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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,

10 Case No. **3:13-cv-6**

11 vs.

12 KEN SALAZAR, in his official capacity as  
Secretary of the U.S. DEPARTMENT OF  
THE INTERIOR, MIKE POOL, in his official  
13 capacity as Acting Director of the BUREAU  
OF LAND MANAGEMENT; AMY LUEDERS  
14 in her official capacity as Nevada State  
Director of the BUREAU OF LAND  
15 MANAGEMENT,

16 Defendants.

17 \_\_\_\_\_ /  
18 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF;  
DEMAND FOR JURY**

19 Plaintiff LAURA LEIGH, avers as follows:

20 **GENERAL AVERMENTS**

21 1. Plaintiff seeks to halt repeated inhumane conduct demonstrated at the  
22 Bureau of Land Management's ("BLM") Owyhee Complex Wild Horse Gather ("Owyhee  
23 Complex roundups") ongoing in Humboldt and Elko Counties, Nevada. This complaint  
24 addresses the remaining roundups to be completed, proposed to resume January 4,  
25 2012 with the removal of 50 horses from Owyhee because of a drought emergency or  
26 "because of severely limited water sources." In truth, the drought ended when the range  
27 became flooded with early rainstorms. Drought ceased to exist on the range after  
28 December 6, 2012. The Owyhee Complex roundups are phased-in through a ten (10)

1 year roundup plan, described in the BLM's Final Environmental Assessment ("EA")  
2 which remain in progress, commencing November 26, 2012, and include five (5)  
3 separate Herd Management Areas ("HMA"s) known as Little Humboldt, Little Owyhee,  
4 Owyhee, Rock Creek and Snowstorm (collectively, the "Owyhee Complex"). The  
5 Owyhee, Rock Creek and Little Humboldt HMAs are administered by the BLM's Elko  
6 District (Tuscarora field Office), Mr. Ken Miller, District Manager, presiding. The Little  
7 Owyhee and Snowstorm HMAs are administered by the BLM's Winnemucca District  
8 (Humboldt River Field office), Mr. Gene Seidlitz, District Manager, presiding. Messrs.  
9 Ken Miller and Gene Seidlitz authorize the methods employed in rounding up,  
10 capturing, corralling and transporting wild horses from these BLM Districts.

11 2. This action does not address roundup activity in Nevada BLM districts  
12 elsewhere. This action does not seek to halt the Owyhee Complex roundups. This  
13 action does not seek to stop roundups conducted by helicopters. Rather, this action  
14 seeks minimally, to halt the inhumane treatment of wild horses during roundups,  
15 capture, corralling and transportation, which is the BLM's apparent, demonstrable,  
16 intended normal and customary practice, method and operation, employed thus far  
17 during the ongoing Owyhee Complex roundups, and which could be reasonably  
18 expected to remain employed in the continuation of the Owyhee Complex roundup ten  
19 year plan.

20 3. The Owyhee Complex roundups were temporarily suspended December  
21 23, 2012 for the holidays. The BLM indicates the Owyhee Complex roundups would  
22 resume as early as January 4, 2013, beginning with the removal of 50 horses in the  
23 Owyhee HMA. The number of horses to be removed there (50 horses) was raised from  
24 11 horses because of "severely limited water sources" (meaning, a purported drought  
25 emergency) in the Owyhee HMA. Although the range suffered from "severely limited  
26 water resources" previously, drought conditions were alleviated when the range became  
27 flooded with early winter storms. The drought ceased to exist. The removal of 50 horses  
28 beginning January 4, 2013 is, therefore, not justified.

1 4. Plaintiff is informed and believes the following: the BLM employs the same  
2 leadership and supervision for all Owyhee Complex roundups whether occurring in the  
3 BLM Winnemucca District or the BLM Elko District; that Melanie Mirati, a BLM-  
4 employed Wild Horse and Burro Specialist, is the chosen COR / PI<sup>1</sup> for the Owyhee  
5 Complex roundups; and Alan Shepard, the BLM-employed State lead for Nevada's Wild  
6 Horse and Burro Program, is the other chosen COR / PI for the Owyhee Complex  
7 roundups; that Ms. Mirati and Mr. Shepard are indicated as such in the BLM's final  
8 Environmental Assessment for the Owyhee Complex roundups. See **Exhibit 1**  
9 attached.<sup>2</sup>

10 5. The BLM COR's stated responsibilities for the wild horse roundups  
11 occurring within the Owyhee Complex, are as follows:

12 **H. Responsibility and Lines of Communication**

13 Contracting Officer's Representative/Project Inspector: Melanie Mirati

14 Contracting Officer's Representative/Project Inspector: Alan Shepherd

15 The Contracting Officer's Representatives (CORs) and the project  
16 inspectors (PIs) have the direct responsibility to ensure the Contractor's  
17 compliance with the contract stipulations. The Field Managers for the  
18 Humboldt River and Tuscarora Field Offices would take an active role to  
19 ensure the appropriate lines of communication are established between  
20

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21 <sup>1</sup> COR / PI are BLM acronyms for those employed by the BLM (not independent  
22 contractors) who are designated as the "Contracting Officer Representative" and  
23 "Project Inspector."

24 <sup>2</sup> **Exhibit 1** includes relevant parts of the BLM's Final Environmental  
25 Assessment for the "Owyhee Complex Herd Management Area Gather" ("EA"). The  
26 entire EA comprises about 180 pages. Exhibit 1 includes the front cover, table of  
27 contents, the first two chapters and the Appendix A, which appear relevant to  
28 discussion. Other materials were removed for purposes of streamlining the content of  
the exhibit. The EA in its entirety, according to the BLM website, may be viewed at the  
following web address:

[https://www.blm.gov/epl-front-office/projects/nepa/33902/40771/42881/DOI-BLM-NV-  
W010-2012-0055-EA\\_FINAL.pdf](https://www.blm.gov/epl-front-office/projects/nepa/33902/40771/42881/DOI-BLM-NV-W010-2012-0055-EA_FINAL.pdf)

1 the field, Field Office, District Office, State Office, National Program  
2 Office, and BLM Holding Facility offices. **All employees involved in the**  
3 **gathering operations would keep the best interests of the animals at**  
4 **the forefront at all times.**

5 All publicity, formal public contact and inquiries would be handled  
6 through the Field Manager and District Public Affairs Officer. These  
7 individuals would be the primary contact and would coordinate with the  
8 COR/PI on any inquiries.

9 **The COR would coordinate with the contractor and the BLM**  
10 **Corrals to ensure animals are being transported from the gather site**  
11 **in a safe and humane manner and are arriving in good condition.**

12 **The contract specifications require humane treatment and**  
13 **care of the animals during removal operations. These specifications**  
14 **are designed to minimize the risk of injury and death during and after**  
15 **gather of the animals. The specifications would be vigorously**  
16 **enforced.**

17 Should the Contractor show negligence and/or not perform  
18 according to contract stipulations, he would be issued written instructions,  
19 stop work orders, or defaulted.

20 **Exhibit 1, EA, pp.136-137 (pp.42-43 of Exhibit).(Emphasis added).**

21  
22 6. The assigned COR / IP for the Owyhee Complex failed or refuses, thus  
23 far, to enforce the humane treatment and care of the wild horses during the roundup,  
24 capture, corralling and transportation of Owyhee Complex wild horses. Plaintiff is  
25 informed and believes, no “written instructions, stop work orders, or [defaults]” have  
26 been issued addressing the conduct outlined herein.

27 7. The BLM’s helicopter contractor, Sun-J, is the currently employed  
28 contractor for the Owyhee Complex roundups. Sun-J and its helicopter pilot, Josh

1 Hellyer were employed at the first phase of the Owyhee Complex roundup occurring  
2 November 26, 2012 through December 23, 2012.<sup>3</sup> Plaintiff is informed and believes the  
3 same contractor and pilot and methods employed thus far, would remain in place and  
4 be employed in similar fashion at the remaining Owyhee Complex roundup phases, the  
5 next beginning as early as January 4, 2013. Plaintiff is informed and believes the  
6 offensive and inhumane conduct described herein, is accepted as BLM's normal  
7 custom and practice for all Owyhee Complex roundups.

8 8. Where the same chosen contractor (Sun-J) and the same BLM COR / IP  
9 supervision (Mirati and Shepard) in the first phase of the Owyhee Complex roundups,  
10 would remain in place to supervise and oversee remaining phases of the Owyhee  
11 Complex roundups, Plaintiff maintains a reasonable expectation that the inhumane  
12 conduct by BLM, observed toward wild horses during the first phase of the Owyhee  
13 Complex roundup, would likely repeat in subsequent phases of the Owyhee Complex  
14 roundup including that which commences as early as January 4, 2013, and also those  
15 phases the BLM would employ the next ten (10) years at the Owyhee Complex, under  
16 this roundup plan.

17 9. Plaintiff is informed and believes the BLM's conduct toward wild horses  
18 observed during the Owyhee Complex roundups thus far, appears to be the "the norm,"  
19 or is observed as the BLM's usual custom and practice in place when rounding up,  
20 capturing, corralling and transporting wild horses during the Owyhee Complex  
21 roundups. Plaintiff, accordingly, maintains a reasonable expectation that the inhumane  
22 conduct observed toward wild horses at these roundups thus far, would likely repeat in  
23 subsequent phases of the Owyhee Complex roundup including that which would begin  
24 January 4, 2013.

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25  
26 <sup>3</sup> Plaintiff is informed and believes Sun-J and its helicopter pilot, Josh Hellyer,  
27 were the contractor and pilot involved in the incident at "Triple B" that caused this court  
28 to issue a TRO in *Leigh v. Salazar*, 3:11-cv-608. See Order, Doc.49, 06/21/12. See  
bond posted Doc.52.

1           10. This suit addresses two separate issues. The first issue involves the next  
2 phase of the roundup which targets 50 horses for removal from the Owyhee HMA. The  
3 number of horses to be removed there (50 horses) was increased from 11 horses to 50  
4 horses because of “severely limited water sources” (meaning, a purported drought  
5 emergency) in the Owyhee HMA. Although the range suffered from “severely limited  
6 water resources” previously, drought conditions were alleviated when the range became  
7 saturated with early winter storms. The drought ceased to exist after December 6, 2012.  
8 The removal of 50 horses beginning January 4, 2013 is, therefore, neither supported  
9 nor justified.

10           11. The second focus of the case addresses conduct observed at the  
11 Owyhee Complex roundups thus far, repeating nearly daily, which includes the  
12 following:

- 13           a. Routine (i.e. repeated and non-emergent) “hot shot” (cattle prod) or  
14 electric prod use on wild horses during their corralling and transport,  
15 including the use of electric prods on young horses (foals, weanlings and  
16 yearlings);
- 17           b. driving by helicopter, wild horses through barbed wire fence lines, thus  
18 subjecting wild horses to unnecessary injury, trauma or death;
- 19           c. rushed and aggressive loading from the trap site into trucks, subjecting  
20 captured wild horses to unnecessary trauma or injury;
- 21           d. unsafe locations for trap sites where horses repeatedly (meaning day after  
22 day at the same site) crash or tumble into an unsuspecting ditch close to  
23 the trap site, where the fallen horses, usually foals or younger horses, are  
24 trampled by their companions when groups of horses are chased toward  
25 the mouth of the trap, subjecting all horses to unnecessary injury or  
26 trauma;
- 27           e. foals less than six months weaned from their mothers at the trap;
- 28           f. foals unable to keep up with the drive because of distance or speed. In

1 one instance, a foal came in draped over a horse rider's saddle horn,  
2 clearly exhausted; and the same foal was carried off the trailer after  
3 having been transported to temporary holding;

4 g. horses chased at a gallop pace in sub-freezing temperatures where  
5 daytime temperatures hovered in the teens and twenties in Fahrenheit.

6 h. pilot flew helicopter in significant winds, demonstrating difficulties in  
7 controlling the movement of horses;

8 12. The offensiveness with these issues stems from the following: the  
9 conditions existing and methods employed which unnecessarily endanger these horses,  
10 although known to BLM officials, repeats without corrective action. The BLM either  
11 dismisses the issue or justifies the conduct, or simply ignores the condition or method,  
12 refusing to take corrective action. The BLM's "bury the head in the sand" or, "justify  
13 rather than do something about it" approaches to these inhumane methods and  
14 conditions, subjects wild horses, day after day, time after time, to conditions and  
15 methods that are dangerous to the horses, absent corrective action by BLM's COR.

16 13. Further offensiveness with these issues is this: nearly a year and a half  
17 past, in a case that raised inhumane conduct by the BLM, the BLM promised this very  
18 court in hearing in *Leigh v. Salazar*, 3:11-cv-608, they (BLM) intended to put in place a  
19 **humane care standard or protocol**, to help protect horses targeted for roundups in  
20 the future, from inhumane conditions and methods that had been observed repeatedly  
21 in previous roundups. The BLM even presented the court a document at hearing, the  
22 BLM labeled its Intention Memorandum, stating further the BLM intended to adopt the  
23 document as protocol, for Nevada roundups, shortly. Plaintiff is informed and believes  
24 these prior statements to the court and the document the BLM presented, were made to  
25 placate the plaintiff and perhaps to lessen the impact of an adverse ruling from the  
26 court, rather than to truly cause change to the methods the BLM employed. Even the  
27 document the BLM presented to the court at hearing in *Leigh v. Salazar* , 3:11-cv-608,  
28 acknowledges that corrections were necessary for humane handling reasons. The court

1 appeared convinced at the time, that the BLM had the best interests of the horses in  
2 mind when the BLM came to court armed with its proposed humane care protocol to be  
3 adopted shortly for roundups in Nevada. The court accorded the agency the benefit of  
4 the doubt. Where, as of this date, no humane care policy or protocol has been  
5 implemented thus far, despite statements and documents presented to the contrary,  
6 Plaintiff is of the impression the BLM does not have the best interests of the horses in  
7 mind. Otherwise, a protocol would have been adopted and followed at this point.  
8 Otherwise, the Plaintiff would not have found it necessary to bring this suit because of  
9 the repeated and continued inhumane conditions and methods she observed  
10 repeatedly at recent Owyhee Complex roundups. That said, Plaintiff acknowledges the  
11 court cannot force a government agency to adopt standards for its methods. Plaintiff  
12 seeks only to cause correction of that which the agency refuses to correct where the  
13 methods and conditions employed are not humane toward the wild horses, which is in  
14 violation of relevant laws.

15 14. For the foregoing reasons, the Owyhee Complex roundup has been  
16 conducted inhumanely thus far, in contravention of law, in contravention of the CFRs, in  
17 contravention of the Defendants' own established regulation or order as determined in  
18 its Environmental Assessment ("EA") for the Owyhee Complex roundup, and also in  
19 contravention of established norms of "humane" treatment. And, there is no indication  
20 the BLM would change course or alter plans from that allowed at the previous Owyhee  
21 Complex roundups, to correct inhumane methods of rounding up, corralling and  
22 transporting wild horses at upcoming Owyhee Complex roundups, the next beginning  
23 January 4, 2013.

24 15. Where the Owyhee Complex roundup is conducted contrary to the BLM's  
25 own published EA for the Owyhee, and contrary to 16 USC §1333 (b)(2)(iv)(B) for the  
26 *humane* removal of wild horses, and contrary to the definition of what the United States  
27 considers "humane" as is defined at 43 CFR § 4700.0-5, and against reasonable  
28 notions of what is considered "humane" including those defined by the Laws of the



1 State of Nevada, the Defendants' action in refusing to enforce its own established  
2 regulation, order or decision, or in refusing to enforce its own EA, or in refusing to  
3 enforce regulations and laws of the United States for the humane treatment of wild  
4 horses removed by the Defendant at the Owyhee Complex, is arbitrary, capricious, it  
5 amounts to an abuse of discretion, it is otherwise not in accordance with law, or it is  
6 implemented without observance of procedures required by law, as is contemplated by  
7 relevant provisions of the Administrative Procedure Act, including but not limited to 5  
8 U.S.C. §§ 706(2)(A) and (D).

9 16. That, the "Defendants' action" or "agency action" as used or referenced  
10 herein, includes the definition ascribed to "agency action" at 5 U.S.C. § 551(13) and  
11 which includes but is not limited to the Defendants' "failure to act" to enforce its own  
12 regulations and to enforce the laws of the United States which, in this case, concerns  
13 the *humane* removal of wild horses at the Owyhee Complex roundups; and also the  
14 unauthorized removal of the 50 horses from the Owyhee HMA.

15 17. Each of the Owyhee Complex roundups are too short in duration to allow  
16 full litigation before the roundups cease. The next roundup session would likely last two,  
17 perhaps three days, to accomplish the removal of the 50 Owyhee HMA horses, which  
18 proceeds on the false premise of a drought emergency which has not existed since  
19 December 6, 2012. Without the purported lack of water sources the justified removal of  
20 horses from the Owyhee HMA should not exceed 11 horses. The Defendants however,  
21 would proceed nevertheless, rounding up horses that would not be considered "excess  
22 horses" absent an emergency drought. The Defendants would claim on cessation of the  
23 roundup, as they have on several occasions in the past when faced with litigation over a  
24 roundup, that the end of roundup activity "moots" all issues raised herein, leaving  
25 Plaintiff without justice and without remedy. Plaintiff is informed and believes where the  
26 roundups are to continue in the same fashion and method employed thus far, over the  
27 next ten (10) years, that the cessation of one phase would not moot the case where the  
28 EA contemplates a ten (10) year removal plan, where the BLM intends on returning to

1 these same areas within the Owyhee Complex. See, *Leigh v. Salazar*, 677 F.3d 892  
2 (9th Cir. 2012).

3 18. Plaintiff and others personally observed the inhumane conditions  
4 discussed herein. Plaintiff was present for the roundups from November 27, 2012  
5 through December 15, 2012. Plaintiff is planning on being present at most of the next  
6 roundups occurring at the Owyhee Complex.

7 19. Plaintiff and others have been subjected to perceptible harm when  
8 observing the same inhumane conditions and methods employed, the same arbitrary,  
9 capricious and abuses of discretion by the Defendants at the first phase of the Owyhee  
10 Complex roundups. Because Plaintiff intends to be present at most of the upcoming  
11 roundups there, Plaintiff reasonably expects, without corrective action, she would be  
12 subjected to more perceptible harm in observing the same inhumane conditions and  
13 methods employed.

14 20. Because the BLM repeatedly thus far, (a) chooses not to operate with a  
15 clearly defined humane care policy for the Owyhee Complex roundups, demonstrated  
16 by the BLM's lack of recognition that the issues herein described would be considered  
17 by the common man, let alone professionals, as inhumane treatment of the Owyhee  
18 Complex wild horses rounded up thus far, (b) refuses to acknowledge and then enforce  
19 laws requiring "humane" removal of horses from public lands at the Owyhee Complex,  
20 (c) refuses to take corrective action to enforce the "humane" removal of wild horses  
21 from public lands in accordance with 16 USC §1333 (b)(2)(iv)(B) as interpreted by 43  
22 CFR § 4700.0-5 at the Owyhee Complex roundups, the Plaintiff reasonably expects she  
23 would likely be subjected to observing the same arbitrary, capricious, unlawful,  
24 inhumane activity at the remaining Owyhee Complex roundups that she observed thus  
25 far, particularly where the same COR and chosen contractor remain to conduct,  
26 oversee and supervise remaining roundups there, and where Messrs. Miller and Seidlitz  
27 oversee and approve the roundups.

28 21. The Defendants at the Owyhee Complex roundups, employ methods

1 contrary to clear public policy of the United States of America relative to management  
2 practices of wild horses where such practices are mandated by 16 USC §1333  
3 (b)(2)(iv)(B) as interpreted by 43 CFR § 4700.0-5, to be conducted humanely. See, The  
4 Wild Free-Roaming Horses and Burro Act of 1971. ("Wild Horse and Burro Act" or  
5 "WHBA"). See, P.L.92-195, 16 U.S.C. §§ 1331 *et. seq.* That 16 USC §1333 requires  
6 the Defendants to roundup only excess wild horses in a mandated order of preference,  
7 and the Defendants must do so "humanely." See, 16 USC §1333 (b)(2)(iv)(B).

### 8 **JURISDICTION AND VENUE**

9 22. Jurisdiction of this matter, involving a federal question, is governed in  
10 accordance with 28 U.S.C. § 1331. Relief is sought under applicable provisions of the  
11 Administrative Procedures Act, 5 U.S.C. §§ 701 *et seq.*

12 23. Venue remains proper in the Northern Division of the District of Nevada  
13 pursuant to 28 U.S.C. §1391(a) where the roundup which gives rise to the matters  
14 asserted herein are occurring and causing an effect within the northeastern portion of  
15 the State of Nevada on public lands.

### 16 **PLAINTIFF AND STANDING**

17 24. The court in this very case has already recognized Plaintiff LAURA  
18 LEIGH's ("Ms. Leigh") standing to bring this suit.

19 25. Ms. Leigh maintains standing under 5 U.S.C. § 702 of the Administrative  
20 Procedures Act to seek judicial review of the BLM's action (or failure to act) where she  
21 has suffered and would continue to suffer actual injury or injury in fact that is within the  
22 zone of interests protected by the relevant federal statutes indicated herein which  
23 Defendants fail and refuse to enforce. The Administrative Procedure Act allows a party  
24 "suffering legal wrong because of agency action, or adversely affected or aggrieved by  
25 agency action" to seek judicial review. 5 U.S.C. § 702.

26 26. This court has recognized Ms. Leigh's standing previously, to bring  
27 actions against the inhumane treatment of wild horses. See e.g., *Leigh v. Salazar*, 3:10-  
28 cv-597 and *Leigh v. Salazar*, 3:11-cv-608.

1           27. Plaintiff is an award winning illustrator, journalist / videographer and report  
2 on issues dealing with the American West. Her published articles and video have  
3 appeared in many venues including Horseback Magazine, KLAS-TV and CNN. Ms.  
4 Leigh is President and founder of Wild Horse Education, a non-profit group devoted to  
5 documenting, reporting to the public and advocating on issues involving wild horses on  
6 public lands. See, [www.wildhorseeducation.org](http://www.wildhorseeducation.org).

7           28. Ms. Leigh has been a horse owner and keeper for many years. Ms.  
8 Leigh is informed and believes she is reasonably informed on many issues involving the  
9 care, maintenance and safety of horses including but not limited to matters involving  
10 their physiology, structure, hoof care, feed and diet, diseases, conditioning, handling,  
11 and their natural instincts, to name but a few. Ms. Leigh has personally given medical  
12 aid and attention to horses, treating such ailments or injuries involving, among other  
13 conditions, leg injuries, digestive issues, colic, heat and hydration issues. She has  
14 taken care of foals with congenital anomalies. She has treated and cared for horses  
15 with metabolic and stress founder. Ms. Leigh operated a home-based nursery for  
16 wildlife rehab in conjunction with a county wildlife center where, during her tenure there,  
17 the center maintained a zero percent death rate with over 100 orphans of varied  
18 species of wildlife.

19           29. Ms. Leigh has attended more BLM roundups the past thirty (30) months  
20 than any BLM, DOI or other government personnel, any journalist, any photojournalist,  
21 and any other member of the public, in her attempts at accurately documenting wild  
22 horses in the wild, and in documenting the Defendants' management of wild horses. In  
23 the past two years Ms. Leigh filmed/recorded thousand of hours of video and has  
24 amassed more than a hundred-thousand photos of wild horses on public lands.

25           30. Ms. Leigh traveled nearly 200,000 miles since September 2010 to  
26 observe and document wild horses and the BLM's management practices. Ms. Leigh  
27 has thus far, traveled in six states to accomplish this work, she visited and attempted to  
28 visit multiple wild horse holding facilities operated or managed by the government. She

1 attended numerous Advisory Board meetings and also traveled to Denver, CO to  
2 participate in what BLM referenced as a “workshop” toward “problem solving.” And, she  
3 attended numerous meetings in BLM district offices, she attended RAC meetings  
4 (“RAC” is the BLM acronym for Resource Advisory Council) whenever opportunity  
5 presents to provide public comment.

6 31. Ms. Leigh has endured personal searches, vehicle and property searches,  
7 road blocks, background checks, extreme temperatures from minus 10 degrees  
8 Fahrenheit to over 100 degrees Fahrenheit, vehicle breakdowns in remote regions, all  
9 in attempts at gaining access to view and observe and document wild horses on public  
10 lands and at government wild horse facilities and during capture, corralling and  
11 transportation for their removal from public lands.

12 32. Ms. Leigh has endured death threats, discriminatory access, vandalism to  
13 her personal property, significant wear and tear to her personal property, countless  
14 hours of off-road travel and on-road travel, all in attempts at gaining access to view and  
15 observe and document wild horses on public lands and at government wild horse  
16 facilities and during capture for their removal from public lands.

17 33. When not in the field, Ms. Leigh is conducting research on a multitude of  
18 wild horse related topics particularly those involving public lands and interests that  
19 compete with wild horses; she arranges for adoptions of wild horses captured by the  
20 BLM from public lands and is responsible for having caused the adoption of a  
21 significant percent of all horses adopted out by the BLM; Ms. Leigh is a regular  
22 publisher of articles concerning the management of wild horses on public lands.

23 34. Ms. Leigh’s life is devoted to documentation and education of the care of  
24 wild horse herds. Ms. Leigh is dedicated to helping create reform where appearing  
25 necessary, in the management of America’s wild horses.

26 35. As a documentarian and photojournalist Ms. Leigh is dedicated to creating  
27 honest dialogue based on the truth about wild horses and burros on public lands; her  
28 goal is to educate the public about wild horses on public lands, including educating on

1 how wild horses live, thrive, survive, travel, their social order and interaction, how they  
2 become impacted by competing private and also public interests that affect their  
3 remaining habitat, how they are impacted by man and by those charged with the  
4 responsibility of protecting them, who, in this instance, are the Defendants herein.

5 36. As a documentarian and a current historian of America's wild horses, Ms.  
6 Leigh has gained a deep appreciation of, and respect for, wild horses, not just for a  
7 particular horse or two, nor in a general sense toward all wild horses, but rather, to  
8 certain groups of horses, certain herds exhibiting genetic similarities within defined  
9 geographical regions, and to certain herds of horses who thrive viably where the BLM  
10 has had little involvement, and with specified groups or families of wild horses who  
11 thrive and interact in a dynamic social order among themselves as particular herds in  
12 certain remote regions within public lands, and which Ms. Leigh photographed or  
13 documented multiple times in the past and also recently, and with whom Ms. Leigh  
14 spent countless hours and days visiting, watching, appreciating and understanding  
15 while observing them in their environment, on rangelands comprising public lands  
16 managed by the Defendants.

17 37. Ms. Leigh maintains significant history with the Owyhee Complex horses  
18 and the issues surrounding the management of wild horses at the Owyhee Complex.  
19 Ms. Leigh filed suit previously in this court in 3:10-cv-597 where the Hon. Larry Hicks  
20 agreed with Ms. Leigh when finding the blanket closure of public lands during roundup  
21 activities occurring there in the summer of 2010, violated First Amendment notions.  
22 Judge Hicks allowed an emergency roundup based on perceived drought conditions to  
23 continue. BLM claimed at the time, the Owyhee horses were in such degraded  
24 condition that 75 percent of the population would expire in three days' time if not  
25 immediately removed. With this unprecedented assertion, the court allowed the removal  
26 of those horses on an emergency basis. BLM allowed no independent or public  
27 confirmation or observation of a single horse rounded up in Owyhee in 2010 and  
28 intentionally chose private land to place its traps and alerted the Sheriff to arrest those

1 who trespassed on private land if public observers attempted to independently view the  
2 capture of these horses. And, an independent range expert who visited the same area  
3 immediately following the conclusion of the Owyhee 2010 roundup, where the purported  
4 “drought emergency” existed, found no evidence of a drought emergency and instead,  
5 found normal range conditions for that time of year. Meanwhile, not a single horse  
6 perished at Owyhee in 2010 until the BLM commenced its roundup. And several horses  
7 perished when the BLM engaged the roundup process.

8         38. The foregoing paragraph is significant in this instance for this reason: The  
9 BLM is using the identical trap for the Owyhee roundups commencing January 4, 2013  
10 as was used in the controversial Owyhee 2010 roundup. The BLM is using this identical  
11 trap as its only trap for the entire Owyhee HMA, meaning, horses that BLM, once again  
12 contends, show signs of significant impact from drought conditions, would be driven as  
13 much as 25 miles to this single trap location. Plaintiff is informed and believes this  
14 circumstance would place those wild horses in harm’s way and those horses would not  
15 be humanely managed when having to travel such a distance in winter conditions.

16         39. As a consequence of no corrective action having been taken at Owyhee  
17 Complex roundups thus far, Ms. Leigh finds herself in a position without remedy or  
18 recourse, to stop further acts of inhumane conditions and methods toward those wild  
19 horses at the Owyhee Complex. Ms. Leigh’ only apparent avenue of relief is through  
20 assistance of this court with this suit, to halt further inhumane treatment of Owyhee  
21 Complex wild horses.

22         40. Ms. Leigh engaged the BLM on the inhumane issues raised by this suit, at  
23 this roundup, in the avenues open to her. Ms. Leigh commented on the Preliminary EA.  
24 She commented at the RAC meeting. She wrote letters. She disclosed her  
25 documentation to the public and encouraged the public to write as the Owyhee  
26 Complex roundups continued with instances of inhumane conditions and methods  
27 remaining uncorrected.

28         41. Ms. Leigh’s repeated attempts at addressing the inhumane conditions and

1 methods remaining uncorrected at the current Owyhee Complex roundups, caused the  
2 BLM to publish an open letter naming Ms. Leigh's organization, Wild Horse Education,  
3 on the BLM's roundup update web page. The BLM's open letter does not address Ms.  
4 Leigh's concerns and instead, denies wrongdoing.

5 42. Understanding that she as but a mere citizen having no other recourse  
6 whatsoever to act when an agency who operates with broad discretion, contrary to  
7 laws, where the activity or inaction causes her harm as averred herein, Plaintiff is  
8 compelled to bring the improper conduct to the attention of the courts, to ask for the  
9 court's help, to stop and enjoin further inhumane conduct toward the Owyhee Complex  
10 wild horses during the BLM's described processes, and to prevent her further  
11 perceptible harm.

12 43. Plaintiff is informed and believes she maintains a right to seek judicial  
13 review of agency action (or lack of action) under the Administrative Procedure Act,  
14 which allows a party "suffering legal wrong because of agency action, or adversely  
15 affected or aggrieved by agency action" to seek judicial review. 5 U.S.C. § 702.

16 44. Plaintiff is informed and believes she suffered and continues to suffer an  
17 invasion of a legally protected interest amounting to the harms as averred herein,  
18 caused when she is compelled, time and time again, to watch the Defendants engage  
19 Owyhee Complex wild horses with inhumane methods and conditions, contrary to laws  
20 and policies of the United States; that Ms. Leigh maintains a right to observe the  
21 *humane* removal of Owyhee Complex wild horses from public lands.

22 45. Plaintiff is adversely affected and aggrieved where she suffers perceptible  
23 harm which is imminent and continuing when having repetitively been subjected to  
24 observations of inhumane treatment toward Owyhee Complex wild horses and which  
25 she would likely observe with ongoing Owyhee Complex roundups; that the offending  
26 conduct is within the zone of interest contemplated by Congress which clearly calls for  
27 the *humane* removal of excess wild horses.

28 46. Plaintiff is informed and believes her perceptible harm is: concrete and



1 particularized, and imminent, and not conjectural or hypothetical, that there is a causal  
2 connection between her perceptible harm and the conduct complained of, and that the  
3 continuing threat of such perceptible harm to her person would be redressed with the  
4 imposition of temporary, preliminary and permanent injunctive relief as requested  
5 herein.

6 47. Plaintiff is informed and believes her requested relief is traceable to the  
7 Defendants' practice of ignoring the expressed intent of Congress when Congress  
8 unanimously adopted the Wild Free-Roaming Horses and Burro Act 16 U.S.C. §1331 *et*  
9 *seq.*, where Congress unambiguously requires the Defendants to remove excess  
10 horses *humanely*. See, 16 USC § 1333 (b)(2)(iv)(B) (as amended in 1978). That the  
11 "humane" handling of free-roaming wild horses when removing their excess brethren, is  
12 part and parcel with the Wild Horse and Burro Act and is stated in mandatory, not  
13 permissive terms. 16 USC § 1333 (b)(2)(iv)(B). [See also, 16 U.S.C. § 1338a (the use  
14 of helicopters, "shall be in accordance with *humane* procedures . . . ."), 16 U.S.C.  
15 §1333(c)(calling for "humane conditions" by adopters), 1338(a)(3)(criminal penalty for  
16 "maliciously causes the death or harassment of any wild free-roaming horse or burro")  
17 and §1338(a)(6) (willfully violates a regulation issued pursuant to the Wild Free-  
18 Roaming Horse and Burro Act)]. Plaintiff is informed and believes the Wild Free-  
19 Roaming Horse and Burro Act remains clear, cogent and unambiguous in regard to the  
20 mandatory *humane* handling of wild horses by the Defendants during their removal of  
21 excess horses.

22 48. That the definition of what the United States considers "humane" and  
23 also "inhumane" is specifically referenced at 43 CFR § 4700.0-5. Plaintiff is informed  
24 and believes the Defendants' conduct as described and identified herein and elsewhere  
25 in support of her requested injunctive relief, is in contradiction to that considered  
26 "humane" as defined in 43 CFR §4700.0-5, and is "inhumane" as that term is described  
27 in 43 CFR §4700.0-5; and further, such conduct by the Defendants is against all  
28 reasonable notions of what groups of reasonable people would consider as being

1 “humane;” and such conduct is further inhumane as that term is contemplated within  
2 the laws of the State of Nevada.

3 49. Plaintiff has no other avenue of recourse but to seek injunctive relief in the  
4 courts when the Defendants repeatedly choose not to follow and enforce the laws of the  
5 United States with regard to the humane removal of excess wild horses from public  
6 lands, and where they intend to remove horses not considered excess horses from  
7 public lands, and which conduct causes Plaintiff a perceptible harm as averred herein.

8  
9 **DEFENDANTS**

10 50. The named Defendants collectively comprise the governing authorities of  
11 the United States of America responsible for managing certain public lands in the  
12 United States. The U.S. Department of Interior is a cabinet-level agency headed by Mr.  
13 Ken Salazar. The BLM is a U.S. Department of Interior “bureau” headed by Mr. Mike  
14 Pool as its Acting Director. Ms. Amy Lueders is the BLM’s Nevada State Director. The  
15 individuals are sued only in their official capacity as those most senior in decision-  
16 making processes and responsible for their respective governing agency / bureau /  
17 department. Plaintiff is informed and believes the BLM manages 47 million acres of  
18 public land in Nevada, accounting for more than 80 percent of Nevada’s land mass.

19  
20 **GENERAL ALLEGATIONS**

21 51. The Owyhee comprises in excess of one million acres. The roundup area  
22 is larger and includes more than two million acres, crossing two counties, Elko and  
23 Humboldt. Exhibit 1, EA, ¶ 3, p.1.

24 52. Although the opening section of the EA indicates roundups would last 45  
25 days, the EA, in truth, contemplates and incorporates a ten (10) year roundup removal  
26 plan. Exhibit 1, EA, 4th ¶, p.16; ¶ 5, p.18; ¶ 2, p.19.

27 “Maintenance gathers to reapply fertility control and to remove adoptable  
28 wild horses would be conducted for the next 10 years following the date of

1 the decision.” Exhibit 1, EA, 4th ¶, p.16.

2 53. All wild horses in the Owyhee Complex are managed by BLM. The BLM  
3 defines “excess” horses as a population which exceeds in number, that which the BLM  
4 invented and coins “appropriate management level” or “AML.” The BLM recently  
5 reformulated “AML” into a variable range, from a “high AML” to a “low AML.” The  
6 Owyhee Complex roundups in this instance strictly target “low AML.” Exhibit 1, EA, ¶ 5,  
7 p.18; ¶ 2, p.19. And, Exhibit 1, EA, ¶ 2.6.3, p.21. BLM defines “AML” as follows:

8 [t]he number of horses that can be sustained within a designated HMA  
9 which achieves and maintains a ‘thriving natural ecological balance’ in  
10 keeping with the multiple use management concept for the area.

11 Exhibit 1, EA, 4th ¶, p.3.

12 54. Plaintiff is informed and believes, according to BLM assertions, the low  
13 range of AML is the *minimum* herd population level for a given HMA. The high range  
14 AML is the maximum population level that will help to prevent further deterioration of  
15 the range and achieve and maintain a “thriving natural ecological balance” and multiple  
16 use relationship.<sup>4</sup>

17 55. The roundup scheduled to commence January 4, 2013 of the 50 horses  
18 the BLM seeks to remove from the Owyhee HMA, is not justified. The original removal  
19 of horses from this specific area, absent a modified drought emergency, was slated to  
20 be only 11 horses. This sum was increased from 11 horses to 50 horses when the BLM  
21 posted an update to the roundup schedule. The stated reason for the increase in  
22 removed horses is because of severely limited water resources. But, the “severely  
23 limited water conditions” is a condition that no longer exists. The BLM update states in  
24 relevant part, the following:

25

26 \_\_\_\_\_  
27 <sup>4</sup> Plaintiff is informed and believes “low AML” represents a fictional and flawed  
28 method of determining excess wild horses, not justified by law. The Plaintiff does not  
challenge the concept with this lawsuit, although she does *not* ascribe to the concept by  
not challenging the concept.

1 The Bureau of Land Management today announced updates to its  
2 tentative fall-winter schedule for gathering wild horses and burros from  
3 overpopulated herds on drought- stricken Western public rangelands.  
4 Changes from the previous gather schedule reflect a re-prioritizing of  
5 gathers based on drought and, in some cases, animal conditions that  
6 have been affected by diminishing forage and water across the West.

7 \* \* \*

8 The gather of Owyhee Herd Management Area in Nevada will seek to  
9 remove 50, rather than 11, horses because of severely limited water  
10 sources. See BLM Update, **Exhibit 2**, attached.

11 Plaintiff is informed and believes the BLM update was posted when in fact, there was a  
12 drought emergency or severely limited water resources; such conditions no longer  
13 exists following several storms or after December 6, 2012 when the range was flooded  
14 and became saturated by multiple rain storms. The roundup of horses beyond 11  
15 horses, beginning January 4, 2013, is clearly not justified where these horses, beyond  
16 11, would not be excess horses.

17 56. Plaintiff seeks to enjoin, not the roundups themselves, but the inhumane  
18 conduct occurring at these roundups that has now become the BLM's "norm."

19 57. In 1971 the Wild Horse and Burro Act passed unanimously in both houses  
20 of Congress and was signed into law December 1971 by President Nixon. The purpose  
21 of the act was to protect wild horses found on federal public lands. The Congressional  
22 findings and declaration of policy of the Act are as instructive. They are as follows:

23 Congress finds and declares that wild free-roaming horses  
24 and burros are living symbols of the historic and pioneer  
25 spirit of the West; that they contribute to the diversity of life  
26 forms within the Nation and enrich the lives of the American  
27 people; and that these horses and burros are fast  
28 disappearing from the American scene. It is the policy of

1 Congress that wild free-roaming horses and burros shall be  
2 protected from capture, branding, harassment, or death; and  
3 to accomplish this they are to be considered in the area  
4 where presently found, as an integral part of the natural  
5 system of the public lands.

6 The Wild Free-Roaming Horses and Burro Act of 1971,  
7 P.L.92-195, 16 U.S.C. § 1331.

8 58. Congress defines the powers and duties of the Secretary of the Interior,  
9 relative to the management of wild horses on public lands, in Section 1333 of the Act.  
10 That Section defines by mandatory language the Secretary's obligation to *humanely*  
11 capture certain wild horses. Section 1333 provides in relevant part, that the removal of  
12 excess horses from public lands,

13 [s]hall be taken, in the following order and priority until all  
14 excess animals have been removed so as to restore a  
15 thriving natural ecological balance to the range, and protect  
16 the range from the deterioration associated with  
17 overpopulation:

18 \* \* \*

19 (B) ***The Secretary shall cause such number of***  
20 ***additional excess wild free-roaming horses and***  
21 ***burros to be humanely captured*** and removed for  
22 private maintenance and care for which he  
23 determines an adoption demand exists by qualified  
24 individuals, and for which he determines he can  
25 ***assure humane treatment*** and care (including  
26 proper transportation, feeding, and handling) . . . .

27 16 USC 1333 (b)(2)(iv)(B) (Emphasis Added).

28 59. Plaintiff had been an observer at Owyhee Complex roundup operations

1 from November 27 through December 15, 2012. Although her access is customarily  
2 unduly and unreasonably restricted, she nevertheless observed several examples of  
3 inhumane conditions and methods in the process of capturing, corralling and  
4 transporting wild horses. Those specific instances of conduct are described in  
5 paragraph 11 above, at pp. 5-6, and are described in detail in the Declaration of Laura  
6 Leigh at **Exhibit 3**.

7           60. Plaintiff was not the only observer who witnessed these incidents  
8 repetitively. See Declaration of Keegan Kuhn at **Exhibit 4** which outlines Mr. Kuhn's  
9 observations of inhumane conditions and methods ongoing at the Owyhee Complex  
10 roundups.

11           61. Another observer present during some of the Owyhee Complex roundups,  
12 likewise became offended at viewing the same inhumane conditions and methods. See  
13 Declaration of Stephanie Martin at **Exhibit 5** which outlines Ms. Martin's observations of  
14 inhumane conditions and methods ongoing at the Owyhee Complex roundups.

15           62. 43 CFR § 4700.0-5 provides in relevant part, as follows:

16                   (e) Humane treatment means handling compatible with animal  
17 husbandry practices accepted in the veterinary community, without  
18 causing unnecessary stress or suffering to a wild horse or burro.

19                   (f) Inhumane treatment means any intentional or negligent action or  
20 failure to act that causes stress, injury, or undue suffering to a wild  
21 horse or burro and is not compatible with animal husbandry  
22 practices accepted in the veterinary community.

23           63. As of this writing, due to the holidays, Plaintiff had not yet received  
24 Declarations from respectable veterinarians who intend to provide support confirming  
25 that the observed conditions and methods are not "humane" toward those wild horses.  
26 Plaintiff asks leave of court to supplement the complaint and any motion to include such  
27 Declarations.

28

1 64. The BLM's own EA for the Owyhee Complex roundups provides as  
2 follows:

3 The primary concern of the contractor is the safe and humane handling of  
4 all animals gathered. Exhibit 1, Appendix A, p.132.

5 65. The BLM's own EA for the Owyhee Complex provides as follows:

6 The COR would coordinate with the contractor and the BLM  
7 Corrals to ensure animals are being transported from the gather site in a  
8 safe and humane manner and are arriving in good condition.

9 The contract specifications require humane treatment and care of  
10 the animals during removal operations. These specifications are designed  
11 to minimize the risk of injury and death during and after gather of the  
12 animals. The specifications would be vigorously enforced.

13 Should the Contractor show negligence and/or not perform  
14 according to contract stipulations, he would be issued written instructions,  
15 stop work orders, or defaulted.

16 Exhibit 1, Appendix A, p.138.

17 66. 43 CFR § 4740.1 provides in relevant part, the following:

18 [a]ircraft may be used by the authorized officer  
19 in all phases of the administration of the Act, .  
20 . . All such use shall be conducted in a  
21 humane manner.

22 43 CFR § 4740.1.

23 67. 16 U.S.C. § 1338a likewise provides in relevant part as follows:

24 In administering this Act [16 USCS §§ 1331 et  
25 seq.], the Secretary may use or contract for the  
26 use of **helicopters**. . . . Such use shall be  
27 undertaken only after a public hearing and  
28 under the direct supervision of the Secretary or

1 of a duly authorized official or employee of the  
2 Department. . . . ***Such use shall be in***  
3 ***accordance with humane procedures.*** . . .

4 16 U.S.C. § 1338a.

5 **FIRST CLAIM FOR RELIEF**

6 68. Plaintiff incorporates by reference the averments contained in Paragraphs  
7 1 through 67 of the Complaint as though the same were fully set forth herein.

8 69. Plaintiff is informed and believes the Defendants' roundup methods at  
9 Owyhee Complex are "inhumane" and contrary to the clear intent of Congress when  
10 passing The Wild Free-Roaming Horses and Burro Act of 1971, 16 U.S.C. 1331 *et*  
11 *seq.*, which governs the conduct of such activities on BLM-managed lands; that the  
12 methods employed in handling wild horses removed from Owyhee are contrary to, and  
13 deviate from, the policies of the United States, that they are contrary to, and deviate  
14 from the laws of the United States and the Code of Federal Regulations, and  
15 particularly contrary to the following provisions:

- 16 a. 16 USC § 1333 (b)(2)(iv)(B);
- 17 b. 16 U.S.C. § 1338a;
- 18 c. 43 CFR § 4740.1;
- 19 d. 43 CFR § 4700.0-5(e), (f).

20 70. That the roundup methods and conditions employed by the BLM at the  
21 Owyhee Complex contravene the Defendants' own stated, publicized policies with  
22 respect to the *humane* management and care of wild horses removed during such  
23 roundup, as is stated in the BLM's own published EA.

24 71. That the Defendants maintain authority to enforce the *humane* laws of the  
25 United States, and they maintain authority to correct or to modify or to stop the  
26 contractor's work in this very instance, to cause compliance with such humane laws,  
27 policies and regulations; that the failure to enforce such laws and provisions is an  
28 abuse of discretion that causes Plaintiff's harm as averred herein.



1           72. That the Defendants' failure and/or refusal to act to enforce the humane  
2 laws of the United States as indicated herein, is in fact, agency action defined at 5  
3 U.S.C. § 551(13) (a failure to act), that is arbitrary, capricious, and an abuse of  
4 discretion, or otherwise not in accordance with law, and/or is agency action  
5 implemented without observance of procedure required by law, as is contemplated in  
6 the Administrative Procedures Act, 5 U.S.C. §§ 706(2)(A) and/or (D). And such failure  
7 to act causes Plaintiff's harm as averred herein.

8           73. Plaintiff is informed and believes she maintains standing under 5 U.S.C. §  
9 702 of the Administrative Procedures Act to seek judicial review of the Defendants'  
10 action (or failure to act) where she has suffered and would continue to suffer actual  
11 injury or injury in fact that is within the zone of interests protected by the relevant federal  
12 statutes indicated herein above, which Defendants fail and refuse to enforce or correct.

13           74. Plaintiffs' actual injury, injury in fact and harm includes but is not limited to  
14 harm to her personal aesthetic interests when observing the brutality of the inhumane  
15 method the Defendants systematically employ when capturing, handling and removing  
16 wild horses. As one familiar with horses, Ms. Leigh does not have a reasonable or valid  
17 explanation to herself, for the dichotomy between having personally viewed in one  
18 aesthetic sense, the freedom wild horses in this region experience when roaming free  
19 and peacefully in their native habitat, with the aftermath she observed where wild  
20 horses are subjected to undeserved inhumane treatment by the very agency left in  
21 charge of their safe keeping. That Ms. Leigh's personal, internal lack of validation or a  
22 reasonable explanation for such inhumane treatment results in a gnawing, depressing,  
23 confusing and sobering look into the dark side of humanity that disturbs the senses and  
24 destroys all notions of aesthetic appreciation the Plaintiff otherwise would enjoy when  
25 observing Owyhee Complex horses roaming free in peaceful, dynamic social order. Ms.  
26 Leigh suffers harm to her personal well being where she is physically sickened in  
27 having observed repetitive inhumane acts towards wild horses. Ms. Leigh suffers harm  
28 to her personal well being and to her mind's soul amounting to anxiety, trepidation,

1 grief, chagrin, and a shock to the senses, which she must relive in both her conscious  
2 mind and also at an unconscious level when experiencing nightmares, from having  
3 personally witnessed the inhumane conditions and methods employed at these  
4 roundups. Ms. Leigh. is informed and believes that these personal harms and other  
5 harms, establish the requisite concrete and particularized injury to her personal  
6 interests.

7 75. Plaintiff has planned to observe the Defendants' remaining roundup  
8 operations at the Owyhee Complex. Plaintiff accordingly could reasonably expect that  
9 she would continue to suffer the same harm as referenced herein, at remaining  
10 Owyhee Complex roundups where the Defendants refuse corrective action.

11 76. As of this writing, Plaintiff is informed and believes the Defendants have  
12 not engaged in any corrective efforts to ensure such inhumane conduct is not repeated  
13 at future roundups at Owyhee Complex roundups.

14 77. There remains a real and immediate threat that the injuries to Ms. Leigh's  
15 personal interests as herein described would repeat and reoccur where she would likely  
16 be present at remaining Owyhee Complex roundups.

17 78. A ruling in Plaintiff's favor would likely address and resolve the Plaintiffs'  
18 harm that would not likely occur except with assistance from the court.

19 79. That the Defendants' arbitrary and capricious action, its abuse of  
20 discretion, its conduct not in accordance with law, and its action implemented without  
21 observance of procedure required by law, relevant to the Defendants' refusal to enforce  
22 humane laws and policies of the United States during the Owyhee roundup, is the direct  
23 and proximate cause of the Plaintiff's harm as described herein

24 80. The harms to Ms. Leigh as are more particularly described herein are  
25 irreparable. The Defendants' conduct in refusing to take corrective action disturbs the  
26 senses of reasonable people including Ms. Leigh, and causes further irreparable harm  
27 to Ms. Leigh. Such inhumane conduct is intolerable, it is shocking to the conscience of  
28 reasonable persons including Ms. Leigh, and such inhumane conduct is unlawful and

1 unnecessary. There is no measure of damages and no action at law available to Ms.  
2 Leigh which can account for the personal, irreparable loss to Ms. Leigh as heretofore  
3 mentioned. Ms. Leigh has no other remedy available to her in seeking a remedy to stop  
4 the harmful conduct. Without the help of this court, she finds herself without remedy  
5 and without justice.

6 81. Ms. Leigh is further harmed by the fact that the actions are condoned and  
7 carried out by her government. Ms Leigh's very pride and identity as an American is  
8 offended by the actions of this agency. That this agency would be permitted to  
9 inhumanely treat a symbol of American freedom is appalling to her.

10 82. For the reasons outlined herein, the Defendants should be temporarily  
11 restrained and preliminarily and permanently enjoined from allowing inhumane methods  
12 and conditions to remain in place, unchecked and without correction, as is previously  
13 described herein, during the Defendants' completion of the Owyhee Complex roundups.

14 **SECOND CLAIM FOR RELIEF**

15 83. Plaintiff incorporates herein by reference the averments contained in  
16 Paragraphs 1 through 82 of the Complaint as though the same were fully set forth  
17 herein.

18 84. A controversy exists between Plaintiff and Defendants relative to the  
19 Defendants' inhumane management of wild horses on public lands as described herein.

20 85. Plaintiff seeks a declaration that proclaims cessation of all forms of  
21 inhumane treatment as identified herein and in accompanying injunctions, and which  
22 requires the Defendants to enforce humane provisions of the laws of the United States  
23 as is so required, to prevent further harm to Plaintiff as described herein.

24 86. Plaintiff seeks a declaration that proclaims that the absence of a specific  
25 humane care policy or protocol implemented by the Defendants has caused inhumane  
26 treatment of wild horses at Owyhee Complex roundups, and has caused Plaintiff harm.

27 87. Plaintiff seeks a declaration that the conditions and methods causing  
28 inhumane treatment toward wild horses during the Owyhee Complex roundups,

1 remaining uncorrected, is arbitrary and capricious, and results in an abuse of discretion,  
2 or otherwise involves activity not in accordance with law, and that the plan is  
3 implemented without observance of procedure required by law.

4 88. Plaintiff seeks a declaration that the Defendants' action as currently  
5 implemented, results in inhumane treatment toward horses, that the Defendants' action  
6 is accordingly, arbitrary and capricious, and results in an abuse of discretion, or  
7 otherwise involves activity not in accordance with law, and that the plan is implemented  
8 without observance of procedure required by law.

9 89. Plaintiff seeks a declaration that the Defendants' choice of action as is  
10 displayed at the Owyhee Complex as averred herein, violates laws of the United States,  
11 in particular the following:

- 12 a. 16 USC § 1333 (b)(2)(iv)(B);
- 13 b. 16 U.S.C. § 1338a;
- 14 c. 43 CFR § 4740.1;
- 15 d. 43 CFR § 4700.0-5(e), (f).

16 90. Plaintiff seeks a declaration that plaintiff maintains standing to bring both  
17 injunctive relief and also declarative relief as averred herein, that she suffers irreparable  
18 harm, that the issuance of such relief is in the public's interest as well as in Ms. Leigh's  
19 interests.

## 20 PRAYER FOR RELIEF

21 WHEREFORE, Plaintiff respectfully prays for judgment and relief as against all  
22 Defendants, as follows:

- 23 1. A mandatory or prohibitive injunction issue preliminarily and permanently,  
24 precluding the Defendants from allowing *inhumane* methods and conditions to  
25 exist during the Owyhee Complex roundups, as are described herein, to compel  
26 enforcement of humane laws of the United States and to compel immediate  
27 correction of inhumane methods and conditions as they are observed during  
28 Owyhee Complex roundups;

- 1 2. A declaration that the Defendants' action as currently implemented at the  
2 Owyhee Complex roundups, results in inhumane treatment toward wild horses,  
3 that the Defendants' action is accordingly, arbitrary and capricious, and results in  
4 an abuse of discretion, or otherwise involves activity not in accordance with law,  
5 and that the Defendants' action is without observance of procedure required by  
6 law.
- 7 3. A declaration that the Defendants' current plan as currently contemplated  
8 violates laws of the United States, in particular the following:
  - 9 a. 16 USC § 1333 (b)(2)(iv)(B);
  - 10 b. 16 U.S.C. § 1338a;
  - 11 c. 43 CFR § 4740.1;
  - 12 d. 43 CFR § 4700.0-5(e), (f).
- 13 4. A declaration that plaintiff maintains standing to bring both injunctive relief and  
14 also declarative relief as averred herein, that she suffers irreparable harm, that  
15 the issuance of such relief is in both hers and the public's interest.
- 16 5. A declaration that the conditions and methods of rounding up, capturing,  
17 corralling and loading wild horses at Owyhee Complex as described herein, are  
18 inhumane and thus violate policies and laws of the United States.
- 19 6. A declaration that the absence of a specific humane care policy or protocol  
20 implemented by the Defendants has caused inhumane treatment of wild horses  
21 at Owyhee Complex roundups, and has caused Plaintiff harm.
- 22 7. That the Court award Plaintiff:
  - 23 a. her costs of suit and expenses including expert witness and  
24 consultant fees and reasonable attorney's fees; and
  - 25 b. such other and further relief as the Court deems appropriate under  
26 the circumstance.

1 Dated this 4<sup>th</sup> day of January 2013

2 LAW OFFICE OF GORDON M. COWAN

3 s/

4 

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Gordon M. Cowan Esq. (SBN 1781)  
Attorney for Plaintiff LAURA LEIGH

6 **DEMAND FOR JURY**

7 Plaintiff LAURA LEIGH hereby requests and demands a trial by jury of any and  
8 all matters to which the right of jury trial attaches in the above-captioned matter.

9 Dated this 4<sup>th</sup> day of January 2013

10 LAW OFFICE OF GORDON M. COWAN

11 s/

12 

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Gordon M. Cowan Esq. (SBN 1781)  
Attorney for Plaintiff LAURA LEIGH

14 **Exhibits**

- 15 Exhibit 1: BLM's Final Environmental Assessment for the Owyhee Complex  
16 Exhibit 2: BLM Posted Update  
17 Exhibit 3: Declaration of Laura Leigh  
18 Exhibit 4: Declaration of Keegan Kuhn  
19 Exhibit 5: Declaration of Stephanie Martin