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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

TUCSON DIVISION

WILDEARTH GUARDIANS and NEW MEXICO WILDERNESS ALLIANCE,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF JUSTICE,

Defendant

and

NEW MEXICO CATTLE GROWERS' ASSOCIATION; NEW MEXICO FEDERAL LANDS COUNCIL; and NEW MEXICO FARM AND LIVESTOCK BUREAU,

Proposed Defendant-Intervenors.

No. 4:13-cv-00392-DCB

NEW MEXICO CATTLE GROWERS' ASSOCIATION, ET AL.'S MOTION TO INTERVENE

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that the New Mexico Cattle Growers' Association, New Mexico Federal Lands Council, and New Mexico Farm and Livestock Bureau ("Proposed Intervenors") move for leave to intervene in this action.

Proposed Intervenors hereby move to intervene as of right pursuant to Federal Rule of Civil Procedure 24(a). In the alternative, they request leave to intervene by permission pursuant to Federal Rule of Civil Procedure 24(b).

Counsel for Proposed Intervenors contacted the existing parties to determine their positions on this motion and were informed that neither would be able to provide a position until they reviewed it.

The motion is based on this notice of motion and motion to intervene; the accompanying memorandum of points and authorities; the affidavits submitted with this motion; the documents previously filed in this action; and any other material the Court may consider in the briefing and oral argument of this matter.

DATED: September 30, 2015.

Respectfully submitted,

JAMES S. BURLING
M. REED HOPPER
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By /s/ James S. Burling
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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2015, I electronically transmitted the attached document to the Clerk's Offices using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

TUCSON DIVISION

WILDEARTH GUARDIANS and NEW MEXICO WILDERNESS ALLIANCE, Plaintiffs, v. UNITED STATES DEPARTMENT OF JUSTICE, Defendant, and NEW MEXICO CATTLE GROWERS' ASSOCIATION; NEW MEXICO FEDERAL LANDS COUNCIL; NEW MEXICO FARM AND LIVESTOCK BUREAU, Proposed Defendant-Intervenors.	No. 4:13-cv-00392-DCB **MEMORANDUM IN SUPPORT OF NEW MEXICO CATTLE GROWERS' ASSOCIATION, ET AL.'S MOTION TO INTERVENE**

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INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 24, the New Mexico Cattle Growers' Association, New Mexico Federal Lands Council, and New Mexico Farm and Livestock Bureau (collectively, "Applicants") move to intervene to protect their significant property, economic, and liberty interests at stake in this litigation.

Plaintiffs (collectively, "WildEarth Guardians") challenge the legality of the U.S. Department of Justice's so-called "McKittrick Policy." Third Amend. Compl. ¶ 28. The gravamen of the complaint is that the policy construes Section 11 of the Endangered Species Act, 16 U.S.C. § 1540(b), which criminalizes the "knowing" "take" of a listed species, to require knowledge of every element of the crime, thereby foreclosing prosecution for persons who do not know the identity of the species they take. Third Amend. Compl. ¶¶ 20-28. DOJ adopted this interpretation in response to a petition for certiorari filed with the Supreme Court of the United States appealing the Ninth Circuit's decision in *United States v. McKittrick*, 142 F.3d 1170 (9th Cir. 1998), which limited the application of the *mens rea* requirement to knowingly engaging in the act that caused the take. WildEarth Guardians argue that the McKittrick Policy is illegal under the Endangered Species Act and Administrative Procedures Act. Third Amend. Compl. ¶¶ 56-73.

Applicants seek to intervene to defend the McKittrick Policy on the grounds that it is compelled by the Endangered Species Act and that *United States v. McKittrick* was wrongly decided. This issue profoundly affects Applicants' members—ranchers and others whose property, farming activities, and own liberty would be threatened by a ruling in WildEarth Guardians' favor. As demonstrated below, Applicants satisfy the requirements for intervention as of right in this case. If the Court determines otherwise, Applicants alternatively move for permissive intervention pursuant to Federal Rule of Civil Procedure 24(b).

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APPLICANTS

The New Mexico Cattle Growers' Association (Cattle Growers) was founded in 1914 to advance and protect the interests of New Mexico's cattle industry and those involved in it across the state. Cowan Aff. in Supp. of Applicants' Motion to Intervene (Cowan Aff.) ¶¶ 3-4. Over the last twenty years, Endangered Species Act issues have become an increasingly important part of that mission, because the statute has significant and far-reaching impacts on rural property owners, ranchers, and the cattle industry. *Id.* ¶ 7. The Cattle Growers have participated in Endangered Species Act litigation related to many of the species that affect its members, including the Mexican gray wolf (the subject of this lawsuit), jaguar, New Mexico meadow jumping mouse, the lesser prairie chicken, the dunes sagebrush lizard, and many more. *See id.* ¶¶ 8-11. It has also participated in the administrative process and advised and educated its members on the many Endangered Species Act issues that affect their day-to-day lives. *See id.* ¶¶ 9-11. One particularly important aspect of that has been helping members solve the myriad problems that arise when dealing with the threat of multiple carnivorous predators (some protected, some not) around their herds and families. *See id.* ¶¶ 12-15.

The New Mexico Federal Lands Council was founded in the 1970s to advocate the interests of New Mexicans who operate on federal and state trust lands. Lee Aff. in Supp. of Applicants' Motion to Intervene (Lee Aff.) ¶ 3. Its members hold grazing permits and other rights to use and steward federal lands, including U.S. Forest Service and Bureau of Land Management lands. *Id.* The Council engages in outreach, lobbying, and educational efforts to promote its members' continued ability to utilize these federal lands for agricultural production, while also caring for the sustainability of their natural resources. *Id.* ¶ 4. These lands provide significant habitat for endangered species, including the Mexican gray wolf. *Id.* ¶¶ 8, 12. If WildEarth Guardians is successful in this suit, the Council's work will be made more difficult and its members' ability to continue operating will be practically impaired. *Id.* ¶¶ 11, 14.

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The New Mexico Farm and Livestock Bureau (Farm Bureau) is an independent, non-governmental, voluntary organization of farm and ranch families dedicated to analyzing agricultural problems and formulating solutions to promote the well-being of agriculture throughout the states. Smith Aff. in Supp. of Applicants' Motion to Intervene (Smith Aff.) ¶ 3. It represents its 19,000 members on a variety of issues—including Endangered Species Act issues—through lobbying campaigns, research, educational programs (both for its members and the general public), and litigation. *Id.* ¶¶ 4-9. Farm Bureau's members deal with endangered species issues on a day-to-day basis, because their undeveloped ranches and farmlands provide habitat and space for many protected species. *Id.* ¶ 6. Because of the myriad ways one can cause "take" and the number of species subject to the statute's protections, the scope of the Endangered Species Act's criminal provisions significantly impacts Farm Bureau's members' ability to use their private property. *Id.* ¶¶ 6, 11-12. The Mexican gray wolf (the subject of this lawsuit) is one of the many species that affect Farm Bureau's members. *Id.* ¶¶ 11-12.

BACKGROUND

In 1973, Congress enacted the Endangered Species Act, providing for the listing and protection of endangered and threatened species (of which there are currently approximately 1,500 in the United States). *See* 16 U.S.C. §§ 1533, 1538, 1540. One of those protections is a prohibition against the "take" of any member of an endangered species. 16 U.S.C. § 1538.[1] This prohibition broadly forbids anyone from doing anything that involves or results in harassment, harm, pursuit, hunting, shooting, wounding, killing, trapping, capture, collecting, or attempting any such conduct with regard to a single member of a protected species. 16 U.S.C. § 1532(19). This is a "sweeping prohibition" on conduct that adversely affects listed species. *See Tenn. Valley Auth. v. Hill*, 437 U.S. 153, 175 (1978); *see also Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*,

[1] Although the Endangered Species Act's take prohibition is limited to endangered species, the government has extended that prohibition to all threatened species by regulation. 50 C.F.R. § 17.31.

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515 U.S. 687, 703-04 (1995). The statute provides that anyone who "knowingly" violates the prohibition can be punished with substantial civil and criminal penalties, including imprisonment. *See* 16 U.S.C. § 1540(b)(1) (each take of an endangered species can subject someone to a $50,000 fine and a year imprisonment and, for a threatened species, fines of $25,000 and six months imprisonment) .

In *McKittrick*, the Ninth Circuit interpreted the scope of criminal liability under these provisions broadly, by limiting the elements of the crime that the statute's *mens rea* requirement—knowingly—applies to. *See McKittrick*, 142 F.3d at 1176-77. In that case, a man who fatally shot a gray wolf in Montana, skinned and decapitated it, and took the hide and head as a trophy was convicted for take. *See id.* at 1173. On appeal, he argued that the conviction had to be overturned because the government had not proven that he knew it was a gray wolf that he was killing. *See id*. at 1176-77. The Ninth Circuit rejected his argument, holding that only the act must be committed knowingly. *See id*. Defendants needn't know that their act will cause take or what will be taken. *See id*.

When the defendant petitioned for certiorari, the Solicitor General submitted an opposing brief disclaiming reliance on the Ninth Circuit's *McKittrick* decision and stating that the government believed that its interpretation of the statute was incorrect. *See* Third Amend. Compl. ¶ 64. Shortly thereafter, the Department of Justice adopted the McKittrick Policy and distributed a memorandum instructing all United States Attorneys on the government's interpretation. *See id*. ¶¶ 67-70.

In this case, WildEarth Guardians challenges that policy under the Endangered Species Act and the Administrative Procedure Act. In particular, it argues that the policy's adoption violates the Endangered Species Act because the Department of Justice did not first consult with the Fish and Wildlife Service as to its effects on protected species. Third Amend. Compl. ¶ 109. Implicit in this argument is the assumption that the McKittrick Policy is not compelled by the language of the Endangered Species Act. If it is, Section 7 would not apply because its adoption was not a discretionary act. *See Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661-62 (2007) (consultation requirement

only applies to discretionary actions). WildEarth Guardians also argue that the policy violates the Administrative Procedure Act because it "is so extreme as to amount to an abdication of DOJ's statutory responsibilities to enforce the criminal penalties provision of the ESA as intended by Congress." Third Amend. Compl. ¶ 111.

ARGUMENT

I

APPLICANTS SATISFY RULE 24(a) AND SHOULD BE GRANTED INTERVENTION AS OF RIGHT

A party has a right to intervene if she (a) applies in a timely manner, (b) claims an interest relating to the subject of the case, which will be impaired or impeded by its disposition, and (c) her interests aren't adequately represented by the existing parties. Fed. R. Civ. P. 24(a). In applying this standard, courts "normally follow 'practical and equitable considerations' and construe the Rule 'broadly in favor of proposed intervenors.'" *Wilderness Soc'y v. U.S. Forest Service*, 630 F.3d 1173, 1179 (9th Cir. 2011) (*en banc*) (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397 (9th Cir. 2002)). This is because "'[a] liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the Courts.'" *Id*. (quoting *City of Los Angeles*, 288 F.3d at 397-98). Accordingly, a "prospective intervenor 'has a sufficient interest for intervention purposes if it will suffer a practical impairment of its interests as a result of the pending litigation.'" *Id*. (quoting *California ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006)).

When analyzing a motion to intervene of right under Rule 24(a)(2), Ninth Circuit courts apply a four-part test to determine whether to grant an applicant's motion:

(1) The application for intervention must be timely;

(2) The applicant must have a "significantly protectable" interest relating to the property or transaction that is the subject of the action;

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(3) The applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect that interest; and

(4) The applicant's interest must be inadequately represented by the existing parties in the lawsuit.

Wilderness Soc'y, 630 F.3d at 1177; Fed. R. Civ. P. 24(a).

A. Applicants' Motion to Intervene Is Timely

Three factors inform whether a motion to intervene is timely. These are: (1) the stage of the proceedings; (2) prejudice to existing parties; and (3) the reason for delay in moving to intervene. *United States v. Alisal Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004).

Applicants move to intervene at a very early stage of this litigation, and thus delay is not at issue. Plaintiffs filed their amended complaint on August 14, 2015. ECF No. 31. Defendants filed their Answer on August 21, 2015. ECF No. 32. The administrative record has not been submitted, and there have been no hearings or rulings on substantive matters. *See Idaho Farm Bureau Federation v. Babbitt*, 58 F.3d 1392, 1397 (9th Cir. 1995) ("The intervention motion was filed at a very early stage, before any hearings or rulings on substantive matters.").

Given the early stage of this litigation, intervention will not prejudice any of the parties. To date, the only proceedings in this case have been preliminary and procedural, including the resolution of motions to transfer and dismiss. ECF Nos. 22 & 30. The filing of the motion at this time will not result in significant disruption or delay. Nor will it undermine any of the progress in the litigation to date.

Applicants have also not unreasonably delayed the filing of this motion. This Court only denied Defendants' Motion to Dismiss on July 27, 2015. Applicants have moved to intervene as soon as practicable after that decision. Because Applicants' interests are only impaired or impeded if this Court heard the case and it proceeded to the merits, filing their

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motion prior to this Court's resolution of the motions to transfer and dismiss would have needlessly wasted party and judicial resources. Consequently, Applicants' motion is timely.

B. Applicants Have Significantly Protectable Interests in This Action

The interest test is not a bright-line rule, but is instead met if an applicant will "suffer a practical impairment of its interests as a result of the pending litigation." *California ex rel. Lockyer*, 450 F.3d at 441. It is a guide for "'involving as many apparently concerned persons as is compatible with efficiency and due process.'" *Cnty. of Fresno v. Andrus*, 622 F.2d 436, 438 (9th Cir. 1980) (quoting *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967)). The types of interests protected is interpreted "'broadly, in favor of the applicants for intervention.'" *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993) (quoting *Scotts Valley Band of Pomo Indians v. United States*, 921 F.2d 924, 926 (9th Cir. 1990)).

Applicants have considerable property, liberty, and economic interests at stake because they interact with a variety of species listed under the Endangered Species Act, including the Mexican gray wolf. *See* Cowan Aff. ¶¶ 7-8, 11-15; Smith Aff. ¶¶ 5-6, 9-12; Lee Aff. ¶¶ 7-14; Nunn Aff. in Supp. of Applicants' Motion to Intervene (Nunn Aff.) ¶¶ 3, 8. Their members own and use lands within the area occupied by the wolf. *See* Cowan Aff. ¶¶ 12-15; Smith Aff. ¶¶ 10-12; Lee Aff. ¶¶ 6, 12-14; Nunn Aff. ¶¶ 3, 8. If WildEarth Guardians succeed in striking down the McKittrick Policy, substantially expanding criminal liability under the Endangered Species Act, their ability to use their property would be practically impaired. *See* Cowan Aff. ¶¶ 7-11; Smith Aff. ¶¶ 5-9; Lee Aff. ¶¶ 6-14; Nunn Aff. ¶¶ 5, 8, 10. Given the numerous ways that a person can cause the take of any of the hundreds of species subject to that prohibition, Applicants' members will have little choice but to abandon or substantially restrict their uses of their lands. *See* Cowan Aff. ¶ 11; Smith Aff. ¶ 9; Lee Aff. ¶¶ 11, 14; Nunn Aff. ¶¶ 8, 10.

This case will also directly affect Applicants' members by practically frustrating their ability to protect their animals and other property from predators (both those that are subject to federal protection and those that are not). *See* Cowan Aff. ¶¶ 12-15; Smith Aff. ¶¶ 10-12; Lee Aff. ¶¶ 14; Nunn Aff. ¶ 10; Bays Aff. in Supp. of Applicants' Motion to

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Intervene ¶ 6. If they attempt to protect their property from what they honestly believe to be a predator that isn't subject to federal protection, like coyotes, only to find that they were mistaken about the predator's identity, that mere mistake could land them in jail. As a practical consequence of this risk of criminal liability, they will have to forego protecting their property, suffering substantial property and economic losses. *See* Cowan Aff. ¶¶ 12-15; Smith Aff. ¶¶ 10-12; Lee Aff. ¶ 14; Nunn Aff. ¶ 10. And any of Applicants' members who mistakenly take a Mexican gray wolf will obviously suffer practical impairments of their liberty interests by being harassed, fined, and imprisoned. *See* Cowan Aff. ¶¶ 14-15.

C. Disposition of This Case May Impair or Impede Applicants' Interests

Disposition of this case plainly threatens to impair and impede Applicants' interests. The threshold for demonstrating potential impairment of interests is low, as Rule 24(a)'s requirement addresses whether, as a practical matter, a denial of intervention would impede a prospective intervenor's ability to protect its interests. *California ex rel. Lockyer*, 450 F.3d at 442 ("Having found that appellants have a significant protectable interest, we have little difficulty concluding that the disposition of this case may, as a practical matter, affect it."); *S.W. Center for Biological Diversity v. Berg*, 268 F.3d 810, 822 (9th Cir. 2001) ("We follow the guidance of Rule 24 advisory committee notes that state that '[i]f an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene.'") (quoting Fed. R. Civ. P. 24 advisory committee note to 1966 amendment).

The Amended Complaint makes clear that Applicants' members are one of the targets of WildEarth Guardians' requested relief. As it notes, "[p]otential conflicts with the livestock industry" were anticipated when the Mexican gray wolf reintroduction was developed. Third Amend. Compl. ¶¶ 15, 85. Plaintiffs previously expressly alleged that "livestock producers, hunters and other individuals" are avoiding criminal punishment as a result of the policy. First Amend. Compl. ¶ 23. Applicants' members routinely interact with protected species in their operations. Cowan Aff. ¶ 8; Smith Aff. ¶ 6; Lee Aff. ¶¶ 6, 8; Nunn Aff. ¶¶ 2, 8. Expanding the scope of the criminal provisions of the Endangered

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Species Act will significantly impair their ability to use and protect their private property. Cowan Aff. ¶¶ 8, 11; Smith Aff. ¶¶ 6, 9; Lee Aff. ¶¶ 6-14; Nunn Aff. ¶¶ 5-10. And they will be substantially affected by increasing the likelihood that they will be exposed to harassment and the threat of imprisonment for unknowingly taking a protected species. Cowan Aff. ¶¶ 8, 15. Therefore, there can be no doubt that their interests will be practically impaired if WildEarth Guardians succeed in expanding criminal liability under the Endangered Species Act.

D. None of the Parties Adequately Represent Applicants' Interests

The "burden of showing inadequacy of representation is minimal and satisfied if the applicant can demonstrate that representation of its interests *may* be inadequate." *Citizens for Balanced Use v. Mountain Wilderness Ass'n*, 647 F.3d 893, 898 (9th Cir. 2011) (emphasis added; internal quotations and citations omitted). "[T]he burden of making that showing should be treated as minimal." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). The Ninth Circuit has established a three-part test for addressing this factor:

(1) Whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor's arguments;

(2) Whether the present party is capable and willing to make such arguments;

(3) Whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.

647 F.3d at 898. The "most important factor," however, is "'how the interest compares with the interests of existing parties.'" *Id.* If the "'government is acting on behalf of a constituency that it represents," then there is "an assumption of adequacy.'" *Id.* (quoting *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003)).

Applicants in this case meet the threshold for demonstrating that the government will not adequately represent their interests. Although Applicants are hopeful that the government will strongly defend the interpretation of the Endangered Species Act that is embodied in the McKittrick Policy, it may not do so. Its interests are not such that it will

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undoubtedly make all of Applicants' arguments. The federal government has a variety of interests implicated by this case, including protecting species and maximizing its power and discretion. Applicants, on the other hand, are uniquely concerned with the negative consequences to their members from expanding criminal liability under the Endangered Species Act. *See Californians for Safe & Competitive Dump Truck Transp. v. Mendonca*, 152 F.3d 1184, 1189 (9th Cir. 1998) (intervention appropriate where intervenor's interest is more narrow and parochial than those of the public at large).

Although the government *may* be capable and willing to argue that the McKittrick Policy is required by the Endangered Species Act, and thus *McKittrick* was wrongly decided, its advocacy for the opposite position in prior litigation, most obviously in *McKittrick*, demonstrates that it at least might not. The government also may not be willing to vigorously defend Applicants' position for strategic reasons, *i.e.*, the adverse precedent in the Ninth Circuit, instead preferring to argue that the policy should be upheld as an exercise of prosecutorial discretion. *Cf.* ECF No. 24. For these reasons, the government's representation of Applicants' interests "may" be inadequate and they are entitled to intervene as of right.

Safari Club International, which has also moved to intervene, does not adequately represent Applicants either. Safari Club's interest is limited to only one type of take (shooting), and therefore they may not raise Applicants' arguments about expanding criminal liability to unknowingly causing other types of takes (*e.g.* harassing, getting too near, or adversely modifying habitat). *See* Safari Club's Mem. in Supp. of Mot. to Intervene 2-3. Additionally, the same strategic reasons that may cause the government defendants to focus on arguments other than that *McKittrick* was wrongly decided, may lead Safari Club to do so as well.

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II

IN THE ALTERNATIVE, APPLICANTS SATISFY THE STANDARD FOR PERMISSIVE INTERVENTION

If the Court denies Applicants' motion to intervene as of right, the Court should alternatively grant Applicants permission to intervene pursuant to Rule 24(b)(2). Courts have broad discretion to grant intervention under the permissive standard. *See Orange Cnty. v. Air California*, 799 F.2d 535, 539 (9th Cir. 1986). Rule 24(b)(2) "'plainly dispenses with any requirement that the intervenor shall have a direct personal or pecuniary interest in the subject of the litigation.'" *Employee Staffing Servs. v. Aubry*, 20 F.3d 1038, 1042 (9th Cir. 1994) (quoting *SEC v. United States Realty & Improvement Co.*, 310 U.S. 434, 459 (1940)). Notably, "[u]nlike rule 24(a), a 'significant protectable interest' is not required by Rule 24(b) for intervention; all that is necessary for permissive intervention is that intervenor's 'claim or defense and the main action have a question of law or fact in common.'" *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1108 (9th Cir. 2002) (citing Fed. R. Civ. P. 24(b)).

In this case, Applicants seek to intervene to defend the McKittrick Policy on the grounds that it is compelled by the language of the Endangered Species Act. This defense has a question of law in common with Plaintiffs' claims—if the McKittrick Policy's interpretation of the provision is correct, Section 7 of the Endangered Species Act and the Administrative Procedures Act do not apply to DOJ's recognition of this compelled interpretation. *See Nat'l Ass'n of Home Builders*, 551 U.S. at 661-62. Given the importance of this issue, Applicants' stake in it, and the early stage of the litigation, the Court should allow permissive intervention.

CONCLUSION

This lawsuit seeks to significantly expand the scope of the Endangered Species Act's criminal prohibition against "take" beyond that permitted by the language of the statute. The consequences of this lawsuit will be widespread. By lowering the *mens rea* requirement for criminal liability under the statute, the case will make it easier for people

to inadvertently run afoul of the law by unknowingly affecting any of the approximately 1,500 species subject to its protections.

Such a ruling will fall particularly harshly on ranchers, farmers, and others in the agricultural community. Their undeveloped land holds a disproportionate number of endangered and threatened species. Consequently, the Applicants should be permitted to intervene in this case to defend their members' interests.

DATED: September 30, 2015.

Respectfully submitted,

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By /s/ James S. Burling
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I hereby certify that on September 30, 2015, I electronically transmitted the attached document to the Clerk's Offices using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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