

# **EXHIBIT 3**

**Declaration of Paul McFarland (Jan 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 PAUL McFARLAND**

City of Lee Vining	)
	)
State of California	)

I, Paul McFarland, declare as follows:

1. I am a member of the Center for Biological Diversity and a staff member of Friends of the Inyo. 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.

**Friends of the Inyo**

2. I have been a staff member of Friends of the Inyo since 2000, and Executive Director since 2003. I am generally familiar with current and past activities of the Friends of the Inyo in the California Desert.

3. Founded in 1986, Friends of the Inyo is based in Bishop, California and is a non-profit conservation organization dedicated to preserving the unique qualities of the public lands east of the Sierra Nevada: its diverse wild lands, scenic beauty, wild rivers, varied flora and fauna, and abundant opportunities for low-impact recreation. Through a combination of wild land defense, outreach and education, and wilderness advocacy, Friends of the Inyo works to ensure that this remarkable place is preserved for future generations of people, plants and animals. Friends of the Inyo has about 700 members, most of whom reside in Inyo County or neighboring Mono County.

4. Members of Friends of the Inyo actively use the California deserts and particularly Death Valley National Park. Protecting the lands that are now within Death Valley National Park has been a priority of Friends of the Inyo since its founding.

#### **Center for Biological Diversity**

5. I am a member of the Center for Biological Diversity (CBD). As a member, I am generally familiar with current and past activities of CBD in the California Desert.

6. CBD has over 25,000 members in California and nationwide and is dedicated to the conservation and recovery of endangered species and their habitats across the western United States. CBD uses science, public participation, and legal and administrative processes to help ensure that public land agencies follow conservation laws, including the Endangered Species Act (“ESA”).

7. Members of CBD actively use the California deserts and particularly Death Valley National Park. CBD has a long-standing interest in protecting public lands in the California deserts, including the lands that are now within Death Valley National Park.

### **My Involvement and Injury**

8. I have been visiting Death Valley for the last decade. I estimate that I have taken several dozen trips over the last ten years into Death Valley.

9. In approximately 2003, I hiked on the trail in Greenwater Canyon that is claimed as the Petro Road “public highway” by Inyo County. I hiked in about 3-4 miles from the southern end of the claimed “highway.” At the southern end, we observed and parked our car at a low barrier that barred vehicles from the route, and that notified the reader that the area behind the sign was designated wilderness, and that vegetation was being restored behind the sign. The hike was very quiet and peaceful. The trail proceeds through a rugged, narrow, deep canyon in basaltic rock that almost has the feel of a slot canyon. We hiked this trail in part to see some of the many petroglyph and pictograph panels in the Canyon, and while we observed some panels, I know there are many more I did not find that will lure me back on another visit. I was surprised to find an empty carapace of a desert tortoise, a species listed for protection under the ESA. This is one of the northern-most places I have ever found evidence of desert tortoise habitation. I also found this area to be a phenomenally inviting and unique in Death Valley National Park. It is not like the stark, salt-flat landscape that typifies much of the rest of the Park. The vegetation is different too with a high diversity of cactus more like that of the northern Mojave desert country. I intend to return to Greenwater Canyon on February 11<sup>th</sup>, 2006 for a two day backpacking trip with my wife.

10. In December 2001, I hiked in about 2 miles up the southern end of the route claimed by Inyo County as a “public highway” through Last Chance Canyon. I observed no evidence of road construction, as the only passable route mainly meandered in the wash bottom. While there is some evidence of very old vehicle travel on some bench-lands above the wash, it

would be impossible to use those tracks by vehicle now, because the wash has blown out in flash-floods, leaving the old path taken by vehicles perched high above the wash with huge, vertical drops into the wash itself. The canyon does not appear to be modified by the hand of man in any way. As an amateur geologist, I find fascinating the evidence of floods and dramatic alluvial action that one may observe in the canyon, including drop-offs, polished rock walls, and debris lodged in vegetation high above the stream channel. This area is also of great interest to me because it is the northern watershed of Death Valley, and the farthest north you can get in the Valley. This area is probably ecologically amazingly important as a wildlife corridor between northern Death Valley and Fish Lake Valley to the north. The area sits on a transition zone between the Great Basin and the Mojave Basin biogeographic regions. The area appears to contain a mélange of Mojave and Great Basin flora and fauna. I intend to return to Last Chance Canyon within the next six months.

11. 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 two above-named routes claimed by Inyo County. I particularly value the solitude and quiet that hiking and exploring these areas provide. I seek out isolated canyons, such as Greenwater and Last Chance, 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 quiet, naturalness, wildlife, archeological resources and solitude, I seek out wilderness lands which are protected from public motor vehicle use, road construction and associated maintenance with heavy machinery.

12. 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, speed erosion, destroy fragile desert soils, 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. All of these impacts are likely should Inyo County gain the right to expand each route to a two-lane road or wider. Currently, in many places, the fading evidence of width of disturbance from decade-old vehicle passage at Greenwater and Last Chance Canyons is far narrower than a two-lane highway; widening the route to two lanes or more would cause tremendous disturbance to natural features in both canyons.

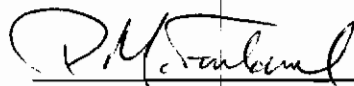
13. Further, two of Inyo County's claimed routes – the Petro route and Last Chance route – bifurcate large areas of designated wilderness. The relief Inyo County seeks would cut large wilderness areas in two, making it more difficult for NPS to manage these lands to protect their wilderness character. 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.

14. As an avid hiker, birdwatcher, photographer, observer of cultural resources, amateur desert ecologist, geologist, and long-time lover of the natural wonders in Death Valley

who is 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, natural quiet, and solitude of Greenwater Canyon and Last Chance Canyon. If that occurs, my deep personal interests and commitment to the protection of these areas will be harmed, and the decades of effort that I and others 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 4 January, 2007 in Lee Vining, California

A handwritten signature in cursive script, appearing to read "P. McFarland", written over a horizontal line.

Paul McFarland