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

WESTERN WATERSHEDS PROJECT,)
and CENTER FOR BIOLOGICAL)
DIVERSITY,)

Plaintiffs,)

v.)

RYAN K. ZINKE, Secretary Of Interior;)
DAVID BERNHARDT, Deputy Secretary)
of Interior; and UNITED STATES)
BUREAU OF LAND MANAGEMENT,)
an agency of the United States,)

Defendants.)

No. 01:18-cv-187-REB

**DECLARATION OF KEVIN
EMMERICH**

I, Kevin Emmerich, declare as follows:

1. The following facts are personally known to me, and if called as a witness I would and could truthfully testify to these facts.

2. I am currently a Co-Founder and Director of Basin and Range Watch – a 501(c)(3) non-profit working to conserve the deserts of Nevada and California and to educate the

public about the diversity of life, culture, and history of the ecosystems and wild lands of the desert.

3. I attended Utah State University and the University of Utah. I studied Geography and Geomorphology.

4. I have worked for the National Park Service for 17 years as a Park Ranger and Biological Resource Technician in 7 different National Parks and Monuments. I also worked for the Bureau of Land Management for 2 years as a Recreation Technician on the Colorado and San Juan rivers, in Utah. In 1990 and 1991, I worked as a National Park Service ranger in Great Basin National Park, where I first became familiar with many of the backcountry regions and habitats in Nevada's Great Basin Desert.

5. I moved to the southern Nevada area 17 years ago with my wife, after I had lived and worked in Death Valley National Park for the previous 11 years.

6. I have also worked as a consulting field biologist on herpetology and other biological survey projects on public lands. I have participated in surveys for desert tortoise, Mojave fringe-toed lizards, Panamint alligator lizards and desert bighorn sheep.

7. In 2008, I co-founded Basin and Range Watch. As Director of Basin and Range Watch, I review proposals for projects on public lands, including energy development proposals. I travel to proposed project sites, evaluate the projects, and draft comments and protests on them.

8. Basin and Range Watch has a long-standing interest in conserving the Great Basin habitats and open spaces of Central Nevada and the Great Basin Desert.

9. One of Basin and Range Watch's major focuses is providing a counterbalance to the push by federal and state agencies to open up undisturbed habitat and public lands in the Great Basin to energy development. At the beginning we mostly focused on renewable energy

projects that were being pushed through in sensitive habitat under streamlined reviews. There wasn't much demand for oil and gas development in our region; most was focused in the Colorado Plateau. But under the current Administration, oil and gas leasing and development has reached the Great Basin. As a result, we branched out into also participating in oil and gas leasing decisions about two years ago. We felt oil and gas leasing posed a similarly bad threat to the Great Basin as previous renewable energy development because of the short, "streamlined" review periods, lack of public information, and large amount of land affected.

10. Through participating in public processes and communicating with local communities, we aim to identify problems with energy sprawl and find solutions that will preserve our natural ecosystems and open spaces. We have also worked to mobilize interested public to engage them with public participation opportunities in the past. We do this by sharing information through email lists, attending public meetings, and conducting personal visits with people interested in the issues.

11. We couldn't do what we do without the opportunity to be engaged in the NEPA process. Through NEPA, the public can help the agency identify shortcomings in its analysis, and correct mistakes.

12. To find out about oil and gas leasing and development projects, I track them via ePlanning; the Federal Register; California Energy Commission documents; Public Utilities Commission documents for California, Arizona, Nevada; state Fish & Game Department documents; and others. I read through the analyses and other information I am able to find, do site visits, and conduct independent research.

13. In particular, Basin and Range Watch specializes in ground-truthing proposed project sites by visiting them, surveying them, and sharing our findings with the public. We

have pioneered citizen science monitoring of energy projects in the desert. Going to the site is simply the best way to actually see what's actually out there. Site visits are far better than doing a literature search or looking through government documents because if you're a naturalist or good biologist you can see for yourself without anyone else's bias what conditions are actually like on the ground. My wife and I frequently visit areas slated for development to assess and document natural conditions.

14. Basin and Range Watch also frequently comments on and/or protests proposed projects that threaten natural resources in the Great Basin. To draft good comments and protests takes experience, site visits, research, and thoroughly reading through environmental analyses to identify any shortcomings. It is a time-consuming and demanding process that requires doing significant independent research, and reading agency analyses, species reports, and scientific articles to deeply understand the potential impacts of the project. It also sometimes requires having personal meetings with agency staff to express concerns and better understand impacts.

15. Conducting this in-depth review in order to produce useful public comments is difficult to do in 30 days, let alone in the much-shorter public comment periods BLM is now offering. Even for somebody like me who's been out here for close to 28 years, and in Nevada for about 17, it's pretty hard to visit every parcel in large lease sales in such a short time. To truly assess the agency's decision-making, I have to visit each parcel, then take all the scientific papers concerning potential impacts and analyze all parts specific to the areas, and then organize them into comments. This process takes at least a couple of weeks.

16. It is also hard to engage the interested public within the extremely short timeframes for comment and protest. Putting a 10-day limit on public protest will undoubtedly prevent people from protesting the sales.

June 2018 Battle Mountain Sale

17. In 2018, Basin and Range Watch submitted comments opposing Environmental Assessment DOI-BLM-NV-B020-2018-0017-EA June 2018 Competitive Oil and Gas Lease Sale. The lease sale covers 300,000 acres on Nevada BLM's Battle Mountain District, including important sage-grouse habitat. We expressed concerns about water quality, habitat impacts, cultural resources and visual contacts. I drafted and submitted the comments on behalf of Basin and Range Watch.

18. Drafting these comments was more difficult than for other projects I have commented on in the past because BLM's environmental analysis was incredibly vague and provided little meaningful site-specific analysis. Doing an adequate job called for extensive independent research and investigation. Because Basin and Range Watch is relatively new to assessing oil and gas leasing and development projects, I can't rely as much on my background knowledge in drafting comments and have to do more independent research to make sure I am not failing to alert the agency to important environmental impacts it may have missed under its own tight internal deadlines. For example, I had to research potential impacts to water quality and quantity from proposed fracking.

19. After the Final EA came out (with no major changes), Basin and Range Watch protested the BLM's Decision Record and Finding of No Significant Impact for the project in May of 2018.

20. BLM made protesting very difficult by limiting the protest period to only 10 days. The Final Environmental Assessment was released on April 27th, 2018, and the protest period closed on May 7th. At this time, I was experiencing chronic pain from a medical issue I have involving a surgery I had 2 years ago. I will often have pain for 4 to 5 day periods and at this

time, it was very difficult to travel about 200 miles to the north on unpaved roads to check some of the sites that I had not visited. The lease area concerns over 300,000 acres that could experience a direct and cumulative basis. Had this lease sale been reviewed with an Environmental Impact Statement or at least a longer protest period, I would have had more time to visit the region.

21. Because the Final EA and protest period coincided with a personal trip I had planned, I had to write the protest in two days. The protest period was also effectively even shorter than 10 days because I had to have it finished 2 days before the deadline to get it in on time—I live in a small community that doesn't have overnight mail and protests cannot be submitted electronically. It wasn't easy to put out something I was satisfied with. A lot of details had to be eliminated to meet the deadline.

22. For example, I wasn't able to visit the 300,000 acres of lease parcels within the protest period, so I had to rely on past trips. When I had visited the lease parcels, I went with my wife who is a botanist and takes detailed notes on plant communities. I didn't have time to go through her notes and so I wasn't able to share the information they contained with BLM. If I had had more time to write the protest, I could have provided a wealth of site-specific information that I simply couldn't provide working under such a tight deadline and on such short notice. I also wanted to raise more meaningful issues about cultural resources and wanted to consult more people from Native American tribes over their concerns about water contamination, but the short ten-day window made it very problematic to contact people living in these rural regions.

23. "Streamlining" like this affects Basin and Range Watch because it makes it more difficult for us to fulfill our mission. It's hard for us to participate, which, in turn, limits the

resources and tools we have to avert the worst impacts of projects that will harm the Great Basin ecosystem. Because BLM supposedly does not initiate these processes with a final decision in mind, the process should involve legitimate engagement of stakeholders. The shorter periods make it harder for us to mobilize the interested public and write detailed comments to inform the agency's decision-making.

24. Curtailing engagement in this way impoverishes BLM's decision-making. Under the new approach to oil and gas leasing, the agency is required to make quick decisions for large swaths of land. It is using an adaptive management technique that misses a lot of important details. This makes public comment and protest to help BLM identify issues it has missed or failed to assess in adequate detail doubly important.

25. I am afraid that this is a purposeful effort to restrict opportunities for public participation. The 10-day protest period seems designed to make it more difficult for environmental groups to make meaningful comments. It seems that the BLM is streamlining this process with the intent of eliminating substantive comments so they don't have to respond to them. BLM seems to be treating NEPA like a hoop it must jump through to reach its desired outcome, rather than a legitimate public process.

Personal Interests in Lease Sale Parcels

26. I have visited many of the parcels offered in the Nevada June oil and gas lease sales during personal and professional trips and am gravely concerned about the impacts the sale and development of those parcels will have on the environment.

27. I have hiked and camped in the vicinity of the following leases: 008, 009, 011, 006, 002, 014, 010, and 008 – Monitor Range and Monitor Valley. I have personally seen Greater sage grouse in this part of Monitor Valley. I have also camped by and photographed

clear, running streams and water in Monitor Valley near these leases. I have seen Golden Eagles flying above these lease areas in Monitor Valley. I have seen Pronghorn antelope running in these areas. I have seen a saw whet owl near these leases. I have seen Mountain bluebirds in the lease area. I have enjoyed the solitude of Monitor Valley and appreciated the fact that it is undeveloped and has wilderness qualities. I enjoy the very dark night sky in Monitor Valley for star gazing. I appreciate that much of the region is undeveloped and contains few roads. . I have plans to visit Monitor Valley several times in the future. The development of these oil and gas leases will impact my visitor experience to Monitor Valley in the following ways: 1. Oil and gas development rigs will have to be illuminated at night. This will impede the dark, unspoiled visual quality of the area. 2. New roads will be built in lease areas and this will spoil the wild character of the region. 3. Oil and gas exploration has the potential to contaminate water quality and water may become unsafe for drinking. 4. New roads for oil rigs will fragment habitat for sage grouse and pronghorn antelope and will impact wildlife viewing opportunities.

28. I have hiked and camped in the vicinity of the following leases: 053, 056, 058, 021, 022, 027, 025, 052, 050 and 019 – Little Fish Lake Valley. I have seen Greater sage grouse here. I have seen Golden eagles here. I have hiked near Little Fish Lake. I have enjoyed the solitude of Little Fish Lake Valley and appreciated the fact that it is undeveloped and has wilderness qualities. I enjoy the very dark night sky in Little Fish Lake Valley for star-gazing. I appreciate that much of the region is undeveloped and contains few roads. I have plans to visit Little Fish Lake Valley again in the future. The development of these oil and gas leases will impact my visitor experience to Little Fish Lake Valley in the following ways: 1. Oil and gas development rigs will have to be illuminated at night. This will impede the dark, unspoiled visual quality of the area. 2. New roads will be built in lease areas and this will spoil the wild character

of the region. 3. Oil and gas exploration has the potential to contaminate water quality in Little Fish Lake and water may become unsafe for use drinking. 4. New roads for oil rigs will fragment habitat for sage grouse and pronghorn antelope and will impact wildlife viewing opportunities.

29. I have hiked and camped in the vicinity of the following leases: 100, 111, 105, 097, 099, 049, 045 and 046 – the Hot Creek Range and Hot Creek Valley. I have seen a herd of 36 desert bighorn sheep in this vicinity. I have seen a Greater sage-grouse in this region. I have seen a goshawk flying over this region. I have seen pronghorn antelope in this region. I have plans to visit the Hot Creek Range and Hot Creek Valley in the future. The development of these oil and gas leases will impact my future visitor experience in the following ways: 1. Activity may scare and frighten desert bighorn sheep and seeing them may not be as common. 2. Oil and gas development rigs will have to be illuminated at night. This will impede the dark, unspoiled visual quality of the area. 3. New roads will be built in lease areas and this will spoil the wild character of the region. 4. Oil and gas exploration has the potential to contaminate water quality in local springs and groundwater and water may become unsafe for use drinking. 5. New roads for oil rigs will fragment habitat for sage grouse and pronghorn antelope and will impact wildlife viewing opportunities.

30. I have hiked and camped in the vicinity of the following leases: 134, 138, 142, 136, and 101. I have seen pronghorn and an American kestrel here. I have enjoyed the vast open view and have camped at the Lunar Crater as well. The development of these oil and gas leases will impact my future visitor experience in the following ways: 1. Activity may scare and frighten pronghorn and seeing them may not be as common. 2. Oil and gas development rigs will have to be illuminated at night. This will impede the dark, unspoiled visual quality of the area. 3. New roads will be built in lease areas and this will spoil the wild character of the region. 4. Oil

and gas exploration has the potential to contaminate water quality in local springs and groundwater and water may become unsafe for use drinking. 5. New roads for oil rigs will fragment habitat for sage grouse and pronghorn antelope and will impact wildlife viewing opportunities.

31. Ordering BLM to stop following IM 2018-034 and instead to revert back to the prior 30 day public comment and protest periods would help protect the interests of Basin and Range Watch, my own interests, and the public interest by providing for more timely and meaningful public notice and input to BLM's oil and gas leasing decisions, help protect the environment, and improve public lands decision-making.

I declare under penalty of perjury pursuant to the laws of the United States that the foregoing is true and correct. Executed this 23rd day of June, 2018, in Beatty, Nevada.

A handwritten signature in blue ink that reads "Kevin Emmerich". The signature is written in a cursive style with a large initial "K" and "E".

Kevin Emmerich