

# **EXHIBIT 1**

**Declaration of George Barnes (January 4, 2007)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

County of Inyo,	)	
	)	
Plaintiff,	)	<b>Civ. No. 1:06cv1502 (AWI-DLB)</b>
	)	
v.	)	
	)	
United States Dep't of the Interior <i>et al.</i> ,	)	
	)	
Defendants, and	)	
	)	
Sierra Club, <i>et al.</i> ,	)	
	)	
Proposed Defendant-Intervenors	)	
_____	)	

**DECLARATION OF GEORGE BARNES**

City of Palo Alto	)
	)
State of California	)

I, George Barnes, declare as follows:

1. I am a member of the Sierra Club, California Wilderness Coalition, National Parks Conservation Association, and The Wilderness Society. I make this Declaration on the basis of personal knowledge, and I am competent to testify to the matter stated herein. This Declaration is submitted in support of the Sierra Club *et al.*'s Motion to Intervene in the above captioned matter.

### **Sierra Club**

2. I am a member of the Sierra Club and I have been an active participant in the Sierra Club California/Nevada Regional Conservation Committee's Desert Committee since 1970. I am generally familiar with current and past activities of the Sierra Club in the California Desert.

3. Founded in 1892, the Sierra Club is a national, non-profit membership organization with over 700,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural environment; and to using all lawful means to carry out these objectives. The Sierra Club frequently files citizen suits to stop activities that violate local, state or federal environmental laws and cause harm or potentially will cause harm to the natural environment. Over 150,000 Sierra Club members reside in California. The Sierra Club maintains its national headquarters in San Francisco, California. Sierra Club members actively use the California deserts and particularly Last Chance Canyon, Greenwater Canyon, and Greenwater Valley for recreational and aesthetic purposes such as hiking and nature study. Protecting these areas, all of which are now within Death Valley National Park, has been a priority of the Sierra Club for nearly four decades.

### **California Wilderness Coalition**

4. I am a member of the California Wilderness Coalition (CWC). Through my membership I am generally familiar with the historical and current activities of CWC.

5. CWC is a statewide, non-profit organization that was founded in 1976. CWC defends the pristine landscapes that make California unique, providing clean air and water, a

home to wildlife, and a place for recreation and spiritual renewal. CWC is the only organization dedicated to protecting and restoring California's wild places and native biodiversity on a statewide level.

6. CWC has long worked for the enactment of legislation and policies that provide for the sound management of federal public lands managed in California. CWC's efforts have been particularly focused on protecting the ecological, historical, cultural, recreational, spiritual, and other benefits the public lands provide.

7. CWC typically pursues protection and enhancement of federal public lands through both legislative and administrative means, including federal wilderness, national park or national conservation area designation, and administrative processes, such as land use plans and management decisions that create special management areas. CWC staff participate in information gathering and dissemination, education and public outreach, commenting upon proposed government actions, and other activities relating to the management of federal public lands, including lands managed by the Bureau of Land Management (BLM) and the National Park Service (NPS).

#### **National Parks Conservation Association**

8. I am a member of the National Parks Conservation Association (NPCA). NPCA is a national, non-profit conservation organization with members in nearly every state, including the State of California. Through my membership in NPCA and my long-time participation as an activist with other conservation groups, I am familiar with both the historical and current activities of NPCA.

9. NPCA was founded in 1919 and is devoted to protect and enhance America's National Park System for present and future generations. NPCA has long worked for the

enactment of legislation and policies that provide for the sound management of our nation's public lands managed by the National Park Service (NPS). NPCA's efforts have been particularly focused on protecting the ecological, historical, cultural, recreational, spiritual, and other benefits that NPS lands provide.

10. NPCA typically pursues protection and enhancement of National Parks through both legislative and administrative means, including the designation of deserving public lands as national parks or national monuments, and administrative processes, such as land use plans and management decisions that create special management areas. NPCA staff participate in information gathering and dissemination, education and public outreach, commenting upon proposed government actions, and other activities relating to the management of NPS lands.

11. NPCA and its approximately 325,000 members nationwide, including approximately 50,000 members in the State of California, have a keen and long-standing interest in the preservation of the unique resources of Death Valley National Park, including Last Chance Canyon, Greenwater Canyon, and Greenwater Valley.

#### **The Wilderness Society**

12. I am a member of The Wilderness Society (TWS). TWS is a national, non-profit conservation organization with over 205,000 members nationwide, including approximately 30,000 members in the State of California. Through my membership in TWS and my long-time participation as an activist with other conservation groups, I am familiar with both the historical and current activities of TWS concerning the California Desert.

13. The Wilderness Society was formed in 1935 and is devoted to preserving wilderness, forests, parks, rivers, deserts, and shorelands, and committed to fostering an American land ethic. Its mission is to protect America's wilderness and wildlife and to develop

a nationwide network of wild lands through public education, scientific analysis and advocacy. TWS's goal is to ensure that future generations will enjoy the clean air and water, wildlife, beauty and opportunities for recreation and renewal that pristine forests, rivers, deserts, and mountains provide.

14. TWS has long worked for the enactment of legislation and policies that provide for the sound management of our nation's public lands managed by the federal government, including the Bureau of Land Management (BLM) and the National Park Service (NPS). TWS's efforts have been particularly focused on protecting wilderness quality lands managed by the federal government including BLM and NPS lands and the ecological, historical, cultural, recreational, spiritual, and other benefits they provide.

15. TWS typically pursues protection of these resources through both legislative and administrative means, including national park, national conservation area and monument designations, wilderness legislation, and administrative processes, such as land use plans and management decisions that create special management areas. TWS staff participate in information gathering and dissemination, education and public outreach, commenting upon proposed government actions, and other activities relating to the management of BLM and NPS lands.

#### **Conservation Groups and the Protection of the California Desert**

16. Citizen efforts to protect the lands that became Death Valley National Park have a history that stretches back at least four decades. In the late 1960s, citizen conservation groups, including the Sierra Club, became concerned about the considerable environmental damage caused by the cross-country "Barstow to Vegas" dirt bike race that was permitted by the Bureau of Land Management in the area. Individuals and groups also became energized by a joint BLM

and NPS study in the late 1960s that identified the tremendous damage that off-road vehicles were causing to the fragile desert environment in California.

17. The Sierra Club and others pressed Senator Alan Cranston of California and other members of Congress to introduce and obtain passage of legislation to provide for greater BLM authority and requirements to protect lands in the California desert from the damaging impacts of vehicle use, mining, and other activities. As a result of these efforts, Sen. Cranston introduced and eventually achieved passage of the California Desert Conservation Act (CDCA) in 1976. The bill was included in the Federal Land Policy and Management Act and provides for the “immediate and future protection and administration of the public lands in the California desert ...” 43 U.S.C. § 1781(b). The CDCA required BLM to complete a management plan for the area by September 30, 1980. 43 U.S.C. § 1781(d).

18. In 1976, at about the same time as the CDCA became law, I became the Chair of the Death Valley Task Force of the Sierra Club’s California/Nevada Desert Committee. I still hold that position today. In that position, I talk regularly with Death Valley National Park staff to understand the Park’s management challenges, and bring management issues to attention of the Committee and the Club as a whole. Our mission is to ensure that the lands in and around Death Valley – including specifically the lands at issue in this case – receive the highest level of protection.

19. After the CDCA became law, BLM began preparing its management plan for the area, known as the “Desert Plan.” I participated extensively in this process on behalf of the Sierra Club, pressing BLM to adopt requirements that would provide maximum protection for the millions of acres of wilderness-character lands. At the same time as BLM was preparing the Desert Plan, it was also inventorying for and identifying lands as Wilderness Study Areas

(WSAs), as required by FLPMA § 603(a). 43 U.S.C. § 1782(a). I and other members of the Sierra Club and other conservation groups advocated for the designation and protection of numerous WSAs in Death Valley, including Greenwater Range, Greenwater Valley, and Last Chance Mountain. Our ultimate goal was for Congress to protect these areas by eliminating motor vehicle travel within their boundaries through wilderness designation.

20. Despite our efforts, the Desert Plan, as finalized, was weaker than we originally hoped. However, under President Reagan and his Interior Secretary James Watt, BLM promulgated the first cycle of amendments to the Desert Plan. See 43 U.S.C. § 1781(i) (requiring DOI to prepare annual reports on implementation of the Plan) and FLPMA's amendment provisions. Most of the proposed amendments severely undercut the environmental protection the Desert Plan contained. The Sierra Club and other groups began to doubt that BLM and the Desert Plan could be counted on to prevent ecological damage to these areas, since any protections could be taken away with administrative amendments. Conservation groups then began to push in earnest for a legislative solution requiring resource protection. Southern California Sierra Club activists, of whom I was one, began formulating a strategy to achieve national park, wilderness, and/or other protective designations for the millions of acres of BLM lands at risk.

21. In the early 1980s, conservationists founded the California Desert Protection League. Judy Anderson, Elden Hughes and Jim Dodson became the directors of the League, which served as a venue for all of the interested conservation groups – including the Sierra Club, The Wilderness Society, California Wilderness Coalition, and National Parks Conservation Association – to come together to agree on strategy and actions for achieving our mutually-agreed goal. Jim Dodson, another Sierra Club member, and I worked with others to draw the



maps of suggested National Park, wilderness, and other boundaries for that part of public lands that we proposed become Death Valley National Park. These maps, completed by us in 1985, were accepted by Congressional sponsors with few changes and became law in 1994. I and others spent hundreds of hours in the field taking photographs and inventorying land values to assist in drawing these lines. I helped organize some of the hundreds of volunteers who undertook these inventories. We made sure that we had collected photos and developed narrative descriptions of every location for which we would urge Congressional protection. In addition, in order to ensure that our boundaries were accurate and up to date, I took dozens of trips between 1984 and 1994 (when the CDPA finally became law) to monitor actions by federal agencies and third parties that could qualify or disqualify areas from protective land management designations, like road construction and maintenance. I also monitored the areas proposed for addition to Death Valley National Monument (and the Monument itself) for damaging uses, such as illegal mining, and damage done by feral burros and off-road vehicles.

22. As part of this process, staff and volunteers of the Sierra Club, TWS and other groups maintained contact with Congressional staff to answer questions about our proposal and to urge its adoption. We also initiated contact with some opposition groups to seek their views on compromises they might desire.

23. I performed all this work as a volunteer in my free time apart from my job as a computer systems engineer.

24. Wilderness designation eliminates public motor vehicle use in areas so designated. The Sierra Club and The Wilderness Society sought wilderness designation for over one million acres of lands to be added to Death Valley National Park – including the lands

traversed by the three routes at issue – with the specific purpose of protecting those lands from the damaging impact of motor vehicle use.

25. I am also aware of the many other activities undertaken with the support and assistance of the California Desert Protection League and its member groups (including Sierra Club, TWS, California Wilderness Coalition, and National Parks Conservation Association) to seek passage of the CDPA. These included issuing action alerts, activating phone trees in California and across the nation to press lawmakers to support the legislation, and the publication of the “Desert Report” newsletter that was distributed to hundreds of supporters of desert protection.

#### **Wilderness Areas Threatened by This Litigation**

26. The CDPA became law on October 31, 1994. Among the areas designated as wilderness and designated as part of Death Valley National Park included lands traversed by Inyo County’s alleged Petro Road through the Greenwater Range. The Greenwater Range was inventoried by BLM in the late 1970s, and found to be roadless and to possess wilderness character. BLM thus designated the area as the “Greenwater Range” wilderness study area (WSA) by 1981. The Sierra Club, CWC, NPCA and TWS all pressed for designation of this area as wilderness in the 1980s and early 1990s as part of the CDPA. In addition, the Sierra Club, CWC, NPCA and TWS all pressed BLM to designate this area as a WSA in the late 1970s.

27. The CDPA also designated as wilderness those lands traversed by Inyo County’s alleged Last Chance Canyon route or routes. This area was inventoried by BLM in the late 1970s, and was also found to be roadless and to possess wilderness characteristics. BLM thus designated the area as the “Last Chance Mountain” WSA by 1981. The Sierra Club, CWC, NPCA and TWS all pressed for designation of this area as wilderness in the 1980s and early

1990s as part of the CDPA. In addition, the Sierra Club, CWC, NPCA and TWS all pressed BLM to designate this area as a WSA in the late 1970s.

28. The CDPA also designated as wilderness those lands traversed by Inyo County's alleged Lost Section route. This area was inventoried by BLM in the late 1970s, and found to be roadless and to possess wilderness characteristics. BLM designated the area as within the "Greenwater Valley" WSA by 1981. The Sierra Club, CWC, NPCA and TWS all pressed for designation of this area as wilderness in the 1980s and early 1990s through the CDPA. In addition, the Sierra Club, CWC, NPCA and TWS all pressed BLM to designate this area as a WSA in the late 1970s.

29. A key feature of wilderness study areas is that the areas have been determined to have no constructed roads. BLM is mandated to manage these areas so as not to impair their "wilderness character." Public motor vehicle use in WSAs is a "non-conforming use" that, where allowed to occur within WSAs, is heavily regulated, can be terminated, and its impacts can only be temporary. The Sierra Club and TWS specifically sought WSA designation the Greenwater Range WSA, the Last Chance Mountain WSA, the Greenwater Valley WSA, and Panamint Dunes WSA because the areas contained no constructed routes, and for the specific purpose of protecting those lands from the damaging impact of motor vehicle use.

### **My Involvement and Injury**

30. I have visited Death Valley since the late 1940s. In the 1950s and 1960s, I took numerous trips exploring the desert during my time off from my job as a civil service physicist at what is now called the China Lake Naval Air Weapons Station. I estimate that I have taken hundreds of trips over the last six decades into Death Valley.

31. I have previously traversed the entirety of the route claimed by Inyo County as a “public highway” in Last Chance Canyon. In the early 1980s, on a monitoring trip to the area, I drove from the south end of the route. I found it to be a very charming area. I observed that while vehicles could at that time drive fairly far up the route, the route did not appear to be constructed or regularly used. It also did not appear to access any particular destination. At some point, the route simply became impassable to four-wheel vehicles. For one to get from the south to Willow Springs in Cucomungo Canyon, one had to ascend a steep, narrow trail that might be suitable for horses and foot travel but little else. I hiked this trail, which appeared to receive very infrequent foot traffic. I recall the area being remote, lonely, and quiet. I intend to return to Last Chance Canyon in the next six months to enjoy the solitude, quiet, and natural and scenic beauty that the area contains.

32. I have hiked three or four times in the last 20 years on the “Petro” route claimed by Inyo County as a “public highway” in Greenwater Canyon, most recently in 1996. This is another charming canyon, whose outstanding feature is archeological sites. I have enjoyed viewing the pictographs there in a cave a few hundred feet off of the claimed route. I also enjoy this hike because of the Canyon’s remoteness, and its rocky, steep formations. It is my recollection that one of the reasons we proposed this area be designated wilderness was to protect these archeological sites from the easy looting that can accompany motorized access. I intend to return to Greenwater Canyon in the next six months.

33. I have previously traversed the entirety of the “Lost Section” route claimed by Inyo County as a “public highway.” When the route was open, I drove it as a cutoff to access Gold Valley. This route goes across a wide open valley. It is a redundant route; other larger, maintained routes access the same area. The area is gently sloping with creosote flats – prime

habitat for animals including lizards, jack rabbits, and badgers. The desert tortoise, an imperiled reptile protected by the Endangered Species Act, can also be found in this area. Because this area is near the northern extent of the tortoise's range, they are particularly vulnerable to disturbance here. In the spring of 2004, I hiked the route and observed the damage caused by Inyo County's recent unpermitted and illegal road grading. The County's heavy construction equipment had taken a closed, seldom-used two track that was recovering and revegetating, and turned it into a wide area scraped clean of all vegetation, barren of life. Its value as wildlife habitat was immediately destroyed. It is likely that wildlife were also crushed in their burrows as the heavy equipment rumbled overhead. What was left was an ugly scar on the land. I was appalled by the damage and complained to the staff of Death Valley National Park. After the blading, the Park Service blocked both ends of the route, and revegetated the first several yards of the route to camouflage the damage. I and the Sierra Club supported these Park Service actions. The middle of the route was, however, not revegetated.

34. I use, enjoy, and work to protect the natural resources on many NPS lands in the California desert and in Death Valley National Park for recreational, scientific, spiritual, educational, and aesthetic purposes and have used and enjoyed for these same purposes the Death Valley National Park lands that are crossed by the routes claimed by Inyo County that traverse wilderness lands in Greenwater Canyon, Greenwater Valley, and Last Chance Canyon. I particularly value the solitude and quiet that hiking, camping and exploring these areas provide. I seek out isolated canyons such as Greenwater and Last Chance, and remote valleys, such as Greenwater, in order to enjoy solitude, observe wildlife and cultural resources, appreciate the wonders of nature in a largely natural state, and appreciate the scenery that can be found in these areas. Because I value you quiet, naturalness, wildlife, archeological resources and solitude, I

seek out wilderness lands which are protected from public motor vehicle use and road construction.

35. I am generally aware of the impacts that vehicle use, road widening and road construction can cause in desert canyons and valleys such as those at stake here. Motor vehicle use can crush and destroy vegetation, cause roadkill, frighten wildlife, disrupt quiet and solitude, and import invasive, non-native plant species. Similarly, road widening and road construction can scrape habitat down to bare dirt, modify waterflows in a way that harms habitat downstream, crush animal burrows, leave scars in the fragile desert that may take years or decades to heal, lead to increased off-road use, and facilitate vandalism or destruction of cultural resources.

36. I am aware that Inyo County seeks in its complaint in this case to open to vehicle use the Petro route in Greenwater Canyon, the Last Chance route in Last Chance Canyon, and the Lost Section route in Greenwater Valley. I am also aware that Inyo County seeks to tear down obstructions closing the routes, and seeks the right to widen the routes and build culverts, ditches and other structures adjacent to the routes. If Inyo County wins the relief it seeks, I will suffer considerable injury. Such ripping out of NPS property, opening routes to vehicle use, widening routes and building related structures would destroy vegetation, disturb or kill wildlife, and eliminate habitat. It would harm my appreciation of the natural, wildlife, archeological, and scenic values, and the quiet of these areas that I so value, and that I visit these places to enjoy. If Inyo County wins the relief it seeks, I am far less likely to return to these areas.

37. Further, two of Inyo County's claimed routes – the Petro route and Last Chance route – bifurcate large areas of designated wilderness. The Lost Section route would lop off a sizable chunk of wilderness in the Greenwater Valley area. The relief Inyo County seeks would cut large wilderness areas in two, making it more difficult for NPS to manage these lands to

protect their wilderness character. Because I seek out wilderness lands for their wild, natural character, I am less likely to return to lands where NPS cannot effectively manage to protect wilderness character. Therefore, if Inyo County wins the relief it seeks, I am less likely to visit the lands burdened by the County's claimed rights-of-way because of the harm caused to the land's wilderness character.

38. As an avid hiker, birdwatcher, photographer, observer of cultural resources, amateur desert ecologist, and long-time lover of the natural wonders in Death Valley who is intimately familiar with Death Valley National Park, it is my opinion that the relief Inyo County seeks in its complaint – a right-of-way to the claimed routes and the ability to permit motor vehicle use and “road” widening and other construction – would cause substantial damage to the desert lands, wildlife, archeology, and the beauty and solitude of Greenwater Canyon, Last Chance Canyon, and Greenwater Valley. If that occurs, my deep personal interests and commitment to the protections of these areas will be harmed, and decades of effort that I put in to the protection of these areas will be damaged.

Pursuant to 28 U.S.C. Sec. 1746, I DECLARE, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 4th of January, 2007 in Palo Alto, California

George Barnes

George Barnes