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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

U.S. BUREAU OF LAND MANAGEMENT, et al.

Defendants.

SIERRA CLUB, et al.,

Plaintiffs,

v.

RYAN ZINKE, in his official capacity as Secretary of the Interior, et al.

Defendants.

Case No. 3:17-cv-07186-WHO

Related to No. 3:17-cv-07187-WHO

DEFENDANTS' REPLY IN SUPPORT OF MOTION TO TRANSFER THESE ACTIONS TO THE U.S. DISTRICT COURT FOR THE DISTRICT OF WYOMING

Date: February 14, 2018
Time: 2:00 pm
Judge: Hon. William H. Orrick

Courtroom 2, 17th Floor
450 Golden Gate Ave., San Francisco, CA

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INTRODUCTION

Plaintiffs have argued in response to Federal Defendants' transfer motion that the District of Wyoming's familiarity with the Waste Prevention, Production Subject to Royalties, and Resource Conservation Rule (hereinafter the "2016 Rule") would be of no use in the review of BLM's suspension of certain provisions of that same rule. To boil it down, Plaintiffs claim that the rule being suspended is irrelevant to the suspension. This argument defies commonsense and flies in the face of the administrative record, which includes the 2016 Rule and its supporting documents. BLM could not decide whether to suspend the 2016 Rule without considering the 2016 Rule, and, by extension, this Court surely cannot review BLM's reasons for the suspension without looking at the 2016 Rule.

Where there is already a court familiar with the issues in this case that is currently presiding over "inextricably intertwined" litigation involving the exact same parties, judicial economy and the interests of justice far outweigh any deference owed to Plaintiffs' choice of forum. This is true despite the fact that the State of California is a plaintiff to this lawsuit. California's interest in litigating in its home forum does not justify wasting court and party resources on duplicative litigation. This is especially true here where the majority of plaintiffs have little or no connection to this district, sovereign states other than California are also involved in these cases (and in the Wyoming litigation), and there is comparatively limited affected oil and gas development in this district.

ARGUMENT

I. The Parties Agree That These Cases Could Have Been Brought in the District of Wyoming

Plaintiffs agree that these actions satisfy the first prong of Section 1404(a)'s test for transfer because they could have been brought in the District of Wyoming in the first instance. *See* Pls.' Opp'n to Defs.' & Proposed Intervenors' Mots. to Transfer 5, *California v. BLM*, No. 17-cv-7186 (ECF No. 78) ("Cal. Opp."); Conservation & Tribal Citizen Grps.' Opp'n to Mots. to Transfer Venue 3, *Sierra Club v. Zinke*, No. 17-cv-07187 (ECF No. 72) ("Sierra Club Opp.").

Thus, the question before this Court is whether transfer is appropriate in light of the remaining Section 1404(a) factors.

II. Judicial Economy Strongly Supports Transfer to the District of Wyoming

Plaintiffs have tried hard to distance the agency action at issue in these two cases from the litigation challenging the 2016 Rule in Wyoming. But the facts speak for themselves. The Suspension Rule suspends provisions of the 2016 Rule. BLM's reasons for promulgating the Suspension Rule are based on its concerns with the 2016 Rule, some of which have been raised in the Wyoming litigation and specifically flagged by the Wyoming court in its prior orders. *See Wyoming v. BLM*, Nos. 2:16-cv-0285-SWS, 2-16-cv-0280-SWS, 2017 WL 161428, at *8, *10 (D. Wyo. Jan. 16, 2017). For example, BLM determined in the Suspension Rule that the methodology that it used to calculate the social cost of methane for the 2016 Rule overestimates the benefits of the 2016 Rule. 82 Fed. Reg. 58,050, 58,051 (Dec. 8, 2017). BLM is also concerned that the 2016 Rule may impose substantial costs on small operators and operators of marginal wells, and that requiring operators to continue to comply with the 2016 Rule while it is being reconsidered could result in an unnecessary expenditure of $110 million. *Id.* at 58,051, 58,056.

Plaintiffs claim that this Court could determine whether these explanations and concerns are a proper basis for the Suspension Rule without ever looking at the 2016 Rule itself. This absurd assertion ignores that the 2016 Rule and its supporting documents are part of the administrative record for the Suspension Rule, and the 2016 Rule is what the Suspension Rule is suspending. *See* VFD_002671–2752 (2016 Rule); VFD_002504–2670 (Regulatory Impact Analysis ("RIA") for 2016 Rule); VFD_002416–2503 (Environmental Assessment for 2016 Rule). It also ignores that Plaintiffs themselves rely on comparisons between the Suspension Rule and the 2016 Rule to support their arguments, and have even gone as far as calling the Suspension Rule an "amendment" to the 2016 Rule. *See, e.g.*, Compl. ¶ 58, No. 17-cv-7186 (ECF No. 1) (accusing BLM of failing to explain the suspension "based on the same factual record that was before the agency" for the 2016 Rule); Compl. ¶ 126, No. 17-cv-7187 (ECF No. 1) (claiming that BLM's statements regarding the suspension "conflict[] with its prior

conclusions and evidence in the record"); Conservation & Tribal Citizen Grps.' Notice of Mot. & Mot. for Prelim. Inj. 7-8, No. 17-cv-07187 (ECF No. 4) (arguing that the Suspension Rule "directly amends" the 2016 Rule), 24 (citing 2016 Rule to support alleged irreparable harms); Pls.' Notice of Mot. & Mot. for Prelim. Inj. 15, No. 17-cv-07186 (ECF No. 3) (attempting to rebut 2017 RIA for Suspension Rule with citations to 2016 RIA and 2016 Rule). And it asks this Court to do the impossible: determine whether BLM's reasons for suspending certain provisions of the 2016 Rule are reasonable under the Administrative Procedure Act ("APA") without ever looking at the provisions being suspended.

This Court has routinely recognized that in situations such as this, where another court is already familiar with the underlying issues, judicial economy can be "dispositive" of a transfer motion.[1] *See, e.g., Maydak v. GTE Corp.*, No. C 90-0737 MJJ, 1999 WL 252650, at *5 (N.D. Cal. Apr. 22, 1999) ("The Court deems the factors of judicial economy and comity to be dispositive of defendants' motion."); *Alere Med., Inc. v. Health Hero Network, Inc.*, No. C 07-05054 CRB, 2007 WL 4351019, at *1 (N.D. Cal. Dec. 12, 2007) ("Consideration of the interest of justice, which includes judicial economy, may be determinative to a particular transfer motion, even if the convenience of the parties and witnesses might call for a different result." (quoting *Regents of the Univ. of Cal. v. Eli Lilly & Co.*, 119 F.3d 1559, 1565 (Fed. Cir. 1997)); *Wood v.*

[1] Plaintiffs claim that "[c]ontrary to the Secretary's assertion, judicial economy does not predominate over the other [Section 1404(a)] factors." Sierra Club Opp. 6–7. The cases they cite do not stand for this proposition. In *Finjan, Inc. v. Sophos, Inc.*, No. 14-cv-01197-WHO 2014 WL 2854490, at *6–7 (N.D. Cal. June 20, 2014), the court found judicial economy not "determinative" in that specific case because, there, the convenience factors weighed against transfer, the patents involved in the lawsuits did not substantially overlap, and the related litigation in the transferee court was closed. In *In re EMC Corp.*, 501 F. App'x 973, 976 (Fed. Cir. 2013), the Federal Circuit found that considerations of judicial economy should not "dominate the transfer inquiry" in the context of multidistrict litigation because "the MultiDistrict Litigation Procedures exist to effectuate this sort of efficiency." And in *Meijer, Inc. v. Abbott Laboratories*, 544 F. Supp. 2d 995, 999 (N.D. Cal. 2008), the court said, in the context of the standard of review for a transfer motion, that no single Section 1404(a) factor is dispositive. This statement stands for the unremarkable and uncontested point that the court must consider all of the Section 1404(a) factors. It does not follow, however, that the court cannot find that one factor significantly outweighs all of the others, making that factor determinative of the court's inquiry.

Best Buy Co., No. 11-1877 SC, 2011 WL 3740812, at *1 (N.D. Cal. Aug. 25, 2011) ("The interest of justice alone can be decisive even if witness and party convenience weigh against transfer.").

Here, there is no question that judicial economy is best served by transfer. Not only does the Wyoming court know the ins and outs of the 2016 Rule; that court has also expressly recognized that the litigation before it depends, at least in part, on the outcome of these cases. *See* Defs.' Mot. to Transfer Actions to U.S. Dist. Court for Dist. of Wyo., Ex. B at 4 (ECF No. 50-1) ("Defs.' Transfer Mot."). Plaintiffs try hard to downplay this link, but a ruling on the Suspension Rule will affect the Wyoming litigation. The Wyoming court would have to decide whether to lift the stay currently in place if the suspended provisions of the 2016 Rule were to come back into effect. *See id.* And this Court's specific findings regarding the Suspension Rule could well color the Wyoming court's consideration of the 2016 Rule. For example, if this Court were to find that BLM's new methodology for calculating the social cost of methane for the Suspension Rule is an acceptable change from the methodology used to calculate the benefits of the 2016 Rule, that finding would certainly be relevant to the Wyoming court's consideration of BLM's methodology for the 2016 Rule. A finding by this Court that BLM has statutory authority to promulgate the Suspension Rule flowing from specific provisions of the Mineral Leasing Act, Federal Oil and Gas Royalty Management Act, and Indian Mineral Leasing Act would be significant to the Wyoming court's consideration of BLM's statutory authority for the 2016 Rule under those same statutes. This Court's evaluation of BLM's concerns regarding the 2016 Rule's ability to survive judicial review in Wyoming would require this Court to evaluate the Wyoming court's preliminary injunction order and consider its future decision on the merits. Moreover, any decision by this Court regarding whether vacating the Suspension Rule and allowing the suspended provisions of the 2016 Rule to come into effect would prevent Plaintiffs' alleged irreparable harms would require this Court to take a position on the likely effects of provisions of the 2016 Rule, all of which are at issue in the Wyoming litigation.

Plaintiffs set forth a few different reasons why transfer would not aid judicial economy. None are persuasive. First, they claim that transfer will delay resolution of their preliminary

injunction motions.[2] Sierra Club Opp. 7. But if Plaintiffs were truly concerned with achieving the most expeditious possible resolution of their claims, they would have filed these lawsuits in Wyoming, where the court is already familiar with the issues. Plaintiffs also suggest that the fact that they would have to refile their motions for injunctive relief counsels against transfer. *Id.* at 8. But Plaintiffs cannot credibly argue that the administrative burden of refiling motions that have already been written should be dispositive in determining where this case should proceed. In any event, for all of the reasons stated in Federal Defendants' response to Plaintiffs' preliminary injunction motions, Plaintiffs will not suffer imminent or irreparable harm in the limited time it would take to transfer these cases to Wyoming, as the suspended provisions of the 2016 Rule could not take effect immediately, even if the Suspension Rule were vacated. Defs.' Opp'n to Pls.' Mots. for Prelim. Inj. 11-14 (ECF No. 67, No. 17-cv-7186; ECF No. 59, No. 17-cv-7187).

Second, Plaintiffs claim that these cases resemble the Section 705 cases, *California v. BLM*, where Magistrate Judge Laporte denied transfer to Wyoming. Sierra Club Opp. 8. But the issue before Judge Laporte involved BLM's statutory authority to postpone an action's effective date under 5 U.S.C. § 705, a purely legal issue that Judge Laporte found she could decide without an administrative record.[3] *California v. BLM*, Nos. 17-cv-3804-EDL, 17-cv-3885-EDL, 2017 WL 4416409, at *5 (N.D. Cal. Oct. 4, 2017). Here, in contrast, Plaintiffs are asking this Court to evaluate BLM's reasons for the Suspension Rule under 5 U.S.C. § 706, which will

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[2] Plaintiffs' complaint that Federal Defendants took "[t]hree weeks" to file their transfer motion from the date that Plaintiffs filed their preliminary injunction motions, Sierra Club Opp. 1, ignores that Plaintiffs timed their filings with the beginning of the winter holiday season, filing on December 19, 2017.

[3] Plaintiffs imply that Federal Defendants' position in this case—that the Section 705 cases involved a question of pure law—is inconsistent with the position they took in the Section 705 cases, where they moved to transfer based on the relationship between those cases and the Wyoming litigation. *See* Sierra Club Opp. 9 n.6. That is, they fault Federal Defendants for acknowledging and acting in accordance with Judge Laporte's transfer decision. Though Federal Defendants disagree with Judge Laporte's denial of their transfer motion in the Section 705 cases, they nevertheless recognize that her decision was based on the fact that the Section 705 cases "concern[] a completely distinct, purely legal question about Defendants' authority to postpone the compliance dates under Section 705." Defs.' Transfer Mot., Ex. E at 5.

require the Court to review BLM's decision in light of the facts contained in the administrative record, including the 2016 Rule. *See* 5 U.S.C. § 706 ("[T]he court shall review the whole record or those parts of it cited by a party[.]"); *Fla. Power & Light v. Lorion*, 470 U.S. 729, 743–44 (1985) ("The task of the reviewing court is to apply the appropriate APA standard of review, 5 U.S.C. § 706, to the agency decision based on the record the agency presents to the reviewing court."). Thus, unlike in the Section 705 cases, there is simply no way for this Court to address Plaintiffs' APA claims without considering the 2016 Rule.

Third, Plaintiffs argue that "it is not at all uncommon for one court to adjudicate the validity of a regulation and a different court to adjudicate the validity of a rollback or revision of that regulation." Sierra Club Opp. 9. But the cases they cite in support fall flat. In *Board of County Commissioners of County of Park v. U.S. Department of the Interior*, 2010 WL 6429153, at *8 (D. Wyo. Sept. 17, 2010), the court denied a motion to transfer to the District Court for the District of Columbia, which had heard challenges to past iterations of the rule at issue. But that case has no relevance here because there was no currently pending related action before the D.C. district court. *Id.* at *8. Indeed, the D.C. court had already dismissed the case before it as moot, and the Wyoming litigation involved different parties than the D.C. case. *Id.* Plaintiffs also cite *California Department of Health Services v. Babbitt*, 46 F. Supp. 2d 13 (D.D.C. 1999), but that case did not even involve a transfer motion. There, the prior litigation in California had been closed for four years and no party moved for transfer of the case to the California court.

Bay.org v. Zinke, Nos. 17-cv-03739-YGR, 17-cv-3742-YGR, 2017 WL 3727467 (N.D. Cal. Aug. 30, 2017), provides a much closer analogue to the situation here than any of the cases cited by Plaintiffs. There, plaintiffs filed a lawsuit in the Northern District of California challenging the U.S. Fish & Wildlife Service's ("FWS") issuance of a biological opinion for the California WaterFix Project. *Id.* at *3. Defendants moved to transfer the case to the Eastern District of California, where a related matter had been pending for years. The related case involved challenges to FWS's biological opinions for two other water projects, the Central Valley Project ("CVP") and the State Water Project ("SWP"). *Id.* at *2. The court granted the transfer motion because, although "the WaterFix Project involved in the instant cases is distinct

from the CVP and SWP projects . . . defendants have demonstrated—and the complaints here have acknowledged—that a relationship exists between the biological opinions at issue here and the CVP and SWP projects currently before Judge O'Neill in the Eastern District of California." *Id.* at *5. Thus, even though the cases challenged different agency actions—different biological opinions for different projects—the court in *Bay.org* recognized that "[l]ogically, given the overlap in the issues, inconsistent rulings may result from having the cases not pending before the same judicial officer" and Judge O'Neill's "factual and technical knowledge regarding the water systems . . . would result in significant gains in judicial efficiency." *Id.* The same is true here. There is an undeniable relationship between the Suspension Rule and the rule it suspended, and the Wyoming court's familiarity with the 2016 Rule could only aid in the efficient resolution of Plaintiffs' claims.

Finally, Plaintiffs contend that allowing transfer here would mean that once an agency action is challenged in one forum, all subsequent related actions would also have to be challenged in that same forum. But the cases they cite—*Board of County Commissioners of County of Park* and *California Health Services*—highlight that the situation here, where there is ongoing pending litigation challenging the underlying agency action in another forum, is fairly unusual. So unusual, in fact, that Plaintiffs could not find a case on all fours with this one to support their claimed slippery slope. Federal Defendants agree that it is not uncommon or inappropriate for a different court to consider the validity of a later, related agency action. But what makes transfer appropriate here is that the related litigation is ongoing, it involves the rule being acted upon by the agency action in this case, review of the issues in these cases will necessitate review of the 2016 Rule, and this Court's decision could well affect the trajectory of the Wyoming cases.

In short, the question for this court is not whether the issues raised in these two actions are identical to those in the Wyoming litigation. Rather, the question is whether they are related enough so as to generate the possibility of inconsistent findings and make it a waste of this Court's time and resources to get up to speed on the 2016 Rule. Where BLM's reasons for the

suspension turn on the weaknesses of the 2016 Rule and Plaintiffs themselves rely on the 2016 Rule to support their allegations against the Suspension Rule, the answer is clearly "yes."

III. Plaintiffs' Choice of Forum is Not Entitled to Deference Because this Forum's Connection to this Suit is Relatively Insignificant

Plaintiffs argue that their choice of forum is entitled to substantial deference because it is their home forum. But of the nineteen Plaintiffs in this consolidated action, only the State of California and the Sierra Club have headquarters in this State. *See* Ex. A (Chart of Plaintiffs' Headquarters). Plaintiffs' contention that this district is their "home forum" is therefore belied by the fact that almost all of the Plaintiffs are headquartered somewhere else. *Yung Kim v. Volkswagen Grp. of Am., Inc.*, Nos. C 12-1156 CW, C 12-2177 CW, 2013 WL 1283399, at *2–3 (N.D. Cal. Mar. 26, 2013) (in class action, granting motion to transfer where four out of five named plaintiffs did not reside in the Northern District and because case had been related to another case being transferred). The majority of the Plaintiff environmental organizations lack even an office in California, and, of the environmental organizations' attorneys who have thus far noticed an appearance, only one of the sixteen is located in California. And while Plaintiffs state that their members reside here, several of these Plaintiff groups have a nationwide, and even global, presence. Plaintiffs cannot credibly argue that this district is the home forum for the large majority of their members.[4] *See Bay.org*, 2017 WL 3727467, at *4 (finding plaintiff state-

[4] Plaintiffs have millions of members across the nation and the world, rendering their presence in this district relatively small. Sierra Club, the Natural Resources Defense Council ("NRDC"), the Environmental Defense Fund ("EDF"), and the National Wildlife Federation ("NWF") alone claim millions of members worldwide. *See* Sierra Club: https://www.sierraclub.org/about ("Sierra Club is now the nation's largest and most influential grassroots environmental organization -- with three million members and supporters" and 64 chapters nationwide); NRDC: https://www.nrdc.org/about ("We combine the power of more than three million members and online activists with the expertise of some 500 scientists, lawyers, and policy advocates across the globe to ensure the rights of all people to the air, the water, and the wild."); EDF: https://www.edf.org/about ("We're one of the world's largest environmental organizations, with more than two million members and a staff of a 700 scientists, economists, policy experts, and other professionals around the world."); NWF: https://www.nwf.org/About-Us/Regional-Centers-and-Affiliates (NWF has headquarters in Reston, Virginia, a National Advocacy Center in Washington, D.C., and seven regional centers, none of which are located in California).

wide and national environmental organizations, including NRDC, cannot demonstrate that litigating in alternative forum would cause "substantial inconvenience").

"[T]he level of deference to plaintiff's choice of forum is not a black-and-white proposition." *Earth Island Inst. v. Quinn*, 56 F. Supp. 3d 1110, 1119 (N.D. Cal. 2014). Controversies should be decided in a forum that has a significant connection to the issues being litigated. *See id.* at 1118-19 (noting controversies should be decided where the effects are felt) (citing *Ctr. for Biological Diversity v. Kempthorne*, No. 07–0894 EDL, 2007 WL 2023515, at *5 (N.D. Cal. July 12, 2007)). Wyoming is such a forum. The Northern District of California is not. The federal and Indian acreage under lease for oil and gas development in Wyoming is over 44 times greater than in the entire State of California: in the 2016 fiscal year, a total of 198,820 acres were under lease in California, while 8,794,158 acres were under lease in Wyoming.[5] Even in the State of California itself, the contacts of ***this forum*** to federal and Indian oil and gas development are comparatively minor. Only 11% of the acres under lease in California are located in this District. Decl. of Jerome E. Perez, Ex. B. In comparison, 80% of the acres under lease in California are located in the Eastern District alone. *Id.* Plaintiffs elected to bring suit in a forum with relatively modest connections to this suit; they cannot now credibly claim that their choice of forum should control.

Plaintiffs further suggest that this Court must afford the State of California, as a state sovereign, special solicitude in its choice of forum. But the fact that the State is one of the Plaintiffs to this litigation does not automatically mean that this is a proper forum. Rather, the focus is on the ordinary Section 1404(a) transfer factors. This point is made plain by *New Jersey v. U.S. Army Corps of Engineers*, Nos. 09-5591 (JAP), 09-5889 (JAP), 2010 WL 1704727, at *3–4 (D.N.J. Apr. 26, 2010), the primary case that Plaintiffs cite for the proposition that courts give additional consideration to states' choice of forum.[6] There, the district court held that New

[5] *See* https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics (Table 2: Acreage in Effect) (visited Jan. 30, 2018).

[6] Though the court in the Section 705 cases found that a plaintiff's choice of forum may be accorded substantial deference "especially . . . when the plaintiff is sovereign state," Defs.'

Jersey was the proper forum not because New Jersey was a state but because Plaintiffs' claims were specific to New Jersey and because the challenged events would take place in New Jersey. *See id.* at *2–4. For the reasons discussed above, the Northern District has very little connection with this suit, and the Section 1404(a) factors favor transfer to Wyoming.

Given the relatively small acreage under lease in this district, the connection of this forum to this suit is comparatively insignificant. The land and people most affected by the Suspension Rule do not reside in this district. Plaintiffs' choice of forum should therefore not control.

IV. Given the Pendency of Related Litigation, Wyoming is the Most Convenient Forum

The remaining convenience factors also weigh in favor of transfer. It is objectively not convenient to litigate related cases in two separate forums. When a related case is pending in another forum, "the pertinent question is not simply whether *this* action would be more conveniently litigated in [Wyoming] than California, but whether it would be more convenient to litigate the California and [Wyoming] actions separately or in a coordinated fashion." *Elecs. for Imaging, Inc. v. Tesseron, Ltd.*, No. C 07-05534 CRB, 2008 WL 276567, at *2 (N.D. Cal. Jan 29, 2008). Here, the Wyoming and California suits are interconnected and should be heard together, in Wyoming, where the court has already reviewed the 2016 Rule.

Moreover, there is no dispute that all but one of these nineteen Plaintiffs is participating in the Wyoming litigation. Given that they have chosen to voluntarily litigate there, Plaintiffs cannot credibly argue that Wyoming is a significantly less convenient forum for them than this district. And, as discussed above, Plaintiffs' headquarters and attorneys are located across the country. Among other locations, Plaintiffs have headquarters in Wyoming, Colorado, Arizona, New York, and Washington, D.C. *See* Ex. A. Only one of the sixteen attorneys for Plaintiffs is located in this district. To the extent that Plaintiffs complain of needing to secure pro hac vice status in Wyoming, there is presumably no need for sixteen attorneys to enter appearances in this

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Transfer Mot., Ex. E at 4, it relied only on *New Jersey v. U.S. Army Corps of Engineers* to support that point. As discussed, Federal Defendants believe this is a misreading of that case.

litigation given that only one or two counsel will actually appear before the court should there be oral argument.[7] And while Plaintiffs contend that transfer would merely "shift" the inconvenience, they have made no showing that this district is more convenient than Wyoming given that the State of California and the Sierra Club are the only organizations with headquarters here.[8] In fact, at least one Plaintiff has headquarters in Wyoming. *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986), does not help Plaintiffs' case against transfer. Although the Court counseled against shifting the inconvenience from one forum to another, it found that Montana was the proper forum because it is where the claim arose. *See id.* Here, the claims decidedly did not arise in this district.

Moreover, this district is significantly less convenient for Federal Defendants. The deadlines in this case affect the Wyoming litigation. *See supra* at 4. And Federal Defendants might be faced with defending the Suspension Rule in this Court and the 2016 Rule in Wyoming. Such an outcome would be a waste of judicial resources when one court could readily and efficiently entertain both actions. It would be far more convenient to litigate these actions "in a coordinated fashion" in the District of Wyoming. *Elecs. for Imaging, Inc.,* 2008 WL 276567, at *2.

Finally, Plaintiffs' argument that this Court should retain this case because this district resolves cases faster is not credible. The Wyoming court has deep familiarity with the issues presented in this litigation. *See supra* at 4. Given its extensive background with the 2016 Rule and its previous willingness to resolve that litigation on an expedited schedule, *see Wyoming*,

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[7] Plaintiffs filed fourteen motions for pro hac vice admission despite acknowledging in December 2017 that Federal Defendants were going to seek transfer. Pls.' Resp. to Defs.' Mot. to Enlarge Time 1–2 (ECF No. 21, No. 17-cv-7186); Conservation & Tribal Citizen Grps.' Opp'n to Mot. to Enlarge Time 2–3 (ECF No. 44, No. 17-cv-07187). Putting aside the fact that there is no justification for sixteen attorneys to enter appearances in this litigation, counsel could have stayed filing for pro hac vice admission until this court issued a ruling on venue.

[8] While the burden on the State of California may slightly increase if these cases were transferred to Wyoming, the burdens on the States of Wyoming and Montana to participate—both of which are plaintiffs in the Wyoming litigation who have not yet intervened in the Suspension Rule litigation—would decrease.

2017 WL 161428, at *12, there is no reason to think that it will not be willing to also resolve these cases with all due speed. Plaintiffs' arguments about delay pretend that transfer would be to a court that would have to start anew. This is clearly not the case. Rather, if the past is any guide, the Wyoming court would be poised to expeditiously resolve this suit.

CONCLUSION

Defendants respectfully request that the Court transfer these two actions to the U.S. District Court for the District of Wyoming where "inextricably intertwined" litigation is currently pending.

Respectfully submitted this 30th day of January, 2018.

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