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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ELIZABETH E. MORRIS; and
ALAN C. BAKER,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS,
et al.,

Defendants.

Case No.

**PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Plaintiffs, by and through their undersigned attorneys, respectfully move pursuant to Fed. R. Civ. P. 65 for a preliminary injunction, enjoining Defendants' ban on law-abiding individuals possessing functional firearms on Army Corps of Engineers-administered public lands for the purpose of self-defense. At a minimum, Plaintiffs pray that this Court preliminarily enjoin Defendants' ban on Plaintiffs' possession of functional firearms on Army Corps of Engineers-

administered public lands for the purpose of self-defense. Filed concurrently herewith is a Brief in Support of Plaintiffs' Motion for Preliminary Injunction, which demonstrates in detail the grounds for granting this motion. In short, the grounds for this motion are as follows:

1. On August 5, 2013, Plaintiffs filed this action seeking declarative and injunctive relief to remedy Defendants' violation of the Second Amendment.

2. Defendants' maintenance and enforcement of 36 C.F.R. § 327.13, prohibiting possession of functional firearms on Army Corps of Engineers-administered public lands for the purpose of self-defense, deprives Plaintiffs of the right to keep and bear arms in violation of the Second Amendment.

3. Entry of a preliminary injunction is appropriate here because: (a) Plaintiffs are likely to succeed on the merits; (b) they are likely to suffer irreparable harm in the absence of preliminary relief; (c) the balance of equities tips in their favor; and (d) an injunction is in the public interest. *Winter v. National Resources Defense Council*, 555 U.S. 7, 20 (2009).

4. Plaintiffs are likely to succeed on the merits of their two claims because: (a) The Second Amendment protects Plaintiffs' right to possess a functional firearm in a tent on Corps-administered public lands for the purpose of self-defense; and (b) the Second Amendment protects Plaintiffs' right to carry a functional firearm on Corps-administered public lands for the purpose of self-defense. *See District of Columbia v. Heller*, 554 U.S. 570, 584 (2008).

5. The ongoing deprivation of Plaintiffs' Second Amendment rights constitutes irreparable injury. *See Sammartano v. First Judicial District Court, in and for County of Carson City*, 303 F.3d 959, 973–74 (9th Cir. 2002). Because Plaintiffs raise a substantial constitutional claim, no further showing of irreparable injury is necessary. *Id.*

6. The balance of equities tips in Plaintiffs' favor because Defendants' only possible injuries are "entirely speculative and in any event may be addressed by more closely tailored regulatory measures." *Ezell v. City of Chicago*, 651 F.3d 684, 710 (7th Cir. 2011).

7. The public interest is served by requiring strict adherence to the Constitution, which is all that Plaintiffs request here. *See Rodriguez v. Robbins*, 715 F.3d 1127, 1146 (9th Cir. 2013).

8. The waiver of bond in this case is appropriate because there are important constitutional rights at stake and this motion for a preliminary injunction seeks only to compel Defendants to comply with existing constitutional requirements. *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999); *Doe v. Pittsylvania County, Va.*, 842 F. Supp. 2d 927, 937 (W.D. Va. 2012); *Baca v. Moreno*, 936 F. Supp. 719, 738 (C.D. Cal. 1996).

WHEREFORE, Plaintiffs respectfully request that this Court issue a preliminary injunction enjoining Defendants' ban on law-abiding individuals possessing functional firearms on Army Corps of Engineers-administered public lands for the purpose of self-defense. At a minimum, Plaintiffs pray that this Court preliminarily enjoin Defendants' ban on Plaintiffs' possession of functional firearms on Army Corps of Engineers-administered public lands for the purpose of self-defense.

DATED this 5th day of August 2013.

Respectfully Submitted:

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