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19 UNITED STATES DISTRICT COURT
20 FOR THE CENTRAL DISTRICT OF CALIFORNIA
21 WESTERN DIVISION

22 CENTER FOR BIOLOGICAL DIVERSITY
23 and LOS PADRES FORESTWATCH,

24 Plaintiffs,
25 vs.

26 U.S. BUREAU OF LAND MANAGEMENT;
27 DAVID BERNHARDT, U.S. Secretary of
Interior; GABRIEL GARCIA, Field Manager,
California Bureau of Land Management,
Bakersfield Field Office,

Defendants.

Civ. No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Plaintiffs Center for Biological Diversity and Los Padres ForestWatch (collectively, "Plaintiffs") bring this civil action for declaratory and injunctive relief

1 against the United States Bureau of Land Management, David Bernhardt, Secretary of
2 the Interior, and Gabriel Garcia, Field Manager of the Bakersfield Field Office
3 (collectively, “BLM”), regarding BLM’s approval of E&B Natural Resources
4 Management Corp.’s (“E&B”) Application for a Permit to Drill (“APD”) to operate a
5 new well (Schlaudeman #354-23) and construct a pipeline on BLM-managed lands in
6 the Russell Ranch Oil Field within the Carrizo Plain National Monument
7 (“Monument”) in San Luis Obispo County, California without analyzing the full
8 environmental effects of doing so. This action arises under, and alleges violations of,
9 the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701 *et seq.*
10 and its implementing regulations, the National Environmental Policy Act (“NEPA”),
11 42 U.S.C. §§ 4321 *et seq.* and its implementing regulations, and the Administrative
12 Procedure Act (“APA”), 5 U.S.C. §§ 701 *et seq.* This is the first oil well and pipeline
13 to be approved in the Carrizo Plain National Monument since the area was established
14 by Presidential proclamation in 2001.

15 2. Over the eight (8) years BLM was considering this approval, it reversed
16 course several times. In 2012, BLM first issued an environmental assessment (DOI-
17 BLM-CA-C060-2012-0040-EA) for the new APD and pipeline, but then in 2016
18 BLM identified and approved this same well pad for abandonment and restoration of
19 the surrounding area to natural condition, as required by the management plan for the
20 Carrizo Plain National Monument. However, before work began, in 2018 BLM again
21 reversed direction and issued a decision approving the well and pipeline. On July 19,
22 2019, the State Director reversed that decision in part and remanded it to the field
23 office for additional environmental review. On May 21, 2020, BLM’s Bakersfield
24 Field Office issued a Decision Record again approving E&B’s APD and pipeline. In
25 issuing its 2020 decision, BLM relied upon the 2012 environmental assessment with
26 some revisions (DOI-BLM-CA-C060-2012-0040-EA) (“2020 Rev. EA”). The 2020
27 Rev. EA failed to analyze many of the significant environmental impacts of drilling

1 and operating a new well within the Monument. Specifically, in the EA, BLM
2 ignored or otherwise glossed over the project’s impacts to threatened, endangered, and
3 sensitive species within the Monument, including the California condor, the San
4 Joaquin kit fox, the blunt-nosed leopard lizard, and the giant kangaroo rat, among
5 others, and the attendant habitat fragmentation from the above-ground pipeline. In
6 addition, BLM failed to adequately address impacts to visual resources, despite
7 evidence that the project would be visible from numerous observation points in and
8 around the Monument. BLM also failed to adequately analyze the project’s climate-
9 change impacts by downplaying its greenhouse gas (“GHG”) emissions and failing to
10 consider the significance of the emissions as direct, indirect, and cumulative impacts.
11 In making this decision BLM has failed to adequately consider and follow the
12 Monument’s resource management plan, which mandates that BLM manage the
13 Monument’s resources to minimize impacts to wildlife, habitat, visual, climate, and
14 other resources, and to timely abandon and reclaim idle wells. BLM has also failed to
15 take action to ensure timely closure and restoration of other idle wells in the
16 Monument.

17 3. Plaintiffs will be directly harmed by BLM’s decision to approve the APD
18 and pipeline and by BLM’s failure to ensure timely closure and restoration of idle
19 wells in the Monument. Plaintiffs ask this Court to find and declare that the approval
20 violated FLPMA and NEPA, and was arbitrary and capricious under the APA, and to
21 vacate the decision. Plaintiffs also ask this court to declare that BLM has violated the
22 Monument Plan by failing to take action to ensure timely closure and restoration of
23 idle wells in the Monument.

24 **JURISDICTION AND VENUE**

25 4. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1346, because
26 defendants are agents of the United States and because Plaintiffs’ claims arise under
27

1 federal law. The Court may issue a declaratory judgment and further relief pursuant
2 to 28 U.S.C. §§ 2201-2202.

3 5. Plaintiffs have exhausted all available administrative remedies to the
4 degree such exhaustion is required. An actual justiciable controversy exists between
5 the parties within the meaning of 28 U.S.C. § 2201 (declaratory judgment).

6 6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(1) because
7 a substantial part of the federal land that is the subject of this action lies in this judicial
8 district.

9 7. Assignment to the Western Division of this Court is proper under
10 General Order No. 19-03. I.B.1.a.(1)(b) Non-Removed Cases in Which the United
11 States Is a Defendant.

12 **PARTIES**

13 8. Plaintiff Center for Biological Diversity (“CBD”) is a national non-profit
14 conservation organization with over 72,000 members dedicated to the protection of
15 biodiversity and ecosystems throughout the world. CBD works through science, law,
16 and creative media to secure a future for all species, great and small, hovering on the
17 brink of extinction, with a focus on protecting the lands, waters, and climate that
18 species need to survive. CBD has offices in California and over 17,000 members
19 across the state. CBD actively advocates for the protection of public lands, imperiled
20 species and habitats, including for protection of the lands and resources within the
21 Carrizo Plain National Monument (“Monument”) that are at issue in this case. CBD
22 members have specific interests in the affected resources, including the rare plants and
23 imperiled animal species that inhabit the Monument, as well as in the Monument’s
24 cultural and visual resources. CBD members also have a specific interest in
25 mitigating greenhouse gas (“GHG”) emissions to curb climate-change impacts to the
26 Monument’s lands and resources and to preserve its air quality. CBD members have
27 visited and will continue to visit the Monument to view, photograph, and study its

1 resources, including animals such as the California condor, San Joaquin kit fox, blunt-
2 nosed leopard lizard, and giant kangaroo rat, listed plants such as the Kern mallow and
3 Lemmon's jewelflower, and the Monument's unique geological features.

4 9. Plaintiff Los Padres ForestWatch ("ForestWatch") is a non-profit
5 organization based in Santa Barbara, California with approximately 30,000 members
6 and online supporters. ForestWatch works to protect the Monument and the adjacent
7 Los Padres National Forest with an emphasis on issues pertaining to oil and gas
8 drilling. ForestWatch efforts focus on protecting the rare plants and wildlife that
9 inhabit the Monument and safeguarding the Monument's visual resources and outdoor
10 recreation opportunities. ForestWatch members use the lands in and near the
11 Monument for recreational, scientific, and aesthetic purposes, including for wildlife
12 observation, study, and photography, and have a specific interest in the continued use
13 and enjoyment of these activities within the Monument.

14 10. Plaintiffs participated in the administrative process, as described in detail
15 below, and have exhausted all available administrative remedies to the degree such
16 exhaustion is required.

17 11. Plaintiffs have been, are being, and will continue to be adversely affected
18 and irreparably injured by BLM's decision to approve the APD and pipeline without
19 adequate environmental review and without complying with the terms of the
20 Monument's resource management plan (the 2010 Monument Plan), or the Monument
21 Proclamation, Proclamation No. 7393, 66 Fed. Reg. 7339 (Jan. 22, 2001). The
22 interests of Plaintiffs' members described above will be injured not only by the noise,
23 pollution, and adverse impacts to wildlife and plants associated with construction,
24 operation, and maintenance of the new well and pipeline, but also by direct and
25 indirect GHG emissions of carbon dioxide and its equivalents, including methane and
26 nitrous oxide, which scientific evidence establishes contribute to increased
27 temperatures and other climate-change impacts. BLM's approval of the APD and

1 pipeline without adequate environmental review as NEPA mandates will inhibit
2 Plaintiffs’ and their members’ ability to observe, study, and enjoy the Monument’s
3 unique resources and, thus, will cause them to suffer actual injury in fact that is
4 concrete and particularized. BLM’s failure to ensure timely closure and restoration of
5 idle wells in the Monument and termination of idle leases also impacts Plaintiffs’ and
6 their members’ ability to observe, study and enjoy the Monument resources and
7 causes harm to their interests in and ability to enjoy the scientific, visual and
8 recreation values of the Monument.

9 12. Plaintiffs’ injuries described above would be redressed by the relief
10 sought herein. Plaintiffs have no adequate remedy at law. Plaintiffs have exhausted
11 all available administrative remedies to the degree such exhaustion is required.

12 13. Defendant United States Bureau of Land Management (“BLM”) is an
13 administrative agency within the United States Department of the Interior responsible
14 for managing the public lands and resources within the Monument. BLM’s stated
15 mission is to sustain the health, productivity, and diversity of America’s public lands
16 for the use and enjoyment of present and future generations.

17 14. Defendant David Bernhardt is the Secretary of the Interior and is sued in
18 his official capacity. Mr. Bernhardt is the official ultimately responsible under federal
19 law for ensuring that BLM’s actions and management decisions comply with
20 applicable laws and regulations.

21 15. Defendant Gabriel Garcia is the Field Manager of BLM’s Bakersfield
22 Field Office and is sued in his official capacity.

23 **LEGAL BACKGROUND**

24 **Antiquities Act, Proclamation, and Monument Plan**

25 16. Section 2 of the Antiquities Act vests in the President discretion to
26 “declare by public proclamation historic landmarks, historic and prehistoric structures,
27

1 and other objects of historic or scientific interest that are situated on land owned or
2 controlled by the Federal Government to be national monuments.” 16 U.S.C. § 431.

3 17. President Clinton established the Monument by Presidential
4 Proclamation on January 17, 2001, to protect its unique biological, archeological,
5 historical, paleontological, and geological resources. Proclamation No. 7393, 66 Fed.
6 Reg. 7339 (Jan. 22, 2001). The Proclamation directs the Secretary of the Interior,
7 through BLM, to “prepare a management plan that addresses the actions . . . necessary
8 to protect the objects identified” in the Proclamation. *Id.* at 7341.

9 18. On April 10, 2010, BLM adopted the Carrizo Plain National Monument
10 Approved Resource Management Plan and Record of Decision ("Monument Plan").
11 The Monument Plan establishes goals, objectives, and allowable uses to protect the
12 Monument's unique resources. To comply with the Monument Plan, BLM is required
13 to consider and follow the plan's objectives and actions.

14 19. In approving any new projects and activities within the Monument, BLM
15 must comply with the terms of the Proclamation and Monument Plan.

16 **The Federal Land Policy & Management Act of 1976**

17 20. The Federal Land Policy and Management Act (“FLPMA”) is a
18 comprehensive statute designed to ensure that BLM-administered public lands are
19 “managed in a manner that will protect the quality of scientific, scenic, historical,
20 ecological, environmental, air and atmospheric, water resource, and archeological
21 values.” 43 U.S.C. § 1701(a)(8).

22 21. FLPMA requires BLM, with public participation, to develop and
23 maintain land-use plans for the use of the public lands that it manages. *Id.* § 1712(a).

24 22. FLMPA’s implementing regulations require BLM to prepare and
25 maintain a resource management plan for the Monument. *See* 43 C.F.R. § 1610.1(b).
26 Once a resource management plan is developed, FLPMA’s implementing regulations
27

1 mandate that “[a]ll future resource management authorizations and actions . . .
2 conform to the approved plan.” *Id.* § 1610.5-3(a).

3 23. Before approving any actions that may have a significant impact on the
4 environment, BLM also must comply with the National Environmental Policy Act
5 (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*

6 **National Environmental Policy Act (NEPA)**

7 24. NEPA is “our basic national charter for protection of the environment.”
8 40 C.F.R. § 1500.1(a). Congress enacted NEPA to “prevent or eliminate damage to
9 the environment” by requiring federal agencies to consider the environmental impacts
10 of their proposed actions. 42 U.S.C. § 4321.

11 25. To comply with NEPA, the responsible federal agency must prepare and
12 make available to the public an environmental impact statement (“EIS”) that considers
13 the effects of each “major Federal action[] significantly affecting the quality of the
14 human environment.” *Id.* § 4332(2)(C). To determine whether a proposed action’s
15 impacts are significant enough to warrant preparation of an EIS, the agency may
16 prepare an EA. *See* 40 C.F.R. § 1501.4.

17 26. The EA must explain the need for the proposed action, alternatives to the
18 proposed action, and the environmental impacts of the proposed action and
19 alternatives. *Id.* § 1508.9. The agency must also identify and consider mitigation
20 measures to address the impacts. *Id.* §§ 1502.14(f), 1502.16(h).

21 27. The EA must take a “hard look” at the proposed action’s impacts. If the
22 agency determines that the impacts are not significant, it must provide a “convincing
23 statement of reasons” and issue a FONSI. *Id.* §§ 1501.4, 1508.9, 1508.13. If impacts
24 may be significant, an EIS should be prepared. 42 U.S.C. § 4332(2)(C); 40 C.F.R. §
25 1501.4.

26 28. NEPA requires agencies to consider and disclose to the public a proposed
27 action’s cumulative impacts. 42 U.S.C. § 4332(2). The term “cumulative impact”

1 means “the impact on the environment which results from the incremental impact of
2 the action when added to other past, present, and reasonably foreseeable future actions
3 regardless of what agency . . . or person undertakes such other actions. Cumulative
4 impacts can result from individually minor but collectively significant actions taking
5 place over a period of time.” 40 C.F.R. § 1508.7.

6 29. NEPA’s implementing regulations require agencies to “insure the
7 professional integrity, including scientific integrity” of their environmental analysis.
8 *Id.* § 1502.24. If information pertinent to the proposed action’s adverse impacts is
9 incomplete or unavailable, the agency must “provide a statement that such information
10 is incomplete or unavailable” and explain “the relevance of the incomplete or
11 unavailable information to evaluating reasonably foreseeable significant adverse
12 impacts.” *Id.* § 1502.22(b)(1).

13 **Administrative Procedure Act (APA)**

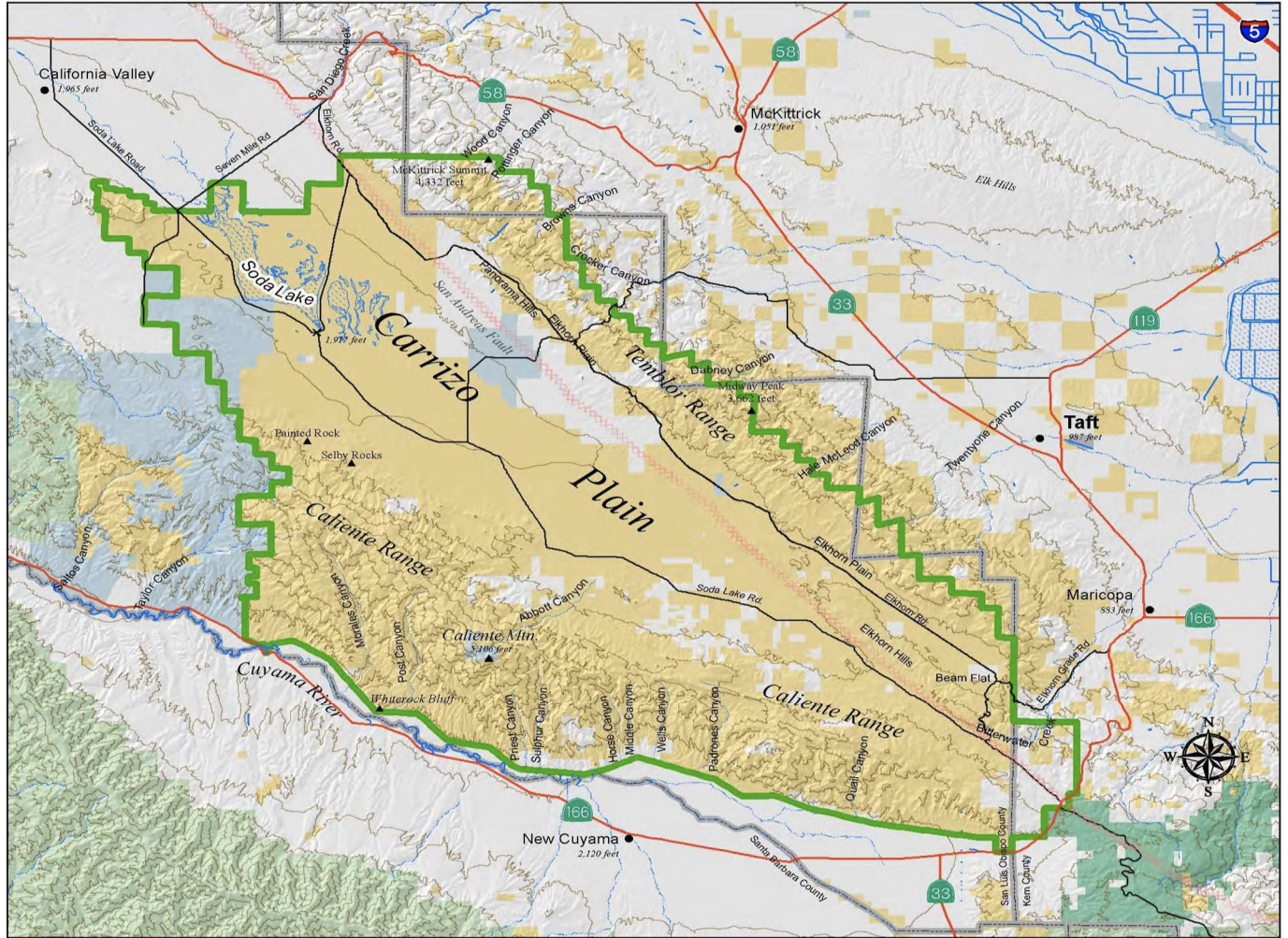
14 30. An agency’s compliance with FLPMA and NEPA is subject to review
15 under the APA. 5 U.S.C. §§ 701 *et seq.*

16 31. Under the APA, a reviewing court shall hold unlawful and set aside
17 agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in
18 accordance with law.” *Id.* § 706(2)(A).

19 **FACTUAL BACKGROUND**

20 **Carrizo Plain National Monument**

21 32. On January 17, 2001, President William J. Clinton established the
22 Carrizo Plain National Monument (“Monument”) by Presidential Proclamation to
23 protect the Monument’s exceptional scientific and historic objects. Proclamation No.
24 7393, 66 Fed. Reg. 7739 (Jan. 22, 2001). The Monument encompasses approximately
25 204,107 acres of BLM-managed federal land and has been described as “California’s
26 Serengeti.” A BLM map of the Monument is reproduced below:
27



17 *Monument Plan at Map 2-2 (Physical Features and Planning Area Boundary).*

18 33. The Proclamation describes the Monument, which is bisected by the San
 19 Andreas Fault zone, as the “largest undeveloped remnant” of the San Joaquin Valley
 20 ecosystem. Proclamation No. 7393, 66 Fed. Reg. 7739. The Monument provides
 21 “crucial habitat for the long-term conservation of the many endemic plant and animal
 22 species that still inhabit the area.” *Id.* Specifically, the Monument supports and
 23 provides refuge for endangered, threatened, and rare animal species, including the San
 24 Joaquin kit fox, the California condor, the blunt-nosed leopard lizard, the giant
 25 kangaroo rat, the San Joaquin antelope squirrel, the longhorn fairy shrimp, and the
 26 vernal pool fairy shrimp. *Id.* The Monument also supports rare and sensitive plant
 27 species, including the California jewelflower, the Hoover’s woolly-star, the San-

1 Joaquin woolly-threads, the pale-yellow layia, the forked fiddleneck, the Carrizo
2 peppergrass, the Lost Hills saltbush, the Temblor buckwheat, the recurved larkspur,
3 and the Munz’s tidy-tips. *Id.* Further, the Monument is home to Soda Lake, the
4 largest remaining natural alkali wetland in southern California and the only closed
5 basin (which does not drain into a river or the ocean) within the coastal mountains.
6 Soda Lake supports certain plant and animal species, including migratory birds, and,
7 during winter, it fills with water and thousands of lesser sandhill cranes, long-billed
8 curlews, and mountain plovers flock to the area. *Id.* The Monument is perhaps most
9 well-known for its stunning super-bloom wildflower displays visited by tens of
10 thousands of people in the springtime.

11 34. On April 10, 2010, BLM adopted the Carrizo Plain National Monument
12 Approved Resource Management Plan and Record of Decision (“Monument Plan”).
13 The Monument Plan establishes goals, objectives, and allowable uses to protect the
14 Monument’s unique resources. To comply with the Monument Plan, BLM is required
15 to consider and follow the plan’s objectives and actions.

16 35. With respect to mineral rights, the Monument Plan provides, “The
17 Monument Proclamation withdraws the Monument from future leasing. However,
18 existing leases are considered to be valid existing rights and must be managed under
19 the terms and conditions of those leases.” Monument Plan, at II-3.

20 36. The Monument Plan establishes a goal to “[m]anage the exploration,
21 development, and abandonment of oil and gas on existing federal leases in a manner
22 that protects” the Monument’s unique objects, as specified in the Proclamation. *Id.* at
23 II-72. The Monument Plan includes several objectives and actions that are intended to
24 effectuate that goal, as follows:

25
26 Objective MNL-4(I*): Manage leases to *minimize fragmentation of*
27 *habitat* (including removal of redundant roads and unused pipelines,
storage tanks, and other infrastructure).

1 Objective MNL-7(P): Manage existing leases with additional
2 requirements (above federal standards) to protect Monument
Resources.

3 Action MNL-3(S): As leases stop producing, process termination or
4 expiration in a *timely manner*.

5 Action MNL-4(I*): Conduct *annual* surface inspection on all leases
6 within the [Monument] to identify and remediate any hazards or
7 impacts to Monument resources such as threatened and endangered
species and cultural resources.

8 Action MNL-6(I*): Manage the existing oil producing acreage on the
9 southern side of the Caliente Range to maintain ecological processes
and to assure prompt lease restoration upon final abandonment of the
10 last well

11 Action MNL-8(I*): Design roads, well pads, and facilities to *impact*
12 *and fragment the least acreage practical*. New facilities will be
designed to maintain natural drainage and runoff patterns, reduce visual
13 impacts, and reduce hazards to wildlife, especially California condors.
14 Encourage operators to modify existing facilities when necessary to
achieve the above objectives, and consider providing BLM funds to
15 assist if requiring modifications is beyond BLM's authority on existing
leases.

16 Action MNL-10(I*): Wells that are not commercially developed must
17 be properly plugged and abandoned and reclaimed to natural contours
and revegetated as soon as appropriate; that is, restoration methods will
18 consider timing of planting, acceptable species and evaluation criteria,
and will be tailored to area-specific resource conditions and be
19 compatible with the Monument Proclamation.

20 Action MNL-20(S): Prioritize termination of all idle leases in the
21 Monument.

22 *Id.* at II-73 to II-75 (emphases added). BLM must manage existing leases to ensure
23 that wells and the underlying leased lands are timely restored to their natural function
24 and conditions. *Id.* at II-73 (Objective MNL-2(I*)). Specifically, “[s]hut-in or
25 abandoned wells will be inventoried and evaluated for final plugging and restoration
26 prioritization,” and leases that cease production will be terminated in a timely manner.
27

1 *Id.* (Actions MNL-2(I), MNL-3(S)). In addition, BLM must “[p]rioritize termination
2 of all idle leases in the Monument.” *Id.* at II-75 (Action MNL-20(S)).

3 37. The Monument Plan addresses air quality within the Monument and
4 requires BLM to “[c]onsider impacts of climate change on Monument resources and
5 evaluate the contribution of management actions and program activities on climate
6 change.” Monument Plan, at II-34 (Action AIR-2(I*)). At the time BLM adopted the
7 Monument Plan, it acknowledged that because climate-change information and
8 models were in their infancy regarding site-specific impacts within the Monument, it
9 would need to use adaptive management to address and mitigate climate-change
10 impacts on the Monument’s objects and to minimize contributions to climate change
11 from Monument activities—namely, oil and gas activities on existing leases. *Id.* at
12 III-37-38.

13 **PROCEDURAL BACKGROUND**

14 **APD and Pipeline Proposal, Abandoned Well Reclamation Project, and BLM’s** 15 **Reversal**

16 38. Prior to 1950, a well pad and access road were constructed in the foothills
17 of the Caliente Mountains. One well (formally called RRU 77-23) operated from this
18 pad for a few years until the well was idled in the 1960s. The well has not produced
19 any oil or gas since then.

20 39. In 2012, following completion of the Monument Plan for the Monument,
21 BLM prepared and released an Environmental Assessment (DOI-BLM-CA-C060-
22 2012-0040-EA) (“2012 EA”) for a new well (Schlaudeman 354-23) and pipeline
23 project on the old RRU 77-23 well pad. On April 23, 2012, Plaintiffs submitted
24 comments on the EA, which asked BLM to revise the EA, and to consider preparing
25 an Environmental Impact Statement (“EIS”), to ensure (i) that the proposed action’s
26 environmental impacts were avoided or otherwise reduced to levels below the
27

1 significance threshold, and (ii) that the proposed action was consistent with BLM's
2 Monument Plan.

3 40. On September 27, 2013, BLM sent to E&B a letter identifying twelve
4 (12) wells in the Monument¹ that had been idle for more than 25 years, and requiring
5 E&B to return the wells to production or to submit a Sundry Notice to plug and
6 abandon the wells by April 1, 2014, and to complete all abandonment work within one
7 year from the date BLM approved any Sundry Notice. During a November 21, 2013
8 meeting with BLM and in a follow-up letter dated that same day, E&B provided
9 recommendations regarding the twelve (12) idle wells, which included perforating and
10 returning certain wells to production and partially or fully abandoning and reclaiming
11 others. E&B neither returned the wells to production nor submitted a Sundry Notice
12 by April 1, 2014.

13 41. On March 11, 2015, E&B submitted to BLM a Sundry Notice to plug and
14 abandon the old RRU 77-23 well and RRU 46-25. In the Sundry Notice, E&B agreed
15 to perform post-abandonment surface restoration on the pad at issue in this case,
16 consistent with the Monument Plan.

17 42. In response to the Sundry Notice, on March 22, 2016, BLM issued a
18 scoping notice that invited public comments. The scoping notice described the well
19 abandonment as follows: "The well pad site restoration will include the ripping of
20 [the] well pad[] and [its] associated access road[] to a depth of approximately 12
21 inches, seeding the site with BLM approved seed mix, and fencing the site to exclude
22 vehicles and to allow for proper restoration."

23 43. BLM prepared an EA for the well-pad abandonment and reclamation.
24 On April 20, 2016, ForestWatch submitted comments in support of the project to
25 abandon and remediate the well pad, and BLM approved the project on July 1, 2016.

26 ¹ The 12 wells listed in that letter are: RRU 24-25, RRU 54-25, RRU 11-25, RRU 43-
27 25, RRU 44-25, RRU 32-25, RRU 46-25, RRU 21-25, RRU 35-25, RRU 77-23, RRU
922-25, and RRU 111-25.

1 The comprehensive abandonment project was consistent with the Monument Plan.
2 *See* Monument Plan, at II-73 to II-75 (Actions MNL-3(S), MNL-6(I*), MNL-10(I*),
3 MNL-20(S)). The well pad was never abandoned, reclaimed, or restored to natural
4 conditions.

5 44. In a surprising reversal, BLM and E&B retreated from their commitment
6 to abandon and reclaim the RRU 77-23 well pad, the related infrastructure, and the
7 surrounding area to its natural condition. Instead, on March 16, 2018, BLM issued a
8 Decision Record, EA, and Finding of No Significant Impact (“FONSI”) approving
9 E&B’s APD for the new Schlaudeman #354-23 well (on the same well pad as RRU
10 77-23) and a pipeline.

11 45. In response, on April 18, 2018, Plaintiffs requested California State
12 Director Review (“SDR”) of BLM’s decision and that the decision be stayed pending
13 review. The State Director issued its decision on July 12, 2019, which concluded that
14 BLM’s EA and FONSI approving the APD failed to adequately and fully consider
15 under NEPA the proposed action’s GHG emissions associated with the well and the
16 related climate-change impacts, as well as the project’s impacts to threatened and
17 endangered species. The State Director stayed BLM’s Decision Record and remanded
18 to BLM the EA and FONSI approving the APD.

19 46. On May 21, 2020, BLM issued a new Decision Record approving the
20 APD with a revised EA and FONSI. BLM did not provide to interested parties the
21 opportunity to comment on the revised EA.

22 47. BLM’s revised EA included an expanded identification of GHG
23 emissions. In particular, BLM estimated the proposed action’s annual direct and
24 indirect GHG emissions for the production, transport, and end use of crude oil to be
25 5,278 metric tons of carbon dioxide equivalent (“MTCO_{2e}”). 2020 EA at 28.²

26 _____
27 ² The page references in all citations to the 2020 Rev. EA reflect PDF page numbers
because the EA was not paginated.

1 Nevertheless, BLM dismissed the significance of these GHG emissions and failed to
2 address climate change in its cumulative-effects analysis “because the [climate-
3 change] phenomenon is innately a result of cumulative impacts and is difficult to
4 quantify.” *Id.* at 30. BLM stated that it used an indirect-GHG-emissions analysis to
5 “serve[] as a proxy for assessing potential for climate change effects and climate
6 related cumulative impacts,” and concluded that the proposed action’s annual direct
7 and indirect emissions are the “equivalent of operating 13 semi-trucks 5 days a week
8 for a year.” *Id.* BLM provided no actual analysis of the significance of these
9 emissions as either direct, indirect, or cumulative impacts. While BLM acknowledged
10 the linear positive relationship between GHG emissions—including, significantly,
11 emissions from burning fossil fuels—and threats to species, human health, food
12 security, and weather conditions, BLM diminished the significance of emissions from
13 fossil-fuel production and relied on uncertainty regarding the end use of extracted
14 fuels to sidestep any meaningful significance analysis. Moreover, BLM’s comparison
15 of the project’s estimated emissions to total California state-wide emissions as a
16 shortcut for significance was also inconsistent with the Monument Plan, which
17 requires BLM to manage the Monument’s resources to “*minimize* the contribution to
18 global climate change” and to evaluate the contribution of projects within the
19 Monument to climate change. *Id.* at 30; Monument Plan, at II-34 (Objective AIR-
20 2(P), Action AIR-2(I*)) (emphasis added).

21 48. BLM’s revised 2020 EA also provided additional information regarding
22 potential impacts to species. However, in the 2020 EA, BLM dismissed impacts to
23 habitat, including habitat fragmentation, from the project’s operation and concluded
24 that “[t]he above ground pipeline proposed does not fragment habitat—it does not
25 prevent immigration and or emigration of concerned species. And only temporarily
26 disturbs existing habitat when installed.” 2020 EA, at 32 (emphasis added). This
27 conclusion was contrary to BLM’s statement in the 2012 EA that such a pipeline

1 “does have the potential to fragment habitat.” 2012 EA, at 17 (emphasis added).
2 BLM did not explain its change in position. Nor is a new above-ground pipeline a
3 temporary disturbance; it is a long-term impact that will fragment habitat until such
4 time as it is removed, and the area restored to its natural condition. However, in its
5 analysis of Alternative 3 which required a buried pipeline, BLM acknowledged that
6 the alternative would reduce potential long-term effects to species “since a buried
7 flowline would be less likely to fragment habitat.” 2020 EA, at 39. BLM declined to
8 adopt Alternative 3, which would have reduced these impacts by requiring the new
9 pipeline to be buried along an existing road. Moreover, Alternative 3 more closely
10 aligned with the Monument Plan’s directive to manage leases and design roads, well
11 pads, and facilities to minimize habitat fragmentation. Monument Plan, II-73 to II-74
12 (Objective MNL-4(I*), Action MNL-8(I*)).

13 49. The revised 2020 EA did not provide any additional information or
14 analysis of visual resource impacts or any additional alternatives analysis despite
15 inadequacies pointed out in Plaintiffs’ comments and SDR request.

16 50. Another example of BLM’s failure to timely ensure abandonment and
17 restoration of idle wells is RRU 21-25 which was also identified in the BLM’s 2013
18 letter listing 12 wells that in the Russell Ranch Oil Field that have been idle for 25+
19 years. Well RRU 21-25 was initially drilled in 1949 but has never produced oil. In
20 1953 it was converted to water injection and that was shut-in by 1963. The 2013 BLM
21 letter requests that the operator indicate by April 2014 whether it will return the well
22 to production, or plug and abandon and explains that sundry notice for “notice of
23 intent to abandon” would need to be filed by April 1, 2014, with all work completed
24 within one year of approval. In response, in 2013 E&B stated to BLM: “There is
25 productive behind pipe potential above the current perforated interval. Perforate the
26 well and return to production. If the well is uneconomic to produce, abandon the well.
27 RTP [Return to production] in 2014.” In 2014, there was an attempted reactivation

1 and return to production pursuant to agreement with BLM but significant damage to
2 well was encountered. In 2015, the well was still idle although additional work
3 performed. In 2018, BLM announced an effort to prepare EA for “One Russell Ranch
4 Abandonment RRU 21-25.” However, in 2019, BLM indicated that the abandonment
5 project was withdrawn. As of 2020, the current well status for RRU 21-25 remains
6 “Idle”.

7 51. Of the twelve long-term idle wells in the Carrizo Plain National
8 Monument identified by BLM in its September 2013 letter to E&B, 10 of the wells
9 remain “Idle” with no indication of when the wells will be returned to production or
10 plugged and abandoned. Eight of those 10 wells have been idle for over forty years,
11 and a ninth has been idle for 38 years.

12 **FIRST CLAIM FOR RELIEF**

13 **(Violations of FLPMA, Monument Plan, and APA in Adopting New Decision** 14 **Record Approving APD and Pipeline)**

15 52. Plaintiffs re-allege, as if fully set forth herein, each and every allegation
16 contained in the preceding paragraphs.

17 53. FLPMA requires that all of BLM’s management decisions involving the
18 Monument’s lands and resources conform with the Monument Plan.

19 54. BLM’s approval of the APD and pipeline violates the Monument Plan in
20 myriad ways including, but not limited to, the following:

21 a. BLM failed to manage existing leases to minimize habitat
22 fragmentation and impacts to habitat, visual, and other resources by dismissing
23 Alternative 3 in the 2020 EA, which would have required the new pipeline to be
24 buried along an existing road.

25 b. BLM failed to adequately evaluate the proposed action’s
26 contribution to climate change and the related impacts on Monument resources, and
27 to mitigate or otherwise minimize those contributions.

1 c. BLM’s approval of the APD and pipeline was directly contrary to
2 its prior approval of the abandonment and reclamation project to restore the very
3 same well pad and BLM failed to provide an explanation for its change in position.

4 55. For each of the above reasons, and others, BLM’s approval of the APD
5 and pipeline is arbitrary, capricious, and contrary to law under FLMPA, its
6 implementing regulations, and the APA, and is subject to judicial review under the
7 APA. 5 U.S.C. §§ 701-706, 706(2).

8 **SECOND CLAIM FOR RELIEF**

9 **(Violations of NEPA and APA in Adopting New Decision Record Approving**
10 **APD and Pipeline; Preparation of an Unlawful EA and FONSI)**

11 56. Plaintiffs re-allege, as if fully set forth herein, each and every allegation
12 contained in the preceding paragraphs.

13 57. NEPA requires BLM to consider an adequate range of alternatives to the
14 proposed action as part of its environmental analysis. 42 U.S.C. § 4332(2)(C)(iii). In
15 the 2020 EA, BLM considered only three alternatives: (i) a no-action alternative, (ii)
16 the proposed action, and (iii) an alternative that was similar to the proposed action, but
17 required the existing oil-production flowline to be buried in the existing roadway if it
18 did not pass hydrostatic testing. 2020 EA, at 7-8. The EA, however, failed to
19 consider any additional alternatives, including lease termination of this long-idle lease
20 as anticipated in the Monument Plan, and did not provide any explanation regarding
21 why it declined to consider such additional alternatives. BLM’s failure to evaluate an
22 adequate range of alternatives violated NEPA and was arbitrary, capricious, an abuse
23 of discretion, and not in accordance with law in violation of 5 U.S.C. § 706(2)(A).

24 58. Under NEPA, BLM must take a “hard look” at the proposed action’s
25 consequences, environmental impacts, and adverse effects. 42 U.S.C. § 4332(2)(C),
26 (E); 40 C.F.R. § 1508.9. BLM failed to take a hard look at the proposed action’s
27 impacts on the Monument’s visual and aesthetic resources. BLM arbitrarily assumed

1 in the 2020 EA that the project “would be visible for a few seconds at nearly a 90
2 degree angle from [Highway] 166,” and that the project “would not be visible from
3 either the Caliente Mountain Rd . . . or from the Caliente Mountain Wilderness Study
4 Area” and, on that basis, concluded that the addition of one new well in the Russell
5 Ranch Oil Field “would not be expected to result in impacts to visual resources.”
6 2020 EA, at 25-26, 70. Plaintiffs prepared and provided to the State Director a 3-D
7 visual GIS analysis and a map, which illustrated that, contrary to BLM’s conclusion,
8 the project would be visible from the following areas: (i) 379.80 feet along the
9 Caliente Ridge Trail, (ii) 648.94 acres in the Caliente Mountain Wilderness Study
10 Area, (iii) 757.31 acres in the Monument, (iv) 7048.64 acres in the Los Padres
11 National Forest, and (v) 1.69 miles along Highway 166. BLM’s failure to consider
12 these additional observation points and to identify and analyze mitigation alternatives
13 to minimize the project’s visual impacts violated NEPA, and was arbitrary, capricious,
14 an abuse of discretion, and not in accordance with law in violation of 5 U.S.C. §
15 706(2)(A).

16 59. BLM failed to take a hard look at the proposed action’s impacts on rare
17 plants and threatened, endangered, and sensitive species and their habitats, including
18 impacts to the San Joaquin kit fox, the California condor, the blunt-nosed leopard
19 lizard, the giant kangaroo rat, the San Joaquin antelope squirrel, the longhorn fairy
20 shrimp, and the vernal pool fairy shrimp, among others. Specifically, BLM failed to
21 take a hard look at impacts to species and their habitats resulting from oil spills,
22 microtrash, and other attractive nuisances created by oil-and-gas operations.

23 60. BLM failed to take a hard look at the air-quality and climate-change
24 impacts of oil-and-gas extraction, including from direct and indirect GHG emissions.
25 BLM failed to analyze the cumulative impacts of the project’s GHG emissions,
26 despite available methods of doing so, and arbitrarily concluded that its analysis of
27 indirect GHG emissions was a “proxy for assessing potential for climate change

1 effects and climate related cumulative impacts.” 2020 EA at 30. BLM relied on
2 vague generalizations to minimize and dismiss the significance of the project’s GHG
3 contributions by equating the proposed project’s annual direct and indirect emissions
4 with “operating 13 semi-trucks 5 days a week for a year.” *Id.* BLM should have
5 considered the significance of the project’s impacts on climate change, including
6 GHG emissions generated by the project and by the addition of more fossil fuels into
7 the economy, in the context of the Monument Plan as well as the need to reduce GHG
8 emissions to meet California’s climate goals, but did not.

9 61. For each of the above reasons, BLM’s adoption of an inadequate EA and
10 FONSI to support its approval of the APD and pipeline is arbitrary, capricious, and
11 contrary to law under NEPA, its implementing regulations, and the APA, and is
12 subject to judicial review under the APA. 5 U.S.C. §§ 701-706, 706(2).

13 **THIRD CLAIM FOR RELIEF**

14 **(Violation of NEPA and APA; Failure to Prepare an EIS)**

15 62. Plaintiffs re-allege, as if fully set forth herein, each and every allegation
16 contained in the preceding paragraphs.

17 63. BLM violated NEPA in approving the APD and pipeline without
18 preparing an EIS. NEPA requires BLM to prepare an EIS for all “major federal
19 actions significantly affecting the quality of the human environment.” 42 U.S.C. §
20 4332(2)(C); 40 C.F.R. § 1501.4. BLM’s Decision Record approving the APD and
21 pipeline is a major federal action significantly affecting the quality of the human
22 environment. BLM’s conclusion that preparation of an EIS was not necessary before
23 approving the proposed action was arbitrary, capricious, and contrary to law.

24 64. NEPA’s implementing regulations list ten factors that BLM must
25 consider in determining the significance of a proposed action’s environmental effects.
26 40 C.F.R. § 1508.27. Several factors requiring the preparation of an EIS are triggered
27 by BLM’s APD and pipeline approval. Among others, the proposed action affects the

1 Monument’s “[u]nique characteristics . . . such as proximity to historical or cultural
2 resources” and “ecologically critical areas,” and is “highly controversial” as
3 established in Plaintiffs’ comment letters throughout the permitting process. *Id.* §
4 1508.27(b)(3), (4). In addition, BLM’s approval of the first new APD and pipeline
5 since the Monument was designated “may establish a precedent for future actions with
6 significant effects” as other parties seek permits to drill on existing leases within the
7 Monument, and would thereby exacerbate cumulative impacts on the environment.
8 *Id.* § 1508.27(b)(6), (7). Finally, the proposed action may have adverse effects on
9 endangered or threatened species and their habitat, and it threatens compliance with
10 the Endangered Species Act. *Id.* § 1508.27(b)(9), (10). The presence of any one of
11 these factors renders BLM’s decision not to prepare an EIS arbitrary, capricious, and
12 contrary to law.

13 65. For each of the above reasons, BLM’s approval of the APD and pipeline
14 without preparing an EIS is arbitrary, capricious, and contrary to law under NEPA, its
15 implementing regulations, and the APA, and is subject to judicial review under the
16 APA. 5 U.S.C. §§ 701-706, 706(2).

17 **FOURTH CLAIM FOR RELIEF**

18 **(Violations of FLPMA, Monument Plan, and APA; Failure to Ensure Idle Wells** 19 **Are Properly Plugged, Abandoned, and Reclaimed)**

20 66. Plaintiffs re-allege, as if fully set forth herein, each and every allegation
21 contained in the preceding paragraphs.

22 67. FLPMA requires that BLM’s management decisions conform with the
23 Monument’s resource management plan. BLM violated the Monument Plan by
24 failing to ensure timely plugging, abandonment, and reclamation of E&B’s 12 idle
25 wells as the Monument Plan requires. *See* Monument Plan, at II-73 to II-75 (Actions
26 MNL-3(S), MNL-6(I*), MNL-10(I*), MNL 20(S)).
27

1 E. Find and declare that BLM has violated the APA and the Monument Plan
2 by failing to ensure that idle wells on the Monument, including but not limited to
3 eleven (11) of the twelve (12) wells identified by BLM in 2013, are timely abandoned
4 and reclaimed and idle leases on the Monument are terminated;

5 F. Award plaintiffs their costs of litigation, including reasonable attorneys'
6 fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

7 G. Grant plaintiffs such additional relief as the Court may deem proper.

8 Respectfully submitted,

9
10 Dated: December 15, 2020

/s/ Lisa T. Belenky

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