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16 *Counsel for Defendants*

17 UNITED STATES DISTRICT COURT
 18 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 19 OAKLAND DIVISION

20 STATE OF CALIFORNIA, *et al.*,

21 Plaintiffs,

22 v.

23 DAVID BERNHARDT, *et al.*,

24 Defendants.

No. 4:18-cv-05712-YGR

(Consolidated With Case No. 4:18-cv-05984-YGR)

**DEFENDANTS' NOTICE OF VACATUR
 OF THE 2016 WASTE PREVENTION
 RULE**

1 In this Court's July 15, 2020 Order: (1) Granting Plaintiffs' Motions for Summary
2 Judgment; and (2) Denying Defendants' Motions for Summary Judgment, the Court ordered that
3 "[u]nless, and until, steps are taken to revive the challenge to the Waste Prevention Rule,
4 and its implementation is otherwise enjoined," the Bureau of Land Management ("BLM") "shall
5 within thirty (30) days of this Order provide the Court with a report detailing the anticipated
6 compliance process with" the 2016 Waste Prevention Rule, "including a declaration by the
7 agency official who is responsible for effectuating the same and is identified as the most
8 knowledgeable person on the topic." ECF No. 177 at 56. "BLM shall provide additional
9 updates thirty (30) and sixty (60) days thereafter." *Id.*

10 Defendants filed their first report pursuant to the Order on August 14, 2020, ECF No.
11 178, and their second report on September 14, 2020, ECF No. 179. Defendants now file this
12 notice to alert the Court that on October 8, 2020, the District Court for the District of Wyoming
13 issued an order vacating the 2016 Waste Prevention Rule except as to two sets of severable
14 provisions: 43 C.F.R. subpart 3178 and the amendment of 43 C.F.R. § 3103.3-1. *Wyoming v.*
15 *U.S. Dep't of the Interior*, No. 2:16-cv-285-SWS (D. Wyo. Oct. 8, 2020), Dkt. No. 284. Those
16 two severable provisions have been in effect since January 2017 and were not impacted by the
17 2018 rulemaking that was the subject of the litigation before this Court. Because the 2016 Rule
18 has been vacated except for provisions that were already in effect, Defendants need not file a
19 third report detailing BLM's anticipated compliance process with the 2016 Waste Prevention
20 Rule. Defendants nonetheless give notice that BLM has ceased its efforts to implement the
21 vacated portions of the 2016 Waste Prevention Rule, as further explained in the attached
22 declaration of Donna B. Dixon, Division Chief, Division of Fluid Minerals, in the Energy,
23 Minerals, and Realty Management Directorate of BLM.

24 Respectfully submitted this 13th day of October, 2020.

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/s/ Clare Boronow
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