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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION**

**WESTERN WATERSHEDS PROJECT,
OREGON NATURAL DESERT ASS’N,
WILDEARTH GUARDIANS, and
CENTER FOR BIOLOGICAL DIVERSITY,**

Plaintiffs,

v.

**SECRETARY OF THE UNITED STATES
DEPARTMENT OF THE INTERIOR,
and BUREAU OF LAND MANAGEMENT,**

Defendants.

Case No. _____

COMPLAINT

(Environmental Matter)

NATURE OF ACTION

1. This case seeks judicial reversal, vacatur, and other relief with regard to former Secretary of the Interior David Bernhardt’s January 19, 2021 decision—issued on the final day of the Trump administration, following a rushed and truncated public process—to grant a new grazing permit and preference to Hammond Ranches, Inc. (“HRI”) authorizing it to graze domestic livestock on the Bridge Creek allotments of Steens Mountain in southeastern Oregon in spite of its record of grazing permit violations. The decision challenged here follows a previous last minute decision—enjoined and then vacated as unlawful by this Court in a related case (No. 2:19-cv-0750-SI)—by former Secretary Bernhardt’s predecessor, Ryan Zinke, who purported to “renew” HRI’s expired grazing permit without finding that HRI possessed a satisfactory record of performance, as required by the Bureau of Land Management’s (“the Bureau”) grazing regulations. *W. Watersheds Proj. v. Bernhardt*, 428 F. Supp. 3d 327 (D. Or. 2019) (holding unlawful and vacating Secretary’s decision); *W. Watersheds Proj. v. Bernhardt*, 392 F. Supp. 3d 1225 (D. Or. 2019) (preliminary injunction limiting grazing in 2019); *W. Watersheds Proj. v. Bernhardt*, 391 F. Supp. 3d 1002 (D. Or. 2019) (temporary restraining order limiting grazing in 2019).

2. Although the Bureau had decided in 2014 not to renew HRI’s permit, based on the operation’s failure to comply with the terms and conditions of its permit, including by setting fire to public lands on Steens Mountain, then-Secretary Zinke interfered and, on his last day in office, ordered the agency to renew the permit anyway. This Court set aside and vacated that decision. *Bernhardt*, 428 F. Supp. 3d at 354.

3. Now, former Secretary Bernhardt has, on *his* last day in office, issued a new decision to grant HRI grazing privileges once again. The former Secretary’s Final Decision, dated January 19, 2021 (“January 19, 2020 Final Decision,” or “Final Decision”) issues a 10-

year grazing permit and preference to HRI for the Bridge Creek allotments over other, better-qualified applicants; apportions forage within the Bridge Creek Area allotments (Hammond, Mud Creek, Hardie Summer, and Hammond FFR); reconfigures the allotment boundaries; and authorizes the construction and removal of a series of range projects within the area.

4. Following this Court's 2019 reversal and vacatur of the Secretary's prior decision in Case No. 2:19-cv-0750-SI, there was no longer any permit allowing livestock grazing on the Bridge Creek allotments. The Bureau began a public process to consider anew whether to allow grazing on the allotments and, if so, under what terms and conditions. The Bureau began by advertising a notice of available forage and soliciting applications, and the agency had been prepared to issue a decision following the ordinary process set out in its grazing regulations. But former Secretary Bernhardt seized control of that process.

5. On October 13, 2020, the Bureau mailed a scoping letter to interested publics, requesting comments by October 27, 2020. Around a month later, on December 8, 2020, the Bureau issued a draft "Bridge Creek Area Allotment Management Plan and Environmental Assessment" ("AMP" and "EA"). It allowed only eight business days for public comment on the draft EA and purported to incorporate and respond to all timely comments received within an additional eight business days.

6. On December 31, 2020, the Secretary's Principal Deputy Assistant Secretary, Casey Hammond, took over the matter from the local Bureau office and issued a Proposed Decision to grant a grazing permit and preference to HRI. The Proposed Decision was accompanied by a final "Bridge Creek Area Allotment Management Plan and Environmental Assessment." "Courtesy copies" of the Proposed Decision (but not the AMP and EA) were sent by email to Plaintiffs Western Watersheds Project ("WWP") and the Oregon Natural Desert

Association (“ONDA”) on New Year’s Day, but Plaintiffs and other members of the interested public did not receive official copies of the AMP/EA and Proposed Decision until the second week of January. Rather than providing the full time for administrative protest guaranteed by the agency’s regulations, former Secretary Bernhardt directed the Bureau to cut off the administrative protest period on Friday, January 15, 2021.

7. Finally, claiming he was “exercising jurisdiction over this matter,” former Secretary Bernhardt issued a “Notice of Final Decision” on Tuesday, January 19, 2021 in the place of the Bureau—purporting to review and resolve 160 protests from the public in less than one business day following the Martin Luther King, Jr. Day weekend. This was less than 24 hours before President Trump left office at noon the next day, and former Secretary Bernhardt declared “there are no further administrative appeals available.”

8. The Secretary’s January 19, 2021 Final Decision is unlawful in five major respects. First, the Secretary violated the Federal Land Policy and Management Act (“FLPMA”), 43 C.F.R. §§ 1701–87, and the Department of the Interior’s regulations by improperly asserting jurisdiction and by issuing the Decision without opportunities for public participation required by law. Second, the Secretary violated FLPMA and its implementing regulations by improperly determining that HRI was qualified to receive a grazing permit and granting a permit to HRI over other applicants who were qualified. Third, the Secretary and the Bureau violated procedural requirements of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370m-12, by failing to provide information and analysis necessary to ensure meaningful public participation and an informed decision. Fourth, the Secretary’s Decision violated FLPMA and its implementing regulations because it does not comply with land use plan requirements adopted to protect the greater sage-grouse. Fifth, the Secretary’s Decision violated the Steens Mountain

Cooperative Management and Protection Act of 2000 (“Steens Act”), 16 U.S.C. § 460nnn *et seq.*, because the Secretary incorrectly interpreted the Steens Act’s purpose and the Final Decision fails to conserve, protect, and manage the “long-term ecological integrity” of Steens Mountain.

9. Upon information and belief, the rushed, opaque, and highly unusual public processes and repeated intervention by multiple Secretaries of the Interior under the Trump Administration in the Bureau’s grazing decisions regarding the Bridge Creek allotments reveals that the Decisions have been tainted by political influence and are not the product of reasoned, lawful decisionmaking.

10. Plaintiffs, Western Watersheds Project, Oregon Natural Desert Association, WildEarth Guardians, and the Center for Biological Diversity, file this action to ensure that the Secretary is not permitted to once again ignore the law and issue a decision allowing livestock grazing on the Bridge Creek allotments and Steens Mountain without first properly involving the public and fully considering the environmental consequences of that decision. Accordingly, Plaintiffs respectfully request that this Court set aside and vacate the Secretary’s January 19, 2021 Final Decision, Final Bridge Creek Area Allotment Management Plan and Environmental Assessment, and grazing permit, and issue injunctive and other relief necessary to avoid harm to fragile and irreplaceable fish, wildlife, and other natural resource values on Steens Mountain.

JURISDICTION AND VENUE

11. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including NEPA, FLPMA, the APA, and the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.* Despite having their participation burdened by truncated public comment and protest periods, and being deprived of the opportunity to file an

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