

Laurence (“Laird”) J. Lucas (ISB # 4733)
Bryan Hurlbutt (ISB # 8501)
Garrison Todd (ISB # 10870)
ADVOCATES FOR THE WEST
P.O. Box 1612
Boise, ID 83701
(208) 342-7024
(208) 342-8286 (fax)
llucas@advocateswest.org
bhurlbutt@advocateswest.org
gtodd@advocateswest.org

Attorneys for Plaintiffs

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

WESTERN WATERSHEDS PROJECT,)
WILDEARTH GUARDIANS, and CENTER)
FOR BIOLOGICAL DIVERSITY,)
Plaintiffs,)
v.)
U.S. SHEEP EXPERIMENT STATION, and)
USDA AGRICULTURAL RESEARCH)
SERVICE,)
Defendants.)

No. 01:19-cv-065-REB

**DECLARATION OF SARAH
K. MCMILLAN**

I, SARAH K. MCMILLAN, state and declare as follows:

1. I have personal knowledge of the facts set forth below, and if called as a witness I would and could truthfully testify to these facts.
2. I live in Missoula, Montana.
3. I am an employee and member of WildEarth Guardians because I support the organization’s mission to protect and restore wildlife, wild places, wild rivers, and the health of the American West. In particular, I support WildEarth Guardians because it takes actions like

this lawsuit to protect imperiled species, including bighorn sheep populations from extirpation. I have been an employee and member since 2013.

4. I have been doing environmental advocacy work since 1995 and decided to go to law school in order to have a greater impact in public interest environmental work. I transitioned from environmental advocacy to environmental litigation as an intern during law school, and became an environmental litigator in 2001 after clerking with the Montana Supreme Court for a year following law school.

5. I began litigating in private practice working as an associate with Tuholske Law Office and then as a solo practitioner representing a broad array of groups and individuals in public interest environmental litigation. In 2007, I joined Western Environmental Law Center as a staff attorney and continued representing a range of groups and individuals in a variety of legal issues.

6. I was hired as the Legal Director at WildEarth Guardians in 2013 and shifted to the role of Conservation Director in 2017. I now lead WildEarth Guardians' conservation work as the supervisor of the head of our legal team and the directors of our four programs—Wildlife, Wild Places, Climate and Energy, and Wild Rivers. For six months in 2018–2019, I was also the acting director of our Wildlife Program.

7. As Legal Director, I engaged in litigation involving the conflict between domestic sheep grazing and bighorn sheep in the Gravelly and Bighorn Mountains. As both Legal Director and Conservation Director, I also have engaged in sage-grouse litigation, policy work, and other advocacy efforts to protect this bird and its fragile ecosystem. In addition to my formal role as Conservation Director, I am currently WildEarth Guardians' grizzly bear specialist, and I work closely with the attorneys representing us on litigation related to grizzlies, advocate for stronger

grizzly protections, and track grizzly conflicts on public lands caused by sheep and cattle grazing, among many other issues.

WILDEARTH GUARDIANS & ITS WILDLIFE PROGRAM

8. WildEarth Guardians is a 501(c)(3) non-profit organization with offices across the western United States. WildEarth Guardians was founded as Forest Guardians in 1989.

WildEarth Guardians has over 238,000 members and supporters, including over 1,000 members and supporters in both Idaho and Montana. WildEarth Guardians envisions a sustainable world where wildlife and wild places are respected and valued. Two of WildEarth Guardians four programs I manage are its Wildlife and Wild Places Programs, which work to ensure that imperiled species receive the protections they need to survive and recover and that they have the habitat to thrive. The two programs include campaigns to protect and restore Rocky Mountain bighorn sheep, grizzly bear, and sage-grouse.

9. After deliberate efforts to eradicate grizzly bears, populations have been slowly recovering in the lower forty-eight states. But habitat degradation, poaching, climate change, lack of corridors between populations, and increasing development and resulting human conflict, (including with sheep grazing in the Centennials) are ongoing threats that keep the bear imperiled and protected under the Endangered Species Act. This year is heading towards being another record year for grizzly mortality. More grizzly bears, including four cubs, have been killed by trains this year than ever before.

10. The grizzlies in the Centennial Mountains are part of the Greater Yellowstone Ecosystem (GYE) grizzly population. WildEarth Guardians has been and remains involved in campaigns and litigation to protect and restore GYE grizzly bears, including recent litigation successfully challenging the U.S. Fish and Wildlife Service's decision to strip the GYE grizzly

of Endangered Species Act protections. We are currently defending that decision at the Ninth Circuit Court of Appeals.

11. WildEarth Guardians is challenging the practice of bear-baiting in grizzly bears corridors in Idaho and Wyoming. Bear-baiting is the practice of placing food attractants to entice bears to a specific location. After multiple such food dumps, hunters then sit in wait for bears to come back, so the hunters can shoot them. WildEarth Guardians recently sent a notice of intent to sue regarding a train company's take of grizzly bears.

12. WildEarth Guardians continues to monitor grizzly populations, habitat security, genetic diversity, human conflicts, etc. and will work to ensure these great bears receive the protections they need to achieve long-term recovery throughout their historic range.

13. On October 30–31, 2019 I attended the Yellowstone Ecosystem Subcommittee meeting of the Interagency Grizzly Bear Committee (IGBC) in Cody, Wyoming, where I participated in a workshop relating to human/grizzly bear conflict. I will attend another in Missoula in December, 2019.

14. Greater sage-grouse inhabits the Sagebrush Sea of the western United States. Sage-grouse range has been reduced by almost half from historic levels, and the species' range-wide abundance has decreased between 69 and 99 percent. In 2010, the U.S. Fish and Wildlife Service determined sage-grouse were eligible for listing and protection under the ESA. But in 2015, after federal agencies and states developed plans to protect sage grouse (including by excluding some development, livestock grazing, and other activities from some areas of important sage grouse habitat), the U.S. Fish and Wildlife Service decided not to list greater sage grouse under the ESA. Despite the new plans around the West, sage grouse remain at risk from harmful land uses on public land, including livestock grazing.

15. The current administration rolled back many of the protections for sage-grouse contained in those plans. WildEarth Guardians, in coalition with partners, challenged those rollbacks, and in mid-October, Judge Winmill of this Court issued a preliminary injunction that blocked the Bureau of Land Management's sage-grouse plan rollbacks that would have allowed expanded drilling, mining, livestock grazing and other destructive activities across 51 million acres of greater sage-grouse habitat in seven western states: Idaho, Wyoming, Utah, Colorado, Nevada, California and Oregon.

16. WildEarth Guardians is engaged in similar campaigns to protect Rocky Mountain bighorn sheep. Historically, there were some two million bighorn sheep across the West, but now bighorn populations are a mere fraction of that. WildEarth Guardians' bighorn campaign is focused on protecting bighorn sheep from a pathogen carried by domestic sheep that, when transmitted to bighorn sheep, causes pneumonia to be more deadly in bighorns and reduces lamb survival rates for years. The pathogen (*Mycoplasma ovipneumoniae*) is especially deadly because bighorns and domestic sheep are mutually attracted to each other. Once one bighorn is infected, the disease is easily transmitted to other bighorn in its herd and to other nearby herds.

17. I have visited the GYE for over fifty years, starting as a young child when my father briefly taught in Fromberg, a town which is approximately 100 miles from the Northeast Entrance to Yellowstone National Park. Growing up in a backpacking Montana family, we explored much of the area, including the Centennial Mountains.

18. The Centennial Mountains are an unusual east-west running range and are an important corridor, linking wildlife in the GYE to wildlife in protected areas along and near the Continental Divide in Idaho and Montana. My first visit to Centennial Valley was so long ago, I can't remember the year, but we explored the Red Rock Lakes National Wildlife Refuge and

enjoyed the glorious vistas while camping and hiking in the area. I've been back several times over the years to back pack, hike, and birdwatch in the National Wildlife Refuge. Most recently, I visited the area with my father October 30–November 1, 2019 when we were one of the lucky last few driving through Yellowstone National Park's East entrance before it closed for the year on October 31. We had attended a meeting of the Interagency Grizzly Bear Committee Yellowstone Ecosystem subcommittee in Cody, Wyoming and had a beautiful drive through the Park on Halloween. On November 1, we drove from West Yellowstone, just skirting Red Rock Pass and the Centennials up between the Gravelly and Madison ranges, discussing the rising grizzly bears mortality this year, and all the conflict that results in so many bear deaths.

19. In 1997, I spent a month with two other women on “The Great Grizzly Hike,” hiking the Continental Divide trail from Chief Joseph Pass to Reynolds Pass. We hiked this section of the trail on behalf of The Alliance for the Wild Rockies to highlight the need to create/protect connectivity for grizzly bears between the GYE and the Selway/Bitterroot Mountains. One of our efforts was to track food sources and road crossings that would help or impede, respectively, grizzlies use of the area. As we hiked and camped through the Sheep Station's East and West Summer Ranges, struggling to find trees tall enough to raise our food bags above the reach of a bear, we worried that Sheep Station sheep would be a conflict-inducing food source for grizzly bears. This worry has now proven to be true.

20. The entire journey was an adventure, but the sixty-mile section through the Centennials was especially memorable. More than twenty years later, I clearly recall the joy of hiking down Hellroaring Canyon. We knew we were wrapping up our month long trek with a hike through prime grizzly habitat, calling out “we're here bear, bear,” hoping/fearing to catch

sight of a bear. It thrills me no end to know grizzlies do inhabit this area and I am appalled that they are put at risk by the pointless presence of domestic sheep.

CONTINUED OPERATIONS AT THE SHEEP STATION HARM ME AND WILDEARTH GUARDIANS

21. WildEarth Guardians submitted comments on the Sheep Station, highlighting our concern about the impacts on bighorn sheep, the grizzly bear, sage grouse, and other wildlife. The Sheep Station issued its final EIS, SIR, and ROD, and chose to continue grazing and related operations without addressing serious impacts to bighorn sheep, grizzly bear, and sage grouse. Although the Sheep Station acknowledged potential for adverse effects to these species, it improperly ignored or downplayed likely adverse effects and failed to take measures to avoid, minimize, or mitigate them.

22. Protecting these iconic, imperiled species both in the GYE and beyond are critical to WildEarth Guardians mission and the interests of its supporters and members, including me.

23. I first learned of the Sheep Station in 1997 while hiking through it and was left confused about why, in an area so critical to wildlife, the public lands would be used in this exclusive way. Due to the critical nature of the Centennials—with their location connecting Yellowstone to the nearly four-million-acre complex of the Selway-Bitterroot and Frank Church Wilderness Areas—Guardians has focused efforts for nearly a decade to stop the operations of the Sheep Station. The Sheep Station does not need to be in this location—the research it conducts need not take place in such critical grizzly and bighorn habitat. Reducing the risk caused to grizzlies and bighorns by the Sheep Station’s grazing of domestic sheep is of utmost importance to WildEarth Guardians and our members. For me specifically, I plan to hike the Centennials section of the Continental Divide Trail again this summer. A favorable decision in this case would enhance my experience as I will know the grizzly bear will not be threatened by

the conflict-inducing domestic sheep and bighorn sheep can safely roam in the area without risk of disease.

24. The Sheep Stations' EIS, ROD, and other challenged decision documents do not fully or adequately address the likely adverse impacts to grizzly, bighorn, sage-grouse and other wildlife that I care about, and they deprive myself and other WildEarth Guardians' members, and the public, of information on those impacts and alternative courses of action that the Sheep Station should fairly evaluate in order to reduce such conflict. A court order reversing the EIS and ROD, and ordering the Sheep Station to fully comply with its duties under NEPA is necessary to prevent further injuries to myself and other WildEarth Guardians' members, and protect the wildlife and habitats at risk from Sheep Station grazing.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this 16th day of December, 2019 in Missoula, Montana.

/s/ Sarah K. McMillan
Sarah K. McMillan