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**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MONTANA
MISSOULA DIVISION**

ALLIANCE FOR THE WILD ROCKIES, et al.,)	CASE NOS.
)	11-cv-70-M-DWM;
Plaintiffs,)	11-cv-71- M-DWM
)	
v.)	FEDERAL DEFENDANTS'
)	STATEMENT OF
KEN SALAZAR, et al.,)	UNDISPUTED FACTS IN
)	SUPPORT OF THEIR
Defendants.)	CROSS MOTION FOR
)	SUMMARY JUDGMENT
)	
)	
CENTER FOR BIOLOGICAL DIVERSITY, et al.,)	
)	
Plaintiff,)	
)	
v.)	
)	
KEN SALAZAR, et al.,)	
)	
Defendants.)	

DEFENDANTS' STATEMENT OF UNDISPUTED FACTS

In compliance with L.R. 56.1(a), Defendants submit the following undisputed facts. Defendants recognize that these documents and legal authorities

speak for themselves, but merely intend to set out the sequence of events that led to the present litigation.

1. In a 2009 rule, the Fish and Wildlife Service designated a gray wolf distinct population segment (“DPS”) in Montana, Idaho, Wyoming, the eastern one-thirds of Washington and Oregon, as well as a small part of north-central Utah and removed from the ESA’s protections this DPS except for the Wyoming portion. 74 Fed. Reg. 15,123 (Apr. 2, 2009) (“2009 Final Rule”).
2. The Rule was judicially challenged and in August 2010, this Court vacated the 2009 Final Rule. *Defenders of Wildlife v. Salazar*, 729 F. Supp. 2d 1207 (D. Mont. 2010), *appeal docketed* No. 10-35885, *et al.* (9th Cir.).
3. The Service published a notice in the Federal Register reinstating the previous regulatory regime. *See* 75 Fed. Reg. 65574 (Oct. 26, 2010).
4. On November 18, 2010, the U.S. District Court for the District of Wyoming issued an Order Setting Aside Agency Decision in Part and Remanding Agency Decision in Part. *See Wyoming v. U.S. Department of Interior*, 09-CV-118, consolidated with 09-CV-138J, 2010 WL 4814950 (D. Wyo. Nov. 18, 2010). The Court concluded that the Service did not “offer reasoned explanations why the entire state of Wyoming must be designated as a trophy game area” and remanded that issue to the Service for further consideration. *Id.* at *42.
5. On April 15, 2011, President Obama signed the Department of Defense and Full-Year Continuing Appropriations Act of 2011. P.L. 112-10 § 1713, 125 Stat. 38 (Apr. 15, 2011). Section 1713 of this law provided in full:

Before the end of the 60-day period beginning on the date of enactment of this Act, the Secretary of the Interior shall reissue the final rule published on April 2, 2009 (74 Fed. Reg. 15123 et seq.) without regard to any other provision of statute or regulation that applies to issuance of such rule. Such reissuance (including this section) shall not be subject to judicial review and shall not abrogate

or otherwise have any effect on the order and judgment issued by the United States District Court for the District of Wyoming in Case Numbers 09–CV–118J and 09–CV–138J on November 18, 2010.

P.L. 112-10 § 1713, 125 Stat. 38 (“Section 1713”).

6. On May 5, 2011, as directed by Congress in Section 1713, the Secretary of the Interior reissued the final rule. 76 Fed. Reg. 25,590 (May 5, 2011) (“May 5 Rule”).

Dated: June 14, 2011

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that today a true and correct copy of the foregoing was served on the counsel of record via the ECF system.

/s/ Andrea E. Gelatt

ANDREA E. GELATT