

§ 2:13. Form of affidavit in support of complaint based on Trust Doctrine

STATE OF COLORADO  
CITY AND COUNTY OF DENVER ss.

*AFFIDAVIT*

Estella B. Leopold, being duly sworn deposes and says:

1. That she is a Paleontologist presently employed by the United States Geological Survey, and is personally familiar as a research scientist with the area to be included within the proposed Florissant Fossil Beds National Monument, and in particular the land and area presently being threatened by the activities of the Defendants with respect to excavation and road building.

2. That your deponent submits this affidavit at the request of the attorneys for the Plaintiffs herein in lieu of testifying under subpoena duly issued by the Plaintiffs this day. That your deponent was present in the United States District Courthouse at Denver this day prepared to testify substantially in accordance with the statements hereinafter set forth, which statements were duly made by me to the attorneys for the Plaintiff this date.

8. That your deponent was advised personally by the defendants Claude R. Blue, J. R. Thornton and their counsel Robert Johnson, that the proposed road building is to commence Thursday, July 10th, 1969, at the south end of the area to be included within the proposed Florissant Fossil Beds National Monument proceeding in a roughly southeasterly direction from an existing road named and designated on the United States Coast and Geodetic Survey Topographic Map of the area as Twin Rocks Road.

4. Your deponent explained in detail, the unique paleontological and educational resource value of the area to be excavated and destroyed by the proposed road, and was advised by the counsel for the Defendants and the two Defendants Claude R. Blue and J. R. Thornton personally that "this was the way they made their living," and they indicated they were not interested in the development rights or value of the area, but were merely interested in holding it for the shortest period of time and selling it at the highest possible price.

5. Your deponent can state to this court, with a reasonable degree of professional scientific paleontological certainty, that no area equivalent to the Florissant Fossil Beds in diversity of fossil speciation or fossil density has been found in the western hemisphere of the United States from the Oligocene period which occurred thirty-four to thirty-eight million years past. Your deponent can further state with reasonable scientific paleontological certainty, that the Florissant Fossil Beds are the result of a unique combination of circumstances involving complex and geologic developments including alternate volcanic activity, with peaceful interval periods, coupled with mountain building, and general regional vulcanism. Your deponent can further state with reasonable scientific certainty that this unique combination of geologic happenings has not occurred elsewhere in the western hemisphere according to reports published in the scientific literature.

6. Your deponent believes, that the availability of the diverse fossil speciation found in the Florissant Fossil Beds within the area to be included within the National Monument, and in particular those areas which will be totally, permanently and irrevocably destroyed by the proposed road building activities of the Defendant which are due to commence tomorrow morning, are of such singular value that their full potential worth can only be determined by subsequent generations.

7. That the instant of geological time trapped for permanent record in the Florissant Fossil Beds paper shales is of great value in understanding the evolution of many forms of life now present in the continental United States and the western hemisphere. It is particularly important to note that the fossil insect records contained and trapped within the Florissant Fossil Beds paper shales can hold the key to determining the mechanisms of functional adaptation and insect development to the ultimate in calculable benefit of mankind. A single example should suffice: It is well known at this time that insect resistance to modern chemical pesticides has become of increasing concern in areas that were thought to be malaria free following the first extensive uses of DDT in 1946. The key to continued insect control and the ultimate elimination of those centurial scourges of mankind, malaria, typhus, encephalitis, and yellow fever are dependent upon the information concerning functional adaptation and insect evolution trapped by the mighty hand of God acting through eons of geologic time and geologic processes for the ultimate benefit of mankind.

WHEREFORE, your deponent respectfully prays that this Court take immediate action to prevent the disturbance of sub-soil area to be included within the proposed Florissant Fossil Beds National Monument in the interest of justice, and the ultimate future of man. The Florissant Fossil Beds National Monument is to geology, paleontology, ecology, and evolution, what the Rosetta Stone was to Egyptology and the Dead Sea Scrolls to Christianity. The value of the Rosetta

Stone is known to few outside the field of Egyptology, and non-Christians tend to minimize the value of the Dead Sea Scrolls. The record of Florissant can mean the protection of children yet unborn everywhere in the world, the advancement of human knowledge across a broad front and a continuing means of dialogue between the world of the geologist and his interest in the record of history written in the rocks where an instant geological time may mean millions of years, and the Ecologist, who must, today, furnish the information necessary to make wise use of the natural resources the earth gives to man, and furnish the scientific basis to predict the potential effects of alternative resource management uses.

Subscribed and sworn to before me this 9th day of July, 1969.  
My commission expires May 27th, 1973.

---

Notary Public