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Attorneys for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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COUNTY OF SAN MIGUEL,		)	
COLORADO, et al.,		)	No. 1:06-cv-01946-RBW
		)	
Plaintiffs,		)	<b>SECOND NOTICE REGARDING</b>
		)	<b>INVESTIGATIVE REPORT ISSUED</b>
v.		)	<b>BY THE INSPECTOR GENERAL OF</b>
		)	<b>THE DEPARTMENT OF THE</b>
KEN SALAZAR, et al.,		)	<b>INTERIOR</b>
		)	
Defendants,		)	
		)	
COLORADO CATTLEMEN'S		)	
ASSOCIATION, et al.,		)	
		)	
Intervenor-Defendants.		)	
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Pursuant to this Court's Order of December 22, 2008, Federal Defendants in this action, Ken Salazar, Secretary of the United States Department of the Interior, and Rowan Gould, Acting

Director of the United States Fish and Wildlife Service (collectively “Service”),<sup>1/</sup> hereby notify the Court of the Service’s progress in reviewing the Investigative Report (“Report”) issued by the Inspector General of the Department of the Interior on December 15, 2008. As explained in Federal Defendants’ December 19, 2008 notice, Doc. No. 56, the Report concludes that former Deputy Assistant Secretary of the Interior Julie MacDonald, acting alone or in concert with other Department of the Interior (“Department”) officials, took actions that potentially jeopardized the decisional process on the 12-month petition finding for the Gunnison sage grouse that is at issue in this action.

As stated in the attached declaration of Rowan Gould, Acting Director of the U.S. Fish and Wildlife Service, the Service has initiated a review of its files for the Gunnison sage grouse 12-month finding in order to make a recommendation as to whether the government should continue this litigation, amend its litigation position, or pursue further administrative action with respect to the final recovery plan. Declaration of Rowan Gould (“Gould Decl.”), ¶ 2. This review is still ongoing, and the Service expects a recommendation to be made by the Director of Region 6—the region with lead responsibility for the finding—within the next week. Id.

Due to the Presidential Transition, the confirmation of a new Secretary of the Interior, and appointment of Department staff, the Department’s ability to make a final determination on how to proceed in this case has been delayed by, among numerous other tasks, the desire of staff new to the Department and Service to carefully evaluate the findings in the Report. Gould Decl., ¶ 3. In the coming weeks, the Department and Service will be continuing to hold numerous briefings for

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<sup>1/</sup> Pursuant to Fed. R. Civ. P. 25(d), Secretary of the Interior Ken Salazar and Acting Director of the United States Fish and Wildlife Service Rowan Gould are substituted for their predecessors, Dirk Kempthorne and H. Dale Hall, respectively.

members of the new Administration, including briefings regarding the Inspector General's report, the facts of this case, and the Service's recommendation, so that the Department can make a final decision regarding its position in this case. *Id.* at ¶ 4.

Within 45 days of this notice, Federal Defendants will advise the Court of the Service's progress in reaching a final decision. Gould Decl., ¶ 5.

Dated: February 5, 2009

Respectfully submitted,

JOHN C. CRUDEN, Acting Assistant Attorney  
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*/s/ Lawson E. Fite*

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