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Attorneys for Defendants State of Oregon, Oregon State Police and Governor Kate Brown

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

D. JEANETTE FINICUM; THARA
TENNEY; TIERRA COLLIER; ROBERT
FINICUM; TAWNY CRANE; ARIANNA
BROWN; BRITTNEY BECK; MITCH
FINICUM; THOMAS KINNE; CHALLICE
FINCH; JAMES FINICUM; DANIELLE
FINICUM; TEAN FINICUM; and the
ESTATE OF ROBERT LAVOY FINICUM,

Plaintiffs,

v.

BUREAU OF LAND MANAGEMENT;
DANIEL P. LOVE; SALVATORE LAURO;
W. JOSEPH ASTARITA; SPECIAL AGENT
BM; MICHAEL FERRARI; STATE OF
OREGON; OREGON STATE POLICE;
KATHERINE BROWN; HARNEY
COUNTY; and the CENTER FOR
BIOLOGICAL DIVERSITY,

Defendants.

Case No. 2:18-cv-00160-MO

STATE DEFENDANTS' PARTY
STATEMENT

Pursuant to LR 41-2(b), the state defendants (State of Oregon, Oregon State Police and Gov. Brown) submit this Party Statement.

1. Status of the Case to Date

Plaintiffs filed the original Complaint January 25, 2018, one day before the expiration of the statute of limitations. The case is nearing three years of age but remains in the pleading stage. Motions to dismiss against plaintiffs' Second Amended Complaint resulted in dismissal of many defendants for failure to complete service or failure to commence the case within the applicable limitations period. Plaintiffs' Third Amended Complaint was filed October 15, 2021; motions to dismiss were filed by both the remaining state and county defendants October 29, 2021. No timely response to the motions was filed. On November 18, 2021, the court ordered plaintiffs to show cause why the case should not be dismissed for want of prosecution. On November 19, 2021, plaintiffs filed a Motion to Amend, and a proposed Second Amended Complaint (which would actually be the Fourth Amended Complaint). On November 22, 2021, the court denied the Motion to Amend.

2. Good Cause Exists to Dismiss the Case

Pursuant to FRCP 41(b) the court may dismiss if plaintiff fails to prosecute or fails to comply with a court order. The condition of the Third Amended Complaint (which alleges claims against defendants who have already been dismissed and alleges claims on legal theories that the court has already determined are time barred) demonstrates plaintiffs lack the ability or will to follow the court's Orders and it would be within the court's discretion to terminate the case for that reason.

DATED November 22, 2021.

Respectfully submitted,

ELLEN F. ROSENBLUM
Attorney General

s/ James S. Smith

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