



**Western
Watersheds
Project**

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Working to protect and restore Western watersheds

6 June 2010
VIA FAX & Certified Mail

U.S. Dept of the Interior
Office of Hearings & Appeals
Interior Board of Land Appeals
801 N Quincy St, Suite 300
Arlington, Virginia 22203

RECEIVED
JUN 14 2010
Department of Water Resources
Eastern Region

U.S. Department of the Interior (Email also)
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Boise, Idaho 83706

Dave Rosenkrance, Field Manager (Email also)
Challis Field Office
Challis Resource Management Area
U.S. Department of the Interior
Bureau of Land Management
1151 Blue Mountain Road
Challis, Idaho 83226

Appellant: Western Watersheds Project

Re: Declaration of Laurence D. Zuckerman for the Appeal of Field Manager's
Decision Record for the Judd Whitworth – Goldberg Creek Diversion
Project (IDI-034604), FONSI, and Environmental Assessment (EA #: ID-
330-2009-EA-3584)

DECLARATION OF LAURENCE D. ZUCKERMAN

Pursuant to 43 C.F.R. Part 4, the Western Watersheds Project ("WWP") timely provided a Notice of Appeal and Petition for Stay for the Decision approving the Right-of-Way Grant IDI-034604 on May 26, 2010. Pursuant to 43 C.F.R. § 4.412, WWP hereby timely provides the associated Declaration of Laurence D. Zuckerman.

I, Laurence D. Zuckerman, declare as follows:



1. The facts set forth in this declaration are based upon my personal knowledge. If called as a witness, I could and would testify to these facts. As to those matters, which reflect an opinion, they reflect my personal and professional opinion and judgment on the matter.

2. I am an adult citizen of the United States and reside in Lemhi County, Idaho. I have lived Salmon, Idaho since April 2003, and before that I lived in Tallahassee, Florida. For about the past three years, I have been the Central Idaho Director for Western Watersheds Project ("WWP"). Before that, I was Endangered Species Consultation Fisheries Biologist for the Salmon, Idaho office of NOAA's National Marine Fisheries Service and before that had a 28-year career as a fishery biologist, aquatic ecologist, and natural resource specialist with states and Federal government including employment with the USDA Forest Service, USDI Fish and Wildlife Service, USDA Animal and Plant Health Inspection Service, USDI National Park Service, and National High Magnetic Field Laboratory. I hold a Bachelor of Science degree in marine ecology from the State University of New York at Stony Brook, a Master of Science degree in environmental and forest biology from the State University of New York College of Environmental Sciences and Forestry, a Master of Science degree in zoology from Syracuse University, and Ph.D. coursework and research in fishery biology from Colorado State University.

3. I am submitting this declaration on behalf of WWP and myself. I am an active member of WWP and as Central Idaho Director, one of its officers.

4. I have a longstanding interest in advocating for the conservation and protection of the native biodiversity and ecosystems of the West, including Idaho. I have followed and been involved in issues concerning the environmental protection of this area since the late 1970s, when I attended Colorado State University in Fort Collins, Colorado as a Ph.D. candidate under Dr. Robert Behnke conducting field and laboratory studies of Western salmonids including Westslope cutthroat trout and bull trout from Idaho, and completing several contract studies and research grants on Western fishes. While in Colorado, I also worked for the USDI Fish and Wildlife Service Western Energy and Land Use Team, where I designed, tested, and help publish Habitat Evaluation Procedure ("HEP") and Instream Flow models for several salmonid species, and for the USDA Forest Service Rocky Mountain Forest & Range Experiment Station, where as a fishery biologist and aquatic ecologist, helped develop the National Resource Protection Act ("RPA") inventory for the United States, including Idaho. I have been a staff member of WWP since June 2007, and maintain office space in Salmon, Lemhi County, Idaho as well as in Clayton, Custer County, Idaho at WWP's headquarters, and at the Hailey office in Blaine County, Idaho. I have also been a dues-paying, active member of WWP since 2007, because WWP advocates for protection of the watersheds and aquatic ecosystems of Idaho and I support groups that work to protect the natural biological diversity found there.

5. I regularly take trips to areas in the Pahsimeroi River Valley, Idaho to observe and study the remaining native biodiversity and habitat, as well as to observe the land management practices of state and Federal natural resource agencies including the Challis Field Office of the BLM. Since I moved to Salmon, Idaho in 2003, I estimate that I've taken dozens of such trips – some as part of my job responsibilities, some as part of conservation organizations and others personally with family and friends, including angling for native fishes in streams.

6. For example, I have repeatedly visited the BLM's Upper Pahsimeroi Allotment, through which these open ditch, buried pipeline, and earthen berm would pass. Threatened fish, including Columbia Basin bull trout, and other native fishes, including sensitive Westslope cutthroat trout, are found here, including within Goldburg Creek, as well as sensitive wildlife species such as sagebrush-obligates pygmy rabbits and sage-grouse, both being considered for listing under ESA. I periodically visit and monitor this domestic livestock allotment including its stream and riparian habitats.

7. I also frequent the Pahsimeroi River Watershed and in particular the Upper Pahsimeroi Allotment (which includes the project site) for bird and antelope watching, viewing and photographing wildflowers, and viewing sagebrush steppe with mountain vistas as a backdrop. This area is home to several rare and sensitive species, including the Columbia Basin bull trout, greater sage-grouse, pygmy rabbit, gray wolf, bald eagle, golden eagle, Northern goshawk, Prairie falcon, Brewer's sparrow, Westslope cutthroat trout, and Interior redband trout.

My last visit was in May 2010. I have camped, hiked and driven for pleasure many times on BLM managed public lands in the Pahsimeroi River Watershed including the Upper Pahsimeroi and Goldburg Allotments, and since it is so close to home will do so many times again in the near future.

8. I am very familiar with the Pahsimeroi River Watershed and its tributaries (including Goldburg Creek) and have spent many visits both for work and personal pleasure in the valley. While with Federal government, I represented NOAA's National Marine Fisheries Service ("NMFS") and the Salmon-Challis Level I ESA Streamlining Consultation Team for the watershed in both Lemhi and Custer Counties on multiple field tours. Since 2007, I have represented WWP as its Central Idaho Director and its Fisheries Biologist and Aquatic Ecologist, and prior to employment with WWP, I volunteered my time and expertise for issues concerning the Pahsimeroi River Watershed and its dependent aquatic and terrestrial wildlife, including threatened Columbia Basin bull trout. In 2009, I participated in habitat monitoring on the Upper Pahsimeroi Allotment including riparian and stream bank measurements using the BLM's Multiple Indicator Monitoring System ("MIMS") and aquatic and riparian measures according to the procedures published by the PACFISH/INFISH Biological Opinion ("PIBO") Aquatic Team. As an Aquatic Ecologist for WWP, I have also collected freshwater mussels (Pahsimeroi pearlshells) from the Pahsimeroi River as part of collaborative population genetics research with the U.S. Forest Service and Utah State University. I am a frequent visitor to the Pahsimeroi River Watershed. I use the area with my family and friends for hiking, camping, angling, botanizing, wildlife viewing, outdoor photography, bird watching and driving for pleasure. We are frequent visitors having last been there in May of 2010.

All these areas are threatened by the diversion of water from streams and springs and the pumping of groundwater from the aquifer that underlies them for irrigating crops and watering domestic livestock. The proposed irrigation project with an additional POD, open ditch, and buried pipeline would obtain its water from Goldburg Creek and would largely dewater 1.1 miles of stream and riparian habitat on public lands.

9. The Bureau of Land Management's ("BLM") approval of the J. Whitworth-Goldburg Creek Irrigation Project adversely affects my interests in continuing to visit and enjoy the native biodiversity at these and other areas in Idaho in the following two primary ways.

10. First, because the Project will require diverting surface waters from Goldburg Creek 1.1 miles upstream of the existing POD and will largely dewater 1.1 miles of flowing stream on public lands managed by the BLM and that is at least seasonally occupied by threatened bull trout. Dewatering this 1.1-mile reach will also destabilize the stream banks and channel morphology leading to increased sediment loads and aquatic and riparian habitat destruction, resulting in decreased flows in springs, rivers and washes, imperiling the fish, amphibians and invertebrates that live in these habitats.

11. Second, the new POD and irrigation system will draw down alluvial and bank water table levels in and around Goldburg Creek, leading to decimation of the native riparian vegetation, increased success of noxious weeds and other introduced invasive plants species, and increased risk of desertification, particularly in the face of the changes in climate, such as higher temperatures and reduced precipitation that is now occurring in the area. This will impact riparian vegetation zones that provide habitat to the imperiled sage-grouse, bald eagle, Westslope cutthroat trout, threatened bull trout, Western toad, and Columbia spotted frog that live in or depend on these moist areas. Also potentially affected will be desert plants that directly or indirectly rely on their roots accessing the ground water and alluvial water tables.

12. These consequences harm my interest in visiting and observing Central Idaho's native biological diversity through my activities such as bird watching and botanizing, as well as the spiritual benefits I get from observing and being in natural settings.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 5th day of June, 2010



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served true and accurate copies of Appellant Western Watersheds Project's foregoing Declaration of Laurence D. Zuckerman on the parties herein, this 6th day of June, 2010, to:

Interior Board of Land Appeals
Office of Hearings and Appeals
801 North Quincy St., Suite 300
Arlington, VA 22203-1905

[VIA FAX AND CERT. MAIL,
RETURN RECEIPT REQUESTED]

Dave Rosenkrance, Field Manager
Challis Field Office
Bureau of Land Management
1151 Blue Mountain Rd.
Challis, Idaho 83226

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Dave Carlson, Senior Water Resource Agent
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Karma Bragg, Project Manager
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Mark Olson, District Conservationist
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Jim Lukens, Regional Supervisor
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David Mabe, State Director
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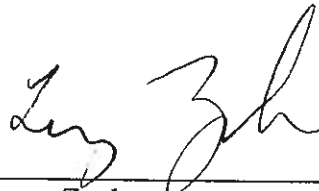
Russ Holder, Assistant Field Supervisor
U.S. Fish and Wildlife Service
Idaho Fish and Wildlife Office
1387 S. Vinnell Way, Room 368
Boise, ID 83709

[VIA CERT. MAIL,
RETURN RECEIPT REQUESTED]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

DATED this ~~6th~~ day of June, 2010.

10th



Larry Zuckerman
Western Watersheds Project
Salmon, Idaho