCormack, Tony Johnson, Albert Barros, and Dan Kane – all participated in the protest, engaged in acts of civil disobedience, and were arrested. Our tribal members were proud to be there, proud of our leaders, and proud that so many non-natives showed their support for our people.

8. My daughter at one point came to the highway with my grandson and I told her to go back to the car because I had no idea what tactics would be used and I didn't want either of them hurt. An officer came over to me and told me I needed to go peacefully, begging me to just give in, but I couldn't. The fight was awake and strong; I argued my point and broke into tears, "How can you do this to me, I'm not doing anything but standing protecting what is mine, yours, your children's and in your heart of hearts you know I'm right." He walked away, with his head down. We stood strong, and, at the last, 30 of us gathered in a circle, prayed and sang with the drums but inevitably we were shoved off the highway.

9. The mega-load didn't make it much past the point of our protest. At that point, it was sitting in the median just before the juncture of U.S. Highway 12 and U.S. Highway 95. I was not sure that the mega-load would move east on U.S. Highway 12 the next night (Tuesday, August 6, 2013) but it did.

10. When the mega-load moved on the second night, the protests were peaceful but at the same time there were many strong emotions. I had told my daughter, niece and their friend, while standing beside them, to make sure they were off the pavement and to be peaceful. I was trying to protect them the best I could and remind her and my niece this is a peaceful protest and we don't want anyone going to jail. When the mega-load was right in front of my daughter and I as we stood on the side of the road, I yelled at the mega-load and to protect my daughter from an officer who I felt was intimidating her. I yelled not to be aggressive but because it was loud and we were standing shoulder to shoulder. When I leaned down to take a picture, the next thing I knew the officer tackled me. I told him "I would go willingly, I am NOT resisting, you don't have to manhandle me." My daughter, of course, reacted out of fear and tried to grab my arm and pull me away, while crying, "That's my Mom, she didn't do anything"!

11. My arrest during the protest was captured in a photograph that appeared in the Spokesman Review on August 7, 2013. (A copy of this Spokesman Review article is attached to my declaration).

12. There were 20 of us arrested that night, and the majority of us were female along with two female juveniles. I was in total disbelief as to the mega-load situation, and as to my arrest, but I kept telling myself, this is a piece of history and at least you are pro-active in this fight! I kept reminding myself of all the people who have come before me fighting for our hunting rights, our fishing rights, our sovereignty, and our way of life! I wanted to cry but I was worried about my daughter. Yes, she was scared and hurt but more than anything she wanted her Mom home. I tell this portion because the RISE I feel is embedded, deep due to the many mistreatments of women, Native Women and the taking of all the Natives have....this is all connected.

13. After some of us were arrested and people felt that things were negatively handled, there was more resistance and chaos from some protestors: rocks on the road, sticks, running across the road or laying in the road.

14. After being released from jail, with bruises on my arms, wrists, legs and sleeping maybe four hours in two days, I opted to heal my heart. My daughter and I did not attend the protest the third night the mega-load was to move, but we kept tabs, and prayed for our people and all the protesters along U.S. Highway 12 that night.

15. On the fourth night the mega-load was to move, both of my daughters joined me for the protest. It was pretty evident that the mega-load was in full preparation to just plow through. This portion of the corridor is treacherous. We made it just barely around the mega-load to pull over with our signs and protest before it plowed through. We prayed for the brave protesters ahead of us.

16. During these protests, I witnessed so many things both good and bad. I have to give credit to my dear friend and elder, Elmer Crow, for being somewhat of a catalyst in this event. His

passing, in the days prior, gave me the strength to do what my heart wanted to do, to be there and fight for what I love. I stood strong beside many tribal members and many non-natives. Some of the people there, I hadn't previously cared for, but in reality I didn't know them, and I now have a newfound respect for them. I understand what they are saying and how they are feeling. The Creator worked some magic that I can't put into the correct words or describe, but there is a mutual love and connection within our people that I believe was not there for a long time. Our leaders, our people, all rose to the occasion together. We will continue the fight in whatever form it takes.

17. It took me a good week to see clearly again, and to realize that the fight I am feeling and that courses through my veins, is a residual part of the battles that my ancestors fought to protect our sovereignty, our homelands and our resources. I come from a long line of strong women in my family who would fight to the finish. And, my relatives have taught me to fight wise in order to win the battle. I would have never expected that some would envision the narrow, winding road along the Middle Fork Clearwater and Lochsa as an industrial corridor. I believe that as more people come to understand what is occurring, this will not happen.

18. I have witnessed the unity of the Nez Perce Tribe and my fellow tribal members in opposing the transformation of U.S. Highway 12 through the Middle Fork Clearwater and Lochsa and our Reservation into an industrial corridor. This first mega-load shipment deeply impacted me and many of my fellow tribal members because it was a direct attack on the sovereignty and sovereign interests of the Tribe and tribal members. When the rubber on the mega-load literally hit the road before the government-to-government consultation between the Forest Service and the Tribe had been initiated much less completed (and before the corridor impacts study had been initiated much less completed), it was as if the Tribe did not exist as a sovereign Indian Tribe and as if the Tribe's concerns, rights, and interests also did not exist or could somehow be redressed after-the-fact.

19. In many ways, this has served to strengthen my resolve, and the resolve of many of my fellow tribal members; this is evident from the series of community meetings on mega-loads that are being held in tribal communities, and the attention mega-loads will receive at the upcoming fall General Council meeting of the Nez Perce Tribe's members. If future mega-loads are allowed to roll along U.S. Highway 12 through the Middle Fork Clearwater and Lochsa wild and scenic corridor, through the Nez Perce Reservation, and through the heart of the area where we as Nez Perce have Treaty-reserved rights and that is historically, culturally, and spiritually important to us, it can be expected that the protests and acts of civil disobedience will occur again, and it can be expected that they will intensify. To me, the protest of this first mega-load shipment – organized in a matter of hours – is just the tip of the iceberg when it comes to the opposition that will accompany any effort to turn this road into an industrial corridor.

//

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

DATED: September 5, 2013


Paulette Smith

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Megaload Protest

August 7, 2013 6:24 p.m. • [0 comments](#)

Protesters gathered for a second attempt to block passage of a truck bearing an oversize load of oil refinery equipment bou Canada on Tuesday, August 6, 2013, extending into the early morning hours on Wednesday.

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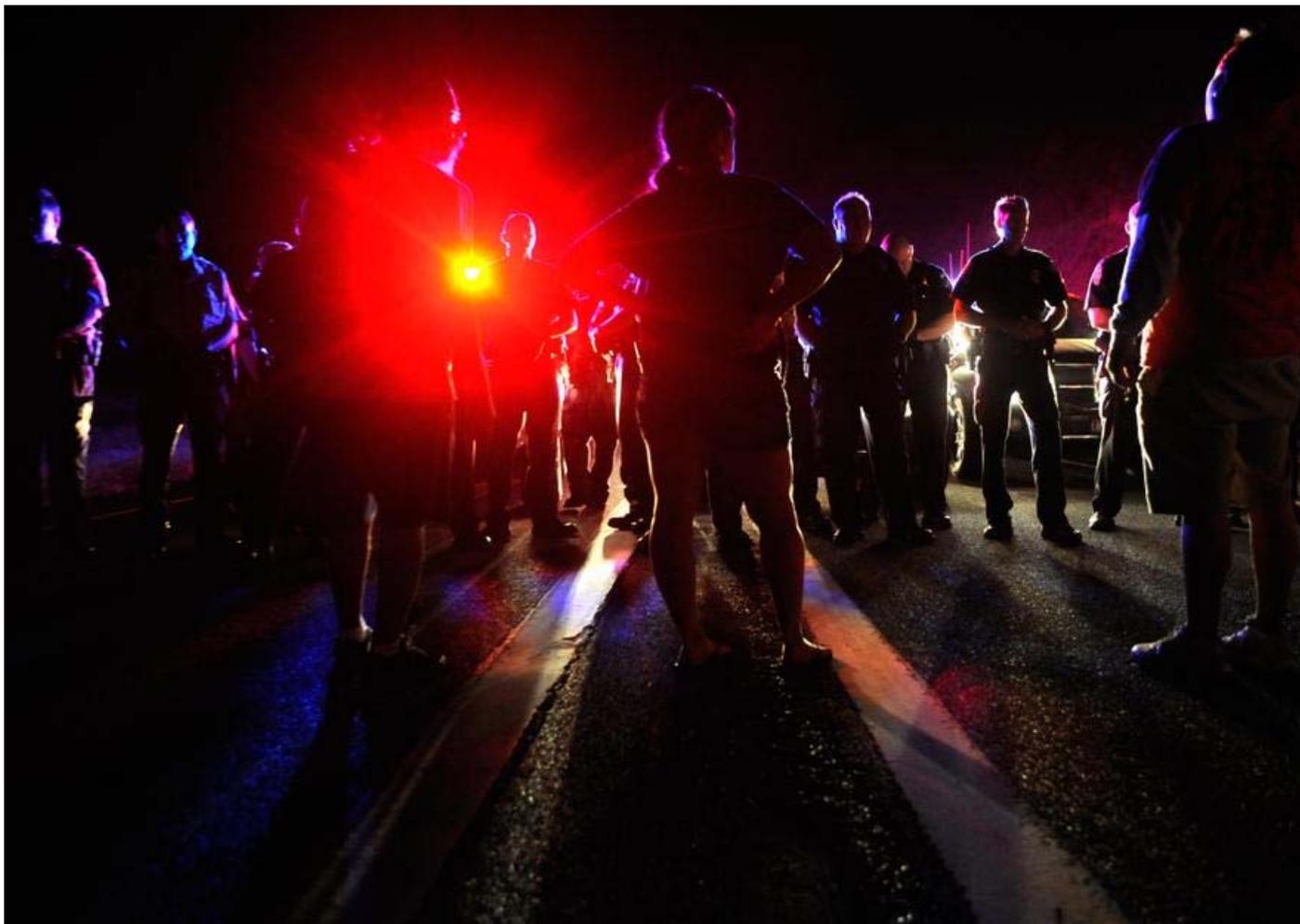
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Brandon Metoxen, 24, a member of the Oneida Nation, center, is shown in headlights holding a signwhile protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

TYLER TJOMSLAND
The Spokesman-Review

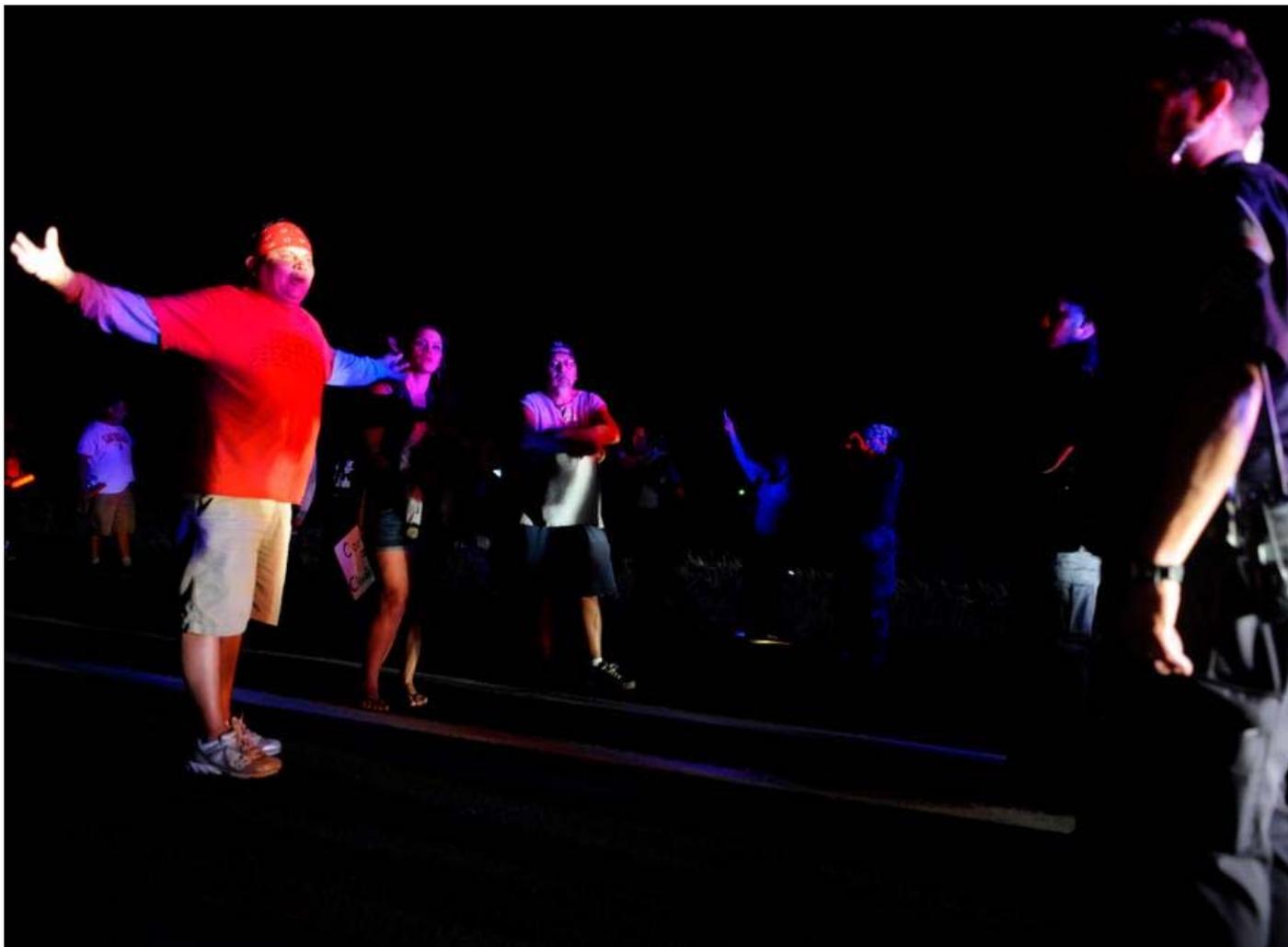
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Members of the Nez Perce tribe and law enforcement members square off during a protest a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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Activists square off with law enforcement while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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A police officer uses his flashlight to order a protester off the road during an attempted block of a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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Activists square off with law enforcement while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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An activist is arrested while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Wednesday, August 7, 2013, along Highway 12, outside of Lewiston, ID.

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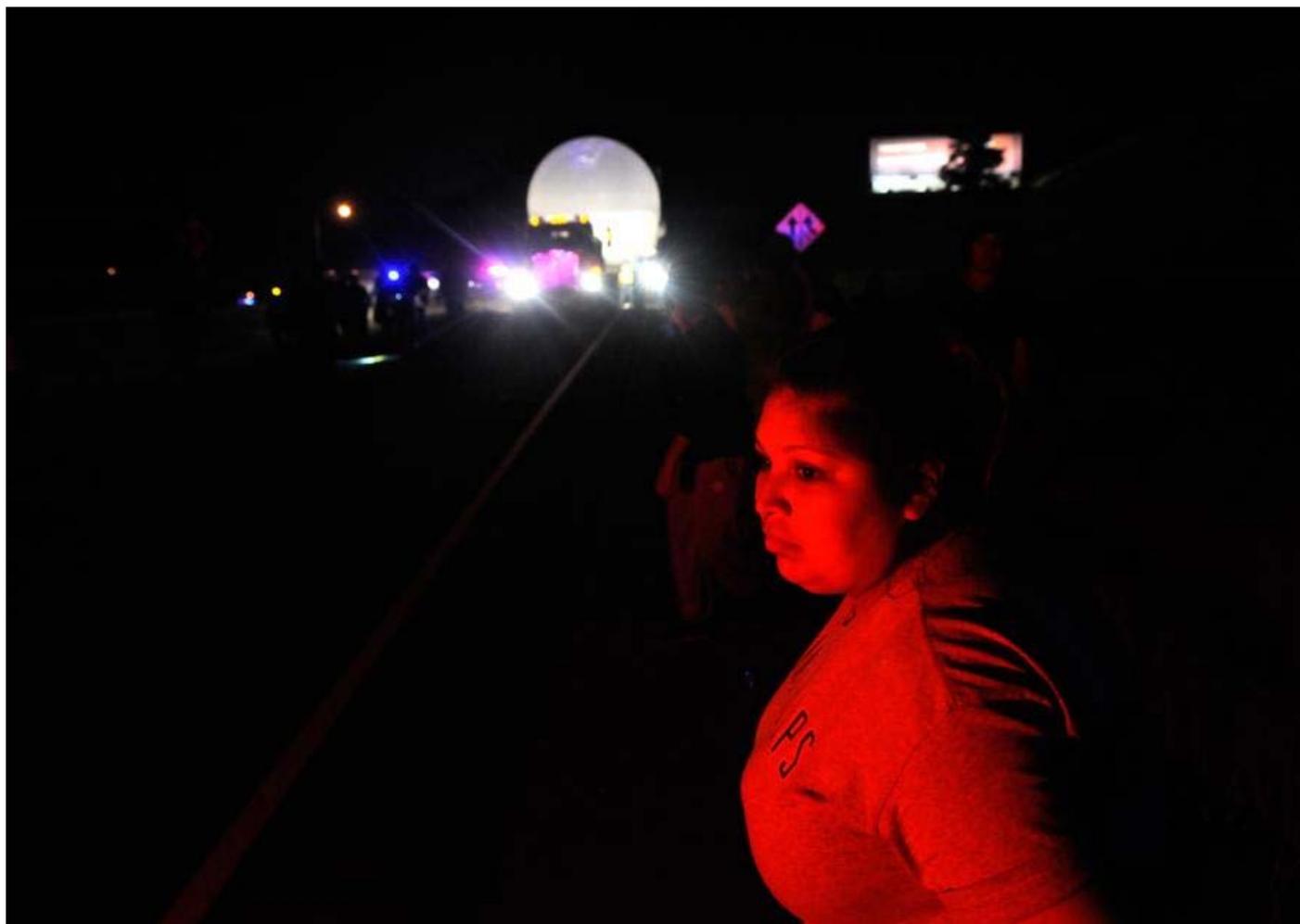
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An activist is arrested while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Wednesday, August 7, 2013, along Highway 12, outside of Lewiston, ID.

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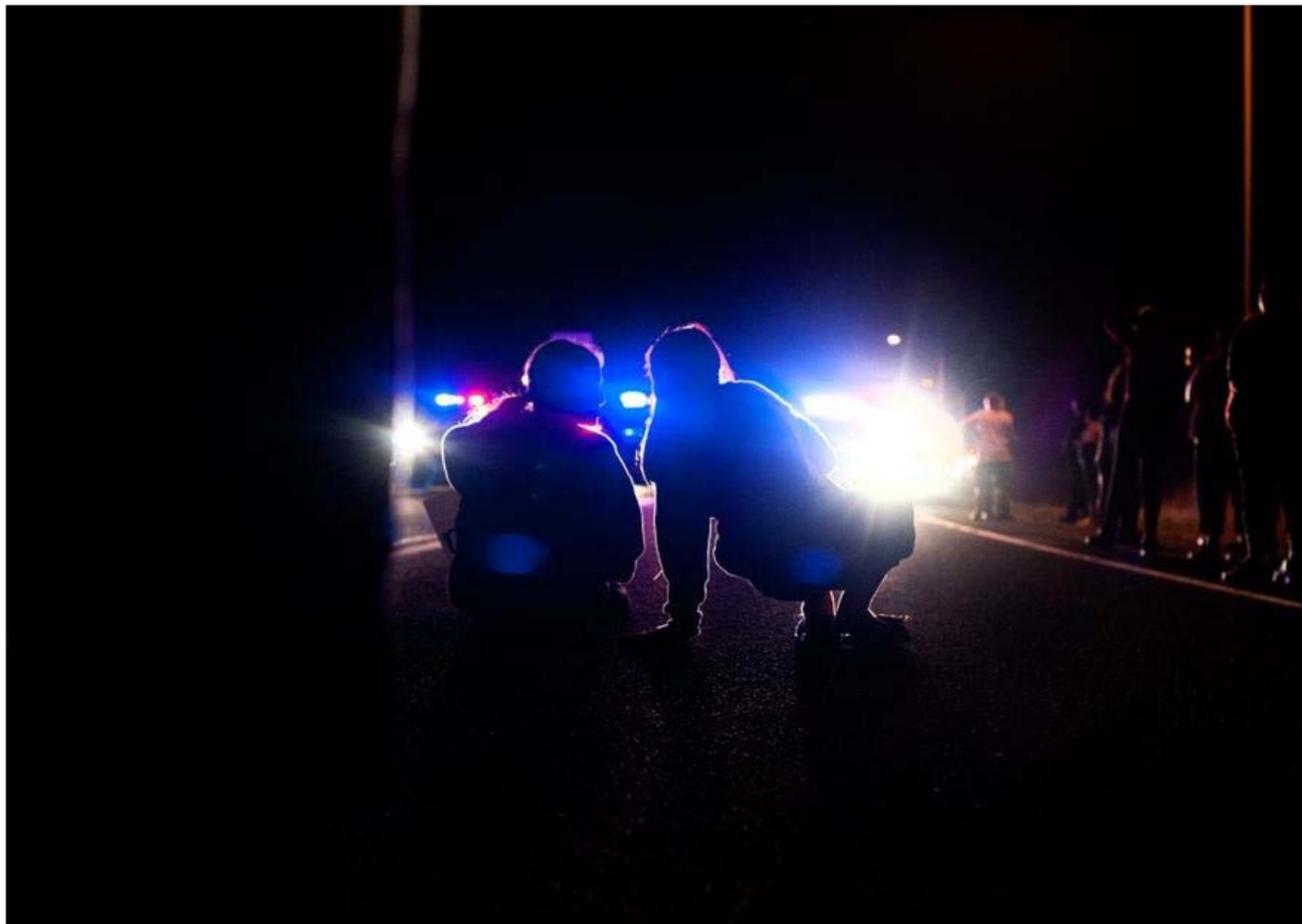
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Activists back off the road under orders from law enforcement while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Wednesday, August 7, 2013, along Highway 12, outside of Lewiston, ID.

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A pair of young activists sit in the road while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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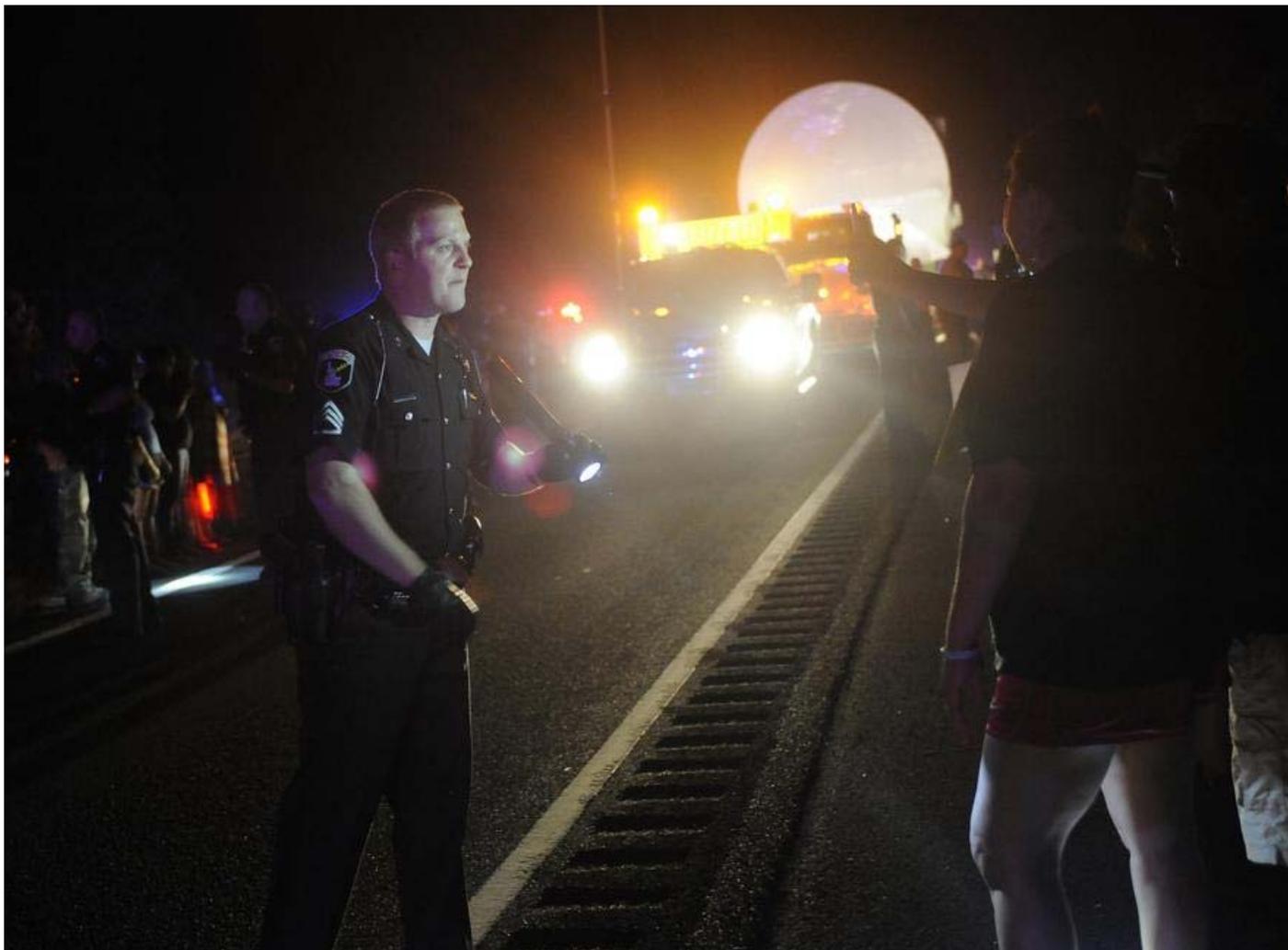
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An activist looks back at a 300-ton megaload truck as he walks down Highway 12 carrying a young boy over his shoulder during a protest of the megaload moving through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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A police officer uses his flashlight to order a protester off the road during an attempted block of a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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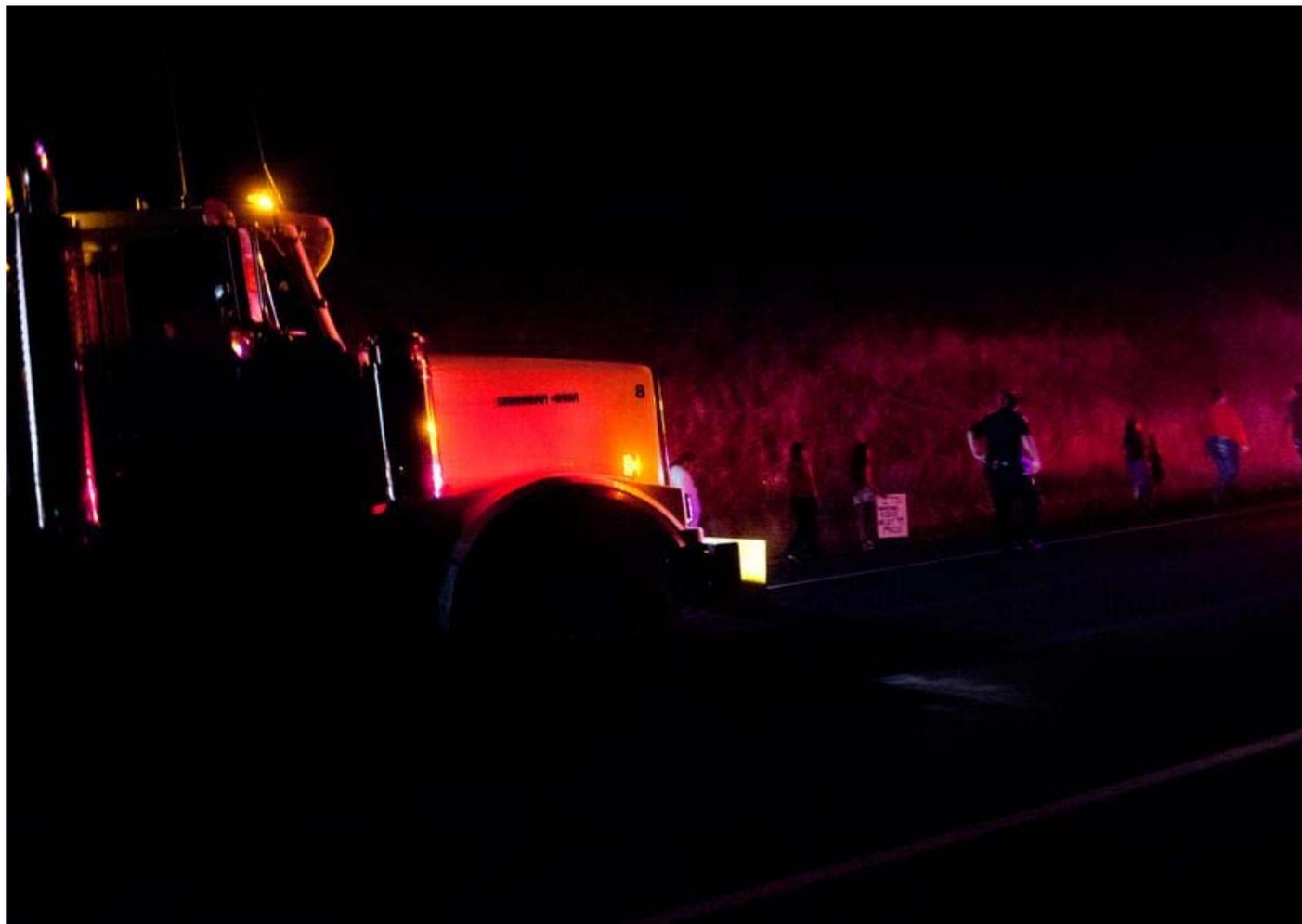
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Motorists are forced off the road as a 300-ton megaload truck carrying mining equipment to a Canadian oil field rolls through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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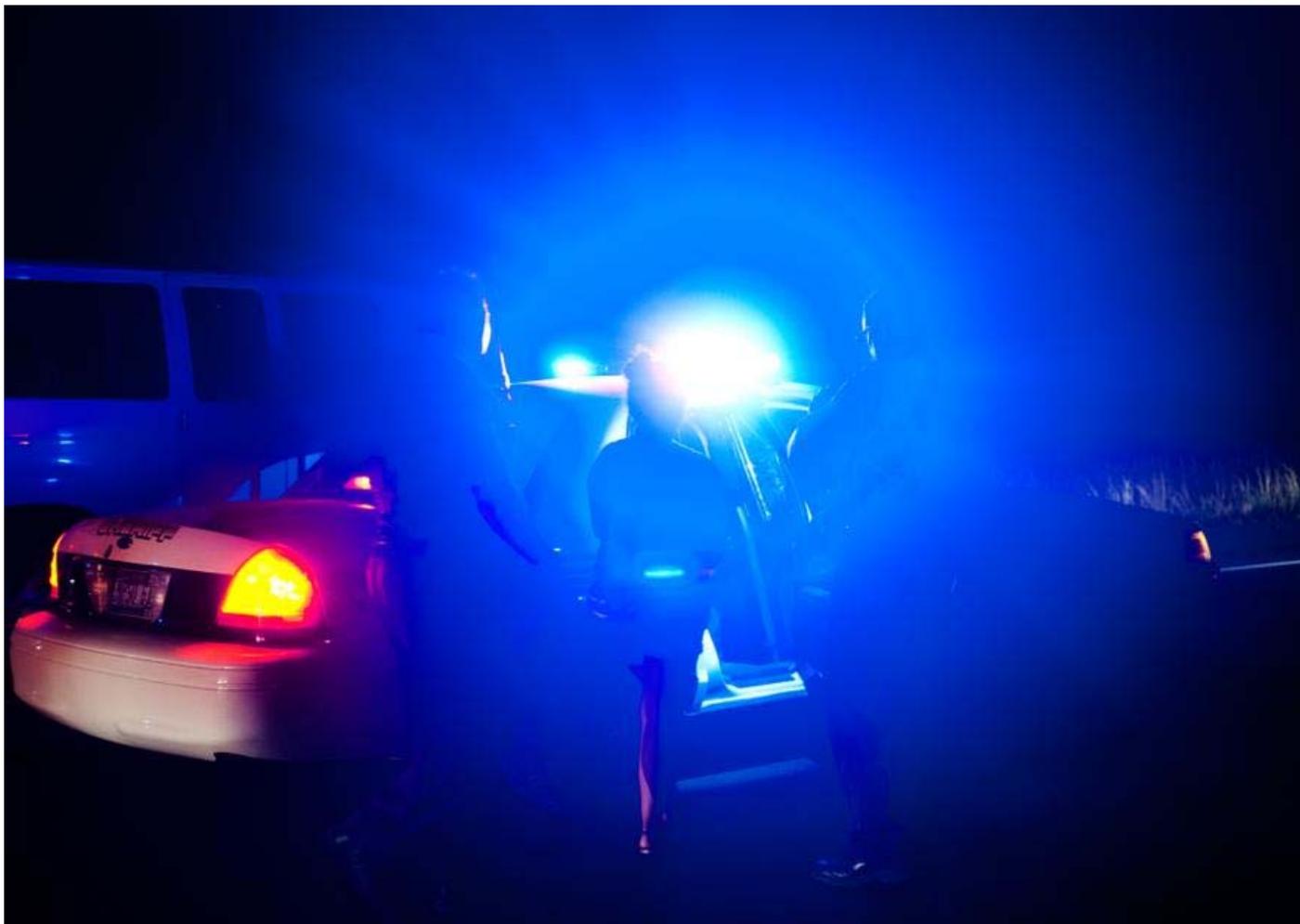
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A police officer forces protestors off the road as they attempt to block a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Tuesday, August 6, 2013, along Highway 12, outside of Lewiston, ID.

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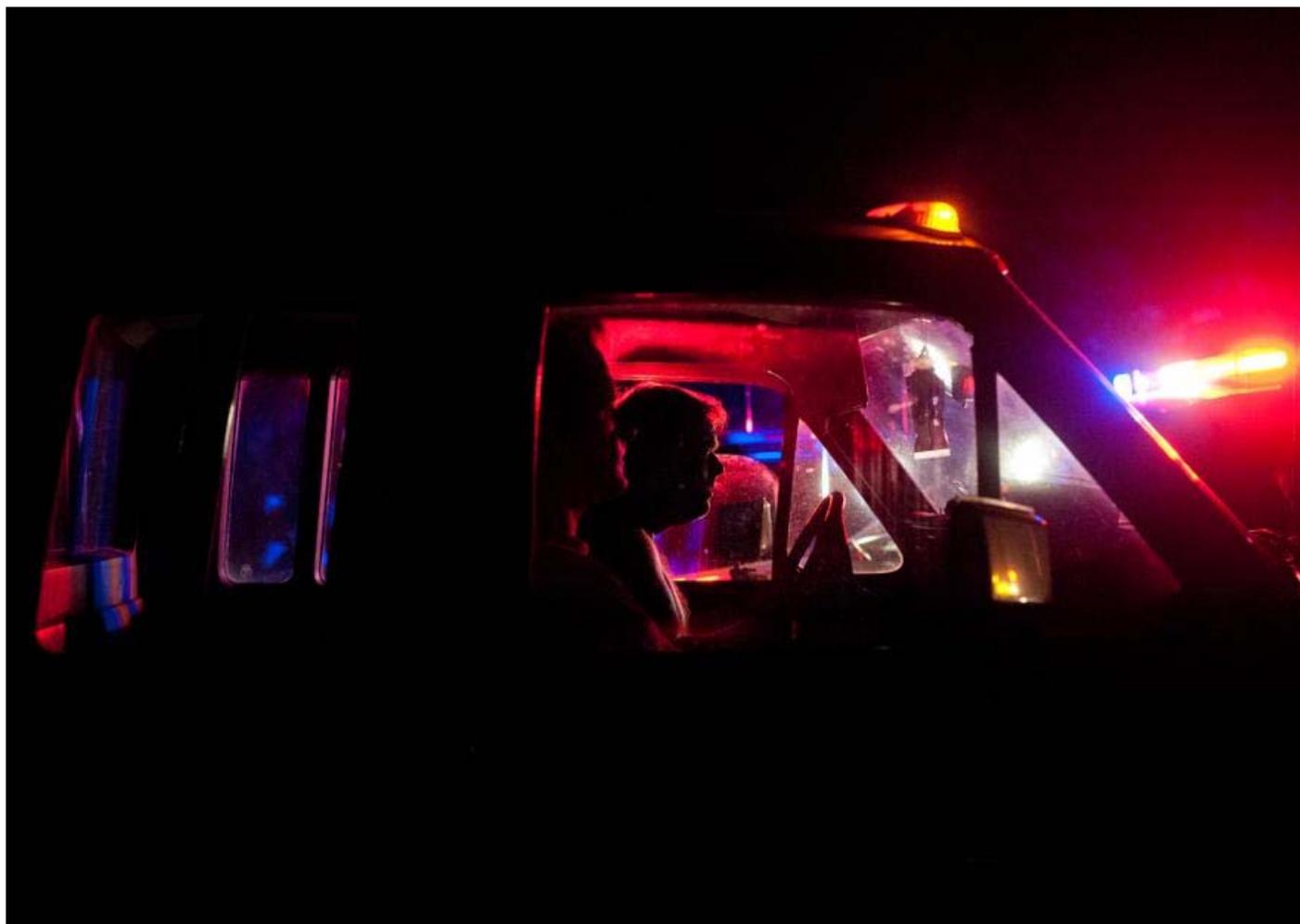
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A young activist is arrested while protesting a 300-ton megaload truck carrying mining equipment to a Canadian oil field through Nez Perce land on Wednesday, August 7, 2013, along Highway 12, outside of Lewiston, ID.

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Bystanders watch as a sprawling police motorcade and 300-ton megaload truck rolls past them carrying mining equipment to a Canadian oil field on Wednesday, August 7, 2013, along Highway 12, outside of Lewiston, ID.

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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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