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6 **IN THE UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 LAURA LEIGH,

9 Plaintiff,

10 Case No. **3:11-cv-0608-HDM-WGC**

11 vs.

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

16 Defendants.  
17 \_\_\_\_\_/

18 **FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF;  
19 JURY DEMAND**

20 Plaintiff LAURA LEIGH, avers as follows:

21 1. Plaintiff seeks to halt ongoing inhumane conduct demonstrated at the  
Bureau of Land Management's ("BLM") "Triple B, Maverick-Medicine, and Antelope  
22 Valley Herd Management Areas" ("Triple B Complex") "Wild Horse Gather" ("roundup")  
23 ongoing in northwestern White Pine and southern Elko counties, Nevada and that  
24 would continue at other scheduled wild horse roundups by the Defendants in Nevada.

25 2. The Defendants' Triple B Complex roundup is conducted inhumanely, in  
26 contravention of law, in contravention of the CFRs, in contravention of the Defendants'  
27 own established regulation or order as determined in its Environmental Assessment  
28

1 (“EA”) for the Triple B Complex roundup, and also in contravention of established  
2 norms of “humane” treatment, including those published by the State of Nevada.

3 3. Where the Triple B Complex roundup is conducted contrary to the BLM’s  
4 own published EA for the Triple B Complex, and contrary to 16 USC §1333 (b)(2)(iv)(B)  
5 for the *humane* removal of wild horses, and contrary to the definition of what the United  
6 States considers “humane” as is defined at 43 CFR § 4700.0-5, and against reasonable  
7 notions of what is considered “humane” including those defined by the Laws of the  
8 State of Nevada, the Defendants’ action in refusing to enforce its own regulation, order  
9 or decision, or refusing to enforce its own EA, or in refusing to enforce regulations and  
10 laws of the United States for the humane treatment of wild horses removed by the  
11 Defendant at Triple B Complex, is arbitrary, capricious, it amounts to an abuse of  
12 discretion, it is otherwise not in accordance with law, or it is implemented without  
13 observance of procedure required by law, as is contemplated by relevant provisions of  
14 the Administrative Procedure Act, including but not limited to 5 U.S.C. § 706(2)(A) and  
15 (D).

16 4. That, the “Defendants’ action” or “agency action” as used or referenced  
17 herein, include the definition ascribed to “agency action” at 5 U.S.C. § 551(13) and  
18 which includes but is not limited to the Defendants’ “failure to act” to enforce its own  
19 regulations and to enforce the laws of the United States which, in this case, concerns  
20 the *humane* removal of wild horses removed from the Triple B Complex.

21 5. The Triple B Complex is too short in duration to allow full litigation before  
22 the roundup ceases. The Defendants would claim on cessation of the roundup, as they  
23 have on several occasions in the past when faced with litigation over a roundup, that  
24 the end of roundup activity “moots” all issues raised herein, leaving Plaintiff without  
25 justice and without remedy. Plaintiff has personally observed and been subjected to  
26 perceptible harm in viewing the same inhumane activity, the same arbitrary, capricious  
27 and abuses of discretion by the Defendants at past BLM roundups where the  
28 Defendants employ the contractor known as “Sun-J” from Vernal, Utah (“Sun-J”). The

1 same inhumane activity at the Triple B Complex conducted by Sun-J, also occurred at  
2 the following BLM roundups prior to Triple B: Warm Springs in Oregon (November  
3 2010)(Contractor: Sun-J), Callaghan Complex in the Battle Mountain BLM District in  
4 Nevada (December 2010)(Contractor: Sun-J), and the Antelope Complex in Nevada  
5 (December 2010 to February 2011)(Contractor: Sun-J). Plaintiff is informed and  
6 believes Sun-J is also the BLM's chosen contractor to remove wild horses in the  
7 following, upcoming roundups: Barren Valley Complex in Oregon (scheduled when  
8 Triple B is completed and would continue to October 1, 2011); and Plaintiff is informed  
9 and believes Sun-J would be used again by the BLM to complete either the Calico  
10 Complex roundup in northern Nevada, or the Pancake Summit roundup in the Ely / Elko  
11 area, both of which would likely commence approximately November or December  
12 2011.

13 6. Plaintiff is informed and believes the BLM plans to continue the Triple B  
14 Complex beyond published dates and to additionally use helicopters to aid in removal  
15 of Triple B Complex horses, to later dates occurring sometime toward the end of this  
16 year or toward the early months of next year; and accordingly, matters addressed  
17 herein that the government defendants might claim as having been mooted where  
18 current roundup activity ceases, would not be mooted; and instead, their Triple B  
19 Complex roundups would merely be temporarily suspended to a later date. Plaintiff is  
20 informed and believes the voluntary cessation of activity that could potentially repeat in  
21 the future, whether at Triple B Complex or elsewhere, does not moot the case.

22 7. Plaintiff is planning on being present at these future BLM roundups where  
23 Sun-J is the Defendants' chosen contractor, whether at Triple B or elsewhere.

24 8. Because the BLM repeatedly thus far, (a) chooses not to enforce the  
25 "humane" requirements of its own EA at the Triple B Complex, (b) chooses to not  
26 enforce laws requiring "humane" removal of horses from public lands, (c) refuses to  
27 take corrective action to enforce the "humane" removal of wild horses from public lands  
28 in accordance with 16 USC §1333 (b)(2)(iv)(B) as interpreted by 43 CFR § 4700.0-5 at

1 Triple B Complex, the Plaintiff reasonably expects she would likely be subjected to  
2 observing the same arbitrary, capricious, unlawful, inhumane activity at this roundup  
3 and at the Defendants' future roundups involving Sun-J as she personally witnessed  
4 and experienced at Triple B thus far and which she also witnessed at Warm Springs  
5 previously, and also witnessed at Callaghan previously, and also witnessed at Antelope  
6 previously.

7 9. Where the offending, inhumane conduct is capable of repetition at Triple  
8 B Complex and elsewhere, yet judicial review is evaded by the short duration in time of  
9 the offensive conduct, Plaintiff asserts that mootness would not apply in this instance  
10 since the case could never be fully adjudicated prior to the end of the Triple B roundup.  
11 See, e.g., *Greenpeace Action v. Franklin*, 14 F. 3d 1324 (9<sup>th</sup> Cir. 1992)(“capable of  
12 repetition yet evading review” exception to mootness applied to fishing regulations in  
13 effect less than a year).

14 10. The Defendants at the Triple B Complex roundup, employ methods  
15 contrary to clear public policy of the United States of America relative to management  
16 practices of wild horses where such practices are mandated by 16 USC §1333  
17 (b)(2)(iv)(B) as interpreted by 43 CFR § 4700.0-5, to be conducted humanely. See, The  
18 Wild Free-Roaming Horses and Burro Act of 1971. (“Wild Horse and Burro Act”). See,  
19 P.L.92-195, 16 U.S.C. 1331 et. seq. That 16 USC §1333 requires the Defendants to  
20 roundup only excess wild horses in a mandated order of preference, and the  
21 Defendants must do so “humanely.” See, 16 USC §1333 (b)(2)(iv)(B).

## 22 JURISDICTION AND VENUE

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

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

1 the State of Nevada on public lands.

2 **PLAINTIFF AND STANDING**

3 13. Plaintiff LAURA LEIGH (“Ms. Leigh”)(phonetic “Lee”) is an award winning  
4 illustrator, journalist / videographer and report on issues dealing with the American  
5 West. Her published articles and video have appeared in many venues including  
6 Horseback Magazine, KLAS-TV and CNN.

7 14. 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 15. Ms. Leigh has attended more BLM roundups the past 18 months than any  
20 BLM, DOI or other government personnel, any journalist, any photojournalist, and any  
21 other member of the public, in her attempts at accurately documenting wild horses in  
22 the wild, and which includes the Defendants’ management of wild horses. In the past  
23 two years Ms. Leigh filmed/recorded thousand of hours of video and has more than a  
24 hundred-thousand photos of wild horses on public lands.

25 16. As a documentarian Ms. Leigh also reports in the capacity as a Subject  
26 Matter Expert (Research, wild herds) to many equine welfare agencies, including the  
27 Equine Welfare Alliance. She is the founder / president of Wild Horse Education (seen  
28 at [www.wildhorseeducation.org](http://www.wildhorseeducation.org)). Wild Horse Education is devoted to education through

1 documentation toward facilitating dialogue for sensible change in the management of  
2 wild horses and burros on public land. Ms. Leigh was the founder of “Herd Watch,” a  
3 program no longer in existence, dedicated to documentation and research of wild  
4 horses on public lands. The Herd Watch program is subsumed into Wild Horse  
5 Education. Ms. Leigh is Vice President of Wild Horse Freedom Federation, a non-profit  
6 Texas corporation.

7 17. Ms. Leigh traveled roughly 70,000 miles since September 2010 to  
8 observe and document wild horses and the BLM’s management practices. Ms. Leigh  
9 has thus far, traveled in six states to accomplish this work, she visited and attempted to  
10 visit wild horse holding facilities operated by the government. She has attended  
11 numerous Advisory Board meetings and even traveled to Denver, CO to participate in  
12 what BLM referenced as a “workshop” toward “problem solving.”

13 18. Ms. Leigh has endured personal searches, vehicle and property searches,  
14 road blocks, background checks, extreme temperatures from minus 10 degrees  
15 Fahrenheit to over 100 degrees fahrenheit, all in attempts at gaining access to view and  
16 observe and document wild horses on public lands and at government wild horse  
17 facilities and during capture for their removal from public lands.

18 19. Ms. Leigh endures death threats, discriminatory access, vandalism to her  
19 personal property, significant wear and tear to her personal property, countless hours of  
20 off-road travel and on-road travel, all in attempts at gaining access to view and observe  
21 and document wild horses on public lands and at government wild horse facilities and  
22 during capture for their removal from public lands.

23 20. When not in the field, Ms. Leigh is conducting research on a multitude of  
24 wild horse related topics particularly those involving public lands and interests that  
25 compete with wild horses.

26 21. Ms. Leigh’s life is devoted to documentation and education of the care of  
27 wild horse herds. Ms. Leigh is dedicated to helping to create reform where appearing  
28 necessary, in the management of America’s wild horses.

1           22. As a documentarian and photojournalist Ms. Leigh is dedicated to creating  
2 honest dialogue based on the truth about wild horses and burros on public lands; that  
3 her goal is to educate the public about wild horses on public lands, including educating  
4 on how wild horses live, thrive, survive, travel, their social order and interaction, how  
5 they become impacted by competing private and also public interests that affect their  
6 remaining habitat, how they are impacted by man and by those charged with the  
7 responsibility of protecting them, who are the Defendants herein.

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

18           24. That some wild horse groups or families within herds, with whom Ms.  
19 Leigh observed on multiple occasions in the past and for whom Ms. Leigh gained deep  
20 appreciation and respect over time while she observed them in their rangeland  
21 environment living, growing, thriving, surviving, traveling and interacting in dynamic  
22 social order, are or were, residing within the Triple B Complex and subject to the  
23 Defendants' continuing Triple B Complex roundup efforts.

24           25. Ms. Leigh witnessed first-hand, the handling of wild horses by the  
25 Defendants' chosen contractor Sun-J, during the Triple B Complex roundup and also at  
26 the Antelope Complex roundup (occurring January / February 2011) located adjacent to  
27 the same geographical region as Triple B, of a number of the very horses who were  
28 part of those groups or families of wild horses for whom Ms. Leigh gained deep

1 appreciation and respect over time as the result of her efforts to document and observe  
2 them in their natural habitat.

3 26. Ms. Leigh's observations include but are not limited to the following acts:

4 a. on or about January 31, 2011 and again on or about February 6, 2011,  
5 the contractor Sun-J at Antelope Complex roundup ("Antelope" or  
6 "Antelope roundup"), flying its helicopter dangerously close to wild horses  
7 who appeared to have found difficulty moving because they were noted to  
8 be exhausted in having been driven miles by the helicopter; and where  
9 the helicopter either came into contact or caused near contact with at  
10 least one wild horse on each of those dates;

11 b. In August, and in particular August 11, 2011 at Triple B Complex roundup,  
12 observing the same contractor and helicopter pilot make contact with an  
13 exhausted horse with the skid of a flying helicopter, repeatedly operating  
14 its helicopter dangerously close to individual wild horses on multiple  
15 occasions, unnecessarily chasing wild horses in the wrong direction from  
16 traps, repeatedly fracturing family bands of horses that a seasoned and  
17 proficient helicopter pilot would otherwise avoid, repeatedly chasing  
18 horses over miles of terrain unnecessarily, depriving captured horses of  
19 sufficient amounts of water, driving young, unweaned foals miles beyond  
20 which is healthy for the horse, causing unnecessary injury, causing  
21 unweaned foals to be orphaned, causing unnecessary injuries to those  
22 horses targeted for capture from running them down in the heat of the  
23 desert, causing pregnant mares to be run in the heat of the desert for  
24 miles, and not utilizing sufficient dust control at trap sites.

25 That Ms. Leigh is informed and believes such conduct is unnecessary, is despicable  
26 and is inhumane toward the wild horses the Defendants seek to capture and remove  
27 from the range, which also includes some of the wild horses Ms. Leigh documented and  
28 photographed and with whom Ms. Leigh spent time on the range previously when

1 respecting and appreciating their presence, their dynamics and social order, and their  
2 contribution to the aesthetics of the range.

3 27. That when Ms. Leigh observes the Defendants engage in the inhumane  
4 conduct described herein, toward wild horses the Defendants' contractor captures and  
5 removes, and in particular toward some of those very horses with whom Ms. Leigh had  
6 in the past, spent time in the range appreciating and respecting as described herein,  
7 that Ms. Leigh experiences shock, humiliation, grief, trepidation, anxiety, discomfort,  
8 nightmares, and a sense of moral degradation, helplessness, and personal defeat when  
9 observing the unnecessary, inhumane treatment of the very wild horses Ms. Leigh had  
10 come to appreciate and respect over time as averred herein.

11 28. On the prior occasion at the Antelope Complex where Ms. Leigh observed  
12 inhumane treatment by the Defendants' contractor Sun-J occurring there in January  
13 and February 2011 at the Antelope Complex roundup conducted by the Defendants,  
14 Ms. Leigh reported the inhumane conduct she observed to both the BLM and to the  
15 local Sheriff's department. The reported inhumane conduct involved pushing  
16 exhausted horses by Sun-J's operating a helicopter dangerously close to the horses.  
17 Ms. Leigh filmed the dangerous helicopter operation by Sun-J at Antelope and offered  
18 both the BLM and Sheriff's Dept. links to published material, of the video clips which  
19 documented her observations. The BLM also interviewed Ms. Leigh in investigating  
20 Sun-J pilot conduct at the Antelope Complex roundup. That the incidents she  
21 witnessed and filmed at the Antelope Complex roundup earlier this year were  
22 substantially similar in nature and content to that of the conduct Ms. Leigh witnessed  
23 and videoed August 11, 2011 when Sun-J's helicopter pushed with the helicopter skid  
24 (or came dangerously close to the horse, as the case may be determined by a trier of  
25 fact), a single exhausted horse away from a set trap at the Triple B Complex roundup  
26 (the subject of which involved issuance of a Temporary Restraining Order in this  
27 matter).

28 29. When attempting to report to the local Sheriff's office the Antelope

1 roundup inhumane event, Sheriff's personnel indicated the matter was out of their  
2 jurisdiction and that they could not help; and they refused Ms. Leigh's effort to report.  
3 When attempting to report to the BLM the Antelope roundup inhumane events, Plaintiff  
4 is informed and believes the BLM conducted an internal investigation and determined  
5 the helicopter operation was being done in accordance with safe practices and/or  
6 humane practices, and/or that the horse(s) involved were the cause of the incidents but  
7 not the helicopter pilot; or, that the film did not clearly depict the incident at least to the  
8 satisfaction of BLM investigating personnel, sufficiently to cause reprimands or  
9 corrections to the work by the Defendants' chosen contractor Sun-J; that Ms. Leigh's  
10 impression was that the BLM personnel were more interested in taking possession of  
11 her computer (where original video footage and photographs of the Antelope Complex  
12 roundup incidents were stored), than having concern over the incidents themselves.

13 30. As a consequence of no corrective action having been taken at Antelope,  
14 despite Ms. Leigh's attempt at engaging authorities, to prevent a repeat of the  
15 inhumane issues having occurred there, Plaintiff is informed and believes she  
16 witnesses the same or similar acts of inhumanity toward the wild horses being captured  
17 at the Triple B Complex roundup as she witnessed and recorded previously at the  
18 hands of the contractor, Sun-J, who was the Defendants' contractor at Antelope; and  
19 that the only time Ms. Leigh is somewhat "believed" is when she records on video or via  
20 photos, inhumane incidents where by chance, she finds herself at suitable locations  
21 where the photo moment presents the opportunity to capture the inhumane event  
22 photographically; and even then, Ms. Leigh's photographic or video-graphic proof of  
23 incidences of inhumane conduct, are dismissed by the Defendants, or the Defendants  
24 contend the video images are not accurately portrayed, or that the images are  
25 deceiving, or that the video images are not clear enough to cause the Defendants to  
26 take corrective action.

27 31. As a consequence of no corrective action having been taken at Antelope  
28 to prevent a repeat of the inhumane issues having occurred there, despite her attempts

1 at involving what appeared at the time to be appropriate official authorities, Ms. Leigh  
2 finds herself in the identical position at Triple B, without remedy or recourse, to stop  
3 further acts of inhumane conduct toward those wild horses at Triple B that are the  
4 target of the Defendants' roundup, just as it was at the Antelope Complex roundup  
5 previously. That the Plaintiff's only apparent avenue of relief is through assistance of  
6 this court with this suit, to halt further inhumane treatment of Triple B Complex wild  
7 horses including those particular family bands and groups of wild horses with whom Ms.  
8 Leigh has come to respect and appreciate as averred herein.

9 32. Understanding that she as but a mere citizen having no other recourse  
10 whatsoever to act when an agency who operates with broad discretion, contrary to laws  
11 and which such action or inaction causes her harm as averred herein, Plaintiff is  
12 compelled to bring the improper conduct to the attention of the courts, to ask for the  
13 court's help in this suit, to stop and enjoin further inhumane conduct toward the Triple B  
14 Complex wild horses, and to prevent her further perceptible harm.

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

19 34. Plaintiff is informed and believes she has suffered and continues to suffer  
20 an invasion of a legally protected interest amounting to the harms as averred herein,  
21 caused when she is compelled time and time again, to watch the Defendants engage  
22 Triple B Complex wild horses (and at other roundups by the Defendants as well where  
23 Sun-J is their contractor) in an inhumane manner contrary to laws and policies of the  
24 United States; that Ms. Leigh maintains a right to observe the *humane* removal of, at  
25 the bare minimum, those wild horses from public lands with which she has gained  
26 appreciation and for which she has gained respect, as averred herein.

27 35. Plaintiff is adversely affected and aggrieved where she suffers perceptible  
28 harm which is imminent and continuing when having repetitively been subjected to

1 observations of overt displays of inhumane treatment toward Triple B Complex wild  
2 horses and where she is likely to incur the same conduct in the future, toward those  
3 certain wild horses with which she's gained appreciation and respect, during their  
4 removal from public lands; that the offending conduct is within the zone of interest  
5 contemplated by Congress which clearly calls for the *humane* removal of excess wild  
6 horses.

7         36. Plaintiff is informed and believes her perceptible harm is: concrete and  
8 particularized, and imminent, and not conjectural or hypothetical, that there is a causal  
9 connection between her perceptible harm and the conduct complained of, and that the  
10 continuing threat of such perceptible harm to her person would be redressed with the  
11 imposition of temporary, preliminary and permanent injunctive relief as requested  
12 herein.

13         37. Plaintiff is informed and believes her requested relief is traceable to the  
14 Defendants' practice of ignoring the expressed intent of Congress when Congress  
15 unanimously adopting the Wild Free-Roaming Horses and Burro Act 16 U.S.C. §1331  
16 *et seq.*, where Congress unambiguously requires the Defendants to remove excess  
17 horses *humanely*. See, 16 USC § 1333 (b)(2)(iv)(B) (as amended in 1978). That the  
18 "humane" handling of free-roaming wild horses when removing their excess brethren, is  
19 part and parcel with the Wild Horse and Burro Act and is stated in mandatory, not  
20 permissive terms. 16 USC § 1333 (b)(2)(iv)(B). [See also, 16 U.S.C. § 1338a (the use  
21 of helicopters, "shall be in accordance with *humane* procedures . . . ."), 16 U.S.C.  
22 §1333(c)(calling for "humane conditions" by adopters), 1338(a)(3)(criminal penalty for  
23 "maliciously causes the death or harassment of any wild free-roaming horse or burro")  
24 and 1338(a)(6) (willfully violates a regulation issued pursuant to the Wild Free-Roaming  
25 Horse and Burro Act)]. Plaintiff is informed and believes the Wild Free-Roaming Horse  
26 and Burro Act remains clear, cogent and unambiguous in regard to the mandatory  
27 *humane* handling of wild horses by the Defendants during their removal of excess  
28 horses.



1 miles southeast of Elko, Nevada, within White Pine and Elko Counties. These comprise  
2 the Triple B Complex.

3 42. The Triple B Complex comprises approximately 2,615 square miles of  
4 public lands. All wild horses therein are managed by BLM.

5 43. The BLM defines "excess" horses as a population which exceeds in  
6 number, that which the BLM invented and coins "appropriate management level" or  
7 "AML." The BLM recently reformulated "AML" into a range, from a "high AML" to a "low  
8 AML."

9 44. According to BLM, the low range of AML is the minimum herd population  
10 level for a given HMA. The high range AML is the maximum population level that will  
11 help to prevent further deterioration of the range and achieve and maintain a thriving  
12 natural ecological balance and multiple use relationship.

13 45. The BLM's low range AML for the Triple B Complex is determined to be  
14 472 horses. The BLM's high range AML for the Complex is determined to be 889  
15 horses. See BLM's EA, Triple B, Exhibit 9 to accompanying injunction.

16 46. Prior to the roundup, BLM estimated the population for the entire Complex  
17 as nearly 2,200 horses, which they used to compute AMLs. The BLM determined that  
18 they should remove about 1726 horses, to bring the horse population to the low range  
19 AML. The BLM claims the 1726 horses are "excess" horses under their interpretation  
20 of the law.

21 47. Where the BLM has thus far, removed approximately 1,200 animals as of  
22 this writing (September 6, 2011), this roundup could be immediately halted while the  
23 herd population would remain within the confines of the BLM's own stated goals and  
24 interpretations of law. The BLM roundups at Triple B may have already brought the  
25 herd within high AML where their original population number for the entire Complex was  
26 but a mere estimate by the BLM, of the Complex's current population.

27 48. Plaintiff seeks to enjoin, not the roundups themselves, but the inhumane  
28 conduct occurring at these roundups such that issues of ongoing, repetitive inhumane

1 treatment can be addressed at a time when doing so would no longer impede the  
2 BLM's own action and interpretation of their multiple use mandate.

3 49. In 1971 the Wild Horse and Burro Act passed unanimously in both houses  
4 of Congress and was signed into law December 1971 by President Nixon. The  
5 Congressional findings and declaration of policy of the Act are as follows:

6 Congress finds and declares that wild free-roaming horses  
7 and burros are living symbols of the historic and pioneer  
8 spirit of the West; that they contribute to the diversity of life  
9 forms within the Nation and enrich the lives of the American  
10 people; and that these horses and burros are fast  
11 disappearing from the American scene. It is the policy of  
12 Congress that wild free-roaming horses and burros shall be  
13 protected from capture, branding, harassment, or death; and  
14 to accomplish this they are to be considered in the area  
15 where presently found, as an integral part of the natural  
16 system of the public lands.

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

19 50. Congress defines the powers and duties of the Secretary of the Interior,  
20 relative to the management of wild horses on public lands, in Section 1333 of the Act.  
21 That Section defines by mandatory language the Secretary's obligation to *humanely*  
22 capture certain wild horses. Section 1333 provides in relevant part, that the removal of  
23 excess horses from public lands,

24 [s]hall be taken, in the following order and priority until all  
25 excess animals have been removed so as to restore a  
26 thriving natural ecological balance to the range, and protect  
27 the range from the deterioration associated with  
28 overpopulation:

\* \* \*

1

2 (B) **The Secretary shall cause such number of**

3 **additional excess wild free-roaming horses and**

4 **burros to be humanely captured** and removed for

5 private maintenance and care for which he

6 determines an adoption demand exists by qualified

7 individuals, and for which he determines he can

8 **assure humane treatment** and care (including

9 proper transportation, feeding, and handling) . . . .

10 16 USC 1333 (b)(2)(iv)(B) (Emphasis Added).

11 51. Plaintiff was an observer no less than 14 days at the Triple B Complex

12 roundups. Although her access is considerably restricted, she nevertheless was able to

13 observe several examples of inhumane treatment toward captured wild horses. Three

14 examples of several incidents follow:

- 15 a. The helicopter pilot repeatedly flew to within ten feet of animals
- 16 including making contact with an exhausted horse with the skids of
- 17 the helicopter. The video of this event shows conduct so disturbing
- 18 that YouTube placed an age appropriate restriction on the clip;
- 19 b. Horses in temporary holding were repeatedly denied sufficient
- 20 quantities of water, day after day;
- 21 c. Horses in temporary holding were repeatedly denied sufficient
- 22 quantities of feed, day after day.

23 52. The BLM’s own EA for Triple B Complex provides that their action in

24 removing horses from the Complex must be, “consistent with all applicable regulations

25 at Title 43 Code of Federal Regulations (CFR) 4700 and policies.” BLM’s EA, p. 7.

26 See Exhibit 9 to accompanying injunction motions.

27 53. The contractor, Sun-J, was issued a contract by the BLM to remove

28 excess horses. The Sun-J contract states, in relevant part, as follows:

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The work shall be accomplished in a safe and humane manner and be in accordance with the provisions of 43 CFR, Part 4700 . . . .

Sun-J Contract, p. 12, section C.1.  
See Exhibit 10 to accompanying injunction motions.

54. 43 CFR § 4700.0-5 provides in relevant part, as follows:

- (e) Humane treatment means handling compatible with animal husbandry practices accepted in the veterinary community, without causing unnecessary stress or suffering to a wild horse or burro.
- (f) Inhumane treatment means any intentional or negligent action or failure to act that causes stress, injury, or undue suffering to a wild horse or burro and is not compatible with animal husbandry practices accepted in the veterinary community.

55. The BLM's own EA for the Triple B Complex provides as follows:

The following procedures and stipulations will be followed to ensure the welfare, safety and humane treatment of wild horses in accordance with the provisions of 43 CFR 4700.

BLM's EA, Triple B, Appendix II, p.51.  
See Exhibit 9 to accompanying injunction motions.

56. 43 CFR § 4740.1 provides in relevant part, the following:

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

43 CFR § 4740.1.

57. 16 U.S.C. § 1338a likewise provides in relevant part as follows:

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In administering this Act [16 USCS §§ 1331 et seq.], the Secretary may use or contract for the use of **helicopters**. . . . Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. . . . **Such use shall be in accordance with humane procedures**. . . .

16 U.S.C. § 1338a.

58. The BLM’s own EA provides as follows:

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

BLM’s EA, Triple B, p.56.  
See Exhibit 9 to accompanying injunction motions.

59. The BLM’s own EA provides as follows:

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

BLM’s EA, Triple B, p.56.

60. In one example, observers clearly saw the Sun-J helicopter repeatedly flying dangerously close to horses being rounded up, day after day, roundup after roundup, to within ten feet of animals who had difficulty moving further because of exhaustion from having been driven miles. In one example, a horse was pushed by the skid of the helicopter. Plaintiff is informed and believes this is not humane treatment. See Exhibit 1 to accompanying injunction motions. This was captured on film and

1 published on YouTube. The content however, is so disturbing that YouTube “age  
2 restricted” this video clip.

3 61. In one example, observers saw a single exhausted foal, no more than  
4 three months old, who broke away from his horse family before being pushed into a  
5 trap. The foal was then pursued by the helicopter and pushed further away from the  
6 trap and from ropers helping with the gather. The helicopter came within ten feet of this  
7 young horse. Plaintiff is informed and believes this is not humane treatment. See  
8 Exhibit 1 to accompanying injunction motions.

9 62. The BLM’s own EA for the Triple B Complex provides as follows:

10 When dust conditions occur within or adjacent  
11 to the trap or holding facility, the Contractor  
12 shall be required to wet down the ground with  
13 water.

14 BLM’s EA, Triple B, Appendix II, p.52, ¶ 5.  
15 See Exhibit 9 to accompanying injunction motions.

16 63. Plaintiff observed, the following: every day of the Triple B roundup that  
17 she observed, the dust from the rotor wash was significant to the point of obscuring  
18 visibility not only of the trap but of the helicopter; and on only one day after Plaintiff’s  
19 photos of rotor wash dust at the trap were published, did Ms. Leigh see a water truck  
20 water down the ground at the trap area. See Exhibit 1 to accompanying injunction  
21 motions. Others observed similarly. See Exhibit 2 to accompanying injunction motions.  
22 Plaintiff is informed and believes this is not humane treatment.

23 64. The BLM’s own EA for the Triple B Complex provides as follows:

24 The Contractor shall provide animals held in  
25 the traps and/or holding facilities with a  
26 continuous supply of fresh clean water at a  
27 minimum rate of 10 gallons per animal per day.  
28 Animals held for 10 hours or more in the traps

1 or holding facilities shall be provided good  
2 quality hay at the rate of not less than two  
3 pounds of hay per 100 pounds of estimated  
4 body weight per day. The contractor will supply  
5 certified weed free hay if required by State,  
6 County, and Federal regulation.

7 BLM's EA, Triple B, Appendix II, p.52, ¶ 7.  
8 See Exhibit 9 to accompanying injunction motions.

9 65. The BLM and its contractor Sun-J repeatedly fail, day after day, roundup  
10 after roundup, to provide captured horses a sufficient supply of water while horses are  
11 held in the BLM's temporary holding. One example is that Plaintiff documented a mare  
12 and foal holding pen, holding 15 mares and their foals (which should total 30 horses),  
13 with one water trough the BLM identified as having a 50 gallon capacity. Plaintiff is  
14 informed and believes the water trough holds up to 70 gallons. Plaintiff is informed and  
15 believes the water trough is filled twice each day, once in the morning and once in the  
16 evening. Plaintiff observed the water trough empty most every day. See Exhibit 1 to  
17 accompanying injunction motions. When raising the "lack of water" issue with BLM  
18 personnel, Plaintiff was advised, by BLM's Alan Shepard, that the horses, "sometimes  
19 drain them." See Exhibit 1 to accompanying injunction motions. Plaintiff is informed  
20 and believes the BLM and contractor Sun-J repeatedly failed to supply captured horses  
21 a sufficient supply of both water and feed as required by the BLM's EA and by the Sun-  
22 J contract. See Exhibit 1 to accompanying injunction motions. On the days when  
23 noticing lack of water, Ms. Leigh noted temperatures as high as 96 degrees. Plaintiff is  
24 informed and believes this is not humane treatment.

25 66. In another example, a stud pen containing as many as 47 animals, had  
26 two tubs which the BLM identified as having a capacity of 50 gallons. Even if the water  
27 troughs were 70 gallon troughs, the BLM and contractor Sun-J repeatedly failed to  
28 supply these captured horses a sufficient supply of both water and feed as required by

1 the BLM's EA and Sun-J contract. See Exhibit 1 to accompanying injunction motions.  
2 Plaintiff is informed and believes this is not humane treatment.

3 67. At the trap location, unweaned foals can remain in a holding pen as long  
4 as eight hours without their mothers. This condition was noted by observers. The drive  
5 to the holding facility thereafter, can take as long as two hours before these foals are  
6 processed and finally reunited with their mothers. During this potential ten hour time  
7 frame, foals are denied any water or any nourishment from their mothers. Plaintiff is  
8 informed and believes this is not humane treatment.

9 68. Plaintiff and other observers note several other instances of conduct  
10 which Plaintiff is informed and believes, demonstrates inhumane treatment toward the  
11 captured wild horses. These witness could be available, if necessary, for hearing.

#### 12 **FIRST CLAIM FOR RELIEF**

13 69. Plaintiff incorporates by reference the averments contained in Paragraphs  
14 1 through 68 of the Complaint as though the same were fully set forth herein.

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

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

27 71. That the roundup methods at Triple B Complex contravene the  
28 Defendants' own stated, publicized policies with respect to the *humane* management

1 and care of wild horses removed during such roundup, as is stated in the BLM's own  
2 published EA.

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

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

15 74. Plaintiff is informed and believes she maintains standing under 5 U.S.C. §  
16 702 of the Administrative Procedures Act to seek judicial review of the Defendants'  
17 action (or failure to act) where she has suffered and would continue to suffer actual  
18 injury or injury in fact that is within the zone of interests protected by the relevant federal  
19 statutes indicated herein above which Defendants fail and refuse to enforce. (See  
20 referenced statutes at paragraph 70 herein).

21 75. Plaintiffs' actual injury, injury in fact and harm includes but is not limited to  
22 the following:

23 a. Harm to her personal aesthetic interests when she compares, in her  
24 mind's eye, the following:

25 (i) the specified groups or families of wild horses that Ms. Leigh  
26 observed, studied and photographed as roaming free within the  
27 Triple B Complex, who before capture, thrived and interacted  
28 peacefully in a dynamic yet structured social order within the Triple

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B Complex, and which Ms. Leigh photographed or documented multiple times in the past and also recently, and with whom Ms. Leigh spent countless hours and days visiting, watching, appreciating and understanding while observing them in their environment, and with whom Ms. Leigh gained deep respect and appreciation;  
compared with,

(ii) the observation by Plaintiff, of the brutality of the inhumane method the Defendants systematically employ when capturing, handling and removing members of the same specified groups or families of wild horses that Ms. Leigh came to appreciate and respect as the result of the time she spent with these specific families and groups of horses within the Triple B Complex previously.

As one familiar with horses, Ms. Leigh does not have a reasonable or valid explanation to herself, for the dichotomy between having personally viewed in one aesthetic sense, the particular wild horses she viewed and studied when roaming free and peacefully in their native habitat, and the aftermath she observed where these same groups and families of wild horses are subjected to undeserved inhumane treatment by the very agency left in charge of their safe keeping. That Ms. Leigh's personal, internal lack of validation or a reasonable explanation for such inhumane treatment toward the very groups of wild horses Ms. Leigh came to understand, to appreciate and to respect, results in a gnawing, depressing, confusing and sobering look into the dark side of humanity that disturbs the senses and destroys all notions of aesthetic appreciation the Plaintiff otherwise enjoyed previously when having observed and photographed these same wild horse families at the Triple B Complex when roaming free in peaceful, dynamic social order.

- 1           b.     Harm to her personal well being where she is physically sickened in  
2                     having observed repetitive inhumane acts towards wild horses, including  
3                     many of those who belong to the specified groups or families of wild  
4                     horses with whom Ms. Leigh became thoroughly familiar and which she  
5                     identified previously as thriving and interacting peacefully in a dynamic  
6                     social order within the Triple B Complex before the roundups there,  
7                     commence. Ms. Leigh suffers harm to her personal well being and to her  
8                     mind's soul amounting to anxiety, trepidation, grief, chagrin, and a shock  
9                     to the senses, which she must relive in both her conscious mind and also  
10                    at an unconscious level when experiencing nightmares, from having  
11                    personally witnessed the brutal and inhumane efforts employed by the  
12                    Defendants' contractor toward the very groups and families of wild horses  
13                    Ms. Leigh came to enjoy, appreciate and respect as she avers herein;
- 14           c.     Harm to her personal well being where the Defendants conduct causes  
15                    Ms. Leigh to internally question the ethics and morality of the governing  
16                    agency assigned to protect these wild horses, and the unfairness and  
17                    undeservedness of the conduct toward the specific wild horses she  
18                    identifies herein, which in her mind, creates conflict where the Defendants'  
19                    wrongful conduct is antithetical to her personal notions of a caring, moral,  
20                    decent, civilized society, whereas the governing agency in charge,  
21                    Defendants herein, defends, justifies and normalizes the conduct with  
22                    explanations that portray the same conduct as something that is  
23                    reasonable, even humane. That the dichotomy of these diverging views  
24                    of the same conduct, is personally disturbing and frightening to the soul of  
25                    her mind, and damaging to her spirit, and causes her depression.
- 26           d.     Harm to her vocation, to her reputation and also, economic harm. Ms.  
27                    Leigh is an honest photojournalist seeking to document and educate for  
28                    responsible change, the plight of the survival of America's wild horses as

1 they interact with government officials in charge of their safety and well  
2 being. Ms. Leigh receives payment for some of her photojournalistic  
3 work. When however, Ms. Leigh is compelled to publish to the public,  
4 photos and videos of the Defendants' conduct which to some like  
5 *YouTube*, is so distressful and offensive that the organization (*YouTube*  
6 being the example) finds it necessary to "age restrict" its viewing audience  
7 who might watch Ms. Leigh's videos or photographs, because the video  
8 clips portray acts of animal cruelty, Ms. Leigh, although merely recording  
9 and conveying the truth of the events and of what transpired through her  
10 camera, becomes identified as a sensationalist or as someone who  
11 enjoys publishing acts of animal cruelty. Where Ms. Leigh becomes  
12 "pegged" with such a reputation merely because she publishes the raw  
13 truth via video and photos of that in which she catches the Defendants  
14 engaged, causes her detrimental harm to her vocation and to her  
15 reputation for which an action at law is not available.

16 Plaintiff is informed and believes that these personal harms establish the requisite  
17 concrete and particularized injury to her personal interests.

18 76. Plaintiff has planned to observe the Defendants' remaining roundup  
19 operations at Triple B Complex and at the others scheduled in Nevada where the  
20 Defendants choose to employ the contractor Sun-J. Plaintiff accordingly could  
21 reasonably expect that she would continue to suffer the same harm as referenced  
22 herein, at remaining Triple B Complex roundups and at other roundups elsewhere in  
23 Nevada where the Defendants employ the contractor Sun-J. later this year in Nevada.

24 77. As of this writing, Plaintiff is informed and believes the Defendants have  
25 not engaged in any corrective efforts to ensure such inhumane conduct is not repeated  
26 at future roundups at Triple B Complex or elsewhere where the Defendants intend to  
27 employ Sun-J as their excess wild horse removal contractor.

28 78. There remains a real and immediate threat that the injuries to Ms. Leigh's

1 personal interests as herein described would repeat and reoccur where she would be  
2 present at remaining Triple B Complex roundups conducted by the Defendants'  
3 contractor Sun-J and at other roundups in Nevada and elsewhere conducted by the  
4 Defendants where they employ Sun-J.

5 79. A ruling in Plaintiff's favor would likely address and resolve the Plaintiffs'  
6 harm that would likely occur in the future without assistance of the court.

7 80. That the Defendants' arbitrary and capricious action, its abuse of  
8 discretion, its conduct not in accordance with law, and its action implemented without  
9 observance of procedure required by law, relevant to the Defendants' refusal to enforce  
10 humane laws and policies of the United States during the Triple B Complex roundup, is  
11 the direct and proximate cause of the Plaintiff's harm as described herein

12 81. The harms to Ms. Leigh as are more particularly described herein (at  
13 paragraphs 27 and 75), are irreparable. The Plaintiff's diminished opportunity to view  
14 wild horses in the wild and to then observe them become inhumanely removed because  
15 the Defendants choose not to intervene to cause the *humane* removal of excess  
16 horses, additionally disturbs the senses of reasonable people including Ms. Leigh, and  
17 causes further irreparable harm to Ms. Leigh. Such inhumane conduct is intolerable, it  
18 is shocking to the conscience of reasonable persons including Ms. Leigh, and such  
19 inhumane conduct is unlawful and unnecessary. There is no measure of damages and  
20 no action at law available to Ms. Leigh which can account for the personal, irreparable  
21 loss to Ms. Leigh as heretofore mentioned. Ms. Leigh has no other remedy available to  
22 her in seeking a remedy to stop the harmful conduct. Without the help of this court, she  
23 finds herself without remedy and without justice.

24 82. For the reasons outlined herein, the Defendants should be preliminarily  
25 and permanently enjoined from engaging in conduct considered inhumane as is  
26 previously defined herein, during the Defendants' completion of the Triple B Complex  
27 roundup; and for the same reasons, the Defendants should be preliminarily and  
28 permanently enjoined from engaging in conduct considered inhumane as is previously

1 defined herein, during the Defendants' completion of those remaining roundups within  
2 Nevada where the Defendants' contractor Sun-J is scheduled or contemplated to be  
3 used.

4 **SECOND CLAIM FOR RELIEF**

5 83. Plaintiff incorporates herein by reference the averments contained in  
6 Paragraphs 1 through 81 of the Complaint as though the same were fully set forth  
7 herein.

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

10 85. Plaintiff seeks a declaration that ceases all forms of inhumane treatment  
11 as identified herein and in accompanying injunctions, which become necessary  
12 because of the instances of inhumane treatment toward wild horses by the Defendants'  
13 chosen contractor, Sun-J; and, which requires the Defendants to enforce humane  
14 provisions as is required by the laws of the United States, so as to prevent further harm  
15 to Plaintiff as described herein.

16 86. Plaintiff seeks a declaration that the Defendants' action as currently  
17 implemented, results in inhumane treatment toward horses, that the Defendants' action  
18 is accordingly, arbitrary and capricious, and results in an abuse of discretion, or  
19 otherwise involves activity not in accordance with law, and that the plan is implemented  
20 without observance of procedure required by law.

21 87. Plaintiff seeks a declaration that the Defendants' choice of action as is  
22 displayed at the Triple B Complex as averred herein, violates laws of the United States,  
23 in particular the following:

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

28 88. Plaintiff seeks a declaration that plaintiff maintains standing to bring both

1 injunctive relief and also declarative relief as averred herein, that she suffers irreparable  
2 harm, that the issuance of such relief is in the public's interest., and that Ms. Leigh, at  
3 least until judgment, maintains a likelihood of success on the merits at trial.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff respectfully prays for judgment and relief as against all  
6 Defendants, as follows:

- 7 1. A mandatory or prohibitive injunction issue preliminarily and permanently,  
8 precluding the Defendants from engaging in *inhumane* conduct toward wild  
9 horses taken or removed from the Triple B Complex and also to be taken at  
10 other roundups scheduled in Nevada where the Defendants employ Sun-J as  
11 their wild horse contractor.
- 12 2. A mandatory or prohibitive injunction issue preliminarily and permanently,  
13 precluding the Defendants from engaging in *inhumane* conduct toward wild  
14 horses taken or removed from the Triple B Complex and also to be taken at  
15 other roundups scheduled in Nevada where the Defendants employ Sun-J as  
16 their wild horse contractor, where their management or removal amounts to  
17 violations of the laws of the United States, in particular, the following laws and  
18 regulations:
  - 19 a. 16 USC § 1333 (b)(2)(iv)(B);
  - 20 b. 16 U.S.C. § 1338a;
  - 21 c. 43 CFR § 4740.1;
  - 22 d. 43 CFR § 4700.0-5(e), (f).
- 23 3. A mandatory or prohibitive injunction issue preliminarily and permanently,  
24 precluding helicopter operation that touches or comes dangerously close to wild  
25 horses, during remaining roundup activities at Triple B Complex, and at other  
26 roundups scheduled in Nevada where the Defendants employ Sun-J as their wild  
27 horse contractor.
- 28 4. A mandatory or prohibitive injunction issue preliminarily and permanently

1 mandating a continuous supply of water to wild horses captured from Triple B  
2 Complex and also horses captured elsewhere or similarly situated, and held at  
3 temporary holding corrals by the Defendants, in minimum sums of 10 gallons of  
4 water per horse per day.

- 5 5. A mandatory or prohibitive injunction issue preliminarily and permanently  
6 mandating a supply of feed for horses in minimum sums required by the  
7 Defendants' own EA for the Triple B Complex.
- 8 6. A mandatory or prohibitive injunction issue preliminarily and permanently  
9 mandating that the Defendants use sufficient sums of water to abate dust from  
10 helicopter rotor wash, at the wild horse trap sites and at holding pens.
- 11 7. That a mandatory order issue, compelling the Defendants to craft and publish a  
12 specific standard for humane handling of wild horses and burros during roundup  
13 operations, consistent with definitions adopted by most states and consistent  
14 with relevant provisions of the Code of Federal Regulations;
- 15 8. A declaration that the Defendants' action as currently implemented at the Triple  
16 B Complex roundup, results in inhumane treatment toward wild horses, that the  
17 Defendants' action is accordingly, arbitrary and capricious, and results in an  
18 abuse of discretion, or otherwise involves activity not in accordance with law, and  
19 that the Defendants' action is without observance of procedure required by law.
- 20 9. A declaration that the Defendants' current plan as currently contemplated  
21 violates laws of the United States, in particular the following:
  - 22 a. 16 USC § 1333 (b)(2)(iv)(B);
  - 23 b. 16 U.S.C. § 1338a;
  - 24 c. 43 CFR § 4740.1;
  - 25 d. 43 CFR § 4700.0-5(e), (f).
- 26 10. A declaration that plaintiff maintains standing to bring both injunctive relief and  
27 also declarative relief as averred herein, that she suffers irreparable harm, that  
28 the issuance of such relief is in the public's interest.

1 11. A declaration that Plaintiff has no speedy or adequate remedy at law and that  
2 Plaintiff has and will suffer irreparable harm from the manner in which the  
3 roundup is implemented;

4 12. That the Court award Plaintiff:

5 a. her costs of suit and expenses including expert witness and  
6 consultant fees and reasonable attorney's fees; and

7 b. such other and further relief as the Court deems appropriate under  
8 the circumstance.

9 Dated this 8<sup>th</sup> day of September 2011.

10 LAW OFFICE OF GORDON M. COWAN

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

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16 **DEMAND FOR JURY**

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

19 Dated this 8<sup>th</sup> day of September 2011.

20 LAW OFFICE OF GORDON M. COWAN

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