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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 CENTER FOR BIOLOGICAL DIVERSITY,) Case No.: CV 03-2509-SI
14 et.al.,)
15 Plaintiffs,) DECLARATION OF JACK ANTHONY
16 vs.) DANNA
17 BUREAU OF LAND MANAGEMENT, et.al.,)
18 Defendants.)
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20 I, JACK ANTHONY DANNA, declare as follows:
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22 1. I am the Deputy State Director for Natural Resources for the California State Office, Bureau
23 of Land Management, in Sacramento, California. I have held this position for over 5 years.
24 Prior to holding this position I was the Deputy Group Manager for Legislative Affairs,
25 Headquarters, Washington D.C., Bureau of Land Management. In my current position I report

1 directly to the California State Director. I am responsible for the day to day supervision of my
2 staff, which consists of approximately thirty individuals including a diverse group of
3 professional resource program leads. My staff consists of individuals trained in biological,
4 physical, cultural, and related sciences. I am responsible for advising the State Director and
5 fifteen field managers in the state on policy, and the procedural and regulatory responsibilities of
6 the BLM. The Imperial Sand Dunes Recreation Area (“ISDRA” or “Dunes”) falls within the
7 administration jurisdiction of California BLM, in particular the El Centro Field Office. Based
8 upon my own knowledge, and with input from my staff and the staff of both the El Centro Field
9 Office and the California Desert District Office, I understand the following to be true and
10 correct:
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13 2. Imperial Sand Dunes Recreation Area. The Dunes have been utilized for public recreation and
14 off-highway vehicle (“OHV”) use for over thirty years. In 1998 the USFWS listed the Peirson’s
15 milk-vetch (“PMV”) as a threatened species under the ESA. 63 Fed.Reg. 53596. In 2004 the
16 USFWS designated critical habitat for the species. The Fish and Wildlife Service recently
17 announced a 90-day finding on a petition to list the Andrews' dune scarab beetle (*Pseudocotalpa*
18 *andrewsi*) under the Endangered Species Act. 71 Fed.Reg. 26444. The Service found that the
19 petition did not provide substantial information to indicate listing of the Andrews' dune scarab
20 beetle was warranted. It is my understanding that the FWS will issue its 90-day petition finding
21 on the 16 other Dunes endemic invertebrates within the next 30 to 45 days.
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24 3. All public land under the jurisdiction of the BLM is to be managed according to planning
25 documents, variously called, for example, land use plans, resource management plans, recreation

1 area management plans (“RAMP”), allotment management plans, etc. All of these plans,
2 whether they are regional in effect or site specific, are developed under the authorities of
3 FLPMA after appropriate review under NEPA, the ESA, and other applicable laws and
4 regulations. The BLM issued a Recreation Area Management Plan (“RAMP”) and Decision
5 Record (“DR”) in 1987 for the Dunes. In 2003 the Bureau issued an updated RAMP, and in
6 2005, issued a Record of Decision (ROD”) for the Dunes based upon the RAMP and its
7 associated Environmental Impact Statement.
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10 4. Current Management Pursuant to the 2003 RAMP and 2005 ROD. The 2005 ROD for the
11 ISDRA generally consists of two parts. Part I amended the California Desert Plan of 1980. Part II
12 established area and site specific goals, objectives, and anticipated management actions. In
13 particular Part I amended the multiple-use classifications and related OHV designations that
14 identify levels of use on public lands, expanded the overall size of the Dunes by 1200 acres, and
15 provided for permit-only OHV use in the Adaptive Management Area. By contrast, Part II
16 addressed general goals and objectives for managing the Dunes and provided for operation,
17 maintenance, administrative management, and supplemental rules to maintain public lawfulness,
18 and identified future site-specific actions within the boundary of the ISDRA.
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21 5. Management Actions. Supplemental rules for the Dunes have been published in the Federal
22 Register addressing issues such as alcohol use and curfew. The BLM, along with Imperial
23 County and other federal and state law enforcement agencies, work cooperatively to regulate the
24 Dunes. While the 2005 ROD has generally provided the authorization for future site-specific
25 actions to occur, these actions may only proceed after further NEPA and ESA review, as

1 appropriate, have been accomplished. In the expanded 1200-acre area incorporated into the
2 Dunes boundary, expanded camping areas consisting of five acres are currently being analyzed.
3 The RAMP and ROD provide descriptions of each management area, describing current
4 environmental and existing recreational use conditions and the desired condition BLM seeks to
5 achieve through management as approved in the 2005 ROD.

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8 6. Management under the 1987 Ramp and Decision Record. The 1987 RAMP and DR did not
9 delineate recreation use areas nor did they establish desired area conditions and did not take into
10 consideration listing of or critical habitat designation for the PMV since the species was not
11 listed until 1998 nor was critical habitat designated until 2004. The 1987 RAMP did allow OHV
12 use in the Dunes, including use within the AMA, but without a permit system. This difference is
13 of little consequence, however, as the BLM will agree to the retention of the administrative
14 closures on an interim basis pending a new or revised ROD; the AMA is one of the closure areas.
15 Should the court entirely vacate the 2005 ROD and fail to order management of the Dunes
16 pursuant to the 2003 RAMP, the Bureau will exercise its management mandate and manage the
17 Dunes according to the terms of the 1987 RAMP and ROD, as modified by the interim
18 administrative closures.

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21 7. Differences Between Management Under the 1987 RAMP/DR and the 2003 RAMP/2005
22 ROD. Specifically, some of the more significant differences between the 2003 RAMP and the
23 1987 RAMP are as follows: The 2003 RAMP/2005 ROD establishes a new management regime
24 based on specific goals, existing condition descriptions, desired future conditions, and
25 management actions that are not included in and not consistent with the 1987 RAMP. These

1 include Recreation Opportunity Spectrum classifications, visitor capacity limitations and
2 triggers, and new law enforcement tools (Chapter III, 2003 RAMP). This new management
3 regime provides substantially better control over public use, protection of sensitive
4 environmental resources, and enhancement of visitor experience. For example, the 2003
5 RAMP/2005 ROD revises goals and objectives for the Mammoth Wash Area to emphasize semi-
6 primitive motorized recreation opportunities and protection of natural and cultural resources as
7 opposed to promoting intensive recreational use, development of a new campground complex,
8 and related infrastructure (p.67, 2003 RAMP).
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11 8. The 2003 RAMP/2005 ROD eliminates some key actions of the 1987 RAMP that are
12 inconsistent with current management objectives for ISDRA. The 1987 RAMP includes
13 designation of four areas at ISDRA totaling approximately 1000 acres for lease for purposes of
14 OHV rental and sales, restaurant development, RV park development, and development of other
15 types of business establishments. These areas are eliminated from the 2003 RAMP/2005 ROD.
16 The 2003 RAMP/2005 ROD also eliminates a motorized vehicle corridor on the west side of the
17 Coachella Canal (1-12, p. 40, 1987 RAMP). The corridor, if developed, would increase access
18 to remote undeveloped areas of ISDRA, especially the segment between Gecko and Mammoth
19 Wash, and would increase potential for incursions into the North Algodones Wilderness Area
20 and incursion into sensitive areas, including the East Mesa ACEC and Flat-tail horned lizard
21 management area. Construction of a developed campground and road proposed for the
22 Mammoth Wash area under the 1987 RAMP is eliminated. The 2003 RAMP/2005 ROD also
23 eliminates development of RV dump stations throughout ISDRA. If the 2003 RAMP/2005 ROD
24 are vacated, these actions would continue to remain as part of BLM's officially approved and
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1 adopted management program under the 1987 RAMP/DR for ISDRA until replaced by a new
2 RAMP/ROD.

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4 9. The 2003 RAMP/2005 ROD provides needed facilities for law enforcement support and
5 visitor use, including development of the \$1 million South Dunes Ranger Station (BM #2, 3, p.
6 98, 2003 RAMP) and expansion of existing campgrounds up to 15 additional acres on Gecko
7 Road (GM # 1, p.76, 2003 RAMP). These facilities do not affect habitat, including critical
8 habitat for the PMV. BLM has already prepared site specific environmental documentation to
9 develop these projects based on the 2003 RAMP/2005 ROD and associated EIS. If the 2003
10 RAMP/2005 ROD are vacated, the adequacy of BLM's supporting environmental documentation
11 would be in question and the approximately \$1 million dollars budgeted for construction could
12 be jeopardized. Supplemental Rules for controlling alcohol use and curfew hours are identified
13 as appropriate for law enforcement tools in the 2003 RAMP/2005 ROD.

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16 10. The 2003 RAMP/2005 ROD provides essential management direction for administering
17 day-to-day commercial use at ISDRA, including vending, concessions, and tour bus use
18 (commercial activity goals, pp.47-50, 2003 RAMP). The 1987 RAMP allowed commercial
19 vending seven days per week (8-1, p.96, 87 RAMP). The 2003 RAMP/2005 ROD includes new
20 controls for commercial vendors by designating the areas in which vending is permitted and
21 reducing the length of time vendors are able to operate at ISDRA in order to better manage these
22 commercial operations. The 2003 RAMP/2005 ROD also establishes a fee program necessary for
23 supplementing limited appropriated funds for ISDRA management. The 1987 RAMP does not
24 address bus tours. This use has grown tremendously over the years to the point that it is
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1 seriously impacting other recreation users and increasing pressure for environmental resource
2 protection. Bus tours enter the southern area of ISDRA from Interstate 8 and Highway 78 to use
3 BLM's facilities at Osborn Overlook and Buttercup Campground. The 2003 RAMP/2005 ROD
4 provides a basis for limiting this activity and reduces pressure on existing facilities that would
5 otherwise be substantially impacted by continued heavy use. The 2003 RAMP/2005 ROD
6 provide authority to construct a separate area for parking and other visitor use facilities as well as
7 distinct interpretative facilities. These facilities are near the small area closure but are not in the
8 closure itself; the purpose of these facilities is to relieve overcrowding, provide focused
9 management, and address a newly identified issue at the Dunes. Vacature of the 2003
10 RAMP/2005 ROD would eliminate BLM's specific response to this new resource issue.
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13 11. The 2003 RAMP/2005 ROD provides for an expanded environmental education and
14 interpretative program including facilities, informational materials, and designation of areas for
15 watchable wildlife and viewing of cultural, historic, and other resource values (information and
16 interpretative education goals, p.46, 47, 2003 RAMP). These activities do not affect habitat or
17 critical habitat and provide substantial benefits to the environment in terms of improving public
18 awareness of sensitive resource values. The 1987 RAMP includes some individual actions but
19 does not contain as comprehensive or proactive a program in this area.
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22 12. Consequences of Vacating the Entire 2005 ROD. Under typical land use planning
23 procedures, if the 2005 ROD is vacated, the 2003 RAMP, which was approved by the State
24 Director only after public protests were resolved by the BLM Director in Washington, will
25 remain an approved management plan, but without an effective decision document it cannot be

1 implemented by the California State Director. The State Director will revert to the 1987 DR and
2 implement the provisions of the 1987 RAMP pending the issuance of a new ROD for the 2003 or
3 further amended RAMP. The supplemental rules will remain on the books as an exercise of
4 regulatory authority. Management of the 1200-acre expanded area will revert to the NECO plan
5 area. The NECO plan amendment was approved in December 2002 and acknowledges the
6 administrative transfer of this acreage to the Dunes plan. Although the area will continue to be
7 under the public land jurisdiction of the BLM, management of camping compliance will be
8 complicated by the difference in setback use between the two plans.
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11 13. Environmental Analysis Documentation. Aside from the ESA issues, the NEPA deficiencies
12 noted by the Court (elimination of the administrative closures from range of alternatives;
13 analysis of the effects of the action on invertebrates) do not impact all aspects of the 2003 RAMP
14 or the EIS to the extent that an entirely new EIS is required to correct the noted deficiencies.
15 Much of the existing EIS remains valid notwithstanding the noted deficiencies, and in this case, a
16 supplemental EIS could be appropriate. Furthermore, the court, itself, did not suggest that the
17 EIS in its entirety be invalidated. The BLM should retain its discretion to make the
18 determination whether a new or supplemental EIS is required under the circumstances presented
19 in this case.
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22 14. Once FWS issues a new final critical habitat rule, BLM will determine whether a full or
23 supplemental EIS is warranted. BLM can fully address the administrative closure alternative
24 deficiency by incorporating it as a fully analyzed alternative and examining the effects of that
25 alternative. The issue of effects on invertebrates will require further analysis. BLM has begun

1 the collection of recent available information on the 16 invertebrate species and the Andrew's
2 Dunes scarab beetle and has consulted others about how the data gaps might be addressed. BLM
3 is finding that little existing information exists on the invertebrate species relevant to its analysis.
4 BLM will consider and apply, as necessary, CEQ's provision for incomplete or unavailable
5 information (40 CFR 1502.22) during the reassessment period.
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8 15. BLM undertook revision of the 1987 RAMP specifically to address endangered species
9 issues and other circumstances that warranted further land use planning for ISDRA. The 2003
10 RAMP and associated EIS are the result of more than seven years effort by BLM and the public,
11 including 19 public meetings conducted between 1998 and 2002, consideration of over 7,300
12 written public comments, consultations with Federal, State, and local governments and Indian
13 Tribes, and responses by the BLM Director to formal protests from individuals and
14 organizations. Vacature of the entire EIS would negate this public planning process and is not
15 necessary to correct the deficiencies noted by the court.
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17 16. Peirson's milk-vetch. Because of the very favorable 2004-2005 growing season, intensive
18 BLM monitoring in late winter and spring of 2005 provided the clearest picture yet of the
19 distribution of PMV in the Algodones Dunes. Map 3 of the attached report (Exhibit 1) shows the
20 distribution of PMV in the Dunes. The report also documents a Dunes-wide estimate of
21 1,831,076 PMV plants, about 75% of which had flowered by the time of counting. These plants
22 were distributed among 7 management areas in which they occur as follows (see Map 1 of the
23 attached report for the location of the management areas).
24
25

Management Area	Number of Plants
Mammoth Wash	73,502
Wilderness	179,283
Gecko	305,583
Glamis	78,201
AMA	660,131
Ogilby	448,233
Buttercup	86,143
Total	1,831,076

17. Density, in terms of the number of plants per hectare, varied by management area. Density estimates were calculated by dividing the estimated total number of plants by the number of hectares sampled within each of the management areas (area sampled is shown in Map 2 of the attached report).

Management Area	Density (plants/ha)
Mammoth Wash	55.0
Wilderness	71.9
Gecko	80.8
Glamis	21.5
AMA	118.0
Ogilby	132.0
Buttercup	88.5

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2 18. A total of 123,488 cells, each 25m x 25m, were surveyed for PMV in spring 2005. Of this
3 total, 26,116 cells (21.1%) had at least one PMV plant. About 75% of these occupied cells were
4 in areas closed to OHV activity (either in the Wilderness Management Area or in the
5 administrative closures). There were 739,805 PMV plants observed during the 2005 surveys
6 (these observed plants were used to derive the estimates given above using stratified random
7 sampling procedures), 75% of which were in areas closed to OHV activity (except for the
8 Wilderness Management Area, no estimates of total population size can be made for each of the
9 closed areas because the sampling was designed to make inferences to entire management areas).
10 The information in this paragraph is not contained in the 2005 report, but was calculated from
11 data on file with the BLM, California State Office.
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14 19. As shown above, 75% of occupied cells and 75% of the PMV plants observed in spring 2005
15 are in areas currently closed to OHVs, either through Wilderness designation (the Wilderness
16 Management Area) or through administrative closure. This fact, coupled with the high number
17 of plants that are well distributed throughout the areas of the Dunes with suitable habitat, will
18 more than suffice to ensure the conservation of PMV during the period in which FWS
19 reconsiders the critical habitat designation, BLM revises its RAMP in accordance with the new
20 critical habitat designation, BLM prepares a supplemental or new draft and final EISs, and FWS
21 issues a biological opinion on the revised RAMP.
22

23 This concludes my declaration.
24
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1 I declare under penalty of perjury that the foregoing statements are true and correct to the best of
2 my knowledge and belief.

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4 Executed this 10th day of July, 2006 in Sacramento, California.

5

6 /s/ Jack Anthony Danna
7 JACK ANTHONY DANNA

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8 Pursuant to General Order No. 45.X.B., I, Michael R. Eitel, attest that Jack Anthony Danna has
9 concurred in and authorized the filing of this declaration.

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11 DATED: July 10th, 2006 /s/ Michael R. Eitel
12 MICHAEL R. EITEL

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15 Attachment. 2005 Monitoring of Peirson's Milk-vetch in the Algodones Dunes, Imperial
16 County, California

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