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

WESTERN WATERSHEDS PROJECT et al,)
)
)
 Plaintiffs,)
)
)
 v.)
)
 U.S. FOREST SERVICE, BUREAU OF LAND)
 MANAGEMENT, and SECRETARY OF)
 INTERIOR KEN SALAZAR,)
)
)
 Defendants.)
)
 _____)

Case No. 07-151-BLW

**FIFTH DECLARATION
OF VICTOR L. COGGINS**

I, Victor L. Coggins, with full knowledge of the penalties for perjury, declare as follows:

1. In my first declaration I described my qualifications and experience related to interactions between bighorn sheep herds in Hells Canyon and domestic sheep, and the resulting detrimental impacts to the bighorn sheep populations. *Declaration of Victor Coggins* ¶¶ 1-5, 40 (qualifications and experience)(Dckt. No. 9). I discussed in detail the impacts on these herds from domestic sheep grazing on the Smith Mountain and Curren Hill allotments on the Payette National Forest. *Id.* ¶¶ 22-56. I have filed four subsequent declarations expounding upon these matters and issues of domestic sheep trailing, the significance of telemetry data, and the effectiveness of various management practices in preventing interactions between domestic and bighorn sheep. This information remains true and accurate and supports my opinions and conclusions in this fifth declaration.

2. I am submitting this declaration to discuss the effectiveness of the best management practices (“BMPs”) proposed to be implemented on the Partridge Creek allotment within the BLM Cottonwood Field Office in Idaho. My opinion is based on my experiences with the implementation of similar practices in Hells Canyon and other locations in Northeast Oregon.

The BMPs for the Partridge Creek allotment cannot ensure effective separation between domestic and wild sheep.

3. Based on my forty-two years of experience as a state wildlife biologist, over thirty of which have focused on bighorn sheep in Hells Canyon, a terrain similar to the Salmon River Canyon, my opinion is that the proposed BMPs for the Partridge Creek allotment cannot guarantee separation. Rather, they will merely reduce risk compared to previous years.

4. In continuing to allow domestic sheep grazing on the Partridge Creek allotment this fall, the BLM is relying on numerous BMPs in an attempt to keep domestic sheep and bighorn sheep separated. *See Fifth Declaration of Lauren M. Rule, Ex. 9* (BMP Plan for Carlson Livestock).

5. To the best of my knowledge, these BMPs were not peer reviewed by any bighorn sheep experts. Further, in my opinion, no bighorn sheep expert would find that the BMPs proposed for the Partridge Creek allotment would ensure separation between bighorn and domestic sheep in occupied bighorn sheep habitat such as the Partridge Creek allotment.

6. The underlying premise for these BMPs is that separation between domestic and bighorn sheep is not necessary after a bighorn sheep population has been exposed to disease-causing bacteria from previous encounters with domestic sheep or goats. This premise is incorrect. The previous exposure may not have infected every bighorn and the surviving animals, unfortunately, do not appear to become immune from further disease transmission. Additional contact with domestic sheep could cause more disease outbreaks and die-offs within the population. I am unaware of any viable bighorn herd that has had prolonged regular contact with domestic sheep or goats that doesn't eventually have a disease outbreak.

7. The primary reason the BMPs cannot ensure separation in occupied bighorn sheep habitat is because domestic sheep inevitably stray from their band. Sheep operators in Oregon have used many of the proposed practices, yet domestic sheep still stray, and contact between domestic and bighorn sheep has occurred. This is particularly true in the steep and rugged terrain of Hells Canyon. The Salmon River Canyon has similar terrain.

8. The BMPs prevent the permittee from turning out apparently sick or physically infirmed domestic sheep on to the allotment. *BMP Plan, BMP #3*. This action, however, will not prevent transmission of pneumonia from domestic sheep to bighorn sheep because healthy domestic sheep can also be carriers of disease-causing bacteria.

9. Further, the BMP requiring two domestic sheep herders and several dogs per band cannot ensure that every domestic sheep remains with the band of over 600 sheep, particularly when

grazing within steep, rugged terrain. *See Fifth Rule Decl., Ex. 13* (2009 grazing authorization); *BMP Plan, BMP #5*. The herders simply cannot be expected to always have an eye on every member of the band or always locate bighorn sheep that are on the allotment.

10. Once a domestic sheep strays from its large band, discovery of the animal in steep, rugged, remote terrain is difficult and contact with bighorn sheep may not be detected. Two herders per domestic sheep band simply cannot ensure a domestic sheep will not stray. *See BMP Plan, BMP #5*. Neither can two herders ensure that a bighorn sheep will not come in contact with the band, particularly when the domestic sheep are foraging. In my experience, domestic sheep scatter or spread out while grazing, making interactions with nearby bighorns more likely to go undetected. Further, it is very unlikely the herders would detect a bighorn sheep up to one mile away from the domestic sheep band in order to notify the agencies as required by the BMPs. *BMP Plan, BMP #4*.

11. Moreover, once a domestic sheep strays, it can survive for some time providing ample opportunity to make contact with bighorn sheep, particularly in light of the fact that bighorn and domestic sheep are attracted to each other and gregarious in nature. For example, two strays presumably spent four to five months in Fall 2006 and Winter 2007 wandering unattended in good bighorn sheep habitat on the nearby Smith Mountain allotment in Hells Canyon. *See Coggins Decl. ¶ 54* (Dckt No. 9). It is not known whether contact with bighorn sheep occurred during this time but bighorn sheep from the Upper Hells Canyon Oregon herd use this area. In general, contact in the steep rugged terrain of these canyons is probably undetected most of the time. Thus, the practice of destroying only those individual bighorn sheep known or suspected to come in contact with domestic strays may be ineffective to insure contact did not in fact occur.

12. Requiring the BLM to maintain the cattle guard and gate across Partridge Creek bridge will not prevent bighorn sheep from moving from the north to the south side of the Salmon River and vice versa. *BMP Plan, BMP #6*. Bighorn sheep can jump fences as tall as eight feet and cattle guards generally do not deter bighorns. Further, bighorn sheep can swim across large bodies of water, including the Salmon and Snake Rivers. I have observed two different bighorn rams swimming across the Snake River, the larger of these two rivers, near Pittsburgh Landing in Hells Canyon.

13. In addition, counting marker sheep on a daily basis is not sufficient to ensure that no straying will occur. It is impossible to account for every single sheep in the band simply by counting the small percentage of sheep that are marked. *BMP Plan, BMP #8*. If a few unmarked sheep stray in this rugged remote area, their absence will likely not be discovered and if it is, locating the strays may be extremely difficult.

14. The BMPs discuss the requirement to count each domestic sheep after “herd scattering events” such as attacks by predators. *Id.* They do not discuss, however, how they will locate any missing sheep. As discussed previously, it is difficult to locate scattered or stray sheep, even in relatively open areas. In steep rugged forested terrain such as the Hells Canyon and Salmon River canyon, the difficulty in locating stray animals will be extreme.

15. Also, the BMP requiring the killing of a bighorn mingling with domestic sheep is not always effective at keeping the bighorn from contacting and infecting other bighorns, particularly when the domestic sheep allotment is in occupied bighorn habitat. *BMP Plan, BMP #10*. The practice of lethally removing bighorn sheep that come into contact with domestic sheep or goats is normally applied outside of bighorn sheep range where occupied bighorn sheep habitat and domestic sheep operations are spatially separated. Under this situation, the policy is applied

typically to young dispersing bighorn sheep that travel outside of their normal range and habitat and come into contact with domestic sheep or goat operations. Under this typical situation, the need to remove bighorn sheep that come into contact with domestic sheep or goats occurs infrequently as bighorn sheep spend the majority of their time within their occupied range and suitable habitats away from domestic livestock operations.

16. In contrast, the policy of lethally removing bighorns within their own range becomes less effective as a disease management tool because, although there is probably more contact between the species, the rate of detection of these contacts is low. Further, successful removal of bighorn sheep is difficult in the rugged, steep terrain. And finally, disease spread is almost unavoidable as resident herds within the range occur in social groups of multiple animals. It is likely that an infected bighorn sheep will interact with other members of its social group, potentially spreading deadly disease before it can be removed from the population.

17. The death of even one bighorn sheep from a small population can be extremely detrimental to that population. A good example is the Sheep Mountain Oregon herd located near Brownlee Dam. The 2009 herd count totaled eleven bighorns, with only one ram (ten years ago, this population had approximately ninety animals). Obviously, losing even one member of this small population of bighorns, one that is already below a viable level, could permanently impair the population and lead toward the herd's extirpation.

18. For all of the above reasons, any BMPs for domestic sheep grazing must include a buffer between the domestic sheep and occupied bighorn sheep habitat. The BMPs approved by the BLM for the Partridge Creek allotment do not. Bighorn sheep experts consistently recommend using a minimum of nine air miles as a buffer to achieve separation between the species. *See Fourth Declaration of Victor Coggins, ¶ 19 & Ex. B (WAFWA recommendations) (Dckt No. 64).*

