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**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

KLAMATH SISKIYOU WILDLANDS
CENTER and KLAMATH FOREST
ALLIANCE,

Plaintiffs,

v.

PATRICIA GRANTHAM, et al.,

Defendants.

Case No. 2:11-cv-01647 MCE CMK

**DECLARATION OF
GREGORY A. CLEVINGER**

I, GREGORY A. CLEVINGER, declare as follows:

1. My name is Gregory A. Clevenger, and I reside in Ashland, Oregon. I have lived and worked in Southern Oregon for over 22 years. I am a member of the Klamath Siskiyou Wildlands Center (KS Wild). The following facts are personally known to me, and if called as a witness I would and could truthfully testify thereto.

3. I began working on the RR-SIS NF (then the Rogue River National Forest) in the spring of 1990, as the Forest Resource Staff Officer. The Rogue River and Siskiyou National Forests were administratively combined in 2004, although I was assigned responsibilities as Resource Staff Officer for both Forests several years before that. I continued in this position until my retirement from the Forest Service in 2006, after 30 years with the agency.

5. Other Forest Service positions I have held that were directly related to range management include three years as Resource Staff Officer on the Umatilla National Forest (work included serving on Regional range administration training cadre) three years as Forest Wildlife Biologist on the Dixie National Forest (with responsibility to provide and coordinate wildlife input with one of the largest grazing programs in the Intermountain Region), two years as District Wildlife Biologist on the Caribou National Forest (including responsibilities for all wildlife coordination as well as range analysis on the Curlew National Grassland), and one year as District Range Conservationist on the Custer National Forest. I have a Bachelor of Science degree in Natural Resource Management from California Polytechnic State University, and a Master of Science degree in Wildlife Science from Utah State University.

1 6. After my retirement, I served as a volunteer for the RR-Sis NF from 2006-2009. From
2 2007-2009 my volunteer work was focused almost exclusively (per direction of the Zone Range
3 Program Manager, Mark Hocken) on the Siskiyou Crest area because of the continuing issue
4 with excess use by KNF permitted livestock on the RR-Sis NF.

5 7. Of the three allotments covered in the Oak Knoll project, I have visited and viewed the
6 East Beaver Allotment extensively over the years, beginning in 1990 and continuing to the
7 present time. East Beaver is the largest of the three grazing allotments included in the Oak Knoll
8 Range Project, and the one out of the three allotments that borders the RR-SIS NF. I have visited
9 these areas of the KNF, the Siskiyou Crest, as well as the adjacent areas of the RR-SIS NF, as
10 part of my work with the latter Forest, as well as for recreational, scientific, and aesthetic
11 purposes, and to regularly monitor and inspect conditions on the Forests, particularly in sensitive
12 riparian areas. High elevation meadows and subalpine wetland areas are of great interest to me
13 and increase my enjoyment of my visits. Excess livestock grazing that degrades these habitats
14 and affects the species associated with them impair my enjoyment of these areas.

15 8. Excess livestock use by KNF permitted livestock along the Siskiyou Crest area of the
16 RR-SIS NF significantly affects my personal use of this area in two ways.

17 9. First, I have a strong continuing professional and scientific interest in the proper
18 management of public lands. The Siskiyou Crest area, including both the RR-SIS NF and the
19 KNF, contain valuable and regionally unique high elevation habitat for both flora and fauna. As
20 evidence of this, the area is designated as a "Special Interest Area" in the Rogue River National
21 Forest Land Use Plan because of the outstanding scenic and botanical values this area contains.
22 There are numerous rare and/or sensitive plant species found in this area, and the many
23 seasonally and perennially wet glades constitute an important component of the respective
24 watersheds of the area.

25 10. In 1992, the World Conservation Union listed the Klamath-Siskiyou region as one of
26 seven areas of "global botanical significance in North America." More specifically related to the
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1 Siskiyou Crest, in 1975, Wayne Roderick of the University of California Botanic Garden,
2 Berkeley, asserted in the Journal Four Seasons that Cook and Green Pass (at the center of the
3 Siskiyou Crest) has 'the largest single aggregation of native plant species known to occur in one
4 limited area in California' (page F-7, Rogue River National Forest FEIS, Land and resource
5 Management Plan). This is clearly a unique and ecologically valuable area that is not only
6 recognized in SW Oregon, but also nationally and (if the entire Klamath-Siskiyou bio-region is
7 included) internationally as well, a fact which adds to my continued interest and enjoyment of
8 the Siskiyou Crest. Excess use of this area by KNF permitted livestock has contributed to the
9 degradation of native wildlife and plant habitat, as well as watershed health, in some areas of the
10 Siskiyou Crest, particularly McDonald Basin, Monogram Lakes, Siskiyou Gap, Glade Creek, and
11 the upper portions of Silver Fork Basin.

12 11. Second, grazing impacts my recreational use of the area, which begin in 1990 and
13 continues today. I commonly use the area for hiking, trail running, hunting, and scenic drives.
14 The Pacific Crest Trail (PCT) runs along the Crest and is heavily used by hikers (both local, and
15 "through hikers") and trail runners (including myself). Encountering areas of excess use by
16 KNF livestock grazing on the RR-SIS NF significantly affects my recreational experience. This
17 is particularly true in areas of the RR-SIS NF Forest where no livestock grazing is permitted by
18 that Forest (Wagner Butte allotment), yet are still grazed by KNF permitted livestock. Due to
19 ongoing effects, some of these areas have been closed to livestock grazing by the RR-SIS NF,
20 yet it is not uncommon to encounter KNF livestock while visiting these areas.

21 12. I fully anticipate that all of these aforementioned personal interests in the Siskiyou Crest
22 area will continue for me well into the future.

23 13. In 1990, during my first year of work on the then Rogue River NF I was approached by
24 the District Rangers from the Ashland and Applegate Ranger Districts who expressed significant
25 concern over the effects of chronic excess use by KNF permitted cattle on areas of the Siskiyou
26 Crest on their respective Ranger Districts. As I researched the background of this issue, it
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1 became apparent that this was a long-standing problem. I have personally seen a letter in the
2 files of the Ashland Ranger District (ca. 1918) that was written from the Ashland District Ranger
3 to a counterpart on the KNF expressing concern over the continuing issue of KNF livestock
4 grazing on the Ashland Ranger District, and a request for a meeting to discuss the matter and
5 find a solution.

6 14. The strong historical and continuing attraction of KNF livestock to the RR-SIS NF is
7 based upon the different environmental characteristics that are associated with north vs. south-
8 facing exposures. The respective Forest boundaries roughly parallel the Crest; the RR-SIS NF is
9 located to the north of the Crest, with the KNF lying to the south. The north-facing slopes of the
10 RR-SIS NF are typically both cooler and moister than the generally south-facing slopes of the
11 KNF. Vegetation that is eaten by livestock remains green (hence more palatable and nutritious)
12 significantly longer into the summer/fall grazing season on north-facing slopes, and is
13 consequently actively sought after by livestock. Additionally, north-facing slopes are
14 significantly cooler during the warm summer season and, along the Crest, have more plentiful
15 water for livestock in the form of streams and springs. These static environmental factors have
16 historically, and will continue to, act as a strong attractant for KNF livestock grazing in the
17 vicinity of the Siskiyou Crest to move onto the RR-SIS NF.

18 15. After assessing the entire range management program on the RRNF shortly after my
19 arrival in 1990, it became clear that the issue along the Siskiyou Crest was the highest priority
20 for the program on the entire RR-Sis NF. During my time of employment (1990-2006) with the
21 RR-SIS NF, I stayed actively engaged in this issue, working with District Rangers and Staff from
22 both the RR-SIS as well as the KNF, and providing program direction and technical support on
23 this issue to personnel from the RR-SIS NF (including Ranger District Rangeland Managers,
24 District Rangers, and the Forest Supervisor). Because of the significance of this issue, I also
25 involved the FS Region 6 Regional Office range program managers in this issue and updated and
26 consulted with them periodically concerning the status of the situation.
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1 16. Since 1990, the two National Forests have held numerous formal and informal meetings
2 to discuss this issue and look for solutions. These meetings have taken place in the field as well
3 as in office settings. The August 7, 2002 letter (which I drafted for Acting RR-SIS NF
4 Supervisor Thomas Reilly) to KNF Supervisor Peg Boland requesting a meeting to discuss this
5 issue also provides a summary of much of the work that has occurred, and the level of concern
6 around this issue. This letter is in the administrative record at OKAR000767.

7 17. I helped arrange and/or participate in many of these meetings from 1990 until my
8 retirement from the Forest Service in 2006. Several meetings of note that involved both line
9 officers and Supervisors Office Staff from both National Forests that I was directly involved in
10 (by playing a major role in arranging and participating in the meeting) include; 1) early in the
11 1990s the two Forests held a meeting in Ashland, Oregon that included representatives from both
12 Forests, as well as grazing permittees from both Forests. This meeting was significant in that it
13 was the first attempt in quite some time that included both National Forests as well as grazing
14 permittees from both Forests, 2) subsequent to the August 7, 2002 letter (noted above) a meeting
15 was held in Yreka, California in the winter of 2002–2003 between RR-SIS NF Supervisor Scott
16 Conroy and KNF Supervisor Peg Boland, as well as members of their respective staffs, 3) on
17 June 18, 2010, I, along with a representative of the Native Plant Society of Oregon, as well as
18 another representative from KS Wild, met in Medford, Oregon, with KNF Forest Supervisor
19 Patty Grantham, and RR-Sis NF Forest Supervisor Scott Conroy, and members of their
20 respective staffs, to again voice concern that this issue was still not resolved and requesting their
21 active and direct involvement in finding a permanent solution to the problem. After this
22 meeting, a letter was sent to both Forest Supervisors reiterating our desire for a permanent
23 resolution to this issue, including specific expectations and timeframes (Attachment 1 to this
24 Declaration – April 22, 2010 letter requesting meeting and July 5, 2010 letter detailing
25 expectations after the meeting).

1 18. After my retirement from the RR-SIS NF in 2006, I returned as a FS volunteer and
2 worked in that capacity from 2006 through 2009. During those years (especially 2007-2009), I
3 was directed to focus exclusively on collecting information on excess livestock use by KNF
4 livestock along the Siskiyou Crest, as the issue was still deemed as a RR-SIS NF priority and
5 was also judged not to have been resolved.

6 19. During my tenure as a RR-Sis NF employee (1990-2006), and continuing for four years
7 after that (2006-2009) as I served as a volunteer for the RR-SIS NF, I can personally attest that
8 the KNF has received numerous, verified reports of grazing permit infractions. There were a few
9 years between 1990 and 2006, because of staffing limitations, that the KNF may have received
10 fewer reports from the RR-SIS NF than other years, simply because budget restrictions limited
11 the amount of time FS personnel could spend in the field. It should also be noted that rarely,
12 when the Crest area receives significantly above average precipitation in the spring and early
13 summer growing season (I can personally recall this happening only twice since 1990), there can
14 be less KNF livestock on the RR-SIS NF because the forage on the KNF during these very wet
15 years remains more palatable for a longer period of time during the grazing season, and there is
16 less of a tendency for the livestock to move onto the RR-Sis NF. The big picture, however, is
17 that for the last 20 years (and certainly before that as well), there have, and continue to be, KNF
18 livestock consistently grazing on the RR-SIS NF (which they are not authorized to do).

19 20. There are numerous areas all along the Crest on the RR-Sis NF that are sensitive to
20 grazing impacts. In my 2009 annual report, I included photographs of several damaged areas,
21 which are in the administrative record beginning at SOKAR0092 and which I attach to this
22 declaration as a reference at Attachment 2. There are seasonally and perennially saturated areas
23 (wet meadows and bogs) where the soil and vegetation are readily damaged by livestock grazing
24 and trampling, as well as many small streams. See Attachment 2, SOKAR0093 to
25 SOKAR0096. These areas have a strong attraction to livestock throughout most of the grazing
26 season, and once livestock began using them, the livestock will commonly not move to another
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1 area. Most all of these areas would be defined as “Riparian Reserves” in the Northwest Forest
2 Plan. Direction in the Plan dictates riparian areas be treated with care because of their high value
3 as wildlife and plant habitat, and the essential role they play in healthy watershed function. A
4 few of these Riparian Reserves along the Siskiyou Crest have areas immediately adjacent to
5 them with well-drained soils and good forage production. In the vast majority of situations,
6 however, these potentially “grazable” areas consist of only a few acres, or a very small narrow
7 strip immediately adjacent to Riparian Reserves. It is simply not feasible to graze these areas
8 because of the amount of fence construction and maintenance required to keep livestock from
9 damaging the riparian areas adjacent to them versus the very small amount of suitable grazing
10 area that would be made available by fencing.

11 21. There are also very dry sites as well all along the Crest that still show the effects of heavy
12 historical grazing practices (see attachment #3 to the August 7, 2002 letter to KNF Supervisor
13 Peg Boland). These dry sites tend to be impacted much less than the riparian reserves by
14 grazing, since they often have little forage, and hence don’t have much of an attraction for
15 livestock, but they are used by livestock for bedding areas, trailing, and in some cases, grazing,
16 all of which can retard their recovery. See Attachment 2 to this declaration at SOKAR0092. In
17 my professional judgment, if the entire Siskiyou Crest area were to be mapped today for
18 suitability for livestock grazing, not all, but a significant portion of it would be deemed
19 unsuitable for domestic livestock grazing, particularly on the RR-SIS NF portion of the Crest
20 (because it has a higher amount of riparian areas).

21 22. Because of the sensitivity of the areas just discussed, especially the riparian reserves,
22 with their strong attraction for livestock, it has been my professional judgment (based upon many
23 personal observations since 1990) that even a relatively small number of livestock (i.e. 10-15
24 head, and in some cases, less than that) can cause measurable impacts and /or retard the
25 improvement of these areas if the animals are allowed to remain in a particular area for more
26 than a few days. My years of experience on the Crest have indicated that on many occasions this
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1 type of damage has indeed occurred, and continues to occur. Often, the areas are so small that
2 within only a week or two a small number of livestock will have an impact on these areas.

3 23. It is because of these impacts that the RR-SIS NF has taken significant action to reduce
4 resource damage caused by livestock grazing along the Siskiyou Crest on lands administered by
5 that Forest. For example, the 1997 Decision Notice (DN) for the Wagner Butte Allotment EA
6 closed the entire McDonald Basin, as well as the Monogram Lakes areas to livestock grazing
7 until they showed significant signs of recovery (as spelled out in the EA). To date, these areas
8 remain closed to grazing. Equally significant, the 1997 DN for the adjacent Glade Creek
9 Allotment reduced the permitted number of livestock from 150 head to 75 head, and reduced the
10 season of use by one month. The RR-Sis NF also closed Glade Creek Allotment for resource
11 protection between 1997 and 2010 to allow reseeded lower elevation areas to become established
12 and because of a major wildfire in 2002. The RR-Sis NF also has installed several cattle guards,
13 drift fences, and water developments to allow control of RR-SIS NF permitted livestock on the
14 allotment. These actions have resulted in improvement in resource conditions in many areas of
15 the Glade Creek Allotment.

16 24. In addition to the significant actions taken in the aforementioned NEPA efforts for both
17 the Wagner Butte and Glade Creek allotments, the RR-SIS NF also took permit action against
18 RR-SIS NF grazing permittees who grazed on the Crest on that Forest when they failed to
19 comply with the terms and conditions of their grazing permits. Such actions include the
20 following;

- 21 • Wagner Butte Allotment: (2001) 100% suspension of grazing for two years (2002-
22 2003) because permittee did not keep livestock out of McDonald Basin (which had
23 been closed to grazing in the Wagner Butte EA for resource protection).
- 24 • Glade Creek Allotment: (2001) Notice of Violation and bill for collection for excess
25 use sent to permittee for livestock found on allotment after off-date.
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- Beaver/Silver Allotment: (2001) Permit action that resulted in four year, graduated suspension of up to 50% of numbers of livestock (beginning in 2002) because livestock were grazing in areas of allotment where they were not permitted.

25. To the best of my knowledge the KNF has never taken permit action against a KNF permittee for excess use on the RR-SIS NF. This in spite of well-documented information, over many years, that clearly documents repeated violations of the terms and conditions of the grazing permit by KNF permittees. Conversely, the RR-SIS NF has taken the actions listed above in a concerted attempt to address the resource issues along the Siskiyou Crest. In addition, the RR-SIS NF has enlisted the assistance of volunteers to assist Forest employees to monitor conditions along the Crest for several years, including 2001, and 2006-2011, with the primary focus on looking for and documenting excess use by KNF livestock so that information was available for the KNF to act upon.

26. In addition to documents, reports, and correspondence which I know the RR-SIS NF supplied to the KNF Forest managers the past 16+years, officials on the RR-SIS NF documented resource damage on that Forest from excess use by livestock from the KNF on several other occasions. Attached as Attachments 3-5 are several examples.

27. Attachment 3 is the Beaver Silver Allotment 2009 and 2010 Grazing Season Report, which describes damage from livestock to water quality and riparian areas on that allotment and intrusions by cattle from the Klamath National Forest on Donomore Meadows. I also described some of these issues in my 2007, 2008, and 2009 volunteer monitoring reports, and this report documents a series of calls made to the KNF asking that excess livestock be removed. I believe the information I gathered precipitated the calls to the KNF.

28. Attachment 4 is the "Assessment of Effects – Klamath Mountains Province Steelhead Trout and Northern California/Southern Oregon Coho Salmon" that the RR-SIS NF prepared in conjunction with the Wagner Butte Environmental Assessment (EA) in 1995 which describes

1 that “cattle drift into the Wagner Creek Allotment from the Klamath National Forest allotment
2 must be contained if habitat conditions from cattle grazing are to meet the ACS.”

3 29. Attachment 5 is the “Glade Wagner AMP Report” that the RR-SIS NF also prepared
4 contemporaneous with the Wagner Butte EA and which describes that “use by cattle from
5 outside the allotment continues to cause deterioration of areas adjacent to McDonald Basin” and
6 emphasized that “Control of cattle trespass from the Klamath National Forest is a high priority,”
7 in addition to discussing ways that the RR-Sis NF could improve management of the livestock it
8 permitted on its side of the Crest.

9 30. The Oak Knoll Range Project EA places significant hope in the strategy of building
10 corrals along the Crest, and then actively checking for and removing the offending animals,
11 placing them in corrals, and then removing them. The fact of the matter is that you can build a
12 dozen corrals along the Crest, and unless the permittee is required by the KNF to actively (in my
13 experience, this could be 2-3 times per week) inspect his allotment throughout the season, and
14 then be held accountable for failure to relocate or **remove** livestock as they get close to the
15 boundary of the RR-Sis NF, the problem with excess use by KNF livestock will not be
16 effectively addressed, and the issue will continue, as it has for decades. The importance of very
17 active permittee inspection and livestock control/removal, with permit action being taken when
18 excess use occurs (in violation of the terms and conditions of the grazing permit), cannot be
19 overstated. Up to this point in time, Forest Service records show that the current KNF approach
20 is unsuccessful in consistently and effectively addressing this issue.

21 31. The Oak Knoll EA also places a tremendous amount of importance on implementation of
22 the Adaptive Management Strategy approach (AMS). The successful implementation of this
23 project is directly tied to faithfully following the monitoring outlined in the EA. Without
24 consistently gathering the specified information in an accurate and timely fashion, the AMS
25 approach is simply some good-sounding words written into an EA, and the current issues on the
26 allotments will continue. Rangeland funding and personnel to implement the AMS will in all
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1 likelihood continue to be inadequate, and other rangeland priorities on the KNF will compete for
2 scarce funds. Given this situation, assurances of adequate implementation of monitoring and
3 projects need to be committed to in this EA.

4 32. Also related to AMS implementation, there should be a schedule developed that clearly
5 displays when all of the monitoring actions displayed in section 2.1.2.4 will occur; list what year
6 they are scheduled, and list the estimated cost of implementation. This is essential to ensuring
7 that these actions actually get implemented on the ground and thus provide the necessary data to
8 implement the AMS. Without this information, the AMS approach cannot be implemented.

9 33. To paraphrase what I said in my 2007 Volunteer report that was submitted to the RR-SIS
10 NF, and have said many times before, and since, once management plans and annual direction
11 are in place, the primary responsibility for actually managing livestock on an allotment rests with
12 the grazing permittee. The Forest Service has the responsibility to establish specific seasons of
13 use, numbers and type of livestock, areas to graze, and not graze, conduct compliance checks,
14 conduct periodic monitoring of range condition and trend, do some utilization monitoring in key
15 areas, determine the effectiveness of grazing systems, assess if grazing activities are in
16 compliance with Land Management Plan Standards and Guidelines etc, and take prompt,
17 effective, permit action when permittees are not in compliance with the terms and conditions of
18 their grazing permits. To my knowledge, the KNF has never taken any permit action against
19 permittees along the Siskiyou Crest for which have been shown to have consistently violated the
20 terms and conditions of their grazing permits by allowing their livestock to graze on the RR-SIS
21 NF, even though there have, and continue to be, numerous, well-documented violations of the
22 grazing permit over the course of many years. Correspondingly, the KNF permittees do not have
23 an effective incentive to spend the substantial time and money required to keep their livestock
24 off the RR-Sis NF, and therefore, the actions outlined in the Oak Knoll EA do not provide a
25 long-term solution to this issue.
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1 34. It is my best professional judgment, based upon my extensive experience working
2 directly in the rangeland management program of the Forest Service, across three Regions and
3 five National Forests, for over 24 years (plus four years as a Forest Service volunteer), that until
4 the KNF is willing to actively administer their grazing permits as specified in the Forest Service
5 manual, and also spelled out in the Forest Service Region 5 guidance, that the chronic issue of
6 KNF livestock grazing on the RR-SIS NF will not be effectively addressed (regardless of what is
7 specified in the Oak Knoll Range EA).

8 35. I have participated directly and indirectly in the Oak Knoll Range Project decision in
9 many ways. As described above, over the years I have monitored and prepared reports and
10 otherwise clearly let the managers on the RR-SIS NF and KNF know about the significance of
11 the problems caused by excess of KNF livestock on the RR-SIS NF, I also submitted comments
12 regarding the Environmental Assessment for the Oak Knoll Range Project on August 13, 2010.
13 The District Ranger informed me that since my comments were received a day after the formal
14 comment period ended, that they would not be included in the EA, but that he would certainly
15 read them and take them into consideration.

16 36. By impairing and harming high altitude meadows and wetlands, the Klamath National
17 Forest's failure to effectively address this long-standing issue will continue to result in excess
18 use of areas along the Siskiyou Crest (located on the RR-SIS NF) that I use, and will continue to
19 harm my interests in enjoying the aesthetic, recreational and ecological values of this area. I plan
20 to use the Pacific Crest Trail several times in June-October of 2012 to recreate and also to
21 monitor excess use by KNF livestock. Specifically, I will be hiking and trail running along the
22 PCT from Mt. Ashland to Jackson Gap, as well as visiting and monitoring McDonald Basin,
23 Siskiyou Gap, Silver Fork Basin and many areas in between. I also plan to use this area for the
24 same purposes well into the future. All of these areas located on the RR-SIS NF have, and
25 continue to be, grazed by KNF livestock at times during the season.
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1 37. My interests and enjoyment in these special places are injured and will continue to be
2 injured by grazing activities that affect the resources on the allotments located on the Siskiyou
3 Crest within the RR-SIS NF, particularly when the environmental review process has not
4 included an accurate description of the 20+ years of documentation of excess use by livestock
5 from the KNF on the RR-SIS NF. A decision by the court that orders the KNF to prepare a
6 proper environmental analysis to address excess use and resource damage on these allotments
7 and adjacent lands and which makes changes to grazing and the Forest's NEPA process will
8 redress the harm to me from the KNF's authorization of livestock grazing under the Oak Knoll
9 Range Project and the inadequate information on which that decision was based.
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11 I declare under penalty of perjury that the foregoing is true and correct to the best of my
12 knowledge.

13 Executed in Ashland, Oregon this 15th day of March 2012.
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15 /s/ Gregory A. Clevenger
16 GREGORY A. CLEVINGER
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