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4  
5 Attorney for Plaintiff LAURA LEIGH

6 **IN THE UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8 LAURA LEIGH,

9 Plaintiff,

10 Case No.

11 vs.

12 KEN SALAZAR, in his official capacity as  
Secretary of the U.S. DEPARTMENT OF  
THE INTERIOR, SAM D. HAMILTON, in his  
13 official capacity as Director of the BUREAU  
OF U.S. FISH & WILDLIFE SERVICE,  
14 GREG SIEKANIEC, in his official capacity as  
Assistant Director for the NATIONAL  
15 WILDLIFE SYSTEM, and SHELDON  
NATIONAL WILDLIFE REFUGE, DOES I  
16 through XX, inclusive; and BLACK & WHITE  
ENTITIES I through XX, inclusive,

17 Defendants.  
18 \_\_\_\_\_ /

19 **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF;  
20 JURY DEMAND**

21 Plaintiff LAURA LEIGH, avers as follows:

22 1. Plaintiff seeks to halt the upcoming shipment of approximately 400 feral  
23 horses being currently gathered within the boundaries of the Sheldon National Wildlife  
24 Refuge ("Sheldon" or, the "Refuge") for shipment to private entities where previously,  
25 horses removed from Sheldon were shipped to slaughter. This shipment interferes  
26 with Plaintiff's work in progress the past two years for the benefit of educating children  
27 about good management of wild horses and in particular Sheldon Horses, causing her  
28 as well as the children who are probable recipients of these educational books,

1 irreparable harm. The Defendants' proposed shipment of Sheldon Horses is contrary to  
2 clear public policy of the United States of America relative to management practices of  
3 wild horses. The Defendant's proposed shipment is contrary to State ownership laws of  
4 feral or wild horses located within the State of Nevada.

### 5 **JURISDICTION AND VENUE**

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

9 3. Venue remains proper in the Northern Division of the District of Nevada  
10 pursuant to 28 U.S.C. §1391(a) where the incidents giving rise to the matters asserted  
11 herein are occurring and causing an effect within the northern part of the State on  
12 federal lands contiguous to and within the boundaries of Washoe County, Nevada.  
13 Plaintiff is informed and believes the gathering of the Sheldon Horses for shipment as is  
14 described herein below, occurred and is occurring on lands managed by the U.S. Fish  
15 and Wildlife Service within and contiguous to the State of Nevada.

### 16 **PLAINTIFF**

17 4. Plaintiff LAURA LEIGH is a regarded, talented publisher, artist and  
18 illustrator of art. Her more recent works involve horses as her subjects. She is also  
19 involved in publishing children's books. She has completed art projects for significant  
20 charitable organizations including by example, the United Way. Samples of her work  
21 are available on the internet at [www.barndoorstudio.com](http://www.barndoorstudio.com) .

22 5. Much of the Plaintiff's current work is dedicated to educating children  
23 about horses, feral horses, mustangs and particularly of horse rescue stories. Her new  
24 works are dedicated to teaching young children good practices relative to the  
25 management of wild horses, particularly Sheldon Horses. The unique aspect of the  
26 Plaintiff's publications and illustrations directed to children and to the public relative to  
27 wild horses is this: her stories and illustrations emanate from true subjects and are far  
28 from fiction.

**DEFENDANTS**

1  
2           6.       The named Defendants collectively comprise the governing authorities of  
3 the United States of America responsible for operating and managing the Sheldon  
4 National Wildlife Refuge (“Sheldon” or, the “Refuge”). Sheldon is a part of the National  
5 Wildlife System governed and operated by the Bureau of U.S. Fish and Wildlife Service  
6 (“Fish & Wildlife”). Fish & Wildlife is the unit of the U.S. Department of the Interior  
7 dedicated to the management and preservation of wildlife. The Refuge is *not* an entity  
8 managed, operated or controlled by the Bureau of Land Management. The bulk of the  
9 public land comprising Sheldon is located within the boundaries of the State of Nevada.

10           7.       Plaintiff is informed and believes Mr. Paul Steblein (“Steblein”) (not a  
11 named Defendant) is the “project leader” on behalf of Fish & Wildlife in charge of  
12 managing wild or feral horses and burros at Sheldon; and, Mr. Brian Day (“Day”) (not a  
13 named Defendant) is the general manager of Sheldon.

14           8.       Plaintiff does not know the true names and capacities of the Defendants  
15 sued herein as DOES I through XX, inclusive, or of BLACK & WHITE ENTITIES I  
16 through XX, inclusive, and, therefore, Plaintiff sues said Defendants by such fictitious  
17 names. Plaintiff prays for leave of Court to amend this Complaint to allege their true  
18 names and capacities when ascertained and if jurisdiction may be asserted against  
19 them. Plaintiff is informed and believes each of the fictitiously named Defendants is in  
20 some manner responsible for the occurrences and events herein alleged, and Plaintiff’s  
21 rights against such fictitiously named Defendants arises from such occurrences and  
22 events.

**GENERAL ALLEGATIONS****The Rescue Friends Project**

23  
24  
25           9.       Long before the events giving rise to this Complaint, the Plaintiff had in  
26 place a business plan to publish a new series of twelve illustrated children’s books titled  
27 “The Rescue Friends.” Her plan is partially implemented as can be gleaned from a  
28 review of one of her websites, [www.therescuefriends.com](http://www.therescuefriends.com) and has been a work in

1 progress the past two years. Many of these illustrated stories would emanate from the  
2 wild horse herds located within Sheldon.

3 10. Plaintiff had already spent countless time and effort the past two years  
4 compiling significant research and history of the feral horses residing within Sheldon in  
5 preparation of these anticipated works. A small glimpse of her compilations and  
6 research can be viewed at the following website: [www.passionsrescue.com](http://www.passionsrescue.com) (being  
7 careful to include the ending "s" in "passions").

8 11. Part of The Rescue Friends project is to view, record, document and then  
9 illustrate horses in their natural habitat within Sheldon. The lineage of the Sheldon  
10 Horses dates back to the 1600s, incorporating a colorful history. It is at Sheldon where  
11 the rich text and story line is gleaned, where the grass roots of The Rescue Friends is  
12 to emanate, establishing unforgettable tales for children of the Sheldon Horses and of  
13 their proper management by federal authorities.

14 12. The children's tale however, is about to take a turn toward an  
15 unforgettable tale of a darker side should the Defendants be allowed to complete their  
16 intended long-haul shipment of horses from Sheldon to places far from the State of  
17 Nevada.

18  
19 *Sheldon's Intended Shipment and its Prior Gather and Shipment*

20 13. Plaintiff is informed and believes the Defendants are currently in the  
21 process of gathering herds of wild / feral horses within Sheldon boundaries (the  
22 "Sheldon Horses") in Nevada; and, the purpose of these "gathers" is to remove these  
23 horses from Sheldon without regard to their future welfare.

24 14. Plaintiff is informed and believes Defendants have planned and are aware  
25 the Sheldon Horses would be removed from Sheldon and then given to private entities  
26 which in turn would ship the Sheldon Horses in mass, long-distance, via large truck  
27 vans, to as far away as Tennessee where the Defendants would lose track of their  
28 ultimate destination. This intended course contravenes the Defendants' own publicized

1 plan for managing Sheldon feral horses in a humane and safe manner. The  
2 Defendants' official, publicized plan in this regard provides in relevant part, as follows:

3 Sheldon's Horse and Burro Management Program seeks to  
4 maintain relatively stable horse and burro population  
5 numbers at the 2007 population levels . . . . This will be  
6 accomplished by periodic roundups and an adoption  
7 program that would move horses and burros off refuge lands  
8 in a humane manner.

9 \* \* \*

10 All animals in the gather would be processed with expert  
11 staff and a veterinarian. Horses and burros would be placed  
12 in good homes through adoption agents, who would undergo  
13 background checks before being elected. Among other  
14 things, the agents would be responsible for carefully  
15 screening potential adopters and requiring them to sign  
16 agreements, further helping to ensure that adopted animals  
17 are properly cared for and do not end up in a slaughter  
18 facility.

19 [See **EXHIBIT "A"** attached].

20 15. Plaintiff is informed and believes Defendants have no regard for the  
21 health, safety or welfare of the Sheldon Horses once they are shipped from the Refuge.  
22 Plaintiff is informed and believes Defendants have no regard for the ultimate disposition  
23 of these horses once shipped off the Refuge.

24 16. Plaintiff is informed and believes the Defendants have in the past,  
25 gathered horses from Sheldon for shipment where the gathered horses ultimately made  
26 their way to slaughter houses, contrary to the heretofore publicized management plan  
27 and contrary to the public policy of the United States relative to the management of  
28 feral horses on federal lands which provides in relevant part, as follows:

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

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

14 17. Plaintiff is informed and believes the Defendants' current *unpublicized*  
15 plan of shipping Sheldon Horses to private entities, incorporates the same type plan  
16 utilized by them previously when horses from Sheldon were shipped "in mass" long-  
17 distance, ultimately making their way to slaughter.

18 18. Plaintiff is informed and believes the Defendants have no assurances in  
19 place from those who would ultimately receive the Sheldon Horses, that Sheldon  
20 Horses would not be sold for slaughter or taken to slaughter or would not be  
21 transported out of the United States (where slaughter occurs), or would not be sold "by  
22 the pound," contrary to the Defendants' publicized management plan. Plaintiff is  
23 informed and believes the Defendants have no tracking system in place where the  
24 ultimate destination of Sheldon Horses could be confirmed and further confirming that  
25 transported horses would not have been sent to slaughter.

26 19. Plaintiff is informed and believes the Defendants have no plan  
27 implemented to assure that the Sheldon Horses would be managed elsewhere for true  
28 adoptions as is stated by the Defendants' publicized plan of managing feral horses and

1 also by example and comparison, how the Bureau of Land Management (“BLM”)  
2 actually manages wild / feral horses gathered from BLM managed public lands.

3  
4 *Defendants’ History of Causing Horses from Sheldon to be Slaughtered*

5 20. Plaintiff is informed and believes the Defendant’s history in removing  
6 horses from Sheldon previously, particularly in a gather of horses occurring in the year  
7 2006, is remarkable for having caused those feral horses removed from Sheldon to be  
8 ultimately shipped to slaughter houses; and, that the 2006 Sheldon gather itself,  
9 documented graphically in part at <http://www.wildhorsepreservation.com/sheldon.html> ,  
10 was a brutal display of feral horse “management” at its worst and also telling of what is  
11 likely in store for the Sheldon Horses this year and in future years.

12 21. Plaintiff is informed and believes two of the three private entities currently  
13 contracted by the Defendants to receive the Sheldon Horses, maintain a sordid history  
14 of having sent horses they received from Sheldon, to slaughter or to others who sent  
15 the horses to slaughter. Plaintiff is informed and believes the Defendants are aware of  
16 the history of these two chosen contractors and the Defendants have nevertheless,  
17 kept them as their chosen contractors to receive those Sheldon Horses currently slated  
18 for shipment from the Refuge.

19 22. Plaintiff is informed and believes the Sheldon Horses, when leaving the  
20 Refuge, are unbranded and are otherwise unidentified which further complicates the  
21 future of these horses and which helps the Defendants conceal the ultimate demise of  
22 the Sheldon Horses; and resultantly, the horses shipped from Sheldon have no  
23 protection in place whatsoever for their ultimate, long-term health, safety and welfare.

24 23. Plaintiff is informed and believes the Defendants’ history with respect to  
25 gathering and shipping feral horses from Sheldon and the manner in which the currently  
26 slated shipment of Sheldon Horses is planned by Defendants, contravenes the  
27 Defendants own publicized policies toward the management of feral horses at Sheldon,  
28 it contravenes the stated public policy of the United States of America relative to

1 humane management practices of feral horses on public lands and it disturbs the  
2 senses of the public citizenry having an appreciation of horses, including Plaintiff.

3 24. Plaintiff is informed and believes the manner in which the Defendants  
4 conducted their gather and shipment of Sheldon Horses previously, caused concern  
5 with the U.S. House of Representatives Committee on Resources to the extent that  
6 Congressman Rahall on behalf of the Committee on Resources, was compelled to write  
7 the Director of Fish & Wildlife with the Committee's concerns. (See correspondence of  
8 July 19, 2006 from Congressman Nick J. Rahall, ranking member of the Committee, to  
9 Mr. Dale Hall, then Director of the U.S. Fish and Wildlife Service, concerning feral horse  
10 removals from Sheldon, at **EXHIBIT "B"** attached).

11  
12 *Defendants Shut Down Other Viable Alternatives*

13 25. Plaintiff is precluded from completing The Rescue Friends project while  
14 the current practices of the Defendants in "managing" feral or wild horses remain  
15 implemented. The public is precluded from entering Sheldon during the times when  
16 "gathers" of the Sheldon Horses are in progress.

17 26. The Defendants' management practices interferes with and stifles the  
18 Plaintiff in her work to complete The Rescue Friends project, as is more particularly  
19 described herein below.

20 27. As an alternative method of completing The Rescue Friends project,  
21 Plaintiff sought to adopt several of the Sheldon Horses. Plaintiff attempted on several  
22 occasions to contact the Sheldon Refuge manager, Brian Day, who has yet to return a  
23 single call. She is advised however, that she would be precluded from adopting  
24 Sheldon Horses. Meanwhile, Plaintiff is prepared to receive Sheldon Horses. Plaintiff  
25 maintains a facility to properly accommodate and care for a number of the Sheldon  
26 Horses. As a self-help remedy and alternative method of going forward with The  
27 Rescue Friends project, she desired to adopt several of the Sheldon Horses. As a  
28 mere public citizen however, Plaintiff finds herself precluded from obtaining Sheldon

1 Horses since she is not an authorized contractor of the Defendants to receive Sheldon  
2 Horses. Her sole alternative would be to obtain Sheldon Horses from a Sheldon  
3 contractor who in turn advises her that she could not obtain possession of such horses  
4 until after the Sheldon Horses have been shipped to Tennessee; and, only then could  
5 Plaintiff arrange to pick up the Sheldon Horses for the return trip back to the west.

6 28. Plaintiff is informed and believes the "in mass" manner in which horses  
7 are intended by Defendants to be shipped from Sheldon is brutal to the health and  
8 welfare of horses where they endure multiple days of transportation while crammed  
9 together in an over-populated van type trailer, traveling 30 to 40 hours or more on  
10 highways that would take the Sheldon Horses roughly 2,200 miles in one direction (to  
11 Tennessee), before Plaintiff could first obtain them for the return trip back, repeating the  
12 unnecessary journey of 30 to 40+ hours and 2,200 miles back West. Plaintiff is  
13 informed and believes horses are physically fragile in many ways and several Sheldon  
14 Horses would not survive such a trip at least in the manner anticipated by Defendants  
15 for the transportation of these Sheldon Horses. Plaintiff is informed and believes any  
16 attempt on her part at obtaining Sheldon Horses following the trip to Tennessee would  
17 be thwarted due to the likely poor physical condition of the horses following the "in  
18 mass," near non-stop long-haul trip to Tennessee, causing the Sheldon Horses to be  
19 incapable of surviving a return journey back westward, let alone surviving once they  
20 arrive in Tennessee. Plaintiff is informed and believes the Defendants have no  
21 assurances in place whatsoever that the Sheldon Horses would be humanely  
22 transported; that humane transportation as used herein means the following: that there  
23 are ample and adequate stops where the Sheldon Horses would be removed from the  
24 transportation vans to rest during the long trip; and where the Sheldon Horses would be  
25 provided adequate food and water multiple times each day during the trip (to minimize  
26 shipping stress); and where the food provided is compatible with that which they have  
27 digested on the range previously such that they do not succumb to painful and life-  
28 threatening colic or laminitis.

1           29. Plaintiff is informed and believes there are several non-profit organizations  
2 near Sheldon and within Nevada and in bordering states having good reputations for  
3 the adoption of feral horses; that Sheldon unreasonably refuses to work with these  
4 groups for the removal of Sheldon Horses; that the health and welfare of the Sheldon  
5 Horses is substantially threatened by the very manner of how and where the Sheldon  
6 Horses are intended to be transported and the refusal and stubbornness of the  
7 Defendants to utilize more local, private adoption groups.

8           30. Plaintiff is informed and believes if she could obtain horses directly from  
9 Sheldon or from a local private, non-profit, reputable adoption group who in turn would  
10 receive the Sheldon Horses, that such a process would be best suited to the health,  
11 safety and welfare of these horses and it would provide Plaintiff a real chance of  
12 gaining ownership of healthy Sheldon Horses; and it would contribute to an appropriate  
13 story line for young children and would help complete The Rescue Friends project in a  
14 positive, role-model-type manner, of providing children a glimpse into the world of  
15 managing feral or wild horses. To the contrary, should the shipment be allowed to  
16 proceed as is envisioned and intended by Defendants, the brutal demise of the majority  
17 of the Sheldon Horses makes for a story that cannot really be told to young children  
18 without disturbing them. And consequently, The Rescue Friends project, two years in  
19 planning and partially implemented currently, would likely come to a permanent halt.

20  
21 *The Legal Loophole Causing the Sheldon Horses' Demise*

22           31. Although feral horses on public lands would typically be protected by  
23 federal law from the type action the Defendants have in place for currently disposing of  
24 Sheldon Horses, [see the Wild Free-Roaming Horse & Burro Act, P.L.92-195, 16 U.S.C.  
25 1331-1340 (the "Act")], horses located within the boundaries of lands managed by Fish  
26 & Wildlife including Sheldon, are *not* subject to the Act because of a simple omission  
27 within a definition of the Act. Clearly Congress intended for feral horses to be treated  
28 equally in the management of *all* federal public lands, that the protection extended to

1 feral horses under the Act evaporates simply because feral horses are found within  
2 federal lands operated by Fish & Wildlife, makes little if any sense. Nevertheless, this  
3 is how the Act is written currently.

4 32. Plaintiff is informed and believes Defendants nevertheless, are aware of  
5 this existing “loophole” within the Act and despite the Defendants’ knowledge of federal  
6 public policy toward the protection of all feral horses on federal public lands, the  
7 Defendants nevertheless intend to follow through with a disposal plan that contravenes  
8 federal public policy toward feral horses, and which contravenes the Defendants’ own  
9 publicized policy of disposing of Sheldon Horses humanely. Plaintiff is informed and  
10 believes the Defendants proposed course with regard to the Defendant’s intended  
11 shipment of the Sheldon Horses, but for this loophole, would be unlawful and in clear  
12 contravention of the heretofore mentioned Act.

13  
14 *Sheldon’s Plan Violates Nevada State Law and Contravenes and*  
15 *Interferes With the Ownership Rights by the State of Such Animals*

16 33. Plaintiff is informed and believes those feral horses obtained by  
17 Defendants within the boundaries of Nevada, are by Nevada statute, owned by the  
18 State of Nevada. Relevant State statutes on the subject provide as follows:

19 **NRS 569.008 “Feral livestock” defined.**

20 “Feral livestock” means any formerly domesticated livestock  
21 or progeny of domesticated livestock which have become  
22 wild and are running at large upon public or private lands in  
23 the State of Nevada, and which have no physical signs of  
24 domestication. ***The term does not include horses or***  
25 ***burros that are subject to the jurisdiction of the Federal***  
26 ***Government pursuant to the Wild Free-Roaming Horses***  
27 ***and Burros Act, 16 U.S.C. §§ 1331 to 1340, inclusive, and***  
28 ***any regulations adopted pursuant thereto, or any other***

1 federal statute or regulation.

2 NRS § 596.008 (Emphasis Added)

3 **NRS 569.010** provides in relevant part, as follows:

4 1. Except as otherwise provided by law, all estrays and  
5 feral livestock within this state shall be deemed for the  
6 purpose of this section to be the property of the Department.

7 2. The Department has all rights accruing pursuant to the  
8 laws of this state to owners of those animals . . . .

9 34. Plaintiff is not aware of any federal statutes or regulations contravening  
10 the State's *ownership* of feral livestock located within the borders of Nevada which  
11 roam federal lands managed by Fish & Wildlife, including Sheldon. To the contrary,  
12 federal regulations define such animals as including, "horses, burros, cattle, swine,  
13 sheep, goats, reindeer, dogs, and cats, ***without ownership*** that have reverted to the  
14 wild from a domestic state . . . ." 50 CFR 30.11(a) (Emphasis added). Plaintiff is  
15 informed and believes the Defendants have the authority to appropriately control and  
16 remove feral animals as is outlined in 50 CFR 30.11-12 but only of those animals which  
17 are "*without ownership*." See 50 CFR 30.11(a). Plaintiff is informed and believes  
18 Sheldon Horses located within the borders of Nevada are owned by, and are the  
19 property of the State of Nevada. See, NRS 569.010(1).

20 35. Plaintiff is informed and believes the Defendants have no right whatsoever  
21 to transport and dispose of Sheldon Horses owned by another, to wit, the State of  
22 Nevada. Plaintiff is informed and believes the shipments of Sheldon Horses owned by  
23 the State of Nevada as has occurred in the past and which is about to be repeated, is  
24 an unlawful act contrary to the ownership by the State of Nevada of said feral livestock;  
25 and that the shipping of Sheldon Horses is a serious breach by the Defendants of their  
26 discretionary management functions; and that the Defendants' actions are arbitrary and  
27 capricious; and that the shipment of Nevada State owned property (feral horses located  
28 within the borders of the State of Nevada at Sheldon) violates Nevada State law with

1 regard to the proper sale and disposition of those feral animals.

2 36. Plaintiff is informed and believes there is no applicable federal regulation  
3 or statute under this circumstance which legitimizes the Defendants' violation of Nevada  
4 State Law or which supersedes or "trumps" Nevada law on the subject.

5 37. Plaintiff is informed and believes the unlawful and inhumane methods by  
6 which the Defendants intend to dispose of Sheldon Horses, which likewise contravenes  
7 public policy of the United States of America, and which is contrary to the Defendants'  
8 own policies toward these animals, and which disregards the true ownership of such  
9 horses, and which violates Nevada State law, and which also offends the senses of  
10 reasonable public citizens, would also cause irreparable harm to Plaintiff as heretofore  
11 described if the Defendants' plan is not set aside and if the Defendants are not ordered  
12 to cease shipment of feral horses from Sheldon; and the Defendants' implementation  
13 of its plan would also cause irreparable harm to young children if they were told the  
14 truth of how the Defendants truly "manage" feral horses at Sheldon, as is graphically  
15 documented in part at the website <http://www.wildhorsepreservation.com/sheldon.html>.

#### 16 17 **FIRST CLAIM FOR RELIEF**

18 38. Plaintiff incorporates herein by reference the averments contained in  
19 Paragraphs 1 through 37 of the Complaint and also in following Claims for Relief as  
20 though the same were fully set forth herein.

21 39. Plaintiff is informed and believes the Defendants' intended protocol of  
22 shipping feral horses gathered from Sheldon, contravenes the Defendants' own stated,  
23 publicized policies with respect to the humane treatment of such animals.

24 40. Plaintiff is informed and believes the Defendants' intended course and  
25 actions are accordingly, arbitrary, capricious, and an abuse of discretion, or otherwise  
26 not in accordance with law, and are implemented without observance of procedure  
27 required by law, and must be set aside.

28

**SECOND CLAIM FOR RELIEF**

1  
2 41. Plaintiff incorporates herein by reference the averments contained in  
3 Paragraphs 1 through 40 of the Complaint and also in following Claims for Relief as  
4 though the same were fully set forth herein.

5 42. Plaintiff is informed and believes the Defendants' intended protocol of  
6 shipping feral horses gathered from Sheldon, contravenes the public policy of the  
7 United States of America relative to the treatment of wild horses on federal public lands  
8 as is clearly stated by Congress within The Wild Free-Roaming Horses and Burro Act of  
9 1971, 16 U.S.C. 1331; that although the Act as a whole does not officially or technically  
10 include within its purview those federal lands managed by Fish & Wildlife, the Act's  
11 stated public policy nevertheless is instructive and encompasses *all* federal lands  
12 wherever situated and however managed, where Congress made no distinction in its  
13 policy statement relative to such animals found on BLM managed lands, or if they are  
14 found on U.S. Forest Service managed lands, or if found on federal lands elsewhere,  
15 such as Fish & Wildlife managed lands.

16 43. Plaintiff is informed and believes the Defendants' intended course and  
17 actions are accordingly, arbitrary, capricious, and an abuse of discretion, or otherwise  
18 not in accordance with law, and are implemented without observance of procedure  
19 required by law, and must be set aside.

**THIRD CLAIM FOR RELIEF**

20  
21 44. Plaintiff incorporates herein by reference the averments contained in  
22 Paragraphs 1 through 43 of the Complaint and also in following Claims for Relief as  
23 though the same were fully set forth herein.

24 45. Plaintiff is informed and believes the Defendants' intended protocol of  
25 shipping feral horses gathered from Sheldon, contravenes the laws of the State of  
26 Nevada relative to the State's ownership of said horses, that the same violates State  
27 procedural laws for the sale and disposition of feral horses, and that the same is an  
28 unlawful disposition of, and a conversion of State owned property for the Defendants'

1 use.

2 46. Plaintiff is informed and believes the Defendants' intended course and  
3 actions are accordingly, arbitrary, capricious, and an abuse of discretion, or otherwise  
4 not in accordance with law, and are implemented without observance of procedure  
5 required by law, and must be set aside.

#### 6 **FOURTH CLAIM FOR RELIEF**

7 47. Plaintiff incorporates herein by reference the averments contained in  
8 Paragraphs 1 through 46 of the Complaint and also in the following Claim for Relief as  
9 though the same were fully set forth herein.

10 48. Plaintiff is informed and believes, although the Act does not apply  
11 specifically to the relief sought with this claim, Congressional intent toward *all* wild / feral  
12 horses wherever found on federal lands, is nevertheless gleaned from the Act where it  
13 was enacted to preserve from "capture, branding, harassment, or death" wild horses  
14 and burros found on public lands as these animals are considered "living symbols of the  
15 historic and pioneer spirit of the West" that "enrich[ed] the lives of the American  
16 people." See, 16 U.S.C. § 1331. Plaintiff is informed and believes such Congressional  
17 statement of intent is not limited to public lands managed solely by the BLM or by the  
18 U.S. Forest Service; but rather, it encompasses *all* "federal lands."

19 49. The Rescue Friends project is intended to document *all* aspects of  
20 Sheldon Horse management, from the Sheldon Horse history at the Refuge, habitat,  
21 and hopefully in a positive light, the horses' management by the Defendants which  
22 would include the manner in which the Defendants gather and ship and ultimately place  
23 or dispose of the Sheldon Horses removed from the Refuge. But the current practices  
24 of the Defendants' management of Sheldon Horses together with their historical  
25 handling of these horses, leaves much to be desired and the anticipated disposition of  
26 the Sheldon Horses is difficult if not impossible to frame in a positive light in stories and  
27 illustrations for young children.

28

1           50. Plaintiff is informed and believes, if The Rescue Friends project exposed  
2 young children to the Defendants' *true* management practices of Sheldon Horses,  
3 where young foals and pregnant mares among others in the herd are maimed and killed  
4 either during the gather itself or through the ultimate slaughter process following their  
5 shipment off the Refuge, in reality The Rescue Friends project could not go forward.  
6 There would have been no true "Rescue Friend" about which to illustrate. Such a  
7 publication would be abusive and create a negative backlash to Plaintiff were she to  
8 ever attempt to author a publication series directed toward young children which  
9 contained disturbing accounts of how Sheldon Horses are treated and disposed of by  
10 their stewards, the Defendants herein. Plaintiff is informed and believes such a story  
11 would be emotionally charging and damaging to young children and could never be told  
12 to them at such early ages.

13           51. Plaintiff is informed and believes many children have a natural attraction  
14 to, and love of horses; that The Rescue Friends is intended as a basic but positive  
15 introduction to children of horses and of their history. It is intended to provide young  
16 children their first glimpse to the values of good Samaritanship, good stewardship, the  
17 proper care and treatment of horses whether remaining wild or received as wild and  
18 then domesticated thereafter, and the thrill and enjoyment of experiencing, either  
19 through imagination or through encouraging their ultimate first-hand observation of  
20 Sheldon Horses free roaming in the wild and surviving from generation to generation, all  
21 because of *good* and *proper* management and care of these horses.

22           52. The project is intended to relay a positive image of wild / feral horses to  
23 young children. The project offers children at an early age, an introduction to the "living  
24 symbols of the historic and pioneer spirit of the West." (*Id.*). On the other hand,  
25 Plaintiff is informed and believes the Defendants' slated shipment of Sheldon Horses  
26 and the Defendant's prohibition against Plaintiff obtaining several Sheldon Horses  
27 before shipment through local "qualified individuals," prohibits Plaintiff from continuing  
28 with The Rescue Friends project, causing both the Plaintiff and all children who could

1 have been enriched by these publications, irreparable harm that has no measurement  
2 in formal damages and has no measurement in how such publications could ultimately  
3 benefit and enrich children and western culture and also society in general.

4 53. For the reasons previously stated Plaintiff and children slated to read and  
5 enjoy The Rescue Friends would suffer irreparable harm should the Defendants be  
6 allowed to proceed with their intended plan of shipping Sheldon Horses off premises in  
7 a manner in which the health, safety and welfare of said animals is in clear jeopardy  
8 and where their safety is of no regard or consequence to the Defendants once the  
9 Sheldon Horses have been transported off the Refuge.

10 54 Plaintiff in this instance has no adequate and speedy remedy at law  
11 against the Defendants with which she would be able to recoup this unmeasurable loss.

12 55. For the reasons stated the Defendants should be preliminarily and  
13 permanently enjoined from shipping Sheldon Horses from the Refuge until such time as  
14 the Defendants adopt a true and confirmatory, reasonable management plan for the  
15 ultimate disposition of those horses removed from the Refuge, which allows both the  
16 Defendants and also those who have a stake and/or valid interest in following these  
17 horses such as Plaintiff, and who likewise have a stake and/or valid interest in  
18 confirming the Defendants are properly discharging their public duties appropriately with  
19 respect to the Sheldon Horses, so as to ensure the Sheldon Horses are cared for  
20 appropriately throughout their journey to new homes, to ensure the Sheldon Horses are  
21 treated humanely during their journey to new homes, to ensure the Sheldon Horses are  
22 actually settled with *real* homes rather than ultimately deposited to slaughter facilities or  
23 feed lots for ultimate slaughter and to ensure that these “living symbols of the historic  
24 and pioneer spirit of the West” continue to prosper and “enrich the lives of the American  
25 people,” and cause happy endings for the young children who are able to be exposed  
26 to The Rescue Friends project.

27 56. For the reasons stated the Defendants should be preliminarily and  
28 permanently enjoined from denying and prohibiting those local or nearby non-profit

1 groups who otherwise are considered “qualified persons” to receive wild or feral horses  
2 under the Act, from receiving horses to be shipped from the Refuge; that in doing so,  
3 Plaintiff would have a viable alternative in being able to obtain Sheldon Horses for her  
4 adoption through one or more of these local “qualified persons.”

5 57. Plaintiff is informed and believes the Defendants course and choice in  
6 causing gathered Sheldon Horses to be shipped cross country thousands of miles afar  
7 for *purported* adoption, causing likely harm and detriment to the health, safety, welfare  
8 and well being of these horses, is arbitrary, capricious, and an abuse of discretion,  
9 and/or is otherwise not in accordance with law, and is implemented without observance  
10 of its own publicized procedures, or as is required by law; and is also without  
11 observance of the Defendants’ own history in having utilized local contractors who are  
12 also “qualified persons” successfully in the past for the adoption of Sheldon Horses;  
13 and for reasons defined.

14 58. Defendants should be mandatorily enjoined and required to employ an  
15 accepted method of tracking, accounting for, and following horses removed from  
16 Sheldon, such as by examples, a branding system or livestock marking system or  
17 microchip identification system.

#### 18 **FIFTH CLAIM FOR RELIEF**

19 59. Plaintiff incorporates herein by reference the averments contained in  
20 Paragraphs 1 through 58 of the Complaint as though the same were fully set forth  
21 herein.

22 60. A controversy exists between Plaintiff and Defendants relative to the  
23 Defendants’ management and disposition of removed Sheldon Horses.

24 61. Plaintiff seeks a declaration of her rights as an author and children’s  
25 illustrator and historian and as a public citizen having a special connection to Sheldon  
26 Horses, and who is concerned for the health and welfare of Sheldon Horses, to be  
27 allowed to view Sheldon Horses as they are managed in all respects at the Refuge; and  
28 to be allowed to document the Defendants’ management of Sheldon Horses in all

1 respects; and to be provided a means from Defendants of following the shipment and  
2 disposition of horses shipped from the Refuge.

3 62. Plaintiff seeks a declaration that the Defendants' plan as currently  
4 implemented, of shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses) is  
5 arbitrary and capricious.

6 63. Plaintiff seeks a declaration that the Defendants' plan as currently  
7 implemented, which precludes local persons who are "qualified persons" under the Act  
8 to receive feral or wild horses, from obtaining Sheldon Horses removed from the  
9 Refuge, is arbitrary and capricious.

10 64. Plaintiff seeks a declaration that the Defendants' current plan as currently  
11 implemented, of shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses) is  
12 contrary to public policy of the United States of America and contrary to Congressional  
13 intent relative to the disposition of wild or feral horses located on federal lands.

14 65. Plaintiff seeks a declaration that the Defendants' plan as currently  
15 implemented, of shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses)  
16 violates Nevada State law; and that those feral horses roaming free on public lands  
17 within the boundaries of the State of Nevada which are without ownership, be declared  
18 the property of the State of Nevada; and that the shipment of Sheldon Horses outside  
19 the State of Nevada by the Defendants is an unlawful conversion by the Defendants of  
20 Nevada State property.

21 66. Plaintiff seeks a declaration that the Defendants be compelled to  
22 accurately and fully account for the route, travel, locations and ultimate homes and  
23 dispositions, up to 365 days following the date of shipment off the Refuge, of each and  
24 every Sheldon Horse shipped by Defendants from the Refuge, heretofore.

25 67. Plaintiff seeks a declaration that the Defendants be compelled to  
26 implement an accurate tracking system and tracking plan for the disposition of Sheldon  
27 Horses shipped from the Refuge and where the records of same be maintained and  
28 accurately updated on a frequent and regular basis, and the records of which remain

1 available for inspection during normal business hours at the Refuge by the public,  
2 including the Plaintiff and including children who desire to confirm on their own, the  
3 disposition of Sheldon Horses removed and shipped from the Refuge.

#### 4 5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff respectfully prays for judgment and relief as follows:

7  
8 1. That the Court Issue declaratory judgment in favor of Plaintiff:

9 a. declaring that the Act and precedential rulings interpreting the Act,  
10 although not controlling with respect to mandating management practices of the  
11 Defendants in this instance, is nevertheless a recognized and reputable  
12 guideline for the proper management of feral or wild horse herds and horses;  
13 and that the Act and its following precedence are instructive and represent good  
14 practices concerning the proper management of feral or wild horse herds and  
15 horses residing on federal lands;

16 b. declaring that Plaintiff and/or her authorized agents are entitled to  
17 view and document Sheldon Horses as they are managed in all respects at the  
18 Refuge; and to provide Plaintiff a means of tracking the shipment and disposition  
19 of horses shipped from the Refuge to their ultimate destinations such that  
20 Plaintiff and/or her authorized agents are able to view and document if they  
21 choose, the Sheldon Horses while in transit or at rest at any stage of the horses'  
22 transportation from the Refuge to their ultimate destinations;

23 c. declaring that Defendants' plan as currently implemented, of  
24 shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses) is arbitrary  
25 and capricious; and to nullify the Defendants' existing plan; and in the absence  
26 of, and until such time as federal legislation regulates these Defendants in their  
27 management of feral or wild horses, to replace the Defendants' plan with one  
28 fashioned and supervised by the Court following evidentiary hearings, which

1 follows recognized best practices for the management of feral or wild horse  
2 herds and populations, which follows recognized best practices for the  
3 transportation of feral or wild horses, and which follows best practices for the  
4 removal of, and adoption of excess horses that should be moved from the  
5 Refuge;

6 d. declaring that the Defendants' plan as currently implemented,  
7 which precludes and prevents local "qualified persons" as contemplated under  
8 the Act (to receive feral or wild horses from federal lands) from receiving Sheldon  
9 Horses for ultimate *proper* disposition, is arbitrary and capricious; and to nullify  
10 the Defendants' existing plan; and to replace the Defendants' plan with one  
11 which contemplates on a first use basis, "qualified persons" who are  
12 geographically located within Nevada or within bordering States, to receive  
13 Sheldon Horses for ultimate adoptions;

14 e. declaring that the Defendants' current plan as currently  
15 implemented, of shipping feral / wild horses off the Refuge (i.e. the Sheldon  
16 Horses) is contrary to public policy of the United States of America and also the  
17 intent of Congress relative to the preservation, management, treatment,  
18 transportation and ultimate disposition of feral or wild horses on or from federal  
19 lands;

20  
21 2. That as alternative relief or judgment to the relief requested in paragraphs 1 ( c )  
22 and (d) in the Prayer herein, that the Court Issue declaratory judgment in favor of  
23 Plaintiff:

24 a. declaring that Defendants' plan as currently implemented, of  
25 shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses) is arbitrary  
26 and capricious; and to nullify the Defendants' existing plan; and

27 b. declaring that the Defendants' plan as currently implemented, of  
28 shipping feral / wild horses off the Refuge (i.e. the Sheldon Horses) violates

1 Nevada State law; and further declaring that those feral horses roaming free on  
2 public lands within the boundaries of the State of Nevada which are without  
3 ownership, are the property of the State of Nevada; and further declaring the  
4 shipment of Sheldon Horses outside the State of Nevada by the Defendants is  
5 an unlawful conversion of Nevada State property;

6  
7 3. That the Court issue its Order enjoining, directing and/or prohibiting (as the case  
8 may be) the Defendants:

9 a. to recognize the historic herd use area for wild horses within the  
10 Refuge;

11 b. from shipping feral or wild horses removed or intended to be  
12 removed from the Refuge until such time as the Court is able to replace the  
13 Defendants' plan with an appropriate plan fashioned and supervised by the  
14 Court following evidentiary hearings;

15 c. to immediately implement and put in operation an appropriate  
16 branding system or tracking system or microchip system for the tracking of feral  
17 or wild horses currently gathered or rounded up for transportation off the Refuge;

18 d. to account accurately and specifically for the current disposition of  
19 any and all wild horses emanating from the Refuge which were transported or  
20 shipped from the Refuge in the current year;

21  
22 4. That as alternative relief to the relief requested in paragraphs 3 (b) and (c) in the  
23 Prayer herein, that the Court:

24 a. order the Defendants to cease and desist with any and all horse  
25 shipments and to arrange to transfer horses slated for shipment off the Refuge,  
26 to appropriate officials of the State of Nevada or its qualified designees;

- 1 5. That the Court award Plaintiff:
- 2 a. her costs of suit and expenses including expert witness and
- 3 consultant fees and reasonable attorney fees; and
- 4 b. such other and further relief as the Court deems appropriate under
- 5 the circumstance.

6 Dated this 2<sup>nd</sup> day of September 2009

7 LAW OFFICE OF GORDON M. COWAN

8 /S/

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10 Gordon M. Cowan Esq. (SBN 1781)

11 Attorney for Plaintiff LAURA LEIGH

12 **DEMAND FOR JURY**

13

14 Plaintiff LAURA LEIGH hereby requests and demands a trial by jury of all

15 matters to which the right of jury trial attaches in the above-captioned matter.

16

17 Dated this 2<sup>nd</sup> day of September 2009

18 LAW OFFICE OF GORDON M. COWAN

19 /S/

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21 Gordon M. Cowan Esq. (SBN 1781)

22 Attorney for Plaintiff LAURA LEIGH

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