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4  
5 Attorney for Plaintiff LAURA LEIGH

6 **IN THE UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 LAURA LEIGH,

9 Plaintiff,

Case No. 3:10-cv-00417-LRH-VPC

10 vs.

11 KEN SALAZAR, in his official capacity as  
12 Secretary of the U.S. DEPARTMENT OF  
THE INTERIOR, BOB ABBEY, in his official  
13 capacity as Director of the BUREAU OF  
LAND MANAGEMENT; RON WENKER in his  
14 official capacity as Nevada State Director of  
the BUREAU OF LAND MANAGEMENT, *et*  
15 *al.*,

16 Defendants.

17 \_\_\_\_\_ /  
18 **DECLARATION OF LAURA LEIGH  
IN SUPPORT OF REMEWD MOTION FOR TRO, ETC.**

19 I, LAURA LEIGH, do hereby swear, under penalty of perjury under the laws of  
20 the State of Nevada and of the United States of America, that the foregoing is true and  
21 correct:

22 1. I am the Plaintiff in the above-captioned matter. I am personally familiar  
23 with the facts set forth herein except for those facts stated on information and belief and  
24 as to those facts, I believe them to be true. I submit this Declaration in support of the  
25 Plaintiff's Second Motion for Temporary Restraining Order and First Motion for  
26 Preliminary Injunction.

27 2. For brevity's sake I incorporate the statements made in my two prior  
28 Declarations provided in this case (Docket Nos 5-1 and 3-3), in support of this Motion.

1           3.       Based on an official BLM news release (No. 2010-030, dated July 21,  
2 2010), I am informed and believe the BLM's self-declared emergency gather at Owyhee  
3 Herd Management Area ("Owyhee HMA") is "concluded" and there is no need for an  
4 "emergency gather" at this point in any of the three herd management areas (i.e  
5 Owyhee, Rock Creek or Little Humboldt).

6           4.       I am informed and believe the BLM and its contractor are resuming gather  
7 operations in the Rock Creek HMA today, again based on information obtained from the  
8 BLM's official website.

9           5.       I am informed and believe the BLM has once again, like in Owyhee,  
10 chosen to set their horse traps on private lands rather than on public lands. A map  
11 showing the location of the chosen trap site is attached to this Motion.

12           6.       Based on what transpired with my interactions at Owyhee and the BLM  
13 and the several threats of arrest, it is my impression the true purpose in setting traps on  
14 private lands rather than the vast public lands they have available to them in the same  
15 vicinity, is to keep the public, the press, journalists and those like me from viewing and  
16 observing the final gather area and to preclude such members of the public including  
17 myself, from viewing the actual, physical condition of the horses they trapped, shortly  
18 following their gather operation.

19           7.       Understanding the need to keep the public safe, it is my impression and  
20 based on my experience in viewing prior wild horse gathers conducted by the BLM, that  
21 there is no reasonable excuse for not letting the public observe or view the catch pens  
22 shortly after the traps have been closed following a gather. Once the horses are  
23 corralled and settled, any threat to the safety of those of the public nearby is minimized;  
24 that there is no history of my interference with these BLM gathers during my presence  
25 at them previously.

26           8.       I am familiar with the practices of the BLM in setting public viewing days.  
27 It is my impression the public viewing days the BLM scheduled for all three gathers (i.e.  
28 the Owyhee, Rock Creek and Little Humboldt) would likely amount to about four hours

1 of actual viewing over a two day period, to occur on a weekend; that the same is clearly  
2 unreasonable, limiting and sanitized compared with the numerous hours the BLM spent  
3 over the course of many days in conducting the Owyhee gather, today's gather in Rock  
4 Creek and in the following days in Rock Creek and Little Humboldt HMAs.

5 9. I am informed and believe, as an experienced journalist, that this artificial  
6 closure or limiting of viewing of the continued gathers, based on the choice by the BLM  
7 to place these trap areas on public lands, is unreasonable and continues to be a prior  
8 restraint on my personal freedom of speech and right as a journalist to report my  
9 observations of government in action on a matter that is of significant public interest, in  
10 accordance with the First Amendment to the U.S. Constitution.

11 10. I am informed and believe the manner in which the BLM has conducted its  
12 gather has left many questions unanswered where they were able to conduct the  
13 Owyhee HMA gather completely away from the scrutiny of the public's eye.

14 11. On July 19<sup>th</sup> I personally flew over the Rock Creek and Little Humboldt and  
15 also the Owyhee Herd Management Areas. I am informed and believe those locations  
16 where we flew were *not* closed to air space according to our pilot who had checked  
17 beforehand to file his flight plan with FAA officials. The following are my observations  
18 of those areas from this flight:

- 19 a. The flyover began from the El Aero pad in Elko Nevada. Pre flight  
20 included an approximate 20 minute review of the intended flight path with  
21 the pilot.
- 22 b. During the flyover the range was found in a condition as would be  
23 expected considering the season. Creek beds and catchments that would  
24 normally be dry this time of year, were viewed.
- 25 c. No significant water source damage that could be attributed to horses was  
26 viewed from the air.
- 27 d. Forage was available on this range in areas where it was expected and in  
28 abundance to support the population witness in the respective areas.

- 1 e. Most water sources I personally witnessed had cattle present. Cattle  
2 appeared healthy. Cattle appeared in more abundant numbers than  
3 horses.
- 4 f. Horses appeared to be concentrated in only one area viewed from the air.  
5 My impression is their current location raises questions as to historical  
6 sightings, leaving me with the impression that more research is needed.  
7 This discovery and observation may also be resultant of the BLM having  
8 moved horses earlier than published, to somehow facilitate their gather.
- 9 g. I personally observed many young foals in these areas.
- 10 h. I personally observed mares that appeared to be pregnant.
- 11 i. The horses I viewed appeared healthy and vigorous.
- 12 j. I personally observed stock trailers at a location that raises questions as  
13 to the proximity to the expressed trap site of the previous day. These  
14 stock trailers were viewed on the move by myself two days prior  
15 transporting horses through a different route from the same expressed  
16 trap site. I am informed and believe these are the same or similar type  
17 truck and stock trailer configurations as was seen two days previous and I  
18 recognize them having the same configuration and markings as those  
19 used by the BLM's chosen gather contractor.

20 12. Attached to this Motion are six photographs taken by me during this flight.  
21 All photos, with the exception of the truck and trailer, were taken of the Rock Creek  
22 HMA.

23 13. Based on this flight I was able to clearly see, in the Rock Creek and Little  
24 Humboldt areas, water, cows and horses. The horses I saw included numerous babies  
25 who appeared in age to be less than three months in age. I also observed a number of  
26 mares who had young foals at their sides. I also observed some mares who appeared  
27 to be significantly pregnant.  
28

1           14.    The forage and water areas I saw did not appear to be any different from  
2 what would typically be expected this time of year; that they appeared normal with  
3 expected seasonal changes.

4           15.    Regarding the Rock Creek HMA: I am informed and believe the following:

5           a.    The BLM map attached to this motion is a true and correct copy obtained  
6 from the BLM website;

7           b.    The areas depicted on the BLM map containing drawn-in sections inside  
8 of which are several diagonally drawn lines, are, I am informed and  
9 believe, representative of *closed areas which includes both public and*  
10 *private lands*;

11          c.    That the BLM map depicts public lands in a yellowish tint, private lands in  
12 white and closed lands (whether public or private) in those areas where  
13 there are several diagonally drawn lines depicted;

14          d.    The southernmost indicated closed land (private and public) on this map  
15 (i.e. the section with diagonally drawn lines) has within the border, a red  
16 dot. I am informed and believe the red dot denotes the intended BLM trap  
17 site for the Rock Creek HMA gather. The area to the immediate north of  
18 this southernmost closed area appears to be public lands although it is  
19 located outside the Rock Creek HMA. The lands contained within the  
20 faded red border to the north of where the intended BLM trap site is  
21 intended, indicates the boundaries of the Rock Creek HMA.

22          e.    Based on this map and the indicated wild horse trap, I am informed and  
23 believe the BLM intentionally placed its trap once again on private land as  
24 it did in Owyhee; and that this trap is not even located either within or  
25 contiguous to the Rock Creek HMA.

26          16.    I am advised by BLM that the only date the BLM would allow me out to  
27 view *any* gathers in the entire Tuscarora area (i.e. all three HMAs) is for two hours  
28 tomorrow. I am accordingly, headed to Elko this evening, to attend same.

