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**UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING**

**WESTERN LAND EXCHANGE PROJECT,)
SUSAN WOZNY, JENNIFER SORENSEN,)
KEVIN HOLDSWORTH, and WILLIAM)
YOUNG)**

Plaintiffs,)

v.)

**GALE NORTON, in her official capacity)
as Secretary of the Interior; and KATHLEEN)
CLARKE, in her official capacity as)
Director of the Bureau of Land Management)**

Defendants)

Case No. _____

COMPLAINT

I.

INTRODUCTION

1. The Martin's Cove Historic Site ("Martin's Cove") is a sheltered location in the Sweetwater Rocks just north of the Sweetwater River, approximately 55 miles southwest of Casper, Wyoming. The site is located entirely on public lands administered by the Bureau of Land Management (BLM), and is enrolled as a National Historic Place on the National Register of Historic Places (NRHP). The Cove is contiguous to the confluence of the four major western migratory trails, including the Oregon Trail. The trails were traveled by a half million settlers between 1841 and 1869. These trails are administered by the National Park Service (NPS), in cooperation with the BLM, under the provisions of the National Trails System Act. Martin's Cove also lies in direct proximity to other historical landmarks, including the Tom Sun Ranch, Devil's Gate and Independence Rock. The entire area is known as Independence Pass and has significant historic interest to the BLM, the NPS, and the public. Access to Martin's Cove and to Devil's Gate is gained exclusively through the Tom Sun Ranch, private property also enrolled on the NRHP.

2. For many years, the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints (LDS or Church) sought to gain control of Martin's Cove and the surrounding land and convert the property into a religious site for LDS pilgrims. Martin's Cove is considered significant to the LDS Church because Mormon pioneers traveling west in the Martin Handcart Company took refuge there during an early winter storm in 1856 and many perished.

3. In 1996, the LDS Church purchased the Tom Sun Ranch and converted it into a Mormon visitors' center. The following year LDS officials entered into a collaborative agreement with the BLM that placed Martin's Cove under the stewardship of the Church, subject to certain conditions,

including a public access easement. When that agreement expired in 2002, its terms continued to be given effect while the Church sought to purchase the property from the United States government. When these negotiations failed, Congress intervened and directed the Secretary of the Interior to lease the property to the LDS Church, Pub. L. No. 108-137 § 314, 117 Stat. 1827, 1863-64 (2003).

4. Under the terms of the Act, LDS officials are more than just stewards of the property; the Church has been given complete and unfettered control over both an important federally owned historic site and the message that visitors to the site receive. The Church has been given the go-ahead to create on federal property a Mormon shrine that incorporates the Church's own historical and religious interpretation of the events that occurred in Martin's Cove. The influence of the LDS Church on this federal property is both pervasive and unavoidable.

5. By placing this property under the stewardship of the LDS Church, Congress abdicated an important governmental function statutorily vested in the BLM. The United States government administers thousands of historic and prehistoric sites that lie on federal land, and it is the government's duty and policy is to retain ownership of those sites in order to preserve their historic, educational, and archaeological value. The story of Martin's Cove and the Martin Handcart Company is part of a much larger history of American westward migration that is not limited to the religious significance that the site has for the LDS Church. The stewardship of historic public land can not constitutionally be vested in the Church. To the Church, the property has religious significance as a story of deliverance and evidence of the hand of God. Visitors to the property cannot avoid this overtly religious message. Plaintiffs maintain that the Church can not constitutionally act as gatekeeper or storyteller for property that everyone agrees has historic value beyond its significance to the LDS Church. Just as Ellis Island and other historical eastern ports of entry served as gateways for millions of arriving immigrants on their way to a better life, the trails

that pass through the Sweetwater Valley had the same significance for settlers traveling west. Delegating control over this unique historical property to the LDS Church subordinates the broader historical significance of the events that occurred there to Church doctrine. Congress cannot constitutionally enter into an agreement that allows the LDS Church to appropriate public land for the dissemination of a particularized religious message for a religious purpose.

6. Plaintiffs are individuals with a common historical interest in the story of westward expansion through Independence Pass, including the events at Martin's Cove. Each of the plaintiffs has visited Martin's Cove since control over the property was vested in the LDS Church. Each of the individual plaintiffs objects to the unwelcome proselytizing they were subjected to, and to the pervasive LDS presence that now dominates the site. Each of the individual plaintiffs would like to return to Martin's Cove but is reluctant to do so while it remains in the control of the LDS Church.

7. Plaintiffs seek a declaration that Pub. L. No. 108-137 § 314 violates the Establishment Clause and the Free Speech Clause of the First Amendment. Plaintiffs additionally seek a declaration that the pre-existing cooperative agreement governing the property violates these constitutional provisions. Plaintiffs seek an injunction enjoining the Department of Interior or the BLM from implementing the terms of the lease or otherwise giving effect to the terms of the lease. Plaintiffs additionally seek an injunction preventing Interior or BLM officials from reverting to or entering into a new cooperative agreement that yields control over this historic federal land to the LDS Church.

II.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Plaintiffs' claim pursuant to 28 U.S.C. §§ 1331, 1343(3), and 1361, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. Plaintiffs seek

to redress the violation by Defendants of Plaintiffs' rights, privileges, and immunities secured by the First Amendment to the United States Constitution.

9. Venue lies in the District of Wyoming under 28 U.S.C. § 1391(e), because a substantial part of the events or omissions giving rise to the claim occurred in the District of Wyoming.

III.

PARTIES

A. Plaintiffs

10. Plaintiff WESTERN LAND EXCHANGE PROJECT (WLXP) is a 501(c)(3) non-profit membership organization based in Seattle and organized under the laws of the state of Washington. WLXP has more than 900 members across 41 states, including 17 members residing in Wyoming. WLXP has a strong, long-standing aesthetic interest in federal lands. The organization is a forceful advocate for the retention of federal lands. WLXP members believe that federal lands have been and will continue to be vital to the culture and health of all American citizens. Therefore, WLXP frequently opposes government efforts to sell, give away, or relinquish control of federal lands. WLXP has a specific interest in Martin's Cove and the additional federal land surrounding it because of its unique historic significance. WLXP members have visited the Cove to hike, take photographs, and learn the history of this area of Wyoming, where the four westward migratory trails converged. WLXP members object to the exploitation of these public lands by a religious organization and to the pervasive LDS presence that now exists.

11. WLXP first became involved with the issues surrounding Martin's Cove in 2002 when it learned that the LDS Church was seeking to obtain the federal land surrounding and including the Cove by way of a land exchange with the United States government. WLXP opposed the proposed land exchange and later submitted testimony opposing H.R. 4103, the bill to sell 1640 acres of

federal land, including the Cove, to the LDS Church. The organization also took part in later public discussions concerning the lease prescribed in Pub. L. No. 108-137, § 314. In October 2002, WLXP member and director Janine Blaeloch visited Martin's Cove. Ms. Blaeloch entered Martin's Cove through the Mormon Handcart Ranch. Inside the Ranch's Visitor Center, Ms. Blaeloch experienced numerous exhibits referencing the LDS faith. Ms. Blaeloch also walked the trail from the Visitor Center onto the Church-managed federal land up to Martin's Cove. Along the trail Ms. Blaeloch read interpretive markers that displayed both BLM and LDS Church logos. Entering Martin's Cove via the Mormon Handcart Ranch and reading the dual-logo interpretive markers made Ms. Blaeloch feel that the BLM had entered into a partnership with the LDS Church in a way that endorsed the Church's views by placing its imprimatur on the Mormon version of history and subordinating the broader history of American westward migration. This made Ms. Blaeloch, who is not a member of the LDS Church, uncomfortable during her visit to the Cove.

12. Although the Visitor's Center and Martin's Cove were not busy at the time of her visit, Ms. Blaeloch is reluctant to return to Martin's Cove during the high season when the LDS presence is more pervasive. She believes that other members of her organization feel this way as well. Ms. Blaeloch is aware that during the warm weather months, thousands of young LDS members visit Martin's Cove each week, dressed in pioneer clothing and pulling handcarts. She is wary that dozens of volunteer missionaries will also be present at that time and attempt to engage in faith-based interpretations along the trail. Ms. Blaeloch believes that members of WLXP would feel uncomfortable and unwelcome in this environment.

13. Based on Ms. Blaeloch's visit to the site and her understanding of the lease terms, visitors to these historic public lands are prohibited from engaging in activities and speech that the Church disapproves of, including making statements critical of the Church or of this use of federal

lands, or even wearing clothing containing statements that the Church views as controversial or inappropriate given the historical nature of the property. These restrictions directly interfere with WLXP's role as an advocacy organization opposed to the challenged action in this case.

14. Plaintiff SUSAN M. WOZNY is a resident of Laramie, Wyoming. Ms. Wozny is a native of Wyoming and has a long-held interest in the history of the state and the American West in general. Ms. Wozny has a nine year old son. She and her son regularly visit local historical sites as part of their on-going family-centered educational activities, which also include reading books and playing games about Western migration.

15. In or around August 2004, Ms. Wozny visited Martin's Cove and could not avoid the pervasive religious presence of the LDS Church at the site. Several groups of LDS pilgrims were visiting the site at the same time. During her visit to Martin's Cove, Ms. Wozny was repeatedly asked by LDS guides which church she belonged to even after explaining that she was not attending the Cove as part of a church group. The LDS guides at the Cove repeatedly called Ms. Wozny "Sister," a term used to address women in the Mormon faith.

16. On the trail to Martin's Cove and surrounding land, Ms. Wozny observed signs decorated with the logos of both the LDS Church and the Bureau of Land Management. Ms. Wozny attempted to step into an area off the main trail and was stopped by an LDS guide. The LDS Guide told Ms. Wozny that she could not walk on that particular piece of land because Mormons had died on the spot and it was, therefore, "sacred" and "hallowed ground." Throughout her visit to Martin's Cove, LDS guides followed directly behind Ms. Wozny and interjected spiritual interpretations of the area's historical significance. She observed many people at both the Visitor's Center and on the trail leading to Martin's Cove wearing pioneer clothing and many others pulling handcarts. The presence of numerous interpretative signs and guides sponsored by

the LDS Church created a pervasive LDS presence that was unavoidable and made Ms. Wozny feel uncomfortable and like an outsider in a state sponsored sectarian religious enclave.

17. Ms. Wozny's visit left her with distinct impression and belief that under the guise of historical interpretation, the LDS Church uses Martin's Cove as a pilgrimage site and a center for proselytizing, and does so with the sanction of the United States government. She objects to federal land being used for these purposes when those lands are supposed to be preserved by the federal government for their historical and educational use. Ms. Wozny wants to take her son to the Cove but is reluctant to do so while it remains under the control of the LDS Church. Ms. Wozny believes that her own aesthetic enjoyment of Martin's Cove has and will continue to be severely and negatively compromised by the pervasive presence of governmentally-endorsed religious messages on the property. Ms. Wozny further believes that the federal government has singled out the LDS Church for special treatment at Martin's Cove, and that non-Mormons like her are being deprived of an aesthetic experience at this historic place while being made to feel like outsiders on public lands set aside for public use. Based on her visit to the site and her understanding of the lease terms, she, like all visitors to these historic public lands, is prohibited from engaging in activities and speech that the Church disapproves of, including making statements critical of the Church or of this use of federal lands, or even wearing clothing containing statements that the Church views as controversial or inappropriate given the historic nature of the property. As an opponent of the land transfer, these restrictions on Ms. Wozny's speech directly interfere with her right to speak out on the issues raised in this case.

18. Plaintiffs JENNIFER SORENSEN and KEVIN HOLDSWORTH are residents of Green River, Wyoming. They are on the faculty of Western Wyoming Community College. Professor Sorensen's work focuses on Western American history including the literature of the