

1 TODD KIM
Assistant Attorney General
2 Environment & Natural Resources Division

3 LEILANI DOKTOR, admitted to HI Bar
4 E-Mail: leilani.doktor@usdoj.gov
150 M Street NE
5 Washington, D.C. 20002
6 Tel: (202) 305-0447 / Fax: (202) 305-0506
leilani.doktor@usdoj.gov

7 CLARE BORONOW, admitted to MD bar
8 999 18th St., South Terrace, Suite 370
Denver, CO 80202
9 Tel: (303) 844-1362 / Fax: (303) 844-1350
clare.boronow@usdoj.gov
10 *Attorneys for Defendants*

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION

_____)	
CENTER FOR BIOLOGICAL)	Case No. 2:20-cv-00371-DSF
DIVERSITY, et al.,)	
)	STIPULATED SETTLEMENT
	Plaintiffs,)	AGREEMENT
	v.)	
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)	
U.S. BUREAU OF LAND)	
MANAGEMENT, et al.,)	
)	
	Defendants.)	
)	
_____)	

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25 Plaintiffs, State of California (“State Plaintiff”) and Center for Biological Diversity,
26 Central California Environmental Justice Network, Los Padres ForestWatch, National Parks
27 Conservation Association, Natural Resources Defense Council, Patagonia Works, Sierra Club,
28 and The Wilderness Society (“Environmental Plaintiffs”), and Federal Defendants, the United

1 States Bureau of Land Management (“BLM”), the United States Department of the Interior,
2 Debra Haaland in her official capacity as Secretary of the Interior, and Karen Mouritsen in her
3 official capacity as BLM California State Director (collectively “the Parties”), hereby enter
4 into this Settlement Agreement for the purpose of resolving this lawsuit without further judicial
5 proceedings. The Parties hereby state as follows:
6

7 WHEREAS, on December 22, 2014, BLM approved the Resource Management Plan
8 (“2014 RMP”) and accompanying Final Environmental Impact Statement (“2012 EIS”) for the
9 Bakersfield Field Office, which identified approximately 400,000 acres of public lands and 1.2
10 million acres of federal mineral estate available for oil and gas leasing;
11

12 WHEREAS, on June 10, 2015, Center for Biological Diversity and Los Padres
13 ForestWatch filed a complaint for declaratory and injunctive relief challenging the 2014 RMP
14 and 2012 EIS, alleging that the 2012 EIS failed to disclose and adequately analyze the
15 environmental impacts of approving the 2014 RMP, including impacts from hydraulic
16 fracturing (or “fracking”), in violation of the National Environmental Policy Act (“NEPA”);
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18 WHEREAS, on September 6, 2016, this Court issued an order on summary judgment
19 finding BLM’s 2012 EIS failed to take a “hard look” at the environmental impacts of fracking
20 in the 2014 RMP (*ForestWatch v. BLM*, No. 2:15-cv-04378-MWF/JEM (C.D. Cal.));
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22 WHEREAS, on May 3, 2017, the Court approved a settlement agreement in
23 which the parties agreed to partial remand without vacatur of the record of decision adopting
24 the 2014 RMP, and BLM agreed to prepare supplemental NEPA documentation to address the
25 deficiencies identified by the Court and to issue a new decision document to amend or
26 supersede the existing record of decision to the extent determined necessary or appropriate by
27 BLM;
28

1 WHEREAS, on November 1, 2019, BLM published the Notice of Availability of the
2 Final Supplemental Environmental Impact Statement (“2019 SEIS”) analyzing the effects of
3 fracking in the 2014 RMP;

4 WHEREAS, on December 12, 2019, BLM issued a Record of Decision (“2019 ROD”)
5 approving the 2019 SEIS, which supplemented the 2012 EIS but did not change any decisions
6 reached in the 2014 record of decision, reaffirming the portions of the 2014 record of decision
7 that BLM evaluated in the partial remand, and stating that the 2014 RMP remains in effect;

8 WHEREAS, on January 14, 2020, Environmental Plaintiffs filed a Complaint for
9 declaratory and injunctive relief against the Federal Defendants challenging the 2019 ROD and
10 alleging that the 2019 SEIS did not take a hard look at the impacts of fracking on groundwater,
11 air quality, greenhouse gas emissions and the climate, seismicity, recreational uses, national
12 park units and other public land, human health, and environmental justice communities, and
13 did not provide a meaningful response to public comments, all in violation of NEPA;

14 WHEREAS, on January 17, 2020, State Plaintiff filed a Complaint for declaratory and
15 injunctive relief against the Federal Defendants challenging the 2019 ROD and alleging that
16 the 2019 SEIS did not take a hard look at impacts under NEPA, consider additional
17 alternatives, discuss feasible mitigation measures for impacts on special status species, or
18 consider conflicts with state policies, and was issued without an adequate opportunity for
19 public comment in violation of NEPA;

20 WHEREAS, on April 2, 2020, the cases were consolidated, ECF No. 18;

21 WHEREAS, on January 22, 2021, Plaintiffs filed their motions for summary judgment
22 and memorandums in support, ECF No. 59 and 60;

1 WHEREAS, following Plaintiffs' summary judgment filings, the Parties entered into
2 settlement negotiations to conserve the Parties' and judicial resources and resolve this lawsuit
3 without further litigation; and

4 WHEREAS, the Parties, through their authorized representatives, and without any
5 admission or adjudication of the issues of fact or law, have reached a settlement resolving the
6 claims in this case;
7

8 THEREFORE, the Parties enter this Settlement Agreement ("Agreement") and stipulate
9 as follows:
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- 11 1. The Parties agree to BLM's voluntary remand without vacatur of the 2019 ROD
12 to allow Federal Defendants to reconsider the 2019 ROD.
- 13 2. During remand, Federal Defendants agree to prepare a supplement to the 2019
14 SEIS pursuant to NEPA. Following issuance of the supplemental NEPA
15 analysis, Federal Defendants agree to issue a new decision document. The new
16 decision document will amend or supersede the 2019 ROD to the extent
17 determined necessary or appropriate by Federal Defendants.
- 18 3. In preparing the supplement and new decision contemplated in Paragraph 2,
19 Federal Defendants agree to consider whether to amend the 2014 RMP.
20
- 21 4. Federal Defendants agree that the supplement to the 2019 SEIS may tier to
22 the 2019 SEIS and/or the 2012 EIS for the Bakersfield Field Office planning
23 area in accordance with 40 C.F.R. §§ 1502.20 and 1508.28 (1978).
- 24 5. Federal Defendants agree to apply the 1978 Council on Environmental
25 Quality regulations implementing NEPA in preparing the supplement to the
26 2019 SEIS, to the extent consistent with law.
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1 6. Pending issuance of the new decision contemplated in Paragraph 2, Federal
2 Defendants agree to defer any oil or gas lease sales within the Bakersfield
3 Field Office planning area.

4 7. Pending issuance of the new decision contemplated in Paragraph 2, Federal
5 Defendants agree to follow their regulations and policy for public notice
6 prior to approving any applications for permit to drill (“APDs”) within the
7 Bakersfield Field Office planning area.

8 8. In the preparation of the supplement to the 2019 SEIS, Federal Defendants
9 agree to comply with all relevant requirements of NEPA, including
10 requirements for public notice and comment. As part of the public notice
11 and comment process, Federal Defendants agree to:

- 12
- 13 a) hold at least one live meeting for members of the public to provide
14 input on the supplement to the 2019 SEIS¹;
 - 15 b) provide a Spanish translator at any live meeting if specifically
16 requested of the BLM project manager at least 30 days before the
17 meeting by or on behalf of an individual needing translation
18 services;
 - 19 c) provide, for any live meeting, a transcription of the meeting in
20 Spanish within a reasonable time after the meeting concludes if
21 specifically requested of the BLM project manager in a timely
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28 ¹ A “live meeting” may occur in person and/or virtually.

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manner by or on behalf of an individual needing translation services;

- d) prepare in Spanish certain documents notifying the public of opportunities to engage in BLM’s decisionmaking, including press releases, public PowerPoints, and other written communication materials announcing to the public meeting(s) related to the preparation of the supplement to the 2019 SEIS, as well as any Executive Summary portion of the supplement;
- e) post in the Bakersfield Field Office public room, within a reasonable time, any notices or notice of the availability of documents translated into Spanish pursuant to Paragraph 8;
- f) make copies of any notices or documents translated into Spanish pursuant to Paragraph 8 available to individuals who request translated versions.

9. Federal Defendants further agree to translate the new decision (without attachments) to Spanish within a reasonable amount of time after the notice of availability of the English version is published in the Federal Register. Notwithstanding the commitments made in Paragraphs 8 and 9, the Parties agree that the English versions of translated documents are the governing versions of the documents and any error in translation may not be appealed or otherwise challenged in any venue.

1 10. The Parties agree that Federal Defendants are under no obligation to provide
2 Spanish translation of any document or notice not identified in Paragraphs 8
3 or 9.

4 11. Pending issuance of the new decision for the supplement to the 2019 SEIS,
5 Federal Defendants agree to file semiannual status reports regarding the
6 status of the supplemental analysis beginning one year after the dismissal of
7 the consolidated cases.
8

9 **Dismissal of Case and Additional Terms**

10 12. The Parties agree to submit to the Court the accompanying stipulation of
11 dismissal and proposed order dismissing with prejudice both lawsuits
12 (consolidated as Case No. 2:20-cv-00371) pursuant to Fed. R. Civ. P.
13 41(a)(1)(A)(ii), provided that the Court shall retain jurisdiction solely for the
14 purposes of enforcement, subject to the limitations described in Paragraphs
15 14 and 15. If the Court does not dismiss the case, this Agreement is voidable
16 by any Party.
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18 13. The terms of this Agreement shall become effective upon dismissal of these
19 consolidated lawsuits by the Court.
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21 14. The Parties agree that they will notify the Court within 14 days after Federal
22 Defendants' issuance of the new decision document for the supplement to
23 the 2019 SEIS. This Agreement, and the Court's jurisdiction over this case,
24 shall terminate upon receipt of that notification.
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26 15. Any challenge to the adequacy of the supplement and new decision
27 required by this Agreement must take the form of a new civil action under
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1 the judicial review provisions of the Administrative Procedure Act (“APA”),
2 and may not be asserted as a claim for violation of this Agreement or in a
3 motion to enforce the terms of this Agreement. Similarly, any challenge to
4 the adequacy of a notice contemplated by Paragraph 7 must take the form of
5 a new civil action under the judicial review provisions of the APA, and may
6 not be asserted as a claim for violation of this Agreement or in a motion to
7 enforce the terms of this Agreement. The Parties acknowledge that nothing
8 in this Agreement limits Plaintiffs’ right to challenge the new NEPA
9 analysis and decision in a separate administrative or judicial action under the
10 judicial review provisions of the APA, 5 U.S.C. §§ 701-706, and that
11 nothing in this Agreement limits Federal Defendants’ rights to assert any
12 applicable defenses.
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15 16. In the event of a dispute arising out of or relating to this Agreement, or if
16 any of the Parties believes another Party has breached its obligations under
17 this Agreement, the Party raising the dispute or alleging breach shall provide
18 the other Parties written notice and a reasonable opportunity to resolve the
19 dispute or cure the alleged breach. The Parties agree that they will meet and
20 confer (either telephonically or in person) within 30 days of being notified
21 of a dispute in a good faith effort to resolve any disputes or alleged
22 breaches. If the Parties are unable to resolve the dispute themselves, then the
23 Parties may seek relief from this Court, subject to the limitations described
24 in Paragraphs 14 and 15. The Parties agree that they will not seek contempt
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1 of court or money damages as an available remedy for any alleged violation
2 of this Agreement.

3 17. Nothing in this Agreement shall be construed or offered as evidence by any
4 Party in any proceeding as an admission to any wrongdoing, liability, or any
5 issue of fact or law concerning the claims settled under this Agreement or
6 any similar claims brought in the future by any other party. Except as
7 expressly provided in this Agreement, none of the Parties waives or
8 relinquishes any legal rights, claims, or defenses it may have.

9 18. Nothing in this Agreement shall have precedential value in any litigation or
10 in representations before any court or forum or in any public setting. This
11 Agreement is executed for the purpose of settling Plaintiffs' complaints, and
12 it is based on and limited solely to the facts involved in the consolidated
13 cases.

14 19. Without waiving any defenses or making any admissions of fact or law,
15 Federal Defendants agree to pay the Environmental Plaintiffs \$10,000 to
16 settle the Environmental Plaintiffs' claims for attorneys' fees and costs. The
17 Environmental Plaintiffs agree to accept the \$10,000 from Federal
18 Defendants in full satisfaction of any and all claims, demands, rights, and
19 causes of action for any and all attorneys' fees and costs Environmental
20 Plaintiffs reasonably incurred in this litigation through the signing of this
21 Agreement. The United States may offset the payment amounts to account
22 for any delinquent debts owed by each Payee to the United States pursuant
23 to 31 U.S.C. §§ 3711, 3716. By this Agreement, Federal Defendants do not
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1 waive any right to contest fees and costs claimed by Plaintiffs or Plaintiffs’
2 counsel in any future litigation or continuation of the present action.

3 20. Within fourteen (14) business days after the effective date of this
4 Agreement, the Environmental Plaintiffs’ counsel will provide the following
5 information necessary for Federal Defendants to process the electronic
6 disbursement identified in the preceding paragraph: the payee’s name and
7 address, the payee’s bank account number, the account type, the name of the
8 payee’s bank, the bank routing transit number, and the payee’s tax
9 identification number. Federal Defendants agree to submit all necessary
10 paperwork for the processing of the attorneys’ fees award within twenty (20)
11 business days of the date of receipt by the Deputy State Director of Energy
12 and Minerals in the California State Office of the BLM of the necessary
13 information from the Environmental Plaintiffs or from the dismissal of these
14 consolidated lawsuits, whichever is later.

15 21. Counsel for Federal Defendants agrees to notify counsel for Environmental
16 Plaintiffs promptly when the electronic fund transfer is made. Counsel for
17 Environmental Plaintiffs agrees to send confirmation of the receipt of the
18 payment to counsel for Federal Defendants within fourteen (14) days of
19 such notice.

20 22. So long as the payee receives payment from Federal Defendants, as
21 provided in Paragraphs 19-21, Plaintiffs and their counsel, assigns,
22 executors, and administrators agree to forever release, abandon, waive, and
23 discharge the United States and Federal Defendants from any and all claims,
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1 demands, damages, causes of action, or suits at law or equity to recover fees,
2 costs, or expenses with respect to any aspect of this litigation.

3 23. No provision of this Agreement shall be interpreted as, or constitute, a
4 commitment or requirement that Federal Defendants take action in
5 contravention of the APA, the Anti-Deficiency Act, 31 U.S.C. § 1341, or
6 any other law or regulation.
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8 24. The Parties agree that this Agreement was negotiated in good faith and that
9 it constitutes a settlement of claims that were disputed by the Parties. This
10 Agreement contains all the terms of agreement between the Parties
11 concerning the Plaintiffs' complaints, and is intended to be the final and sole
12 agreement between the Parties with respect thereto. The Parties agree that
13 any prior or contemporaneous representations or understandings not
14 explicitly contained in this written Agreement, whether written or oral, are
15 of no further legal or equitable force or effect.
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18 25. The undersigned representatives of each Party certify that they are fully
19 authorized by the Party or Parties they represent to agree to the terms and
20 conditions of this Agreement and do hereby agree to the terms herein.
21 Further, each Party, by and through its undersigned representative,
22 represents and warrants that it has the legal power and authority to enter into
23 this Agreement and bind itself to the terms and conditions contained in this
24 Agreement.
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27 DATED: July 29, 2022
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TODD KIM
Assistant Attorney General
Environment & Natural Resources Division

/s/ Leilani Doktor
LEILANI DOKTOR, admitted to HI Bar
United States Department of Justice
150 M Street NE
Washington, D.C. 20002
Tel: (202) 305-0447
Fax: (202) 305-0506
leilani.doktor@usdoj.gov

/s/ Clare Boronow
CLARE BORONOW, admitted to MD bar
999 18th St., South Terrace, Suite 370
Denver, CO 80202
Tel: (303) 844-1362
Fax: (303) 844-1350
clare.boronow@usdoj.gov

Attorneys for Defendants

/s/ Michelle Ghafar
MICHELLE GHAFAR (CA Bar No. 315842)
mghafar@earthjustice.org
Earthjustice
50 California Street, Suite 500
San Francisco, CA 94111
Tel: (415) 217-2000 / Fax: (415) 217-2040

ELIZABETH FORSYTH (CA Bar No. 288311)
eforsyth@earthjustice.org
Earthjustice
810 Third Avenue, Suite 610
Seattle, WA 98104
Tel: (213) 766-1067 / Fax: (415) 217-2040

*Counsel for National Parks Conservation Association,
Natural Resources Defense Council, and The Wilderness
Society*

/s/ Elizabeth Jones
ELIZABETH JONES (CA Bar No. 326118)

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ljones@biologicaldiversity.org
BRENDAN CUMMINGS (CA Bar No. 193952)
bcummings@biologicaldiversity.org
Center for Biological Diversity
1212 Broadway, Suite 800
Oakland, CA 94612
Tel: (310) 365-9281 / Fax: (510) 844-7150

*Counsel for Center for Biological Diversity, Central
California Environmental Justice Network, Los Padres
ForestWatch, Patagonia Works, and Sierra Club*

/s/ George Torgun
GEORGE TORGUN, SBN 222085
YUTING YVONNE CHI, SBN 310177
Deputy Attorneys General
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612
Tel: (510) 879-1002
Fax: (510) 622-2270
George.Torgun@doj.ca.gov
Yvonne.Chi@doj.ca.gov

Attorneys for the State of California