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Attorney for Plaintiffs Hells Canyon Preservation Council and The Wilderness Society

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

WESTERN WATERSHEDS PROJECT,)
)
 Plaintiff,)
)
 and)
)
 HELLS CANYON PRESERVATION COUNCIL)
 and THE WILDERNESS SOCIETY,)
)
 Co-Plaintiffs;)
)
 v.)
)
 UNITED STATES FOREST SERVICE,)
 BUREAU OF LAND MANAGEMENT, and)
 SECRETARY OF INTERIOR KEN SALAZAR)
)
 Defendants.)
 _____)

Case. No. 07-151-BLW

**PLAINTIFFS' EMERGENCY
MOTION FOR TRO AND/OR
PRELIMINARY INJUNCTION**

EXPEDITED REVIEW REQUESTED

Plaintiffs hereby move for a Temporary Restraining Order and/or Preliminary Injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining domestic sheep grazing on Defendant Bureau of Land Management's ("BLM") Partridge Creek allotment prior to the next scheduled grazing season that starts October 15. Plaintiffs also move to enjoin BLM from installing a new cattleguard, gates, and fencing on the Partridge Creek bridge, which it intends to install prior to October 15.

The Partridge Creek allotment occurs along the Main Salmon River in between allotments on the Payette National Forest and Nez Perce National Forest that the Forest Service has closed to domestic sheep grazing for several seasons to protect the declining bighorn sheep populations that inhabit the Salmon River canyon. Recent data shows bighorn sheep using habitat adjacent to and on the Partridge Creek allotment on a regular basis but BLM continues to authorize grazing on the allotment under a 2003 grazing permit and annual authorizations. Most recently BLM authorized grazing on the Partridge Creek allotment for the spring/summer season and fall season in its February 2009 annual billing authorization.

BLM also is authorizing installation of a new cattleguard, gates, and fencing on both ends of the Partridge Creek bridge to attempt to reduce the risk of stray domestic sheep from the Partridge Creek allotment crossing the Salmon River. The agency is using a categorical exclusion for this project to avoid conducting any environmental review of its effects.

As set forth in the accompanying brief, declarations and exhibits, BLM is violating the National Environmental Policy Act and the Federal Land Policy and Management Act by authorizing domestic sheep grazing on this allotment that threatens the near-by Rocky Mountain bighorn sheep population with significant harm prior to completing an environmental analysis. BLM is also violating NEPA by using a categorical exclusion for the installation of the new

cattleguard, gates, and fencing when this project is connected to the grazing of the Partridge Creek allotment and thus these activities should be considered together in a comprehensive environmental analysis. Plaintiffs respectfully request that the Court enter a TRO and/or preliminary injunction before October 15, 2009, to ensure that injunctive relief is in place prior to the start of the 2009 fall grazing season on the Partridge Creek allotment and the installation of the cattleguard, gates, and fencing.

This motion is supported by the accompanying Brief in Support of Plaintiffs' Motion for TRO And/Or Preliminary Injunction; the Declarations of Victor L. Coggins and Lauren M. Rule, and all attached exhibits; and the proposed Second Amended Complaint, all filed herewith.

In light of the public interest nature of this litigation and the Plaintiff organizations, Plaintiffs further request that the Court waive any injunction bond, or impose only a nominal bond not to exceed \$100, under F.R.Civ.P. 65(c).

WHEREFORE, Plaintiffs request that this Court enter a TRO and/or Preliminary Injunction before October 15, 2009 to enjoin domestic sheep grazing on the Bureau of Land Management's Partridge Creek allotment and installation of cattleguard, gates, and fences on the Partridge Creek bridge until the agency completes the proper environmental analysis.

Dated: September 23, 2009

Respectfully submitted,

s/Lauren M. Rule
Lauren M. Rule (ISB #6863)
Attorney for Plaintiff WWP

s/ Jennifer Schemm
Jennifer Schemm (OSB # 97008)
Attorney for Plaintiffs HCPC and TWS

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September 2009, I caused a true and correct copy of PLAINTIFFS' MOTION FOR TRO AND/OR PRELIMINARY INJUNCTION, along with the supporting BRIEF IN SUPPORT OF MOTION FOR TRO AND/OR PRELIMINARY INJUNCTION, FIFTH DECLARATION OF LAUREN M. RULE, FIFTH DECLARATION OF VICTOR L. COGGINS, and all exhibits attached thereto, to be electronically filed with the Clerk of the Court using the CM/ECF System which sent notification of such filing to the following counsel of record in this matter:

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s/Lauren M. Rule
Lauren M. Rule (ISB #6863)