

# **EXHIBIT 4**

**Declaration of Tom Budlong (January 10, 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 TOM BUDLONG**

City of Los Angeles )  
 )  
 State of California )

I, Tom Budlong, declare as follows:

1. I am a member of the Sierra Club, California Wilderness Coalition, Center for Biological Diversity, 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 am generally familiar with the Club's mission and objectives.

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 Greenwater Canyon, Greenwater Valley, and Last Chance Canyon 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 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).

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

8. 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.

9. 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”).

10. 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.

### **The Wilderness Society**

11. 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.

12. 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.

13. 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.

14. 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.

### **My Involvement and Injury**

15. I have been visiting the Death Valley area for more than 20 years, and in that time I estimate that I have taken over thirty trips to the area.

16. On the weekend of January 6-7, 2007, I took a backpacking trip into Last Chance Canyon along the route alleged by Inyo County to be a public "highway." On January 6, I backpacked in from the southern end of the Canyon, and traveled northwest up the Canyon. We observed National Park Service signs barring motor vehicles from the route. We hiked following an old two-track trail that was slowly revegetating and did not appear to have been used by vehicles for many years. The trail looks like this for approximately three miles. At the three mile point, the route enters the Canyon wash and disappears. We followed the route identified by Inyo County for another two-to-three miles in the wash, reaching the confluence of Last Chance and Copper Canyons. Northwest of the confluence with Copper Canyon, Last Chance Canyon narrows considerably, and becomes gradually more challenging to ascend. The upper end of Last Chance Canyon is a box canyon that ends with steep, convoluted, narrow gullies and sharp ridges. We hiked up two-to-three foot dryfalls, over or around large chock-stones blocking the canyon and washed-down trees strewn in the steep, narrow, V-shaped gullies. In my opinion, the route here is impassable to vehicles.

17. The head of Last Chance Canyon is a rare, classic box canyon. From the canyon bottom, narrow erosion gullies separated by sharp ridges get steeper and steeper until they terminate in a near vertical wall, from 50-200 feet high. According to maps submitted by Inyo

County, the southeast-northwest route claimed by Inyo County crosses directly over the lip of this box canyon. We spent several hours in the afternoon of January 6 attempting to ascend the “wall” where the claimed route is located on the map, and to the sides of the claimed route, but failed. We retreated and camped for the night in the canyon bottom. The next day, we finally got to the top of the ridge by crawling up one of the steep gullies on the west side of the “wall.” At the top we found the end of the two-track, which descends to the road in Cucomungo Canyon to the north. This two-track is in the same location as the northern-most section of the route claimed by Inyo County. On an earlier car-camping trip (October, 2006) we had observed a sign closing the route to motor vehicles at the route’s northern terminus at the road in Cucomungo Canyon. However, where the two track on top meets the “wall,” and where on Inyo County’s map the route descends the “wall” into Last Chance Canyon, I observed no evidence that the trail continues. In my opinion, given the nearly vertical slope, a vehicle descent over the lip of the wall would likely be fatal. With no evidence of a constructed road, it is impossible that vehicles ever descended from the northern part of the route into Last Chance Canyon at this point. We spent several hours at the east and west sides of the “wall,” looking for evidence of a constructed road avoiding the “wall.” with no success. Around mid-day, we scrambled down one of the sharp ridges near the eastern end of the wall to get back to the bottom of the canyon. We then walked back to the vehicle we had left at the lower end of the canyon.

18. In the bottom of Last Chance Canyon, I saw numerous tracks that appeared to those of rabbit, coyote, cougar, deer, as well as small mammals. I also observed on several occasions what appeared to be coyote scat. I saw many burrows, including some large enough to have been dug by badgers. Several jack rabbits startled from the scrub brush and ran away from

us. Being January, it was too cold for the cold-blooded lizards and snakes. Dense desert scrub, including large creosote plants, are found at the southern end of the Canyon.

19. Toward the upper end of the Canyon, including at the top of the “wall,” I found numerous deer tracks and trails, and the scat of large herbivore, probably that of a bighorn sheep. Here, the plant life includes large pinyon pines and scattered Joshua trees. We watched ravens here too.

20. I greatly enjoyed my hike in Last Chance Canyon. It was lonely, beautiful and interesting. Working through the maze of narrow gullies and solving the problem of getting to the top of the “wall” was challenging and exciting. Perhaps what I most enjoyed was the solitude, quiet, and the remoteness of the Canyon. Once in the Canyon, we observed not a single human footprint, and certainly no other people. The footprints we created will quickly disappear—the next visitor will have the same pristine experience. I also enjoyed the sense that this was a living canyon, one that changes with each flash flood, and is in a natural condition, where mountain lions, coyotes, and their prey exist as they have for thousands of years. These places I seek and will revisit. I plan to return to last Chance Canyon in the next six months.

21. 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 intellectual curiosity, to expand my knowledge of the natural world, and for recreational, spiritual, and aesthetic purposes. I have used and enjoyed for these same purposes the lands in Death Valley National Park that are crossed by the routes claimed by Inyo County and that traverse wilderness lands in Last Chance Canyon. I particularly value the solitude and quiet that hiking, camping and exploring these areas provide. I seek isolated canyons such as Last Chance in order to enjoy solitude, observe wildlife and cultural resources, appreciate the wonders of nature in a largely natural state, and 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 motor vehicle use and road construction.

22. I am generally aware of the impacts that road construction, road widening, and vehicle use 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 illegal off-road use, and facilitate vandalism or destruction of cultural resources.

23. I am aware that Inyo County seeks in this case to open to vehicle use the claimed route in Last Chance Canyon. I am also aware that Inyo County seeks to tear down obstructions closing the route, and seeks the right to widen the route to two lanes, and build culverts, ditches and other structures in order to create a maintained road. If Inyo County wins the relief it seeks, I will suffer considerable injury. Opening the routes to vehicle use, attempting to widen the route and building related structures would destroy vegetation, disturb or kill wildlife, and eliminate habitat. It would harm my appreciation of the natural, wildlife, and scenic values, and the solitude and quiet that I so value, and that I visited the Canyon to enjoy. Further, to make this route passable to motor vehicles and to make it two lanes wide would require significant and damaging construction across steep terrain and unstable soils, particularly in that section crossing the nearly-vertical "wall" and in the box canyon portion of the route. Such construction would

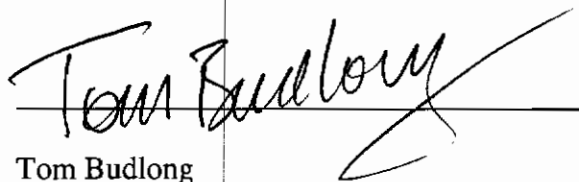
turn a remote, natural canyon into a scarred, noisy landscape. It would ruin the place for me. If Inyo County wins the relief it seeks, I am far less likely to return to Last Chance Canyon.

24. Further, the Last Chance route runs directly through a large area officially designated as wilderness. The relief Inyo County seeks would bisect this wilderness area, making it more difficult for NPS to manage and protect its 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.

25. I am an avid hiker, birdwatcher, photographer, observer of cultural resources, amateur desert ecologist, and desert explorer, and a long-time lover of the natural wonders in Death Valley National Park. I am intimately familiar with many areas in Death Valley National Park, and intend to become familiar with more. It is my opinion that the relief Inyo County seeks in its complaint – a right-of-way to the claimed Last Chance Canyon route (as well as other 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 Last Chance Canyon. If that occurs, my deep personal interests and commitment to the protections of these areas will be harmed.

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 January 10<sup>th</sup>, 2007 in Los Angeles, California

  
Tom Budlong