

No. 18-36082

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KELSEY CASCADIA ROSE JULIANA, et al.,
Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Oregon (No. 6:15-cv-01517-AA)

EXCERPTS OF RECORD
Volume 3 (Pages 383-657)

JEFFREY BOSSERT CLARK
Assistant Attorney General

ERIC GRANT
Deputy Assistant Attorney General

ANDREW C. MERGEN
SOMMER H. ENGELS
ROBERT J. LUNDMAN
Attorneys
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7415
Washington, D.C. 20044
(202) 514-0943
eric.grant@usdoj.gov

Counsel for Defendants-Appellants

INDEX

Date	ECF	Document	Page
Volume 1			
10/15/2018	369	Opinion and Order resolving the government's motions for judgment on the pleadings and for summary judgment	1
11/10/2016	83	Opinion and Order denying motions to dismiss	63
Volume 2			
12/26/2018	8	Order of this Court granting petition for permission to appeal (No. 18-80176)	117
12/10/2018	2-1	Plaintiffs' opposition to petition for permission to appeal (No. 18-80176)	124
11/30/2018	1-1	Government's petition for permission to appeal (No. 18-80176)	156
11/21/2018	444	Order certifying case for interlocutory appeal	184
11/02/2018	416	Order of the Supreme Court in <i>In re United States</i> , No. 18A410 (Nov. 2, 2018)	190
8/01/2018	330-1	Order of the Supreme Court in <i>In re United States</i> , No. 18A65 (July 30, 2018)	193
7/12/2018	315	Government's reply in support of its motion for summary judgment	194
6/28/2018	274-1	Expert report of James E. Hansen (without exhibits)	244
6/28/2018	259-1	Expert report of Howard Frumkin	296
6/28/2018	255	Plaintiffs' opposition to motion for summary judgment	315

Date	ECF	Document	Page
Volume 3			
5/22/2018	207	Government's motion for summary judgment	383
5/09/2018	195	Government's motion for judgment on the pleadings	385
1/13/2017	98	Government's answer to first amended complaint	387
11/17/2015	27-2	Department of Energy Order 3041	457
11/17/2015	27-1	Government's memorandum regarding motion to dismiss	476
11/17/2015	27	Government's motion to dismiss	514
9/10/2015	7	Plaintiffs' first amended complaint	516
1/31/2019		District court docket sheet	616

JEFFREY H. WOOD
Acting Assistant Attorney General Environment &
Natural Resources Division

LISA LYNNE RUSSELL, Chief
GUILLERMO A. MONTERO, Assistant Chief
SEAN C. DUFFY (NY Bar No. 4103131)
MARISSA PIROPATO (MA Bar No. 651630)
CLARE BORONOW (admitted to MD bar)
FRANK J. SINGER (CA Bar No. 227459)
Trial Attorneys
Natural Resources Section
601 D Street NW Washington, DC 20004
(202) 305-0445
sean.c.duffy@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, *et al.*, Case No. 6:15-CV-01517-TC

Plaintiffs,

v.

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Defendants hereby move the Court for summary judgment on each of the four claims in Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief, ¶¶ 277-310, ECF No. 7 ("Am. Compl.") pursuant to Federal Rule of Civil Procedure 56. As set forth fully in the accompanying memorandum of law, there is no genuine dispute as to any material fact on each claim and Defendants are entitled to judgment as a matter of law. The parties have conferred and Plaintiffs oppose this motion. *See* LR 7-1(a).

Dated: May 22, 2018

Respectfully submitted,

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

/s/ Sean C. Duffy
LISA LYNNE RUSSELL
GUILLERMO A. MONTERO
SEAN C. DUFFY (NY Bar No. 4103131)
MARISSA PIROPATO (MA Bar No. 651630)
CLARE BORONOW (admitted to MD bar)
FRANK J. SINGER (CA Bar No. 227459)
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
601 D Street NW
Washington, DC 20004
Telephone: (202) 305-0445
Facsimile: (202) 305-0506
sean.c.duffy@usdoj.gov

Attorneys for Defendants

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

LISA LYNNE RUSSELL, Chief
GUILLERMO A. MONTERO, Assistant Chief
SEAN C. DUFFY (NY Bar No. 4103131)
MARISSA PIROPATO (MA Bar No. 651630)
CLARE BORONOW (admitted to MD bar)
Trial Attorneys
Natural Resources Section
601 D Street NW
Washington, DC 20004
(202) 305-0445 (Duffy)
(202) 305-0470 (Piropato)
sean.c.duffy@usdoj.gov
marissa.piropato@usdoj.gov

Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, et al., Case No. 6:15-cv-01517-TC

Plaintiffs,

v.

**DEFENDANTS' MOTION FOR
JUDGMENT ON THE PLEADINGS**

UNITED STATES OF AMERICA, et al.,

Defendants.

Defendants hereby move the Court for judgment on the pleadings as to Plaintiffs' First Amended Complaint for Declaratory and Injunctive Relief (ECF No. 7) with prejudice pursuant to Federal Rule of Civil Procedure 12(c). This Court lacks jurisdiction over Plaintiffs' claims against the President, and Plaintiffs fail to state valid claims against all other Defendants. The bases for this motion are more fully set forth in the accompanying Memorandum of Law. Per Local Rule 7-1(a), the parties have conferred and Plaintiffs oppose this motion.

Dated: May 9, 2018

Respectfully submitted,
JEFFREY H. WOOD
Acting Assistant Attorney General
Environment & Natural Resources Division

/s/ Clare Boronow
LISA LYNNE RUSSELL
GUILLERMO A. MONTERO
SEAN C. DUFFY (NY Bar No. 4103131)
MARISSA PIROPATO (MA Bar No. 651630)
CLARE BORONOW (admitted to MD bar)
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
601 D Street NW
Washington, DC 20004
Telephone: (202) 305-0445
Facsimile: (202) 305-0506
sean.c.duffy@usdoj.gov

Attorneys for Defendants

JOHN C. CRUDEN
Assistant Attorney General

SEAN C. DUFFY (NY Bar. No. 4103131)
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
601 D Street NW
Washington, DC 20004
Telephone: (202) 305-0445
Facsimile: (202) 305-0506
sean.c.duffy@usdoj.gov

Attorneys for Federal Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, et al.,
Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,
Federal Defendants.

Case No. 6:15-cv-01517-TC

**FEDERAL DEFENDANTS’
ANSWER TO FIRST AMENDED
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF
(ECF NO. 7)**

Pursuant to Federal Rule of Civil Procedure 8(b), the United States of America, *et al.* (“Federal Defendants”) by and through undersigned counsel, submits the following Answer to the claims and allegations in the “First Amended Complaint for Declaratory and Injunctive Relief” (“Complaint”) (ECF No. 7) filed by Kelsey Cascadia Rose Juliana, *et al.* (“Plaintiffs”).

The numbered paragraphs of this Answer correspond to the numbered paragraphs of Plaintiff’s Complaint.¹

“INTRODUCTION”

1. With respect to the first sentence, Federal Defendants admit that for over fifty years some officials and persons employed by the federal government have been aware of a growing body of scientific research concerning the effects of fossil fuel emissions on atmospheric concentrations of CO₂—including that increased concentrations of atmospheric CO₂ could cause measurable long-lasting changes to the global climate, resulting in an array of severe deleterious effects to human beings, which will worsen over time. The term “United States,” as used in the Complaint is vague ambiguous and Federal Defendants cannot attribute knowledge to it. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence, and on this basis deny them. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis deny them. Federal Defendants deny the allegation, in the third sentence, that it has continued a policy or practice of allowing the exploitation of fossil fuels. With respect to the fourth sentence, Federal Defendants admit the allegation and aver that

¹ The section headings and subheadings used in this Answer follow the headings and subheadings used in Plaintiffs’ Complaint and are included solely for the purpose of organizational convenience in matching the answers provided herein with the allegations in the Complaint. The headings are not part of Federal Defendants’ answer to the allegations.

the Department of Energy (“DOE”) approval of export of liquefied natural gas (“LNG”) from the proposed Jordan Cove terminal in Coos Bay to nations with which there is in effect a free trade agreement (“FTA”) requiring national treatment for trade in natural gas (“FTA Nations”) under Section 3(c) of the Natural Gas Act, and therefore did not include any environmental review or other public interest analysis by DOE. Section 3(c) states, in relevant part: “[T]he exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such ... exportation shall be granted without modification or delay.” 15 U.S.C. § 717b(c). In issuing DOE/FE Order No. 3041 to Jordan Cove on December 7, 2011, DOE complied with this statutory mandate: “The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.” (DOE/FE Order No. 3041 at 11). Further, on March 11, 2016, the Federal Energy Regulatory Commission (“FERC”)—which has authority over the siting, construction, and operation of LNG export facilities under NGA section 3—issued an order denying Jordan Cove Energy Project, L.P.’s (“Jordan Cove”) application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities. On December 9, 2016, FERC denied Jordan Cove’s request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the fifth, sixth, and seventh sentences, and on this basis deny them.

2. The allegations characterize a 1965 White House Report, “Restoring the Quality of Our Environment,” which speaks for itself and is the best evidence of its contents.

3. The allegations in the first and second sentences characterize a 1990 report by EPA entitled “Policy Options for Stabilizing Global Climate” and a 1991 assessment by the Congressional Office of Technology Assessment entitled “Changing by Degrees: Steps to Reduce Greenhouse Gases,” each of which speaks for itself and is the best evidence of its contents. With respect to the third sentence, Federal Defendants deny the allegations and aver that neither document constituted a “plan” that was intended to be “implemented” by Federal Defendants.

4. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the first sentence, and on this basis deny them. Federal Defendants deny the allegations in the second sentence and aver that there is no scientific consensus that 350 parts per million (“ppm”) is the maximum safe level of atmospheric CO₂ concentration that is necessary to restore a stable climate system.

5. Federal Defendants deny the allegations in the first and third sentences. With respect to the second sentence, the allegations are too vague for Federal Defendants to admit or deny. Federal Defendants aver that the Environmental Protection Agency (“EPA”) has assessed the effects of greenhouse-gas pollution, and has concluded that this pollution endangers the public health and welfare of current and future generations and thus requires Clean Air Act regulation. 74 Fed. Reg. 66,496 (Dec. 15, 2009); 81 Fed. Reg. 54,422 (Aug. 15, 2016). With respect to the allegations in the fourth sentence, Federal Defendants deny the allegations and aver that global atmospheric concentrations of CO₂, methane, and nitrous oxide are at unprecedentedly high levels compared to the past 800,000 years of historical data and pose risks to human health and welfare.

6. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and on this basis denies them. Federal Defendants aver that there has been a substantial body of scientific publications since 1965 regarding the harms caused by elevated atmospheric concentrations of greenhouse gases (“GHGs”), including from emissions related to fossil fuel combustion.

7. Federal Defendants admit that they permit, authorize, and subsidize fossil fuel extraction, development, consumption, and exportation. Federal Defendants admit that fossil fuel extraction, development, and consumption produce CO₂ emissions and that past emissions of CO₂ from such activities have increased the atmospheric concentration of CO₂. The remaining allegations in the first sentence are too vague for Federal Defendants to admit or deny. Federal Defendants aver that EPA has concluded under specific provisions of the Clean Air Act that, combined, emissions of six well-mixed GHGs are the primary and best understood drivers of current and projected climate change. 74 FR 66496 (section 202); 81 FR 54422 (section 231). The allegations in the second sentence constitute legal conclusions to which no response is required. Federal Defendants admit the allegations in the third sentence and aver that from 1850 to 2012, CO₂ emissions from the United States (including from land use) constituted more than one-quarter of cumulative global CO₂ emissions.

8. The allegations in the first sentence, and in particular the phrase “zone of danger,” are vague and ambiguous, and Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on those bases deny them. Federal Defendants aver that current and projected concentrations of six well-mixed GHGs, which include CO₂, constitute a threat to public health and welfare. The remaining allegations in the second, third, and fourth sentences are conclusions of law to which no response is required.

9. The allegations in the first and fourth sentences are conclusions of law to which no response is required. Federal Defendants deny the allegations in the second sentence and aver that the Jordan Cove LNG Terminal has not been constructed. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the third sentence, and on this basis deny them.

10. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the first, second, and third sentences, and on this basis deny them. With respect to the fourth sentence, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegation of “carbon overshoot” and on this basis deny it. Federal Defendants deny the remainder of the fourth sentence and aver that the consequences of climate change are already occurring and, in general, those consequences will become more severe with more fossil fuel emissions.

11. Federal Defendants deny the allegations in the first, second, and third sentences. With respect to the third sentence, Federal Defendants aver FERC denied Jordan Cove’s application to construct and operate the Jordan Cove LNG Export Terminal and thus no approved exports of LNG have occurred. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the fourth sentence, and on this basis deny them.

12. The allegations in the first sentence consist of Plaintiffs’ prayers for relief to which no response is required. To the extent a response is required, Federal Defendants deny that Plaintiffs are entitled to the relief requested. The allegations in the second sentence constitute legal conclusions to which no response is required.

“JURISDICTION AND VENUE”

13. The allegations constitute legal conclusions to which no response is required.

14. The allegations constitute legal conclusions to which no response is required.

15. The allegations constitute legal conclusions to which no response is required.

“PLAINTIFFS”

16. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations and on this basis deny them.

17. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second and third sentences and on this basis deny them. Federal Defendants deny the allegation in the first sentence that projected drought and lack of snow are caused by Federal Defendants.

18. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

19. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

20. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

21. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

22. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the first and third sentences, and on this basis deny them. Federal Defendants deny the allegations in the second sentence and aver that the Jordan Cove LNG Terminal has not been constructed and, at this time, Jordan Cove lacks authority from

FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

23. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

24. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations and on this basis deny them.

25. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them. Federal Defendants aver that FERC has denied the application to site, construct, and operate the proposed Jordan Cove LNG Export Terminal and the proposed Pacific Connector Natural Gas Pipeline. Therefore, at this time, Jordan Cove cannot export LNG pursuant to DOE/FE Order No. 3041.

26. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

27. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the first and second sentences, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate change is caused by Federal Defendants. Federal Defendants deny the allegations in the fourth sentence that ocean acidification, warming, and sea level rise are caused by Federal Defendants.

28. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate change is caused by Defendants.

29. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph and on this basis deny them. Federal

Defendants deny the allegation in the first sentence that climate change is caused by Federal Defendants.

30. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

31. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the seventh sentence that climate change is caused by Federal Defendants.

32. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the seventh sentence that climate destabilization is caused by Federal Defendants.

33. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegations in the eighth sentence that rising sea levels are caused by Federal Defendants, deny the allegation in the ninth sentence that ocean acidification is caused by Federal Defendants and the allegation in the tenth sentence that both rising sea level and ocean acidification are caused by Federal Defendants.

34. Federal Defendants deny the allegations in the third sentence and aver that the Pacific Connector Natural Gas Pipeline has not been constructed and, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041. Federal Defendants lack sufficient

knowledge or information to form a belief about the truth of the allegations in the first, second, and fourth sentences, and on this basis deny them.

35. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second and fourth sentence that climate change is caused by Federal Defendants.

36. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

37. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate change is caused by Federal Defendants.

38. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

39. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that warmer water temperatures, rising sea levels, and ocean acidification are caused by Federal Defendants.

40. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second sentence that climate change is caused by Federal Defendants.

41. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis denies them. Federal Defendants deny the allegation in the first and sixth sentence that climate change is caused by Federal Defendants.

42. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate change is caused by Federal Defendants.

43. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegations in the third sentence that warmer water temperatures, sea level rise, and ocean acidification are caused by Federal Defendants.

44. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them.

45. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate impacts such as increased temperatures and drought conditions are caused by Federal Defendants.

46. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate change is caused by Federal Defendants' actions.

47. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

48. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

49. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

50. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

51. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

52. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate change is caused by Federal Defendants.

53. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

54. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate change is caused by Federal Defendants.

55. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal

Defendants deny the allegation in the third sentence that climate change is caused by Federal Defendants.

56. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis denies them. Federal Defendants deny the allegation in the fifth sentence that increasing temperatures are caused by Federal Defendants.

57. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

58. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

59. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

60. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second sentence that increasing temperatures are caused by Federal Defendants.

61. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second sentence that increased temperatures, low water levels in lakes, and abnormal seasonal variations are caused by Federal Defendants. Federal defendants deny the allegation in the fourth sentence that increased surface and ocean temperatures, sea level rise, and ocean acidification are caused by Federal Defendants. Federal Defendants deny the allegation in the fifth sentence increased water temperature, drought, and

62. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the fourth sentence that a July 2015 heat wave was caused by the acts of Federal Defendants.

63. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them.

64. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate changed is caused by the acts of Federal Defendants.

65. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the fourth sentence that climate changed is caused by the acts of Federal Defendants.

66. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the sixth sentence that climate changed is caused by the acts of Federal Defendants.

67. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the fourth sentence that climate changed is caused by the acts of Federal Defendants and deny the allegation in the eighth sentences that drought conditions and forest fires are caused by the acts of Federal Defendants.

68. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them.

69. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate changed and ocean acidification are caused by Federal Defendants.

70. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that ocean acidification, sea-level rise, increased sea surface temperature, alteration in ocean circulation, and increased storm intensity are caused by the acts of Federal Defendants.

71. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

72. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them. Federal Defendants aver that White Plains New York, where Plaintiff resides, is at an elevation 213 feet above sea level.

73. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

74. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

75. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the fifth sentence that changing temperatures are caused by the

acts of Federal Defendants and deny the allegation in the seventh sentence that climate change is caused by Federal Defendants.

76. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

77. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second sentence that climate change is caused by Federal Defendants.

78. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the sixth sentence that ocean acidification and climate change are caused by Federal Defendants.

79. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

80. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the first sentence that climate change are caused by Federal Defendants.

81. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

82. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

83. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

84. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

85. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

86. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the fourth sentence that climate change is caused by Federal Defendants.

87. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them.

88. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the third sentence that climate change is caused by Federal Defendants.

89. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis deny them. Federal Defendants deny the allegation in the second sentence that climate change is caused by Federal Defendants.

90. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

91. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the paragraph, and on this basis denies them. The allegations in the fifth and sixth sentences also constitute legal conclusions to which no response is required.

92. The allegations constitute legal conclusions to which no response is required.

93. Federal Defendants admit that Dr. James Hansen is a former Director of the NASA Goddard Institute for Space Studies, and that he is presently an adjunct professor at Columbia University's Earth Institute, where he directs a program in Climate Science, Awareness, and Solutions. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the paragraph, and on this basis deny them.

94. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

95. Federal Defendants admit the allegations in this paragraph.

96. With respect to the second and fourth sentences, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them. The allegations in the first, third, fifth, sixth, seventh and eighth sentences constitute legal conclusions to which no response is required. With respect to the seventh and eighth sentences, Federal Defendants aver that DOE's approval of LNG exports from the proposed Jordan Cove LNG Terminal to FTA nations in DOE/FE Order No. 3041 was mandated by Section 3(c) of the Natural Gas Act, 15 U.S.C. § 717b(c). Accordingly, DOE's approval did not include any environmental review or other public interest analysis by DOE, nor any opportunity for public participation in the decision-making process. *See id.* Further, on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate

the Jordan Cove LNG Export Terminal and associated facilities. On December 9, 2016, FERC denied Jordan Cove's request for rehearing of the denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

97. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

“DEFENDANTS”

98. The first, second, third, fourth, and eight sentences consist of conclusions of law to which no response is required. The allegations in the fifth, sixth, and seventh sentences are too vague for Federal Defendants to admit or deny, and are denied on that basis.

99. Federal Defendants admit the allegation in the first sentence that Barack Obama is the President of the United States. The remaining allegations in the first sentence characterize authorities set forth in the United States Constitution, which speaks for itself and is the best evidence of its contents. The allegations in the second sentence contain legal conclusion for which no response is required. The allegations in fourth sentence are too vague to respond to and consist in part of legal conclusions to which no response is required.

100. Federal Defendants deny the allegations in the first sentence that the Office of the President of the United States includes the Council on Environmental Quality (“CEQ”), the Office of Management and Budget (“OMB”), and the Office of Science and Technology Policy (“OSTP”) and aver that each of these entities are part of the Executive Office of the President.

a. The duties of the Council on Environmental Quality are contained in 42 U.S.C. § 4344. Federal Defendants deny the allegations to the extent inconsistent with that statutory provision.

b. The first sentence consists of Plaintiffs' characterization of the OMB mission statement, which speaks for itself and is the best evidence of its contents. *See* https://www.whitehouse.gov/omb/organization_mission. Federal Defendants deny the allegations in the second sentence.

c. Federal Defendants deny the allegations in the first sentence and aver that OSTP's responsibilities are set forth in its organic statute at 42 U.S.C. § 6611 *et seq.* The allegations in the second sentence characterize authorities granted by Congress under the National Science and Technology Policy, Organization, and Priorities Act of 1976, and Executive Orders 13226 and 13539, which speak for themselves and are the best evidence of their contents. Federal Defendants deny the allegations in the third sentence.

101. Federal Defendants deny the allegations in this paragraph.

102. Federal Defendants admit that Christy Goldfuss is the current Managing Director of CEQ and deny the remaining allegations in this paragraph.

103. Federal Defendants admit that Shaun Donovan is the current Director of OMB and deny the remaining allegations in this paragraph.

104. Federal Defendants admit that Dr. John P. Holdren is the current Director of OSTP and deny the remaining allegations in this paragraph.

105. Federal Defendants admit the allegations in the first three sentences. Federal Defendants deny the allegation in the fourth sentence and aver that there is no direct federal regulation of domestic energy production. Further, FERC (not DOE) regulates interstate transportation of oil and gas by pipeline. Federal Defendants admit the allegations in the fifth sentence and aver that the Energy Policy Act mandates that 75 percent of light-duty vehicle acquisitions by federal agencies be alternative fueled vehicles. 42 U.S.C. § 13212(b)(1)(D).

These requirements apply to agency fleets of 20 or more LDVs that are centrally fueled and operated in a metropolitan statistical area/consolidated metropolitan area (MSA/CMSA). 42 U.S.C. § 13212(b)(3). Federal Defendants admit the allegation in the sixth sentence as aver that under the Energy Policy and Conservation Act of 1975, as amended, “covered products and equipment” are subject to energy conservation standards set either by statute or DOE regulations. 42 U.S.C. §§ 6291-6317.

a. Federal Defendants deny that FERC is an agency of DOE and aver that FERC is an independent government agency, officially organized as part of DOE. Federal Defendants admit the remainder of the sentence.

106. The allegations in the first sentence are legal conclusions for which no response is required. Federal Defendants deny the allegations in the second sentence.

107. The allegations characterize DOE/FE Order No. 3041 which speaks for itself and is the best evidence of its contents. Federal Defendants aver that DOE’s approval of LNG exports from the proposed Jordan Cove LNG Terminal to FTA nations was required under Section 3(c) of the Natural Gas Act, which states, in relevant part: “[T]he exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such ... exportation shall be granted without modification or delay.” 15 U.S.C. § 717b(c). In issuing DOE/FE Order No. 3041 to Jordan Cove on December 7, 2011, DOE complied with this statutory mandate: “The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.” (DOE/FE Order No. 3041 at 11). Further, on March 11, 2016, FERC—which has authority over the siting, construction, and operation of LNG export facilities under NGA section 3—issued an order

denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities. On December 9, 2016, FERC denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

108. Federal Defendants admit the allegations contained in this paragraph.

109. Federal Defendants admit the allegations in the first sentence. The second and third sentences consist of Plaintiffs characterization of the mission of the Department of Interior (DOI), which is stated in the DOI strategic plan, which speaks for itself and is the best evidence of its contents. *See* <https://www.doi.gov/sites/doi.gov/files/migrated/pmb/ppp/upload/DOI-Strategic-Plan-for-FY-2014-2018-POSTED-ON-WEBSITE-4.pdf>.

110. Federal Defendants admit the allegations in the first sentence, deny the allegations in the second sentence, and aver that most of the land suitable for oil and gas development is non-federal.

111. Federal Defendants admit the allegations in the first sentence except to the extent that it characterizes the Outer Continental Shelf Lands Act of 1953, 43 U.S.C. § 1333(a), which speaks for itself and is the best evidence of its contents. Federal Defendants admit the allegations in the second sentence. Federal Defendants deny the allegations in the third sentence and aver that the provision for the advanced payment of coal royalties originated in the Mineral Leasing Act of 1920, 41 Stat. 439, ch. 85, § 7 (1920) and further that Energy Policy Act included incentives to drill for gas.

112. Federal Defendants admit that many of the activities DOI permits on public lands result in emission of CO₂ into the atmosphere. The remaining portions of the paragraph are denied.

113. Federal Defendants admit the allegations in this paragraph.

114. Federal Defendants admit the allegations in the first sentence. The allegations in the second sentence constitute legal conclusions to which no response is required.

a. The allegations characterize authorities granted under the Department of Transportation Act, 49 U.S.C. § 305, as amended which speaks for itself and is the best evidence of its contents. To the extent a response is required, Federal Defendants admit that the Federal Aviation Administration, the Federal Highway Administration, and the Pipeline and Hazardous Materials Safety Administration are operating administrations within the Department of Transportation (“DOT”). Federal Defendants admit that the Federal Aviation Administration and the Federal Highway Administration administer programs that provide financing for the construction and maintenance of a portion of the nation’s transportation infrastructure but deny that the Pipeline and Hazardous Materials Safety Administration oversees and regulates spending programs that finance construction and maintenance of our nation’s transportation infrastructure.

b. The allegations characterize authorities granted under the Energy Policy and Conservation Act as amended by the Energy Independence and Security Act of 2007, 49 U.S.C. § 32902, which speaks for itself and is the best evidence of its contents. Federal Defendants aver that DOT, through the National Highway Traffic Safety Administration, sets fuel economy standards for passenger cars and light trucks produced for sale in the United States.

115. Federal Defendants deny the allegations in this paragraph.

116. Federal Defendants admit the allegations in this paragraph.

117. Federal Defendants admit that the United States Department of Agriculture (“USDA”) is a federal agency. The remaining allegations in the first sentence are Plaintiffs’ characterization of the USDA vision statement, which speaks for itself and is the best evidence of its contents. The allegations in the second sentence consist of Plaintiffs’ characterization of the USDA mission statement, which speaks for itself and is the best evidence of its contents. *See* http://www.usda.gov/wps/portal/usda/usdahome?navid=ABOUT_USDA. Federal Defendants avers that neither the vision statement nor the mission statement carry the force of law. With respect to the third sentence, Federal Defendants admit that USDA plays a role with respect to our nation’s food and agriculture, as well as certain natural resources including national forests, and denies the remaining allegations in this sentence.

a. Federal Defendants deny that it authorizes coal production on National Forest System lands, and aver that about 25 percent of the coal production in the United States occurs on such lands.

b. The allegations in first sentence characterize authorities granted under the Mineral Leasing Act of 1920, the Federal Onshore Oil and Gas Leasing Reform Act, and the Mineral Leasing Act for Acquired Lands, which speaks for themselves and are the best evidence of their contents. The allegations in second sentence characterize authorities granted under the Mineral Leasing Act of 1920 and the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1273, which speak for themselves and are the best evidence of their contents.

c. Federal Defendants deny the allegations in this paragraph.

d. Federal Defendants deny the allegations in the first sentence are denied.

The allegations in the second sentence of subparagraph d are denied. Federal defendants lack

sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis deny them.

118. Federal Defendants admit the allegation in this paragraph.

119. Federal Defendants admit that the United States Department of Commerce (“Commerce”) is a federal agency. The remaining allegations in the first sentence are Plaintiffs’ characterization of Commerce’s mission statement, which speaks for itself and is the best evidence of its contents. *See <https://www.commerce.gov/page/about-commerce>*. Federal Defendants admit the allegation that Commerce has authority over equipment that monitors GHGs and aver that specifically the National Oceanic and Atmospheric Administration (“NOAA”) operates the monitoring equipment. The remaining allegations in the second sentence consist of Plaintiffs’ characterizations authorities granted under Title 15 of the United States Code, which speaks for itself and is the best evidence of its contents.

a. Federal Defendants admit that the National Institute of Standards and Technology (“NIST”) is a Federal agency in the Department of Commerce that develops measurement science, predictive models, and performance metrics to improve the energy efficiency of building components and systems, and advances measurement science, standards, and technology related to energy utilization in buildings.

b. Federal Defendants admit that the International Trade Administration (“ITA”) is a Federal agency in the Department of Commerce but deny that ITA’s Office of Energy and Environmental Industries promotes fossil fuel export opportunities. The remaining allegations consist of Plaintiffs’ characterization of authorities provided under Reorganization Plan No. 3 of 1979, which speaks for itself and is the best evidence of its contents.

c. Federal Defendants admit that the Bureau of Industry and Security (“BIS”) is a Federal agency in the Department of Commerce but deny that BIS currently issues permits to export crude oil to all destinations, including Canada. Federal Defendants aver that as of December 18, 2015, pursuant to section 101 of Division O of the Consolidated Appropriations Act, 2016, United States Government officials are prohibited from implementing or enforcing export controls on crude oil and that BIS subsequently removed 15 C.F.R. § 754.2 in conformance with that prohibition. Federal Government further avers that a license continues to be required for export of crude oil to sanctioned or embargoed countries or to certain prohibited end users.

d. Federal Defendants admit that NOAA is a Federal agency in the Department of Commerce. The remaining allegations consist of Plaintiffs’ characterization of authorities provided under Reorganization Plan No. 4 of 1970, which speaks for itself and is the best evidence of its contents.

e. The allegations in this paragraph constitute legal conclusions to which no response is required.

120. Federal Defendants admit the allegation in this paragraph.

121. Federal Defendants admit the allegation in the first sentence that United States Department of Defense is a federal agency. The second and third sentences appear to characterize the 2014 Quadrennial Defense Review, which speaks for itself and is the best evidence of its contents.

a. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this sentence.

b. The allegations in the first sentence consist of Plaintiff's characterization of authorities pursuant to the Clean Water Act and the Rivers & Harbors Act, which speak for themselves and are the best evidence of their contents. The allegations in the second sentence consist of Plaintiffs' characterization of authorities pursuant to the Rivers & Harbors Act, which speaks for itself and is the best evidence of its contents. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the third sentence, and on this basis deny them.

122. Federal Defendants admit the allegations in this paragraph.

123. Federal Defendants admit that the United States Department of State ("State Department") is a federal agency. The remaining allegations in the first sentence consist of Plaintiffs' characterization of the State Department's mission statement, which speaks for itself and is the best evidence of its contents. *See* <https://www.state.gov/s/d/rm/index.htm#mission>. To the extent the second sentence refers to the State Department's role in international fora regarding climate change, Federal Defendants admit the allegation. The third sentence consists of Plaintiffs' characterization of the 2014 Climate Action Report, which speaks for itself and is the best evidence of its contents. Federal Defendants aver that the quoted language, including the portions that Plaintiffs omit states that: "The United States is committed to continuing enhanced action, *together with the global community*, to lead the global effort to achieve a low-emission, climate-resilient future." (emphasis added). This additional language underscores that climate change is a global challenge that the United States addresses together with international partners and stakeholders.

a. Federal Defendants admit the allegation.

b. Federal Defendants admit the allegations in this paragraph. Federal Defendants aver that the quoted language is from the United States intervention at the Ad Hoc Working Group on Long-term Cooperative Action Under the Convention, March 29, 2009. It is important to keep in mind that these remarks come in the context of negotiations in which the United States was seeking to forge a global agreement to address climate change – and thus in context the Special Envoy was referring to the need for the global community to act together.

c. The allegations in the first two sentences consist in part of Plaintiffs’ characterization of requirements under Executive Order 13337 and pursuant to 3 U.S.C. § 301, which speak for themselves and are the best evidence of their contents. Federal Defendants deny all other allegations in the second sentence. While Federal Defendants admit that the State Department considers pipeline applications pursuant to Executive Order 13337, Federal Defendants deny the allegations in the third, fourth, and fifth sentences. Federal Defendants aver that the State Department is not charged with regulating petroleum products that enter or leave the country.

124. Federal Defendants admit the allegation in this paragraph.

125. Federal Defendants admit the allegation in the first sentence that the Environmental Protection Agency (“EPA”) possesses regulatory authorities and issues permits under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, but aver that the while EPA possesses certain regulatory authorities under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA) those authorities do not include issuing permits. Federal Defendants deny the remainder of the first sentence. The second sentence consists of Plaintiffs’ characterization of EPA’s mission statement, which speaks for itself and is the best evidence of its contents. With respect to the

third sentence, Federal Defendants admit that the electricity generation sector accounted for 36.7 percent of national CO₂ emissions in 2014, which was the economic sector accounting for the greatest portion of annual CO₂ emissions in the United States, and that EPA has established CO₂ emission standards for certain types of power plants. The fourth sentence consists in part of Plaintiffs' vague characterizations of EPA's regulatory activity and in part constitutes legal conclusions to which no response is required.

a. This paragraph consists of Plaintiffs' characterization of authority granted under the Energy Policy Act of 2005, which speaks for itself and are the best evidence of its contents.

126. The allegations in the first sentence characterize a 1990 report by EPA entitled, "Policy Options for Stabilizing Global Climate," which speaks for itself and is the best evidence of its contents. To the extent a response is required, Federal Defendants deny the allegations this paragraph.

127. The first sentence consists of Plaintiff's characterization of the EPA rule titled "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Utility Generating Units," 80 Fed. Reg. 64,662 (Oct. 23, 2015) – also known as the "Clean Power Plan" – which speaks for itself and is the best evidence of its contents. Federal Defendants aver that the Clean Power Plan is not intended to "preserve a habitable climate system." The second, third, and fourth sentences consist of Plaintiff's characterization of the scope of the Clean Power Plan, which speaks for itself and is the best evidence of its contents. Federal Defendants deny the allegation in the fifth sentence that the Clean Power Plan is based on "biased math" and deny the remainder of that sentence. With respect to the sixth sentence, Federal Defendants admit that CO₂ emissions from the electric power sector in 2014, before the Clean Power Plan was

finalized, were approximately 18 percent below 2005 levels. With respect to the seventh sentence, Federal Defendants admit that the Clean Power Plan does not require closure of all fossil fuel-fired electric generating units, admit that full implementation of the Clean Power Plan will likely lead to an increase in the use of natural gas for electricity generation, and admit that methane is both the principle constituent of natural gas and a potent greenhouse gas contributing to climate change. With respect to the eighth sentence Federal Defendants admit that the Clean Power Plan does not directly address the extraction, production, and exportation of fossil fuels and is not designed to return the United States' emissions to 1990 levels and denies the remainder as stated. With respect to the ninth sentence Federal Defendants admit that, although the Clean Power Plan is an historic and important step to reduce carbon pollution that takes real action on climate change, the Clean Power Plan is not designed to provide a complete response to all climate change. The remainder of the ninth sentence constitutes legal conclusions to which no response is required. With respect to the tenth sentence, the allegations are too vague to respond to. To the extent a response is required, Federal Defendants deny the allegations as stated.

128. Federal Defendants admit the allegation in this paragraph.

129. Federal Defendants deny the allegations in the first and second sentence as overly broad and insufficiently specific. The third, fourth, fifth, and sixth sentences consist of legal conclusions to which no response is required.

130. Federal Defendants admit that CO₂ concentrations have increased to greater than 400 ppm but otherwise deny the allegations in the first sentence as overly broad and insufficiently specific. The second and third sentences consist of legal conclusions to which no response is required.

“STATEMENT OF FACTS”

“I. THE FEDERAL GOVERNMENT HAS KNOWN FOR DECADES THAT CARBON DIOXIDE POLLUTION WAS CAUSING CATASTROPHIC CLIMATE CHANGE AND THAT MASSIVE EMISSION REDUCTIONS AND A NATION-WIDE TRANSITION AWAY FROM FOSSIL FUELS WAS NEEDED TO PROTECT PLAINTIFFS’ CONSTITUTIONAL RIGHTS.”

131. With respect to the first sentence, Federal Defendants admit that prior to 1899 some scientists published estimates of the impact that elevated CO₂ concentrations could have on global temperature. Federal Defendants aver that the important details of the carbon cycle and other aspects of climate change were not widely understood until many decades later. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence, and on this basis deny them. With respect to the second sentence, Federal Defendants admit that some scientists understood that CO₂ was an important factor in determining global temperatures, and deny the remaining allegations in the sentence. With respect to the third sentence, Federal Defendants admit that by the early 1900s some scientists had studied the potential impacts of increasing atmospheric concentrations of CO₂ on global climate change, and deny the remaining allegations in the sentence.

132. The assertions in this paragraph characterize and quote from a 1965 Report of President Lyndon Johnson’s Scientific Advisors entitled “Restoring the Quality of Our Environment,” which speaks for itself and is the best evidence of its content.

133. The assertions in this paragraph characterize and quote from the 1965 Report of President Lyndon Johnson’s Scientific Advisors entitled “Restoring the Quality of Our Environment,” (“1965 Report”), which speaks for itself and is the best evidence of its content.

134. The assertions in this paragraph appear to characterize the 1965 Report, which speaks for itself and is the best evidence of its content. With respect to the first sentence, Federal Defendants aver that while the 1965 Report concludes that increased CO₂ emissions lead to

melting of the Antarctic icecap, rising sea levels, warming oceans, and acidifying waters, the report does not conclude that increased CO₂ emissions lead to “additional releasing of CO₂ and methane due to these events.” Further, the 1965 Report only mentions methane in two places, and neither is directly discussing it in relation to climate change, but rather it is discussed as a byproduct of biological processes resulting from pollution.

135. The assertions in this paragraph appear to characterize and quote from the 1965 Report, which speaks for itself and is the best evidence of its content.

136. The allegations characterize and quote from a September 17, 1969 memorandum from Daniel P. Moynihan to John Ehrlichman, White House Counsel, which speaks for itself and is the best evidence of its content.

137. The allegations characterize and quote from a provision of the National Climate Program Act, Pub. L. No. 95-367, 92 Stat. 601 (Sept. 17, 1978), which speaks for itself and is the best evidence of its content. Federal Defendants aver that the quoted language is codified at 15 U.S.C. § 2902.

138. The allegations characterize and congressional testimony by Dr. James Hansen, Director, NASA Goddard Institute for Space Studies, which speaks for itself and is the best evidence of its contents.

139. The allegation as to EPA appears to characterize a September 12, 1986, letter from eight members of the Senate Subcommittee on Environmental Pollution to EPA Administrator Lee Thomas, which speaks for itself and is the best evidence of its contents. Federal defendants lack sufficient knowledge or information to form a belief about the truth of the allegation as to Congress’ direction to its own offices.

140. Federal Defendants admit the allegations in the first sentence. The second sentence characterizes and quotes from EPA’s 1990 report to Congress, “Policy Options for Stabilizing Global Climate” (“1990 EPA Report”), which speaks for itself and is the best evidence of its content.

141. The allegations characterize and quote from the 1990 EPA Report, which speaks for itself and is the best evidence of its content.

142. The allegations characterize and quote from a 1991 report from Congress’s Office of Technology Assessment, “Changing by Degrees: Steps to Reduce Greenhouse Gases” (“1991 OTA Report”), which speaks for itself and is the best evidence of its contents.

143. The allegations characterize and quote from the 1991 OTA Report, which speaks for itself and is the best evidence of its contents.

144. The allegations characterize the 1990 EPA Report and the 1991 OTA Report, which speak for themselves and are the best evidence of their contents.

145. Federal Defendants deny the allegation in the first sentence and aver that the United States Senate passed a resolution, providing advice and consent for the ratification of the United Nations Framework Convention on Climate Change (“UNFCCC”) on October 7, 1992, which the President ratified on October 15, 1992. The assertions in the second, third, fourth, and fifth sentences characterize and quote from the UNFCCC, which speaks for itself and is the best evidence of its content. With respect to the second sentence, Federal Defendants aver that the quoted language pertains to Article 3.1, a provision of the UNFCCC that is of a non-binding in nature and provides that the parties to the UNFCCC “*should* protect the climate system for the benefit of present and future generations of humankind.” (emphasis added). With respect to the third sentence, Federal Defendants aver that the quoted language – “overwhelming weight” – is

not included in the UNFCCC and further that norms and principles of intergenerational equity are not referenced in the document. With respect to the fourth and fifth sentence, Federal Defendants aver that Plaintiffs' characterization of the quoted language of Article 2 of the UNFCCC as "[t]he minimal objective of the UNFCCC" is inconsistent with the text of the UNFCCC which states that the quoted language is "[t]he *ultimate objective* of this Convention. . ." (emphasis added).

146. Federal Defendants deny the allegations in the first sentence. Federal Defendants aver that some of those recommendations in 1990 EPA Report were in fact subsequently implemented. To give one example, the 1990 EPA Report indicates that there could be "performance standards" for greenhouse gases. EPA has promulgated performance standards for GHGs from certain new, modified, and reconstructed power plants. 80 Fed. Reg. 64510 (Oct. 23, 2015). The allegations in the second sentence are too vague for Federal Defendants to admit or deny.

147. With respect to the first sentence, Federal Defendants admit that on December 7, 2009, EPA Administrator Lisa Jackson signed, "Endangerment and Cause or Contribute Findings for Greenhouse Gases under the Section 202(a) of the Clean Air Act," 74 Fed. Reg. 66496 (Dec. 15, 2009). The second sentence characterizes that finding, which speaks for itself and is the best evidence of its contents. Federal Defendants deny the allegations in the third sentence.

148. Federal Defendants admit that, on January 2, 2011, EPA Clean Air Act standards for GHG emissions from certain mobile sources became operative, and certain stationary source permitting requirements also became applicable to GHGs. *See* "Reconsideration of Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting

Programs.” 75 Fed. Reg. 17004 (Apr. 2, 2010). Federal Defendants otherwise deny the allegations.

149. Federal Defendants admit the allegation in the first sentence and deny the allegations in the first clause of the second sentence. The remaining allegations in the second sentence quote from and characterize a DOE strategic plan, which speaks for itself and is the best evidence of its contents.

150. Federal Defendants admit the allegations in this paragraph.

“II. IN SPITE OF KNOWING OF THE SEVERE DANGER POSED BY CARBON POLLUTION, DEFENDANTS CREATED AND ENHANCED THE DANGERS THROUGH FOSSIL FUEL EXTRACTION, PRODUCTION, CONSUMPTION, TRANSPORTATION, AND EXPORTATION”

“A. Despite the Known Danger, Defendants Caused Climate Instability and Allowed U.S. Fossil Fuel Extraction, Production, Consumption, Transportation, and Exportation and Associated Emissions, to Dangerously Increase”

151. Federal Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations in the first sentence and deny them on that basis. Federal Defendants aver that from 1850 to 2012, CO₂ emissions from sources within the United States (including from land use) comprised more than 25 percent of cumulative global CO₂ emissions. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis deny them. The allegations in the third sentence are too vague and ambiguous for Federal Defendants to admit or deny.

152. Federal Defendants admit that overall production and consumption of fossil fuels over the last fifty years has increased. Federal Defendants otherwise deny the allegations.

153. Federal Defendants deny the allegations in the first sentence and aver that the recommendations in the 1990 EPA Report were policy recommendations. Further, some of those recommendations were subsequently implemented. For example, the 1990 EPA Report

indicates that there could be “performance standards” for greenhouse gases. EPA has promulgated performance standards for GHGs from certain new, modified, and reconstructed power plants. 80 Fed. Reg. 64510 (Oct. 23, 2015). Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis denies them. Federal Defendants admit the allegation in the third sentence regarding the volume of CO₂ emissions and aver that between 1991 and 2014, at least 127,600 million metric tons of CO₂ was emitted from fossil fuel combustion in the United States. The remaining allegations in the third sentence are denied.

154. This paragraph appears to characterize as “plans” the 1990 EPA Report and the 1991 OTA Report both of which speak for themselves and are the best evidence of their contents. The remaining allegations contain conclusions of law to which no response is required.

155. Federal Defendants deny the allegation that total fossil fuel production in the United States was 65.244 Quadrillion Btus in 2014 and aver that when natural gas plant liquids are included, total fossil fuel production in the United States was 69.653 Quadrillion Btus in 2014. The remaining allegations in this paragraph are the Plaintiffs’ opinion and require no answer.

156. Federal Defendants admit that total fossil fuel energy consumption in the United States was close to the 80.366 Quadrillion Btus in 2014 that Plaintiffs allege and aver total fossil fuel energy consumption in the United States was 80.240 Quadrillion Btus in 2014. The remaining allegations in this paragraph are the Plaintiffs’ opinion and require no answer.

157. Federal Defendants admit the allegation that CO₂ emissions from energy consumption in the United States in 2014 was close to the 5.4 metric tons Plaintiffs allege and

aver that CO₂ emissions from energy consumption in the United States in 2014 was 5.406. The remaining allegations in this paragraph are the Plaintiffs' opinion and require no answer.

158. Federal Defendants admit the allegations.

159. Federal Defendants admit the allegation in the first sentence that the emissions figures above are from United States government sources, but deny the remaining allegations in the sentence. With respect to the second sentence, Federal Defendants admit that the EPA develops the United States Greenhouse Gas Emissions Inventory ("GHG Inventory") which is based on Intergovernmental Panel on Climate Change ("IPCC") guidelines that provide methods for countries to estimate GHG emissions and removals where and when they happen. With respect to the third and fourth sentences, Federal Defendants admit that the GHG Inventory does not include emissions embedded in imported goods consumed in the United States.

160. Federal Defendants admit the allegations in this paragraph and aver that the data presented has changed slightly due to revisions to the data published after the Complaint was filed.

161. Federal Defendants admit the allegations in this paragraph and aver that the data presented has changed slightly due to revisions to the data published after the Complaint was filed.

162. Federal Defendants admit the allegations in the first sentence. With respect to the second sentence, Federal Defendants admit that the United States produces commercial volumes of natural gas or crude oil from shale formations. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence and on this basis deny them.

163. Federal Defendants deny the allegations in this paragraph.

“B. Defendants Have Allowed Excessive Fossil Fuel Production on Federal Public Lands.”

164. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and on this basis deny them.

165. Federal Defendants admit the allegation in this paragraph.

166. Federal Defendants admit the allegation in this paragraph.

167. Federal Defendants admit the allegation in this paragraph.

168. Federal Defendants admit the allegations in the first sentence and aver that the Bureau of Land Management (“BLM”) had 46,183 oil and gas leases in effect in Fiscal Year 2014, containing a total of 94,778 producible and service well bores. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the first sentence, and on this basis deny them. Federal Defendants admit the allegation in the second sentence. Federal Defendants deny the allegation in the third sentence and aver that as of October 1, 2015 there were 32,193,369 acres of federal land under lease in 32 states.

169. Federal Defendants deny the allegation that BLM processed more application for permits to drill from 2009-2011 than it did from 2006-2008. Federal Defendants admit that BLM received fewer new applications for permits to drill from 2009-2011 than it did from 2006-2008.

170. Federal Defendants admit the allegations in the first sentence. Federal Defendants and deny the allegations in the second sentence and aver that between 2003 and 2015, BLM has consistently approved between 77 and 91 percent of the applications for permits to drill that it has processed.

“C. Defendants Subsidize the Fossil Fuel Industry”

171. Federal Defendants deny the allegations in this paragraph.

172. Federal Defendants deny the allegations first sentence. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second and third sentence, and on this basis deny them.

173. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and on this basis deny them.

174. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and on this basis deny them.

175. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and on this basis deny them.

176. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph, and on this basis deny them.

177. Federal Defendants admit the allegations in this paragraph.

178. The allegations in the first sentence are too vague for Federal Defendants to admit or deny. The second sentence characterizes publicly available details of the social cost of carbon, developed by an interagency working group convened by the Council of Economic Advisors and OMB, which speaks for itself and is the best evidence of its contents.

“D. Defendants Recklessly Allow Interstate and International Transport of Fossil Fuels”

179. Federal Defendants deny the allegations in this paragraph.

180. The allegations in the first sentence characterizes and quotes from Executive Order 11423, which speaks for itself and is the best evidence of its contents. Federal Defendants deny the allegations in the second sentence.

181. With respect to the first sentence, Federal Defendants admit that, prior to December 18, 2015, a license was required to export crude oil from the United States to all

destinations, with licenses to Canada generally being approved and licenses to other countries generally being rejected. Federal Defendants aver that as of December 18, 2015, pursuant to section 101 of Division O of the Consolidated Appropriations Act, 2016, United States Government officials are prohibited from implementing or enforcing export controls on crude oil and that BIS subsequently removed 15 C.F.R. § 754.2 in conformance with that prohibition. Federal Defendants further aver that a license continues to be required for export of crude oil to sanctioned or embargoed countries or to certain prohibited end users. Federal Defendants aver the allegation in the second sentence that the number of barrels of crude oil exported in 2014 pursuant to a BIS license was an increase from the number of barrels exported in 2013, deny that BIS authorized the exportation of 126,155 thousand barrels of crude oil in 2014 and aver that the correct figure is 127,864 thousand barrels. With respect to crude oil imports, Federal Defendants deny that DOE has oversight authority, deny the amount of imports in 2014 and aver that according to EIA – an independent statistical agency formally organized under DOE – the volume of crude oil imported in 2014 was 2,680,626 thousand barrels.

182. Federal Defendants deny the allegation, in the first sentence, that FERC authorizes natural gas imports and exports and aver that jurisdiction over import and export authorization lies with DOE. Federal Defendants deny the allegations in the second sentence and aver that under the Natural Gas Act section 3 and Parts 153 and 380 of FERC's regulations, FERC approves the construction of interstate natural gas pipelines, storage facilities, and LNG terminals. However, FERC has issued a final order denying authorization for the siting, construction and operation of the Jordan Cove LNG terminal. Federal Defendants admit the allegations in the third and fourth sentences.

183. Federal Defendants admit the allegations in the first, third, and fourth sentences.

Federal Defendants deny the allegations in the second sentence.

184. Federal Defendants admit the allegations in this paragraph.

“E. Defendants Recklessly Allow CO₂ Pollution From Combustion of Fossil Fuels”

185. Federal Defendants deny the allegations in the first sentence and admit the allegations in the second sentence.

186. Federal Defendants admit the allegations in the first sentence that in 2012 petroleum accounted for 36.5 percent of total energy consumption in the United States and was the single largest source of energy consumption. With respect to the second sentence, Federal Defendants aver that EPA has issued regulations that apply to petroleum refineries but deny that all United States petroleum refineries are permitted and regulated by EPA. Federal Defendants aver that under the Clean Air Act, EPA has issued standards for refineries that apply based on certain characteristics and refineries may be subject to permitting requirements under EPA permitting programs, but the permits under those programs are usually issued by state or local governments.

187. Federal Defendants admit the allegation in the first sentence that in 2013 CO₂ emissions from the industrial sector were approximately 15 percent of total CO₂ emissions in the United States. With respect to the second sentence, Federal Defendants admit that EPA regulates various aspects of industrial sources but deny the remaining allegations as too vague to verify.

188. With respect to the first sentence, Federal Defendants deny the allegations and aver that under the Energy Policy and Conservation Act of 1975 “covered products and equipment” are subject to energy conservation standards set either by statute or by DOE

regulations, 42 U.S.C. §§ 6291–6317, and that under the Energy Conservation and Production Act (“ECPA”) DOE is required to establish building energy efficiency standards for all new Federal buildings. 42 U.S.C. § 6834(a)(1). Federal Defendants aver that ECPA requires States to certify that they have reviewed their residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised model code that the Secretary of Energy has determined would improve the level of efficiency in buildings. 42 U.S.C. § 6833(a). ECPA also requires States to certify that they have reviewed and updated the provisions of their commercial building codes regarding energy efficiency provisions to meet or exceed the revised model code that the Secretary of Energy has determined would improve the level of efficiency in buildings. 42 U.S.C. § 6833(b). Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis deny them.

189. Federal Defendants admit the allegation in the first sentence that Congress enacted the CAFE standards program in 1975, and that the National Highway Traffic Safety Administration within the DOT establishes fuel economy standards. The remainder of the first sentence is Plaintiffs’ characterization of CAFE program requirements of the Energy Policy and Conservation Act, 49 U.S.C. § 32904, *et seq.*, which speak for themselves and are the best evidence of their contents. With respect to the second sentence, Federal Defendants admit that DOT has established fuel economy standards and fuel efficiency standards, and that EPA has established standards for emissions of greenhouse gases (including CO₂) from certain new motor vehicles and engines; and admit that both fuel economy standards and fuel efficiency standards

can reduce CO₂ emissions. The remainder of the second sentence is a conclusion of law to which no response is required.

190. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the first sentence, and on this basis deny them. Federal Defendants admit that SUVs are less fuel-efficient and emit greater quantities of CO₂ per mile than lighter-weight vehicles, if other factors are held equal.

191. Federal Defendants deny the allegations in the first sentence and aver that in 2012, United States CO₂ equivalent emissions from transportation were approximately 1,780 million metric tons. Federal Defendants admit the allegations in the second sentence.

“III. THE JORDAN COVE LNG EXPORTS”

192. The allegations characterize Section 201 of the Energy Policy Act, 15 U.S.C. § 717b(c), which speaks for itself and is the best evidence of its contents.

193. Federal Defendants admit the allegation in the first sentence and aver that DOE approval of export of LNG from the proposed Jordan Cove LNG Terminal in Coos Bay to FTA nations was required under Section 3(c) of the Natural Gas Act and therefore did not include any environmental review or other public interest analysis by DOE. Section 3(c) states, in relevant part: “[T]he exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such ... exportation shall be granted without modification or delay.” 15 U.S.C. § 717b(c). In issuing DOE/FE Order No. 3041 to Jordan Cove on December 7, 2011, DOE complied with this statutory mandate: “The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.” (DOE/FE Order No. 3041 at 11).

Federal Defendants admit the allegation in the second sentence but aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities, and on December 9, 2016, denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the third sentence, and on this basis deny them.

194. Federal Defendants deny the allegations in this paragraph and aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities, and on December 9, 2016, denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

195. Federal Defendants deny the allegations in this paragraph and aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities, and on December 9, 2016, denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

196. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this sentence, and on this basis deny them. Federal

Defendants also aver that the allegations have been overcome by events that prevent operation of the facility proposed by Jordan Cove.

197. The allegations in this paragraph characterize and quote from a letter from Governor John Hickenlooper to DOE and FERC which speaks for itself and is the best evidence of its contents.

198. Federal Defendants deny the allegations in this paragraph and aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities, and on December 9, 2016, denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041.

199. Federal Defendants admit the allegation in this paragraph to the extent it describes standard operating circumstances.

200. Federal Defendants deny the allegations in this paragraph and aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the Jordan Cove LNG Export Terminal and associated facilities, and on December 9, 2016, denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041. The allegations are also comprised of conclusions of law to which no response is required.

201. Federal Defendants deny the allegations in this paragraph and aver that on March 11, 2016, FERC issued an order denying Jordan Cove's application to site, construct, and operate the proposed Jordan Cove LNG Terminal (and the related application for the proposed Pacific

Connector Natural Gas Pipeline). On December 9, 2016, FERC denied Jordan Cove's request for rehearing of that denial. 157 FERC ¶ 61,194, P 33 (Dec. 9, 2016). Thus, at this time, Jordan Cove lacks authority from FERC to construct and operate the proposed export terminal—meaning it cannot export LNG pursuant to DOE/FE Order No. 3041. The allegations are also comprised of conclusions of law to which no response is required.

202. Federal Defendants admit the allegations in the first and second sentence that there is a scientific consensus that the buildup of GHGs (including CO₂) due to human activities (including the combustion of fossil fuels) is changing the global climate at a pace and in a way that threatens human health and the natural environment. With respect to the third sentence, Federal Defendants admit that GHG emissions (including CO₂) from fossil fuel combustion have contributed to increasing atmospheric GHG concentrations and therefore, the global energy imbalance in the climate system. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the third sentence.

203. Federal Defendants deny the allegations in the first sentence and aver that atmospheric CO₂ concentrations over 280 ppm have led to an energy imbalance compared to the pre-industrial era. Federal Defendants deny the allegation in the second sentence that the energy imbalance is now approximately 0.6 Watts/m². Federal Defendants aver that the best estimate of radiative forcing change since 1750 is 2.29 Watts/m² averaged over the entire planet and that the current energy imbalance is on the order of 0.5 to 1.0 Watts/m². Federal Defendants lack sufficient knowledge or information sufficient to form a belief about the truth of the remaining allegations in this sentence, and on this basis deny them.

204. The allegations characterize and quote from the 2014 National Climate Assessment, which speaks for itself and is the best evidence of its content.

205. Federal Defendants admit the allegations in the first sentence. With respect to the second sentence, Federal Defendants admit that GHGs in the atmosphere slow the release of heat into space, keeping the Earth warmer than it would be otherwise, and that increasing GHG *concentrations* in the atmosphere will therefore lead to further warming. The remaining allegations in the second sentence are too vague for Federal Defendants to admit or deny.

206. Federal Defendants admit the allegations in the first sentence and aver that for a given amount of CO₂ emissions reaching the atmosphere, atmospheric concentrations will remain elevated by 15 to 40 percent of that given amount for a millennium or more. Federal Defendants admit the allegations in the second and third sentences that CO₂ emissions are currently altering the atmosphere's composition and will continue to alter Earth's climate for thousands of years. Federal Defendants deny the remaining allegations as stated.

207. The allegations in this paragraph, and in particular Plaintiffs' use of the term "danger zone," are too vague for Federal Defendants to admit or deny. Federal Defendants aver that current and projected concentrations of six well-mixed greenhouse gases in the atmosphere, including CO₂, threaten the public health and welfare of current and future generations.

208. Federal Defendants admit the allegation in the first sentence, that in 2013, daily average atmospheric CO₂ concentrations (measured at the Mauna Loa Observatory) exceeded 400 ppm for the first time in millions of years. With respect to the second sentence, Federal Defendants admit that average atmospheric CO₂ concentrations were approximately 280 ppm in the late 1700s. The remaining allegations in this sentence are too vague to admit or deny. With respect to the third sentence, Federal Defendants admit that stabilizing atmospheric CO₂ concentrations will require deep reductions in CO₂ emissions. Federal Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations in this sentence.

209. Federal Defendants admit the allegation in the first sentence that monthly global average CO₂ concentrations exceeded 400 ppm for the first time in March, 2015, reaching levels unprecedented for at least 2.6 million years and deny the remainder as stated. With respect to the second sentence, Federal Defendants admit that atmospheric CO₂ concentrations have risen approximately 120 ppm since the late 1700s, and about half of that increase occurred after 1980.

210. With respect to the allegations in the first and third sentences, Federal Defendants admit that the Earth has now warmed about 0.9°C above pre-industrial temperatures. Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the second sentence and on this basis deny them.

211. With respect to the first and second sentences, Federal Defendants admit that the more rapid the rate of climate change, the more challenging it is for humans and natural systems to adapt to it. The remaining allegations in the first sentence are too vague for Federal Defendants to admit or deny. Defendants lacks sufficient knowledge or information to determine the truth of the allegations in the second and third sentences and on this basis deny them.

212. The allegations are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants lack sufficient information to determine the truth of the allegations in this paragraph and on this basis deny them.

“V. EXISTING IMPACTS OF CLIMATE CHANGE ACROSS THE NATION”

213. With respect to the first sentence, Federal Defendants admit that climate change is damaging human and natural systems, increasing the risk of loss of life, and requiring adaptation on larger and faster scales than current species have successfully achieved in the past, potentially increasing the risk of extinction or severe disruption for many species. The allegations in the second sentence are too vague and speculative for Federal Defendants to admit or deny. Federal

Defendants aver that current and projected atmospheric concentrations of six well-mixed GHGs, including CO₂, threaten the public health and welfare of current and future generations, and this threat will mount over time as GHGs continue to accumulate in the atmosphere and result in ever greater rates of climate change.

214. The allegations in the paragraph are too vague and speculative for Federal Defendants to admit or deny. Further, the assertions characterize and reference “[r]ecent scientific reports,” which speak for themselves and are the best evidence of their contents. To the extent a response is required, Federal Defendants acknowledge that scientific assessments of the IPCC and the National Academies have projected sea level rise by the end of the next century of 0.26 meters to 2 meters (depending on the assessment, the emissions scenario, and the response of the Greenland and Antarctic ice sheets), and that sea level rise will lead to increases in flooding and other damages in coastal and island communities. Federal Defendants deny the remaining allegations in this paragraph as stated.

215. The allegations in this paragraph 215 are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants aver that scientific assessments of the IPCC and the National Academies have projected sea level rise by the end of the next century of 0.26 meters to 2 meters (depending on the assessment, the emissions scenario, and the response of the Greenland and Antarctic ice sheets), and that the sea level will continue to rise for several centuries even after atmospheric greenhouse gas concentrations are stabilized.

216. The allegations in the first sentence, and in particular Plaintiffs’ use of the term “danger zone,” are too vague to admit or deny. With respect to the second sentence, Federal Defendants admit that current and projected atmospheric concentrations of six well-mixed

GHGs, including CO₂, threaten the public health and welfare of current and future generations, including through warming of land surfaces and oceans, and changes in the hydrologic cycle (including changes to atmospheric moisture levels and rainfall patterns) and circulation of the atmosphere. Federal Defendants otherwise deny the allegations in this paragraph as stated.

217. With respect to the first sentence, Federal Defendants admit that since 1901 the average surface temperature across the contiguous 48 states has risen at an average rate of 0.14°F per decade, and global average surface temperature has risen at an average rate of 0.15°F per decade. With respect to the second sentence, Federal Defendants admit that human activity (in particular, elevated concentrations of GHGs) is likely to have been the dominant cause of observed warming since the mid-1900s. Plaintiffs' characterize the 1965 White House Report, which speaks for itself and is the best evidence of its contents. With respect to the third and fifth sentences, Federal Defendants admit that global surface temperatures on earth in 2014 were warmer than all the preceding years and 2015 was warmer still, with global surface temperatures having exceeded temperatures of the mid-to-late 19th century by more than 1°C. With respect to the fourth sentence, Federal Defendants admit that the average rate of warming over the past 30 years has been higher than over the past 100 years.

218. Federal Defendants deny that sea levels have been rising at an average rate of 3.2 millimeters per year, admit the remaining allegations in the first and second sentence, and aver that sea levels have been rising at a rate of about 3.4 millimeters per year since 1993. Federal Defendants admit the allegation in the third sentence that this rate is faster than the rate over the past century. Federal Defendants admit the allegation in the fourth sentence that rising relative sea levels (which are a function of global sea level and local factors such as land subsidence or uplift) have caused increased flooding in many communities. Federal Defendants lack sufficient

knowledge or information to form a belief about the truth of the remaining allegations in the fourth and fifth sentences, and on this basis denies them.

219. Federal Defendants admit the allegation in the first sentence that rising sea levels along coastal states lead to the inundation of low-lying lands and beaches, loss of wetlands, and increased salinity of near-coastal estuaries and aquifers and the allegation in the second sentence that approximately 20 square miles of land along the Atlantic Coast were converted to open water between 1966 and 2011. Federal Defendants admit the allegation in the third sentence. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the fourth sentence. The remaining allegations in the paragraph are too vague for Federal Defendants to admit or deny.

220. Federal Defendants admit that climate change is associated with increases in hurricane intensity, increased frequency of intense storms and heavy precipitation, and that the number of very heavy precipitation events has been significantly above average since 1991. Federal Defendants admit that across the United States, nine of the top ten years for extreme one-day precipitation events have occurred since 1990. Defendants deny the remaining allegations in the paragraph as stated.

221. Federal Defendants admit that there have been and will continue to be changes in the nation's water cycle as a result of climate change, including more winter and spring precipitation in the northern United States and less precipitation in the Southwest (and more intense droughts projected for the Southwest). Federal Defendants admit that because of increasing temperatures, as well as changes in variability in some regions, drought is expected to increase across most of the central and southern United States—even in regions with increasing precipitation. Federal Defendants admit that prolonged heat events in recent years have been the

most extreme on record and that climate change has contributed to these events, but aver that some regions had more intense short-duration heat waves in the 1930s. Federal Defendants deny the remaining allegations in this paragraph as stated.

222. Federal Defendants admit that the average extent of North American snow cover decreased at a rate of about 3,300 square miles per year between 1972 and 2015, with the largest decreases occurring in spring and summer and aver that the United States snow cover season has become shorter by nearly two weeks. Federal Defendants admit that reduced snowpack impacts fresh water management and supply. The remaining allegations in the paragraph are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants deny the remaining allegations as stated.

223. Federal Defendants admit the allegation that Arctic sea ice is declining. The remainder of the first sentence is too vague to admit or deny. Federal Defendants deny the allegation in the second sentence that Arctic sea ice in September 2013 was 700,000 square miles below the 1981-2010 average for the same period and aver that the Arctic sea ice extent in September 2013 was 452,000 square miles below the September average for 1981–2010. With respect to the third sentence, Federal Defendants admit that the Arctic sea ice extent in September 2014 was 479,000 square miles below the September average for 1981–2010. The allegations in the fourth and fifth sentences are too vague to admit or deny.

224. With respect to the first, second, and third sentence, Federal Defendants admit that there has been an increase in permafrost thaw in Alaska, that as organic matter frozen in the permafrost thaws (including from peat bogs) it will decay, creating emissions of methane and CO₂ that can lead to more warming, and that methane releases from Arctic permafrost have been observed. With respect to the fourth sentence, Federal Defendants deny the allegations and aver

that CO₂ and methane released from permafrost under a high-emissions scenario has been projected to lead to additional warming of 0.07°F to 1.2°F by 2100. Federal Defendants deny the remaining allegations in the paragraph as stated.

225. With respect to the first sentence, Federal Defendants admit that glaciers have been receding on average within the United States. With respect to the second sentence, Federal Defendants admit that in 1850 there were an estimated 150 glaciers in Glacier National Park, Montana, and that there are currently only twenty-five glaciers larger than twenty-five acres in Glacier National Park. With respect to the third sentence, Federal Defendants admit that every glacier in the Brooks Range of northern Alaska studied by the United States Geological Survey (“USGS”) in a 2010 report was in retreat. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph, and on this basis deny them.

226. With respect to the first sentence, Federal Defendants admit that melting of mountain glaciers due to climate change can impact the timing of water flow downstream, which can have adverse impacts on water systems and flooding, including for areas that rely on snow melt for irrigation and water supply. The remainder of the first sentence is too vague to admit or deny. Federal Defendants admit the allegations in the second sentence. With respect to the third and fourth sentences, Federal Defendants admit that as temperatures warm, areas reliant on snow melt for irrigation and drinking water supplies will be impacted, and in the western United States increasing snow melt will increase flooding in some mountain watersheds. Defendants deny the remaining allegations in the paragraph as stated.

227. Federal Defendants admit the allegations in the first sentence. With respect to the second sentence, Federal Defendants admit that climate change may increase the prevalence of

parasites and diseases that affect livestock, increase the range and distribution of weeds and pests, cause changes in precipitation patterns and extreme weather events, and reductions in water availability may all result in reduced agricultural productivity. Federal Defendants admit that anthropogenic climate change in the United States has produced warmer summers, but lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence. Federal Defendants admit the allegations in the fourth sentence to the extent that, under warming conditions, in Alaska there are spruce beetles that mature in one year rather than two years. Federal Defendants admit the allegations in the fifth sentence that various beetles have killed millions of hectares of trees across the United States but denies the remaining allegations. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence.

228. Federal Defendants admit the allegation in the first sentence that climate change effects on agriculture will have consequences for food scarcity. The remainder of the first sentence of is too vague for Federal Defendants to admit or deny. Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the second sentence and so on that basis deny them. With respect to the third sentence, Federal Defendants admit that climate change is predicted to decrease crop yield, increase crop prices, and decrease the concentrations of protein and essential minerals in crops such as wheat and rice, which lowers these crops' nutritional value. Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the third sentence and so on that basis deny them.

229. The allegations in the first sentence that increased wildfires threaten forest property is admitted. The remaining allegations in the first sentence are too vague for Federal Defendants to admit or deny. The allegations in the second and third sentences are admitted.

230. Federal Defendants deny the allegation in the first sentence and aver that an increase in surface ocean acidity (and a decrease in aragonite saturation levels), has adverse impacts on ocean organisms that use carbonate in their shells and skeletons, placing a number of such organisms at risk and impacting larger ecosystems as well. Federal Defendants admit the allegations in the second sentence and aver that the oceans have absorbed about 28 percent of the CO₂ produced by human activities over the past 250 years, leading to an increase in surface ocean acidity of about 30 percent. Defendants otherwise deny the remaining allegations in Paragraph 230.

231. Federal Defendants deny the allegations in the second sentence and aver that ocean acidity is increasing at a rate 50 times faster than observed in at least the past 100,000 years. With respect to the third sentence, Federal Defendants admit that increased acidity makes it more difficult for certain organisms to build and maintain their skeletons and shells (including corals, oysters, clams, scallops, mussels, abalone, crabs, geoducks, barnacles, sea urchins, sand dollars, sea stars, sea cucumbers, some single-celled organisms and protists), putting a number of such organisms and certain forms of seaweed at risk, and thereby impacting larger ecosystems. The allegations in the first and fourth sentences are too vague and speculative for Federal Defendants to admit or deny; to the extent a response is required, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them.

232. Federal Defendants admit that under some high-emission scenarios the allegation in the first sentence, that surface ocean waters could be nearly 150 percent more acidic and admit that the oceans have probably not experienced this rate of change in pH for 100 million years. Defendants deny the remainder of the first sentence as stated. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the second sentence, and on this basis denies them. Federal Defendants admit the allegations in the third sentence.

233. Federal Defendants admit that coral reefs are threatened by increasing acidity. The remainder of the first sentence is too vague for Federal Defendants to admit or deny. Federal Defendants deny the allegations in the second sentence. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in the third sentence, and on this basis deny them.

234. Federal Defendants admit the allegations in the first sentence and aver that under a business-as-usual scenario major United States coral reefs will experience extensive bleaching and dramatic loss of shallow coral cover by 2050, and near complete loss by 2100. With respect to the second sentence Federal Defendants admit that, under a business-as-usual scenario coral cover in Hawaii is projected to decline from 38 percent (current coral cover) to approximately 5 percent by 2050, with further declines thereafter. With respect to the third sentence Federal Defendants admit that, under a business-as-usual scenario, in Florida and Puerto Rico—where present-day temperatures are already close to bleaching thresholds and where reefs have historically been affected by non-climate stressors—coral is projected to disappear even faster than in Hawaii. With respect to the fourth sentence, Federal Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations and

on this basis deny them.

235. With respect to the first sentence, Federal Defendants admit that climate change and ocean acidification threatens the survival of plants, fish, and wildlife, and also threatens biodiversity. With respect to the second and third sentences, Federal Defendants admit that there is an increase in the risk of species extinctions due to the rate of climate change and ocean acidification, that many species will face changes in abundance, distribution, and species interactions, and that some of these changes will have adverse impacts for ecosystems and humans. Federal Defendants otherwise deny the allegations.

236. The allegations in the first sentence are too vague for Federal Defendants to admit or deny; to the extent a response is required, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them. With respect to the second, third, and fifth sentences, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations and on this basis deny them. The fourth sentence characterizes NOAA Fisheries Endangered and Threatened Marine Species list which speaks for itself and is the best evidence of its contents.

237. With respect to the first sentence, Federal Defendants admit that climate change is likely to be associated with an increase in allergies, asthma, cancer, cardiovascular disease, stroke, heat-related morbidity and mortality, food-borne diseases, injuries, toxic exposures, mental health and stress disorders, and neurological diseases and disorders. With respect to the allegations in the second sentence, Federal Defendants admit that climate change impacts endanger human health by affecting the air humans breathe, food and water sources, and human interactions with built and natural environments. With respect to the allegations in third sentence, Federal Defendants admit that climate change increases the prevalence and

geographic distribution of occurrences of some infectious diseases. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph and on this basis denies them.

238. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and aver that at least 9,000 Americans have died from heat-related illnesses since 1979. Federal Defendants admit the allegations in the second and third sentences. With respect to the fourth sentence, Federal Defendants admit that longer growing seasons resulting from increased temperatures have allowed ragweed to produce pollen for a longer period, exacerbating the effects of ragweed allergies. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this paragraph and on this basis denies them.

239. The allegations in the first sentence are too vague for Federal Defendants to admit or deny; to the extent a response is required, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations, and on this basis deny them. The remaining allegations, characterize and quote from a Quadrennial Defense Review, which speaks for itself and is the best evidence of its contents.

240. The allegations in this paragraph relating to drought, famine, and climate-related migrations appear to characterize a Quadrennial Defense Review, which speaks for itself and is the best evidence of its contents. As to the remaining allegations, Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph and on this basis deny them.

241. Federal Defendants admit the allegation that significant climate impacts have already occurred in the United States. *See* 80 Fed. Reg. 64686-88. The remaining allegations

in the first sentence are too vague for Federal Defendants to admit or deny. The allegations in the second sentence are too vague for Federal Defendants to admit or deny. With respect to the third and fourth sentences, Federal Defendants admit that positive feedbacks and potential tipping points for some biological or physical systems exist, and that some changes may be irreversible. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations concerning impacts on Plaintiffs; the remaining allegations in this paragraph are too vague for Defendants to admit or deny.

“VI. FUTURE NATIONAL CLIMATE IMPACTS EXPECTED BY 2050 AND 2100”

242. Federal Defendants admit the allegations in this paragraph.

243. With respect to the allegations in the first, second, and third sentences, Federal Defendants admit that relative sea-level rise may be higher than the global average in areas with land subsidence or changes in ocean currents such as the land around the Gulf of Mexico and the East Coast, lack sufficient knowledge or information to determine the truth of the remaining allegations and aver that scientific assessments of the IPCC and the National Academies have projected global mean sea-level rise by the end of the next century of 0.26 meters to 2 meters (approximately 10 to 79 inches) depending on the assessment, the emissions scenario, and the response of the Greenland and Antarctic ice sheets. Federal Defendants admit the allegations in the fourth and fifth sentences. Federal Defendants lacks sufficient knowledge or information to determine the truth of the allegations in the sixth sentence. Federal Defendants deny the remaining allegations in the paragraph.

244. The allegations in this paragraph are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants admit that non-linear changes in the Greenland and Antarctic ice sheets could contribute to additional sea level rise.

245. With respect to the first sentence, Federal Defendants admit that global temperatures are projected to increase by 2.5 to more than 11° Fahrenheit by 2100, depending on future emissions and the responsiveness of the climate system, and that more warming is expected on land and at higher latitudes; Federal Defendants deny the remainder of the first sentence as stated. With respect to the second sentence, Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations and deny them on that basis.

246. The allegations in the first, second, third, fourth, and fifth sentences appear to characterize an EPA-funded study, “Ensemble Projections of Wildfire Activity and Carbonaceous Aerosol Concentrations over the Western United States in the Mid-21st Century,” which speaks for itself and is the best evidence of its contents. With respect to the allegations in the sixth sentence Federal Defendants deny the allegations and aver that polar bears are listed as “threatened” under the Endangered Species Act. With respect to the allegations in the seventh sentence, Federal Defendants admit that polar bears are sensitive to climate change because of sea ice retreat, and that polar bear populations are projected to decline in the Beaufort Sea region. The allegations in the eighth and ninth sentences are too vague for Federal Defendants to admit or deny. With respect to the ninth sentence, Federal Defendants admit that with global average temperature changes above 2°C, many terrestrial, freshwater, and marine species (particularly endemic species) are at a far greater risk of extinction than in the geological past. Federal Defendants otherwise deny the allegations in this paragraph.

247. With respect to the first sentence, Federal Defendants admit that global temperatures are projected to increase by 2.5° to more than 11° Fahrenheit by 2100, depending on future emissions and the responsiveness of the climate system. Federal Defendants deny the

remainder of the first sentence as stated. Federal Defendants admit the allegations in the second sentence. With respect to the third sentence, Federal Defendants admit that projections under a higher-emissions scenario suggest that the number of heat-wave days in Los Angeles is projected to double, and the number of heat-wave days in Chicago to quadruple, resulting in more deaths. The remainder of the third sentence is too vague to admit or deny; to the extent a response is required, Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations.

248. Defendants admit that potential climate change impacts on water resources vary between regions; admit that there have been and will continue to be changes in the nation's water cycle as a result of climate change, including more winter and spring precipitation in the northern United States (except for the Northwest in the spring) and less precipitation in the Southwest (particularly in the spring); and admit that, because of increasing temperatures and changes in variability in some regions, drought is expected to increase across most of the central and southern United States, even in regions with increasing precipitation. The remaining allegations in this paragraph are too vague for Federal Defendants to admit or deny; to the extent a response is required, Federal Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations.

249. With respect to the first sentence, Federal Defendants admit that much of the Northwest's water is stored naturally in winter snowpack in the mountains and that climate change threatens this natural storage by changing the timing of snowmelt and the amount of water available in streams and rivers (streamflow) throughout the year, reducing water supplies for competing demands. Federal Defendants admit the allegations in the second sentence. With respect to the third sentence, Federal Defendants admit that in the Northwest, summer

temperature increases (and in certain basins, increased river flooding and winter flows, and decreased summer flows), will threaten many freshwater species, particularly salmon, steelhead, and trout; and further admit that rising temperatures will increase disease and mortality in several iconic salmon species. Federal Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations in the third sentence.

250. Federal Defendants admit that a single study determined that faster decomposition of salmon corpses in warmer climates would lead to 11 – 14 percent less carcass biomass available to bald eagles near Puget Sound, not taking into account changes in stream flow. Defendants otherwise deny the allegations in this paragraph as stated.

251. The allegations characterize a Department of Homeland Security mass migration plan, which speaks for itself and is the best evidence of its contents.

252. Federal Defendants admit the allegation in the first sentence that some climate change projections estimate an increase in monetary damages associated with inland flooding across most of the contiguous United States. With respect to the second sentence, Federal Defendants admit that an EPA study projects that without reductions in GHGs, an estimated 190,000 inland bridges would be structurally vulnerable because of climate change by the end of the century, with an adaptation cost of about \$170 billion between 2010 and 2050. With respect to the third sentence, Federal Defendants admit that the same EPA study projects that in the Northwest, a region including Washington and parts of Oregon and Idaho, 56 percent of inland bridges are identified as vulnerable in the second half of the 21st Century. Defendants otherwise deny the allegations in this paragraph as stated.

253. Federal Defendants admit that an EPA study projects that, without reductions in greenhouse gas emissions, adaptation costs in 2100 associated with updating urban drainage to

handle the 50-year 24-hour storm in 50 United States cities are projected to range from \$1.1 to \$12 billion and that, without adaptation, unmitigated climate change is projected to result in \$5 trillion in damages for coastal property due to sea level rise. Federal Defendants otherwise deny the allegations in this paragraph as stated.

254. Federal Defendants admit that an EPA study has projected that without reductions in GHG emissions, the resulting increases in extreme heat would lead to unsuitable working conditions and a large negative impact on United States labor hours—specifically, a decrease of 1.8 billion labor hours, with about \$170 billion in lost wages in 2100. The remaining allegations in Paragraph 254 are too vague for Federal Defendants to admit or deny; to the extent a response is required, Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations.

255. With respect to the first sentence, Federal Defendants admit that estimates made assuming no change in regulatory controls or population assessments have ranged from 1,000 to 4,300 additional premature deaths national per year by 2050 from combined ozone and particle health effects, although there is less certainty in the responses of airborne particles to climate change than there is about the response of ozone. With respect to the allegations in the second sentence, Federal Defendants admit that climate change is expected to increase ground-level ozone pollution over broad areas of the country due to surface temperature and other impacts, including large metropolitan population centers, and admit that ground-level ozone can affect the respiratory system, including through irritation of the airways, reductions in lung function, aggravation of asthma, and airway inflammation. Federal Defendants lacks sufficient knowledge or information to determine the truth of the allegations in the third sentence. Federal Defendants deny the remaining allegations in this paragraph as stated.

“VII. RESTORING THE ENERGY BALANCE AND PROTECTING AGAINST A DANGEROUS DESTABILIZED CLIMATE SYSTEM IS POSSIBLE BASED ON BEST AVAILABLE SCIENCE”

256. The allegations in this paragraph consist of conclusions of law to which no response is required. To the extent a response is required, Federal Defendants deny the allegations.

257. Federal Defendants deny the allegations, and aver that there is no scientific consensus that 350 ppm is the maximum safe level of atmospheric CO₂ concentration that is necessary to restore a stable climate system.

258. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the allegations in this paragraph. Federal Defendants aver that there is no scientific consensus that 350 ppm is the maximum safe level of atmospheric CO₂ concentration that is necessary to restore a stable climate system.

259. Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the first sentence. With respect to the second sentence Federal Defendants admit that the oceans have absorbed about 28 percent of the CO₂ produced by human activities over the past 250 years, leading to an increase in surface ocean acidity of about 30 percent, with impacts on those ocean organisms that use carbonate in their shells and skeletons, putting a number of such organisms at risk and thereby impacting larger ecosystems as well. Federal Defendants deny the remainder of the second sentence as stated. Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the third sentence.

260. With respect to the first sentence, Federal Defendants admit that scientific evidence shows that elevated CO₂ concentrations have caused ocean acidification and ocean warming. Federal Defendants aver that the important details of the effects of elevated CO₂ on

the ocean and the marine environment are not widely understood until many decades later. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in this sentence, and on this basis deny them. With respect to the second and third sentences, Federal Defendants admit that scientific evidence shows that elevated CO₂ levels have caused adverse effects to coral reefs and associated wildlife. Federal Defendants aver that there is uncertainty on the long-term effects of elevated CO₂ on coral reefs and associated wildlife. Federal Defendants lack sufficient knowledge or information to form a belief about the truth of the remaining allegations in the second and third sentences, and on this basis deny them.

261. Federal Defendants admit that current action by the United States will not achieve global atmospheric CO₂ levels of 350 ppm by the end of the century. Federal Defendants deny the allegation that current actions by Federal Defendants are not based on any scientific standard. Federal Defendants lack sufficient knowledge or information to determine the truth of the remaining allegations.

262. Federal Defendants deny the allegations in this paragraph.

“VIII. THE FEDERAL GOVERNMENT’S ADMISSIONS OF ITS PUBLIC TRUSTEE OBLIGATIONS”

263. The allegations consist of legal conclusions to which no response is required.

264. The allegations quote from and characterize the National Environmental Policy Act, 42 U.S.C. § 4331(b)(1) which speaks for itself and is the best evidence of its contents.

265. The allegations quote from and characterize federal statutes, 42 U.S.C. § 9607 and 33 U.S.C. § 2706, which speak for themselves and are the best evidence of their contents.

266. The allegations quote from and characterize a federal statute, 42 U.S.C. § 9607, and a federal regulation, 42 C.F.R. § 300.600, which speak for themselves and are the best evidence of their contents.

267. The allegations consist of legal conclusions to which no response is required.

268. The allegations consist of legal conclusions to which no response is required.

269. The allegations consist of legal conclusions to which no response is required.

270. The allegations consist of legal conclusions to which no response is required.

271. The allegations consist of legal conclusions to which no response is required.

272. The allegations consist of legal conclusions to which no response is required.

273. The allegations consist of legal conclusions to which no response is required.

The allegations are also too vague for Federal Defendants to admit or deny.

274. The allegations quotes from and characterizing a complaint filed against British Petroleum, which speaks for itself and is the best evidence of its contents.

275. The allegations appear to characterize a 1965 White House Report, “Restoring the Quality of Our Environment,” which speaks for itself and is the best evidence of its contents.

276. The allegations in the first sentence are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations in the first sentence and deny them on that basis. The allegations in the second and third sentences constitute legal conclusions to which no response is required.

“CLAIMS FOR RELIEF”

“First Claim for Relief
Violation of the Due Process Clause of the Fifth Amendment

277. Federal Defendants incorporate all preceding paragraphs set forth in this Answer as if set forth in full here.

278. The allegations constitute legal conclusions to which no response is required.

279. The allegations constitute legal conclusions to which no response is required.

280. The allegations in the first sentence are too vague for Federal Defendants to admit or deny. To the extent a response is required, Federal Defendants lack sufficient knowledge or information to determine the truth of the allegations and deny them on that basis. The allegations in the second, third, and fourth sentences constitute legal conclusions to which no response is required.

281. The allegations constitute legal conclusions to which no response is required.

282. The allegations constitute legal conclusions to which no response is required.

283. The allegations constitute legal conclusions to which no response is required.

284. The allegations constitute legal conclusions to which no response is required.

285. The allegations constitute legal conclusions to which no response is required.

286. The allegations constitute legal conclusions to which no response is required.

287. The allegations constitute legal conclusions to which no response is required.

288. The allegations constitute legal conclusions to which no response is required.

289. The allegations constitute legal conclusions to which no response is required.

“Second Claim for Relief
Violation of Equal Protection Principles
Embedded in the Fifth Amendment”

290. Federal Defendants incorporate all preceding paragraphs set forth in this Answer as if set forth in full here.

291. The allegations constitute legal conclusions to which no response is required.

292. The allegations constitute legal conclusions to which no response is required.

293. The allegations constitute legal conclusions to which no response is required.

- 294. The allegations constitute legal conclusions to which no response is required.
- 295. The allegations constitute legal conclusions to which no response is required.
- 296. The allegations constitute legal conclusions to which no response is required.
- 297. The allegations constitute legal conclusions to which no response is required.
- 298. The allegations constitute legal conclusions to which no response is required.
- 299. The allegations constitute legal conclusions to which no response is required.
- 300. The allegations constitute legal conclusions to which no response is required.
- 301. The allegations constitute legal conclusions to which no response is required.

“Third Claim for Relief
The Unenumerated Rights Preserved for the People
by the Fifth Amendment”

302. Federal Defendants incorporate all preceding paragraphs set forth in this Answer as if set forth in full here.

- 303. The allegations constitute legal conclusions to which no response is required.
- 304. The allegations constitute legal conclusions to which no response is required.
- 305. The allegations constitute legal conclusions to which no response is required.
- 306. The allegations constitute legal conclusions to which no response is required.

“Fourth Claim for Relief
Violation of the Public Trust Doctrine”

307. Federal Defendants incorporate all preceding paragraphs set forth in this Answer as if set forth in full here.

- 308. The allegations constitute legal conclusions to which no response is required.
- 309. The allegations constitute legal conclusions to which no response is required.
- 310. The allegations constitute legal conclusions to which no response is required.

“PRAYER FOR RELIEF”

The remaining allegations set forth in the Complaint consist of Plaintiffs’ prayers for relief to which no response is required. To the extent a response is required, Federal Defendants deny that Plaintiffs are entitled to the relief requested or any relief whatsoever.

GENERAL DENIAL

Federal Defendants deny any and all allegations in the Complaint, whether express or implied, that are not otherwise specifically admitted, denied, or qualified herein.

AFFIRMATIVE DEFENSES

Federal Defendants state the following affirmative defenses:

1. Plaintiffs’ claims do not present an Article III case or controversy
2. Plaintiffs’ claims are barred by a lack of standing.
3. Plaintiffs fail to state a claim upon which relief may be granted for some or all of the claims in the Complaint.
4. Plaintiffs’ requested relief contains an improper collateral attack on agency actions by the DOI, DOE, and FERC, which is prohibited by the Administrative Procedure Act.
5. Plaintiffs failed to exhaust their administrative remedies.
6. Plaintiffs’ claims are preempted by the Clean Air Act.
7. Plaintiffs’ requested relief seeks effective repeal of numerous duly enacted federal statutes.
8. Plaintiffs’ requested relief seeks effective vacatur of numerous duly issued federal regulations in violation of the separation of powers principles implicit in the Constitution.
9. Plaintiffs’ requested relief is barred by Article I of the Constitution, which vests legislative powers in the Congress.

10. Plaintiffs' requested relief is barred by Article II, which vests executive powers in the President.

11. Plaintiffs' requested relief is barred by international agreements entered into by the United States.

12. Plaintiffs' requested relief is barred by of separation of powers principles implicit in the Constitution.

Dated: January 13, 2017

Respectfully submitted,
JOHN C. CRUDEN
Assistant Attorney General
Environment & Natural Resources Division

/s/ Sean C. Duffy
SEAN C. DUFFY (NY Bar. No. 4103131)
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
601 D Street NW
Washington, DC 20004
Telephone: (202) 305-0445
Facsimile: (202) 305-0506
sean.c.duffy@usdoj.gov

Attorneys for Federal Defendants

Certificate of Service

I hereby certify that on January 13, 2017, I filed the foregoing with the Clerk of Court via the CM/ECF system, which will provide service to all attorneys of record.

/s/ Sean C. Duffy
Sean C. Duffy
Attorney for Federal Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KELSEY ROSE CASCADIA JULIANA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 6:15-cv-01517-TC
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Federal Defendants.)	
_____)	

DECLARATION OF CASSANDRA BERNSTEIN

I, Cassandra Bernstein, declare as follows:

1. I am an Attorney-Advisor in the United States Department of Energy's ("DOE") Office of General Counsel, in the Office of Electricity and Fossil Energy ("FE").
2. As part of my employment at DOE, I am familiar with DOE/FE Order No. 3041, "Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas By Vessel From the Jordan Cove LNG Terminal to Free Trade Agreement Nations," FE Docket No. 11-127-LNG (Dec. 7, 2011). I am a custodian of records and documents relating to DOE/FE Order No. 3041.
3. DOE/FE Order No. 3041 is attached as an exhibit to this Declaration.
4. This exhibit is a true and correct copy of DOE/FE Order No. 3041.

I declare under penalty of perjury that the foregoing is true and correct. Executed this
12th day of November, 2015 in Washington, D.C.

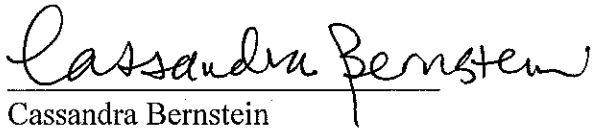

Cassandra Bernstein

EXHIBIT A

UNITED STATES OF AMERICA

DEPARTMENT OF ENERGY

OFFICE OF FOSSIL ENERGY

JORDAN COVE ENERGY PROJECT, L.P.

FE DOCKET NO. 11-127-LNG

ORDER GRANTING LONG-TERM MULTI-CONTRACT AUTHORIZATION
TO EXPORT LIQUEFIED NATURAL GAS BY VESSEL
FROM THE JORDAN COVE LNG TERMINAL
TO FREE TRADE AGREEMENT NATIONS

DOE/FE ORDER NO. 3041

DECEMBER 7, 2011

I. DESCRIPTION OF REQUEST

On September 22, 2011, Jordan Cove Energy Project, L.P. (Jordan Cove), filed an application (Application), with the Office of Fossil Energy (FE) of the Department of Energy (DOE) under section 3 of the Natural Gas Act (NGA)¹ for long-term, multi-contract authorization, to export up to nine million metric tons per year of liquefied natural gas (LNG) from the proposed Jordan Cove LNG terminal and liquefaction facility to be built in Coos Bay County, Oregon, for a 30-year term. The export volume is equivalent to approximately 438 billion cubic feet per year (Bcf/yr) of natural gas.² Jordan Cove seeks to export LNG by vessel to any nation with which the United States currently has, or in the future will have, a Free Trade Agreement (FTA) requiring the national treatment for trade in natural gas, and that currently has, or in the future develops, the capacity to import LNG via ocean-going carriers.³ Jordan Cove seeks to export this LNG on its own behalf and also as agent for third parties. Jordan Cove requests that this authorization commence on the earlier of the date of first export or ten years from the date the authorization is issued (December 7, 2021).

II. BACKGROUND

Jordan Cove is a Delaware limited partnership, which has its principal place of business in Coos Bay, Oregon. It is owned by Jordan Cove Energy Project L.L.C., a Delaware limited liability company, as general partner, Fort Chicago LNG II U.S.L.P., a Delaware limited

¹ The authority to regulate the imports and exports of natural gas, including liquefied natural gas, under section 3 of the NGA (15 U.S.C. §717b) has been delegated to the Assistant Secretary for FE in Redelegation Order No. 00-002.04E issued on April 29, 2011.

² Jordan Cove requested authorization to export up to nine million metric tons of LNG, and stated this is equivalent to 1.2 Bcf/day of natural gas. Consistent with DOE regulations (10 CFR part 590), applications are to provide volumes in Bcf. DOE/FE has converted the 1.2 Bcf/day to 438 Bcf/year, the volume to be authorized.

³ The United States currently has free trade agreements requiring national treatment for trade in natural gas with Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Jordan, Mexico, Morocco, Oman, Peru, and Singapore. FTAs with Israel and Costa Rica do not require national treatment for trade in natural gas. FTAs with Colombia, South Korea, and Panama have been ratified by Congress but have not yet taken effect.

partnership, as limited partner, and Energy Projects Development L.L.C., a Delaware limited partnership, as limited partner.

Jordan Cove states that it will conduct its proposed export operations from an LNG terminal and liquefaction facility to be constructed on the North Spit of Coos Bay in Coos Bay County, Oregon. Jordan Cove's construction and operation of an LNG terminal at this location has already been authorized by the Federal Energy Regulatory Commission (FERC) as an import facility.⁴ Jordan Cove asserts that it has developed modified plans to make use of the terminal as an export facility. According to Jordan Cove, the terminal facilities already authorized by the FERC include two 160,000 cubic meter LNG full-containment storage tanks, a single marine berth capable of accommodating LNG vessels up to Q-Flex size (which DOE/FE notes are up to 216,000 cubic meters of LNG; the equivalent of 4.6 Bcf of natural gas), and on-site utilities and services. The modified plans to enable the facilities to be used for exports of domestically produced LNG include large diameter LNG piping configured for exports and electrically driven liquefaction equipment. Jordan Cove states that the Jordan Cove terminal will be connected to a new interstate natural gas pipeline, the Pacific Connector Gas Pipeline (PCGP), also certificated by the FERC Order.

Jordan Cove states that the source of natural gas supply for Jordan Cove's exports will be the North American natural gas market which they further describe as follows. Jordan Cove's terminal will be connected via the PGCP to the northwest U.S. market hub at Malin, Oregon, providing interconnections with the interstate pipeline system grid, including GTN Pipeline, delivering gas from western Canada and, via its Stanfield interconnection with Northwest Pipeline, from the U.S. Rockies; Ruby Pipeline, delivering gas from western Wyoming,

⁴ Pacific Connector Gas Pipeline, LP; Jordan Cove Energy Project, L.P., 129 FERC ¶61,234 (December 17, 2009) (FERC Order). Rehearing requests of the FERC Order are currently pending.

northwestern Colorado and northern Utah; Tuscarora Pipeline, serving northern Nevada; and, PG&E Redwood Path, serving northern California.

Jordan Cove's contemplated commercial arrangements will be in the form of Liquefaction Tolling Agreements (LTA) under which an individual customer that holds title to natural gas will have the right to deliver that gas to Jordan Cove's terminal for liquefaction services and to receive LNG in exchange for a processing fee paid to Jordan Cove; and the LTA customer will be responsible to source the feed gas for the facility. According to Jordan Cove, the decision whether to utilize liquefaction capacity will be made by the LTA customer and driven by market economics. Jordan Cove is in the process of negotiating LTAs with prospective customers but has not concluded LTAs as of the date the Application was filed.

Jordan Cove further anticipates that the title holder of the LNG at the point of export may be the LTA customer or a party that purchases LNG from an LTA customer pursuant to a long-term contract. Jordan Cove is prepared to accept conditions on its authorization consistent with the conditions imposed in recent DOE/FE orders that have authorized applicants to export as agent for others when not holding title to the LNG at the point of export. In this regard, Jordan Cove states that it will undertake: (1) to file contracts associated with both the long-term supply of natural gas to the Jordan Cove terminal for processing into LNG for export, and the long-term export of LNG from the Jordan Cove terminal within 30 days after their execution; (2) to include in any contract for the transfer of LNG exported under its authorization a provision by which the customer makes the necessary commitments to comply with the requirements imposed by DOE/FE, including to limit deliveries of exported LNG to authorized countries and to report on the countries of destination for actual deliveries; and (3) to register with DOE/FE any title holder for whom Jordan Cove will act as agent to export LNG and to cause such title holder to

provide all information and commitments required by DOE/FE, including its agreement to comply with destination restrictions and other requirements, to include DOE/FE requirements in any subsequent purchase or sale agreement entered into by that title holder, and to file long-term agreements associated with the supply of gas to or the export of LNG from the Jordan Cove terminal.

Jordan Cove states that it intends to file a separate non-FTA application with DOE/FE requesting long-term, authorization to export LNG to those nations with which the United States does not have an FTA requiring national treatment for trade in natural gas, and to which the export of LNG by vessel is not prohibited by U.S. law or policy.

III. STATE OF OREGON PROTEST

Oregon's Position

On October 11, 2011, the State of Oregon (Oregon) submitted a protest (Protest) of Jordan Cove's application. Oregon charged that the Application is both premature and deficient. Oregon observes that Jordan Cove does not presently have a facility from which to export LNG nor has it commenced the process to obtain authorization from the FERC to construct those facilities. Referring to the statutory requirements of section 3(c) of the NGA which mandates approval of the instant application without modification or delay, Oregon states that "...there is currently no exportation of natural gas for which delay must be avoided, and such exportation is years away." Oregon asks that DOE/FE defer ruling on the Application until Jordan Cove has cured these alleged deficiencies. Additionally, Oregon states that, notwithstanding language in DOE's regulations calling for the publication of a notice of application in the Federal Register of all applications under section 3, DOE has not published a notice of Jordan Cove's Application. Oregon maintains that the regulations require that the public be given 30 days in which to

intervene in section 3 proceedings and that this 30 day period can only be shortened in the event of an emergency. According to Oregon, there is no emergency that warrants foregoing publication of a notice of the application.

Furthermore, Oregon maintains that the Application does not meet the minimal substantive requirements of DOE's regulations. Specifically, Oregon contends that:

(1) the Application does not provide the source and security of supply of the natural gas proposed for export, as required by section 590.202(b)(2) of the regulations (10 CFR 590.202(b)(2)); in this regard, because Jordan Cove has requested an authorization that will begin no later than ten years in the future and will run for a term of 30 years, Oregon maintains that the Application must describe the North American reserves supporting the project for nearly 40 years into the future and must take into account both existing authorizations to export and domestic uses that will tap into the same reserves;

(2) the Application does not describe the lack of a national or regional need for the gas, as required by section 590.202(b)(6) of the regulations (10 CFR 590.202(b)(6));

(3) the Application does not appear to contain a verified oath or affirmation by the person filing the Application, or by an officer or authorized representative having knowledge of the facts alleged, as required by section 590.103(b) of the regulations (10 CFR 590.103(b)); and

(4) the Application does not appear to contain the required certification that the signatory is a duly authorized representative of Jordan Cove, as also required by section 590.103(b).

Jordan Cove's Response

On October 17, 2011, Jordan Cove filed the "Response of Jordan Cove Energy Project, L.P. to State of Oregon Protest" (Response). Jordan Cove maintains in the Response that Oregon's Protest demonstrates a misunderstanding of the statutory requirements and the

regulatory processes applicable to FTA applications under section 3(c) of the NGA. Jordan Cove contends also that the Application is neither premature nor deficient and that it is entitled to the statutory presumption that exports to FTA nations are deemed to be within the public interest and must be granted without modification or delay. Jordan Cove states that it is irrelevant that the Jordan Cove Project is not yet constructed and that Jordan Cove has not yet commenced the pre-filing process at the FERC. Jordan Cove maintains that filing of the Application is the first step in a multi-step process and that a long-term export authorization from DOE is required in order to attract prospective customers willing to make large-scale, long-term investments in export arrangements.

Jordan Cove also states that DOE's processing of the Application without publication of a notice of the application in the Federal Register and without requiring a showing involving domestic need for the gas to be exported is consistent with DOE/FE's policy and practice for FTA applications. Jordan Cove observes that DOE's procedural regulations at 10 CFR Part 590 were last updated in 1989, prior to the amendment of NGA section 3(c) by the Energy Policy Act of 1992 (EPAAct 1992). Jordan Cove cites to *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 (February 10, 2011) at footnote 6, where the agency stated that "the requirement for granting the application without delay or modification overrides regulatory requirements for public notice and other hearing-type procedures in 10 CFR Part 590." Jordan Cove notes that DOE/FE also stated at page 6 of the *Freeport* order that "[i]n light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE to review the other arguments posed by [the Freeport Project] in support of the Application." Jordan Cove states that the quoted passages from the Freeport order indicate that DOE/FE will not analyze the arguments raised by Oregon that go to alleged deficiencies in

the Application, *e.g.* source and security of supply, description of supporting gas reserves, and national or regional need for the gas. Jordan Cove concludes that while DOE/FE practices do not align with regulations, they are fully consistent with the applicable amended provisions of the NGA. Additionally, Jordan Cove has attached a verification to its Application apparently to correct one of the alleged deficiencies identified by Oregon.

Discussion and Conclusions

The amendment of NGA section 3(c) in EAct 1992 requires that applications to export natural gas, including LNG, to most FTA countries, shall be deemed in the public interest and shall be granted without modification or delay. DOE's procedural regulations have not been updated to reflect the impact of EAct 1992 and Oregon appears to have drawn on this discrepancy between law and regulation in its protest. As discussed below, however, DOE is bound by the statutory amendments to the NGA and has consistently interpreted the notice of application requirements in DOE's regulations at 10 CFR 590.205 to apply only to requests for authorization to export LNG to non-FTA countries. DOE is in the process of preparing a rulemaking to update our procedural regulations in part to make them consistent with the requirements of EAct 1992's changes and eliminate any confusion. Pending promulgation of a final rule implementing these changes, DOE will give full effect to the statutory requirements and continue to interpret the notice of application requirements in our existing rules to apply to non-FTA applications.

DOE's authority under section 3(c), as amended by EAct 1992, is limited to two areas: (1) to ensure that applications are filed with sufficient information to confirm that the applicant is engaged in a meaningful (*i.e.*, not frivolous) effort to undertake natural gas export or import activities, and (2) to provide in any order granting a section 3(c) application that the applicant

will report its export or import activities in sufficient detail to enable DOE to monitor import and export activities.

In the present case, DOE/FE is satisfied of the applicant's seriousness of purpose and the instant order includes monitoring requirements sufficient to ensure that DOE is able to follow export activities under the proposed authorization. By virtue of the amendment of section 3(c) in 1992, our inquiry can go no further.

The substantive issues raised by Oregon regarding alleged deficiencies in the Application (source and security of supply, adequacy of supporting gas reserves, and national or regional need for the gas) and the claim that the Application is premature thus are not matters subject to regulatory review and they are not grounds for deferring or denying the Application.

Oregon also is concerned over this agency's practice of not publishing notices of section 3(c) applications in the Federal Register. In our view, the publication of a Federal Register notice of application serves two potential purposes. With respect to applications under section 3(a) of the NGA, a Federal Register notice alerts the public to the fact that an application has been filed and provides an avenue for the submission of motions to intervene, comments, and/or protests of the application.

Yet, with respect to applications under section 3(c) of the NGA, the law precludes any public interest review of the application and requires that the application be granted without modification or delay. In this circumstance, the publication of a Federal Register notice is meaningful only for the limited purpose of informing the public that an application has been filed and that DOE/FE has fulfilled its statutory charge by issuing an order granting the Application.

Neither Oregon's interests nor the interests of other potential intervenors in this or other section 3(c) applications have been prejudiced by the failure of this agency to publish Federal

Register notices of section 3(c) applications. There can be no prejudice where the agency is required to deem applications to be in the public interest and to grant them without modification or delay.

On the other hand, we do agree that publication of a Federal Register notice of a section 3(c) application may be helpful for the limited purpose of informing the public of the filing and the fact that it has been granted. All such applications and orders are already posted on the agency's website and maintained on the website for public viewing indefinitely. However, we agree that publication in the Federal Register could be a helpful way of keeping the public even better informed of the filing of section 3(c) applications and the issuances of orders authorizing section 3(c) imports and exports from and to FTA countries. To that end, we will commence publication of such notices on a monthly basis.

As noted previously, this agency is currently revising and updating its procedural regulations. As part of that exercise, we also intend to propose the adoption of this new notice publication procedure in our revised regulations.

FINDINGS

(1) Section 3(c) of the NGA was amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) to require that applications to authorize (a) the import and export of natural gas, including LNG, from and to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and (b) the import of LNG from other international sources, be deemed consistent with the public interest and granted without

modification or delay. The instant Application falls within section 3(c), as amended, and therefore, DOE/FE is charged with granting the Application without modification or delay.⁵

(2) In light of DOE's statutory obligation to grant the Application without modification or delay, there is no need for DOE/FE to review the other arguments posed by Jordan Cove in support of the Application. The instant grant of authority should not be read to indicate DOE's views on those arguments.

(3) The countries with which the United States has an FTA requiring national treatment for trade in natural gas currently are: Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore.

(4) DOE/FE addressed the issue of agency rights in *Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC*, DOE/FE Order No. 2913 (Order 2913), issued February 10, 2011. In Order 2913, DOE/FE approved a proposal by Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC (collectively, FLEX) to register each LNG title holder for whom FLEX sought to export LNG as agent. FLEX also proposed that this registration include a written statement by the title holder acknowledging and agreeing to comply with all applicable requirements included in its export authorization and to include those requirements in any subsequent purchase or sale agreement entered into by that title holder. In the FLEX application (FE Docket No. 10-160-LNG), FLEX also stated that it would file under seal with DOE/FE any relevant long-term commercial agreements that it reached with the LNG title holders on whose behalf the exports were performed.

⁵ DOE further finds that the requirement for public notice of applications and other hearing-type procedures in 10 CFR Part 590, are applicable only to applications seeking to export natural gas, including LNG, to countries with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas.

In Order 2913, DOE/FE found that the above proposal was an acceptable alternative to the non-binding policy adopted by DOE/FE in *Dow Chemical*,⁶ which established that the title for all LNG authorized for export must be held by the authorization holder at the point of export. DOE/FE agreed to accept the FLEX alternative because it would ensure that the title holder was aware of all DOE/FE requirements applicable to the proposed export and would provide DOE with a record of all authorized exports and direct contact information and a point of contact with the title holder. Moreover, DOE/FE found that the registration process was responsive to current LNG markets and provided an expedited process by which companies seeking to export LNG can do so. Additionally, in Order 2913, DOE/FE noted that those entities that hold title or expect to hold title to LNG that is stored in domestic LNG terminals can choose to submit an application to DOE for their own authorization to export LNG, and are not required to use the agency rights held by others.

The same policy considerations that supported DOE/FE's acceptance of the alternative proposal in Order 2913 apply here as well. The authorization granted herein shall be conditioned to require that where Jordan Cove proposes to export as agent for others, Jordan Cove must register those companies in accordance with the procedures and requirements described herein.

ORDER

Pursuant to section 3 of the NGA, it is ordered that:

A. Jordan Cove is authorized to export domestically produced LNG by vessel from the Jordan Cove LNG terminal in Coos Bay, Oregon, up to the equivalent of 438 Bcf per year of natural gas (nine million metric tons per year) for a 30-year term, beginning on the earlier of the

⁶ *The Dow Chemical Company*, DOE/FE Opinion and Order No. 2859 (FE Docket No. 10-57-LNG), October 5, 2010, at p. 7 and 8.

date of first export or 10 years from the date the authorization is issued (December 7, 2021), pursuant to one or more long-term LTAs with third parties that do not exceed the term of this authorization.

B. This LNG may be exported to Australia, Bahrain, Canada, Chile, Dominican Republic, El Salvador, Guatemala, Honduras, Jordan, Mexico, Morocco, Nicaragua, Oman, Peru, and Singapore, and to any nation that the United States subsequently enters into a FTA requiring national treatment for trade in natural gas, provided that the destination nation has the capacity to import ocean going vessels. FTA countries are currently identified by DOE/FE at: <http://www.fossil.energy.gov/programs/gasregulation/index.html>.

C. Jordan Cove shall ensure that all transactions authorized by this order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury. Failure to comply with this requirement could result in rescission of this authorization and/or other civil or criminal remedies.

D. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities all executed long-term LTA's associated with the long-term export of LNG from the Jordan Cove LNG terminal within 30 days of their execution. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities all executed long-term contracts associated with the long-term supply of natural gas to the Jordan Cove LNG terminal with the intent to process this natural gas into LNG for export within 30 days of their execution.

E. Jordan Cove shall include the following provision in any contract for the sale or transfer of LNG exported pursuant to this Order:

"Customer or purchaser acknowledges and agrees that it will resell or transfer LNG purchased hereunder for delivery only to countries identified in Ordering Paragraph B of DOE/FE Order No. 3041, issued December 7, 2011 in FE Docket No. 11-127-LNG, and/or to purchasers that have agreed in writing to limit their direct or indirect resale or transfer of such LNG to such countries. Customer or purchaser further commits to cause a report to be provided to Jordan Cove that identifies the country of destination, upon delivery, into which the exported LNG was actually delivered, and to include in any resale contract for such LNG the necessary conditions to ensure that Jordan Cove is made aware of all such actual destination countries."

F. Jordan Cove is permitted to use its authorization in order to export LNG on behalf of or as agent for others, after registering the other party with DOE/FE. Registration materials shall include an acknowledgement and agreement by the registrant to supply Jordan Cove with all information necessary to permit Jordan Cove to register that person or entity with DOE/FE, including: (1) the registrant's agreement to comply with this Order and all applicable requirements of DOE's regulations at 10 CFR Part 590, including but not limited to destination restrictions; (2) the exact legal name of the registrant, state/location of incorporation/registration, primary place of doing business, and the registrant's ownership structure, including the ultimate parent entity if the registrant is a subsidiary or affiliate of another entity; (3) the name, title, mailing address, e-mail address, and telephone number of a corporate officer or employee of the registrant to whom inquiries may be directed; (4) within 30 days of execution, a copy, filed with DOE/FE under seal, of any long-term contracts, including processing agreements, that result in the export of natural gas, including LNG; and (5) within 30 days of execution by a person or entity required by this Order to register, a copy, filed with DOE/FE under seal, of any LTA's

associated with the long-term supply of natural gas to the Jordan Cove LNG terminal with the intent to process this natural gas into LNG for export pursuant to this authorization.

G. Each registration submitted pursuant to this Order shall have current information on file with DOE/FE. Any changes in company name, contact information, change in term of the long-term contract, termination of the long-term contract, or other relevant modification, shall be filed with DOE/FE within 30 days of such change(s).

H. Within two weeks after the first export of domestically produced LNG occurs from the Jordan Cove liquefaction facility, Jordan Cove shall provide written notification of the date that the first export of LNG authorized in Order Paragraph A above occurred.

I. Jordan Cove shall file with the Office of Natural Gas Regulatory Activities, on a semi-annual basis, written reports describing the progress of the planned liquefaction facility project. The reports shall be filed on or by April 1 and October 1 of each year, and shall include information on the progress of the Jordan Cove LNG Terminal liquefaction facility, the date the facility is expected to be operational, and the status of the long-term contracts associated with the long-term export of LNG and any long-term supply contracts.

J. Monthly Reports: With respect to the LNG exports authorized by this Order, Jordan Cove shall file with the Office of Natural Gas Regulatory Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. The first monthly report required by this Order is due not later than the 30th day of the month following the month of first export. In subsequent months, if exports have not occurred, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name(s) of the authorized exporter registered with DOE/FE; (2) the name of the U.S. export terminal; (3) the name of the LNG

tanker; (4) the date of departure from the U.S. export terminal; (5) the country of destination; (6) the name of the supplier/seller; (7) the volume in Mcf; (8) the price at point of export per million British thermal units (MMBtu); (9) the duration of the supply agreement (indicate spot sales); and (10) the name(s) of the purchaser (s).

(Approved by the Office of Management and Budget under OMB Control No. 1901-0294)

K. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be e-mailed to Ms. Caudillo at Yvonne.caudillo@hq.doe.gov or ngreports@hq.doe.gov, or may be faxed to Ms. Caudillo at (202) 586-6050.

Issued in Washington, D.C., on December 7, 2011.



John A. Anderson
Manager, Natural Gas Regulatory Activities
Office of Oil and Gas Global Security and Supply
Office of Fossil Energy

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KELSEY ROSE CASCADIA JULIANA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 6:15-cv-01517-TC
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Federal Defendants.)	
_____)	

**FEDERAL DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN
SUPPORT OF THEIR MOTION TO DISMISS**

JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division

JUSTIN A. TORRES
Trial Attorney, D.C. Bar No. 1003136
Environment and Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 305-0874
Fax: (202) 305-0506
justin.torres@usdoj.gov

Attorneys for Federal Defendants

TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND	1
STANDARD OF REVIEW	6
ARGUMENT	7
I. Under <i>Lujan</i> , Plaintiffs Lack Article III Standing to Bring This Suit.	7
A. The Amended Complaint Fails To Allege Particularized Harm Traceable To Defendants’ Acts.	8
1. Plaintiffs Lack Standing Because They Allege A Generalized Grievance, Not A Particularized Harm.	8
2. Plaintiffs Lack Standing Because They Allege A Causal Chain That Consists Of Generalized Assertions Of Defendants’ “Contribution” To Climate Change.....	11
3. Plaintiffs Lack Standing Because Their Alleged Injuries Cannot Be Redressed By The Court.	13
4. Future Generations Have Suffered No Injury In Fact And Thus Lack Standing.	16
B. Plaintiffs’ Claims Are A Generalized Grievance Best Addressed Through Democratic Means, Not By A Federal Court.....	17
II. Plaintiffs Fail To State A Claim Under The Constitution.....	19
A. There Is No Constitutional Right To Be Free of CO ₂ Emissions.	20
B. Plaintiffs Are Not A Discrete Minority And Have No Equal Protection Claim.	23
C. The Ninth Amendment Guarantees No Substantive Rights.	26
D. Defendants’ Acts Have A Rational Basis.	27
III. This Court Lacks Jurisdiction Over Public Trust Doctrine Suits, Which Arise Under State Law.....	27
CONCLUSION.....	29

TABLE OF AUTHORITIES

Cases

<i>Allen v. Wright</i> , 468 U.S. 737 (1984)	13
<i>Am. Bus Ass’n v. Slater</i> , 231 F.3d 1 (D.C. Cir. 2000)	15
<i>Am. Elec. Power Co. v. Connecticut</i> , 131 S. Ct. 2527 (2011)	18, 19
<i>Amigos Bravos v. BLM</i> , 816 F. Supp. 2d 1118 (D.N.M. 2011)	11
<i>Appleby v. City of New York</i> , 271 U.S. 364 (1926)	28
<i>Ashcroft v. Iqbal</i> , 556 U.S. 662 (2009)	6
<i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544 (2007)	7
<i>Bender v. Williamsport Area Sch. Dist.</i> , 475 U.S. 534 (1986)	7
<i>C.E. Pope Equity Trust v. United States</i> , 818 F.2d 696 (9th Cir. 1987)	17
<i>Cetacean Cmty. v. Bush</i> , 386 F.3d 1169 (9th Cir. 2004)	17
<i>Chandler v. State Farm Mut. Auto. Ins. Co.</i> , 598 F.3d 1115 (9th Cir. 2010)	6
<i>Christy v. Hodel</i> , 857 F.2d 1324 (9th Cir. 1988)	20
<i>City of Cleburne, Tex. v. Cleburne Living Ctr.</i> , 473 U.S. 432 (1985)	25, 26
<i>City of Mobile, Ala. v. Bolden</i> , 446 U.S. 55 (1980)	25
<i>Clynch v. Chapman</i> , 285 F. Supp. 2d 213 (D. Conn. 2003)	26
<i>Collins v. City of Harker Heights</i> , 503 U.S. 115 (1992)	20, 22
<i>Concerned Citizens of Neb. v. U.S. Nuclear Regulatory Comm’n</i> , 970 F.2d 421 (8th Cir. 1992)	21
<i>Ctr. for Biological Diversity v. U.S. Dept. of the Interior</i> , 563 F.3d 466, 475 (D.C. Cir. 2009)	11
<i>Cunningham v. Beavers</i> , 858 F.2d 269 (5th Cir. 1988)	24
<i>DeLeon v. Little</i> , 981 F. Supp. 728 (D. Conn. 1997)	26
<i>Detroit Bank v. United States</i> , 317 U.S. 329 (1943)	4
<i>Douglas v. Hugh A. Stallings, M.D., Inc.</i> , 870 F.2d 1242 (7th Cir. 1989)	24

<i>Elizabeth Retail Props. LLC v. KeyBank Nat. Ass’n</i> , 83 F. Supp. 3d 972 (D. Or. 2015)	6
<i>Ely v. Velde</i> , 451 F.2d 1130 (4th Cir. 1970)	22
<i>Exxon Mobil Corp. v. Allapattah Servs., Inc.</i> , 545 U.S. 546 (2005).....	7
<i>FCC v. Beach Cmms’ns</i> , 508 U.S. 307 (1993)	27
<i>Flast v. Cohen</i> , 392 U.S. 83 (1968)	8
<i>Gibson v. Matthews</i> , 926 F.2d 532 (6th Cir. 1991).....	26
<i>Gladstone Realtors v. Vill. of Bellwood</i> , 441 U.S. 91 (1979)	9
<i>Gonzales v. Gorsuch</i> , 688 F.2d 1263 (9th Cir. 1982)	13
<i>Hagedorn v. Union Carbide Corp.</i> , 363 F. Supp. 1061 (N.D. W. Va. 1973).....	22
<i>Hedgpeeth v. Wash. Metro. Area Transit Auth.</i> , 386 F.3d 1148 (D.C. Cir. 2004)	25
<i>Hill v. Stone</i> , 421 U.S. 289 (1975)	24
<i>Hirabayashi v. United States</i> , 320 U.S. 81 (1943).....	4
<i>Idaho v. Coeur d’Alene Tribe</i> , 521 U.S. 261 (1997).....	28
<i>Illinois Central Rail Company v. Illinois</i> , 146 U.S. 387 (1892)	28
<i>Jaffee v. Soc’y of New York Hosp.</i> , 1999 WL 246747 (S.D.N.Y. Apr. 27, 1999)	24
<i>Lehnhausen v. Lake Shore Auto Parts Co.</i> , 410 U.S. 356 (1973).....	27
<i>Lexmark Intern., Inc. v. Static Control Components, Inc.</i> , 134 S. Ct. 1377 (2014).....	13
<i>Long Sault Dev. Co. v. Call</i> , 242 U.S. 272 (1916).....	28
<i>Loortz v. McCarthy</i> , 561 F. App’x 7 (D.C. Cir. 2014)	28, 29
<i>Lujan v. Defenders of Wildlife</i> , 504 U.S. 555 (1992)	7, 8, 9, 10, 16, 18
<i>MacNamara v. Cnty. Council of Sussex Cnty.</i> , 738 F. Supp. 134 (D. Del. 1990)	22
<i>Mann v. Meachem</i> , 929 F. Supp. 622 (N.D.N.Y. 1996)	26
<i>Massachusetts v. EPA</i> , 549 U.S. 497 (2007)	9, 11, 19
<i>Michael H. v. Gerald D.</i> , 491 U.S. 110 (1989).....	20
<i>Moore v. City of E. Cleveland</i> , 431 U.S. 494 (1977).....	20

<i>Nat'l Sea Clammers Ass'n v. City of New York</i> , 616 F.2d 1222 (3d Cir. 1980)	21
<i>Phillips Petrol. Co. v. Mississippi</i> , 484 U.S. 469 (1988)	28
<i>Pinkney v. Ohio Env'tl. Prot. Agency</i> , 375 F. Supp. 305 (N.D. Ohio 1974)	22
<i>PPL Montana, LLC v. Montana</i> , 132 S. Ct. 1215 (2012)	28
<i>Price v. Cohen</i> , 715 F.2d 87 (3d Cir. 1983)	24
<i>Raich v. Gonzales</i> , 500 F.3d 850 (9th Cir. 2007)	21
<i>Reno v. Flores</i> , 507 U.S. 292 (1993)	21
<i>Reynolds v. Giusto</i> , No. CV. 08-6261 PK, 2009 WL 2523727 (D. Or. Aug. 18, 2009)	6
<i>S.F. Chapter of A. Philip Randolph Inst. v. EPA</i> , 2008 WL 859985 (N.D. Cal. Mar. 28, 2008)	22
<i>San Antonio Indep. Sch. Dist. v. Rodriguez</i> , 411 U.S. 1 (1973)	23
<i>Santana v. Zilog, Inc.</i> , 95 F.3d 780 (9th Cir. 1996)	16
<i>Schlesinger v. Reservists Comm. to Stop the War</i> , 418 U.S. 208 (1974)	10, 17
<i>Sequoyah v. Tenn. Valley Auth.</i> , 480 F. Supp. 608 (E.D. Tenn. 1979)	22
<i>Shively v. Bowlby</i> , 152 U.S. 1 (1894)	28
<i>Sierra Club v. Morton</i> , 405 U.S. 727 (1972)	8
<i>Sierra Club v. U.S. Def. Energy Support Ctr.</i> , Civ. A. No. 01:11-cv-41, 2011 WL 3321296 (E.D. Va. July 29, 2011)	11
<i>Steel Co. v. Citizens for a Better Envt.</i> , 523 U.S. 83 (1998)	7
<i>Strandberg v. City of Helena</i> , 791 F.2d 744 (9th Cir. 1986)	26
<i>Summers v. Earth Island Inst.</i> , 555 U.S. 488 (2009)	10
<i>Tanner v. Armco Steel Corp.</i> , 340 F. Supp. 532 (S.D. Tex. 1972)	22
<i>Tilikum ex rel. People for the Ethical Treatment of Animals, Inc. v. Sea World Parks & Entm't, Inc.</i> , 842 F. Supp. 2d 1259 (S.D. Cal. 2012)	16
<i>Truax v. Corrigan</i> , 257 U.S. 312 (1921)	4
<i>United States v. 32.42 Acres of Land, More or Less, Located in San Diego Cnty., Cal.</i> , 683 F.3d 1030 (9th Cir. 2012)	28

<i>United States v. Bifield</i> , 702 F.2d 342 (2d Cir. 1983).....	26
<i>United States v. Mitchell</i> , 915 F.2d 521 (9th Cir. 1990).....	17
<i>Upper W. Fork River Watershed Ass’n v. Corps of Eng’rs, U.S. Army</i> , 556 F.2d 576 (4th Cir. 1977)	22
<i>Upper W. Fork Watershed Assoc. v. Corps of Eng’rs, U. S. Army</i> , 414 F. Supp. 908 (N.D. W.Va. 1976)	22
<i>Valley Forge Christian Coll. v. Ams. United for Separation of Church & State</i> , 454 U.S. 464 (1982).....	7
<i>Warth v. Seldin</i> , 422 U.S. 490 (1975)	6, 8, 9, 10
<i>Wash. Envtl. Council v. Bellon</i> , 732 F.3d 1131 (9th Cir. 2013)	12, 13, 15
<i>Washington v. Glucksberg</i> , 521 U.S. 702 (1997)	21, 22
<i>Whitmore v. Arkansas</i> , 495 U.S. 149 (1990)	7
<i>WildEarth Guardians v. Jewell</i> , 738 F.3d 298 (D.C. Cir. 2013)	11
<i>WildEarth Guardians v. Salazar</i> , 880 F. Supp. 2d 77 (D.D.C. 2012)	11

Statutes

15 U.S.C. § 717b.....	2
16 U.S.C. § 2601.....	14
30 U.S.C. § 1201.....	14
30 U.S.C. § 21a.....	15
42 U.S.C. § 5801.....	15
P.L. 91-631, § 101.....	15
P.L. 93-438, § 2(a)	14
P.L. 95-617, § 2.....	14
P.L. 95-87, §101.....	14
P.L. 96-294, § 100(3).....	14

Other Authorities

Fed. R. Civ. P. 12(b)(1).....	1, 6, 29
Fed. R. Civ. P. 12(b)(6).....	1, 6, 7, 27

Rules

80 Fed. Reg. 64,510 (Oct. 23, 2015).....	19
80 Fed. Reg. 64,662 (Oct. 23, 2015).....	19

Constitutional Provisions

U.S. Const. amend. V.....	20
U.S. Const. art. III § 2, cl.1	7

Federal Defendants—the United States of America, the Office of the President of the United States, and a group of federal agencies and their respective heads sued in their official capacities—hereby file this Memorandum of Points and Authorities in support of their Motion to Dismiss.

INTRODUCTION

To provide the relief requested by Plaintiffs in this case, the Court would be required to make and enforce national policy concerning energy production and consumption, transportation, science and technology, commerce, and any other social or economic activity that contributes to carbon dioxide (“CO₂”) emissions. Article III does not give Plaintiffs standing to bring such an action or invest a federal court with the power to transform its limited jurisdiction to decide “cases” and “controversies” into a national writ to make climate policy. Nor does the Constitution or public trust doctrine give rise to a claim in federal court to vindicate the generalized public interest in limiting CO₂ emissions. The Amended Complaint should be dismissed with prejudice under Rule 12(b)(1) because Plaintiffs lack Article III standing or, alternatively, under Rule 12(b)(6) for failure to state a claim upon which relief may be granted.

BACKGROUND

Plaintiffs are a group of individuals—of majority age or minors proceeding through guardians *ad litem*—as well as the non-profit organization Earth Guardians, a “tribe of young activists, artists and musicians,” dedicated to “creat[ing] a sustainable world for themselves and future generations.” First Amended Complaint for Declaratory and Injunctive Relief ¶ 91, ECF No. 7 (Sept. 10, 2015) (“Am. Compl.”). In addition, this suit is brought by “Future Generations,” by and through their putative guardian, Dr. James Hansen. *Id.* ¶ 92. Plaintiffs filed this Amended Complaint on September 10, 2015, bringing four claims against the United

States and a group of federal agencies and officials. *Id.* ¶¶ 98-130. The Amended Complaint alleges that increases in atmospheric carbon dioxide levels have caused rising sea levels, leading to glacier and sea ice melting, *id.* ¶¶ 214-15, 218-19, 223, 225; increased global surface temperatures, *id.* ¶¶ 217, 224; changes to atmospheric moisture levels and rainfall patterns and increased wildfires, *id.* ¶ 229; and coastal erosion, *id.* ¶ 219. Plaintiffs allege that these changes have impacted, or will negatively impact, drinking water quality, *id.* ¶ 226; agriculture and food production, *id.* ¶¶ 226-27; ocean acid levels, *id.* ¶¶ 230-32; coral reef health, *id.* ¶¶ 233-34; plant and animal biodiversity, *id.* ¶¶ 235-37; human health, *id.* ¶ 238; national security, *id.* ¶ 239; and migration and demographic patterns, *id.* ¶ 240. The individual plaintiffs and the organizational plaintiff allege that they or its members have already experienced these impacts, *id.* ¶¶ 16-96, and that those impacts will accelerate during the likely life span of the individual plaintiffs and Future Generations, *id.* ¶¶ 97, 242-55. Plaintiffs allege that Defendants are causing unsustainable CO₂ emissions and increased CO₂ atmospheric levels and associated impacts by permitting increases in fossil fuel production and combustion, *id.* ¶¶ 151-70, 185-91, subsidizing the fossil fuel industry, *id.* ¶¶ 171-78; and allowing interstate and international transport of fossil fuels, *id.* ¶¶ 179-84. Plaintiffs also specifically complain about DOE/FE Order No. 3041, the Department of Energy’s (“DOE”) order granting long-term multi-contract authorization, under Section 201 of the Energy Policy Act of 1992, for export of liquefied natural gas (“LNG”) from the proposed Jordan Cove LNG terminal in Coos Bay, Oregon (“the Coos Bay facility”). *Id.* ¶¶ 192-201.¹

¹ Section 201 of the Energy Policy Act of 1992 amended 15 U.S.C. § 717b to state that the importation of natural gas from, or the exportation of natural gas to, “a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or

Plaintiffs bring four claims. First, they claim that Defendants’ actions violate “Plaintiffs’ substantive Fifth Amendment rights [under the Due Process Clause] because Defendants directly caused atmospheric CO₂ to rise to levels that dangerously interfere with a stable climate system required alike by our nation and Plaintiffs,” thus “endanger[ing] Plaintiffs’ lives, liberties, and property.” Am. Compl. ¶ 279. Plaintiffs further allege that Defendants have acted with deliberate indifference by failing to “implement[] their own plans for climate stabilization or any other comprehensive policy measures to effectively reduce CO₂ emissions to levels that would adequately protect Plaintiffs from the dangerous situation of climate destabilization.” *Id.* ¶ 285. Plaintiffs add that Defendants’ acts, “if not fundamentally altered without delay, will effect a complete taking of some of Plaintiffs’ property interests by virtue of the sea level rise,” though they do not bring a claim under the Fifth Amendment’s Just Compensation Clause. *Id.* ¶ 287. Finally, Plaintiffs claim that the Department of Energy in particular has infringed on their fundamental substantive due process rights by approving the exportation and importation of natural gas pursuant to Section 201 of the Energy Policy Act of 1992, which because it “increase[s] carbon pollution and exacerbate[s] already-dangerous climate instability” is unconstitutional on its face and as applied to Plaintiffs through DOE/FE Order No. 3041. *Id.* ¶ 288. However, Plaintiffs do not claim that DOE/FE Order No. 3041 suffers from any procedural or facial defect, and it appears that the issuance of this order is simply one more of Defendants’

exportation shall be granted without modification or delay.” *See* P.L. 102–486, § 201 (Oct. 24, 1992). DOE/FE Order No. 3041 permits export of liquefied natural gas from a liquefaction facility and export terminal that Jordan Cove Energy Project, L.P. proposes to build—but has not yet built—in Coos Bay, Oregon. *See* Declaration of Cassandra Bernstein Exh. A, at 2 (DOE/FE Order No. 3041).

“aggregate acts” that Plaintiffs allege are unconstitutional because they contribute to climate change and associated impacts. *See, e.g., id.* ¶¶ 1, 5, 9, 129, 305-06, 309-10.

As a second claim, Plaintiffs allege that Defendants’ acts violate “the equal protection principles of the Fourteenth Amendment, embedded in the Due Process Clause of the Fifth Amendment.” Am. Compl. ¶ 291.² Plaintiffs claim that they are a “separate suspect class[]” and “insular minority” under those provisions because they have “no voting rights and little, if any, political power or influence over Defendants.” *Id.* ¶ 294. Plaintiffs also allege that plaintiff Future Generations “do not have present political power or influence, have immutable characteristics, and are also an insular minority.” *Id.* ¶ 295. Plaintiffs allege that they must be treated as a protected class for purposes of equal protection analysis, and that “federal laws and actions that disproportionately discriminate against and endanger them must be invalidated.” *Id.* ¶ 297. Plaintiffs further allege that Section 201 of the Energy Policy Act is unconstitutional on its face and as applied through DOE/FE Order No. 3041 because both have “a disproportionate impact on suspect classes.” *Id.* ¶ 299.

As a third claim, Plaintiffs bring suit under the Ninth Amendment, on the ground that “[f]undamental to our scheme of ordered liberty . . . is the implied right to a stable climate system and an atmosphere and oceans that are free from dangerous levels of anthropogenic CO₂,” Am. Compl. ¶ 304, and that Defendants’ acts have infringed on those unenumerated

² “Unlike the Fourteenth Amendment, the Fifth contains no equal protection clause and it provides no guaranty against discriminatory legislation by Congress.” *Detroit Bank v. United States*, 317 U.S. 329, 337 (1943). However, the Supreme Court has held that the due process and equal protection clauses are “associated” and that “[i]t may be that they overlap, that a violation of one may involve at times the violation of the other.” *Truax v. Corrigan*, 257 U.S. 312, 331 (1921); *see also Hirabayashi v. United States*, 320 U.S. 81, 100 (1943). For purposes of the present motion, Federal Defendants will presume, but do not admit, that there is a viable Fifth Amendment claim for violation of the equal protection principles of the Fourteenth Amendment.

rights, *id.* ¶ 306. Plaintiffs do not bring a Ninth Amendment claim specific to the Energy Policy Act or any DOE order.

Finally, Plaintiffs allege that they are beneficiaries of rights under the public trust doctrine that “protect the rights of present and future generations” to “vital natural resources” such as air and water quality, biological diversity, and intact shorelines. Am. Compl. ¶ 308. Plaintiffs allege that Defendants “have failed in their duty of care as trustees to manage the atmosphere in the best interests of the present and future beneficiaries of the trust property,” including Plaintiffs. *Id.* ¶ 310. Plaintiffs do not bring a public trust doctrine claim specific to the Energy Policy Act or any DOE order.

Plaintiffs seek a declaratory judgment that Defendants’ acts have violated the Constitution; that Section 201 of the Energy Policy Act is unconstitutional on its face and as applied in DOE/FE Order No. 3041; and that Defendants have violated the public trust. They seek an injunction prohibiting future constitutional and public trust violations by the Defendants and ordering the U.S. government and the Defendant agencies to “prepare a consumption-based inventory of U.S. CO₂ emissions,” though they do not specifically state whether this request is limited to an inventory of emissions by the Defendants or by all emitting sources in the United States. Plaintiffs also request that the U.S. government be ordered to “implement an enforceable national remedial plan to phase out fossil fuel emissions and draw down excess atmospheric CO₂,” and ask the Court to retain jurisdiction over the case for an indefinite period of time to monitor the Government’s compliance with the plan to phase out CO₂ emissions and reduce atmospheric CO₂ levels. Am. Compl. at 94 (Prayer for Relief). While the Plaintiffs do not specifically state whether this requested relief should be directed solely at emissions by the Defendants or by all U.S. emission sources, elsewhere in the Amended Complaint they do state

that CO₂ emissions reductions of 6 percent annually would be required to reduce atmospheric CO₂ levels by the year 2100 to 350 ppm, a level that will head off the future impacts that Plaintiffs allege. *Id.* ¶¶ 257-59. These reductions would be required globally, not just of Defendants or even all U.S. sources, since reductions on that order would only reduce atmospheric CO₂ levels to 350 ppm if that “trajectory [were] adhered to by other major emitters.” *Id.* ¶ 262.

STANDARD OF REVIEW

A court reviews a motion to dismiss a complaint for lack of Article III standing under Fed. R. Civ. P. 12(b)(1). *See Elizabeth Retail Props. LLC v. KeyBank Nat. Ass’n*, 83 F. Supp. 3d 972, 985-86 (D. Or. 2015). A jurisdictional challenge may be facial or factual. Where the jurisdictional attack is facial, the court determines whether the allegations contained in the complaint are sufficient on their face to invoke federal jurisdiction, accepting all material allegations in the complaint as true and construing them in favor of the party asserting jurisdiction. *See Warth v. Seldin*, 422 U.S. 490, 501 (1975). Once a party has moved to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), the opposing party bears the burden of establishing the Court’s jurisdiction. *See Chandler v. State Farm Mut. Auto. Ins. Co.*, 598 F.3d 1115, 1122 (9th Cir. 2010).

A court may also dismiss a complaint for failure to state a claim upon which relief can be granted pursuant to Fed. R. Civ. P. 12(b)(6). In considering a Rule 12(b)(6) motion, the court must accept all of the claimant’s material factual allegations as true and view all facts in the light most favorable to the claimant. *See Reynolds v. Giusto*, No. CV. 08-6261 PK, 2009 WL 2523727, at *1 (D. Or. Aug. 18, 2009). However, a court need not accept as true any legal conclusion set forth in a pleading. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). The Supreme

Court addressed the proper pleading standard under Rule 12(b)(6) in *Bell Atlantic Corp. v. Twombly*: “While a complaint attacked [under] Rule 12(b)(6) . . . does not need detailed factual allegations, a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of a cause of action’s elements will not do.” 550 U.S. 544, 555 (2007) (citation and brackets omitted). The complaint must set forth facts supporting a *plausible*, not merely *possible*, claim for relief. *Id.*

ARGUMENT

I. Under *Lujan*, Plaintiffs Lack Article III Standing to Bring This Suit.

A federal court, being one of limited jurisdiction, may act only where it is granted power to do so by the Constitution and applicable statutes and regulations. *See Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 552 (2005). One limitation on a court’s power to act is Article III standing, which restricts the jurisdiction of the federal courts to the resolution of “[c]ases” and “[c]ontroversies.” U.S. Const. art. III § 2, cl.1; *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541-42 (1986). The standing doctrine “serves to identify those disputes which are appropriately resolved through the judicial process.” *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990). A suit brought by a plaintiff without Article III standing is not a “case or controversy,” and an Article III federal court therefore lacks subject matter jurisdiction over the suit. *Steel Co. v. Citizens for a Better Env’t.*, 523 U.S. 83, 101 (1998).

The Supreme Court in *Lujan v. Defenders of Wildlife* reiterated the “irreducible minimum,” *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State*, 454 U.S. 464, 472 (1982), that a plaintiff seeking to invoke a federal court’s jurisdiction must establish. 504 U.S. 555, 560-61 (1992). Plaintiffs must show (1) an “injury in fact” that is “concrete and particularized” and “actual or imminent, not conjectural or hypothetical”; (2) that their injury is fairly traceable to the challenged action of the defendant, and not the result of the

“independent action of some third party not before the court”; and (3) that it is “‘likely’ as opposed to merely ‘speculative’ that the injury will be ‘redressed by a favorable decision.’” *Id.* at 560-61. A particularized injury, the Court noted, is one that “affect[s] the plaintiff in a personal and individual way.” *Id.* at 561 n.1. Because Plaintiffs’ alleged injuries are not particular to them but are shared by every person in the Nation, living or yet to be born, and because the impacts that Plaintiffs allege are not traceable to the Defendants’ acts and would not be redressed by a favorable decision, Plaintiffs lack standing.

A. The Amended Complaint Fails To Allege Particularized Harm Traceable To Defendants’ Acts.

1. Plaintiffs Lack Standing Because They Allege A Generalized Grievance, Not A Particularized Harm.

To invoke the jurisdiction of a federal court, a plaintiff must allege “such a personal stake in the outcome of the controversy as to ensure that the dispute sought to be adjudicated will be presented in an adversary context and in a form historically viewed as capable of judicial resolution.” *Sierra Club v. Morton*, 405 U.S. 727, 732 (1972) (quotations omitted). Federal courts are not “a forum in which to air . . . generalized grievances about the conduct of government. . . .” *Flast v. Cohen*, 392 U.S. 83, 106 (1968). Each plaintiff must press a personal stake in the outcome of litigation sufficient “to warrant *his* invocation of federal-court jurisdiction and to justify exercise of the court’s remedial powers on *his* behalf.” *Warth*, 422 U.S. at 498-99 (emphases added). This requires some modicum of personal interest, as standing to sue may not be predicated upon an interest which is held in common by all members of the public, because of the necessarily abstract nature of the injury all citizens share. Unless a plaintiff asserts “an injury that is peculiar to himself or to a distinct group of which he is a part, rather than one ‘shared in substantially equal measure by all or a large class of citizens,’” he

lacks standing. *Gladstone Realtors v. Vill. of Bellwood*, 441 U.S. 91, 101 (1979) (quoting *Warth*, 422 U.S. at 499).

In *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court considered a challenge by states, local governments, and environmental organizations to the Environmental Protection Agency’s denial of a rulemaking petition asking EPA to regulate greenhouse gas emissions from new motor vehicles under the mobile source provisions of the Clean Air Act. EPA had denied the petition primarily because it then believed that as a legal matter greenhouse gases were not “air pollutants” within the meaning of the Clean Air Act. *Id.* at 513.

In a 5-4 decision, the Court found that the Commonwealth of Massachusetts had standing to bring the challenge. *Massachusetts*, 549 U.S. at 518. The majority rejected the notion that “because greenhouse gas emissions inflict widespread harm, the doctrine of standing presents an insuperable jurisdictional obstacle.” *Id.* at 517. It pointed to this language from Justice Kennedy’s concurrence in *Lujan*:

While it does not matter how many persons have been injured by the challenged action, the party bringing suit must show that the action injures him in a concrete and personal way. This requirement is not just an empty formality. It preserves the vitality of the adversarial process by assuring both that the parties before the court have an actual, as opposed to professed, stake in the outcome, and that the legal questions presented . . . will be resolved, not in the rarified atmosphere of a debating society, but in a concrete factual context conducive to a realistic appreciation of the consequences of judicial action.

Id. at 517 (quoting *Lujan*, 504 U.S. at 581). The majority then applied the three-part test for Article III standing drawn from the majority opinion in *Lujan*, and held that, based in particular on the loss of state-owned lands to rising sea levels caused by global warming, Massachusetts had alleged sufficiently particularized injury. *Id.* at 522-23. Since EPA’s legal position on the scope of the Clean Air Act had led it to refuse to regulate a major specific source of greenhouse gas emissions, Massachusetts was able to show that its injury was traceable to the challenged

agency action, and that the Court could redress the injury by correcting EPA’s erroneous view of the statute. *Id.* at 524-25.

The differences between this case and *Massachusetts v. EPA* are stark, and show why Plaintiffs lack standing. Plaintiffs allege that they have suffered and will suffer injuries from Defendants’ acts, which allegedly have contributed to climate change. But they have not alleged with sufficient particularity a “personal and individual” injury, which under *Lujan* is a requirement to establish standing. *Lujan*, 504 U.S. at 561 n.1 (“By particularized, we mean that the injury must affect the plaintiff in a personal and individual way”); *see also Summers v. Earth Island Inst.*, 555 U.S. 488, 495-97 (2009) (plaintiff may not rely on speculation to show particularized injury at hands of challenged government action). “[W]hen the asserted harm is a ‘generalized grievance’ shared in substantially equal measure by all or a large class of citizens, that harm alone normally does not warrant exercise of jurisdiction.” *Warth*, 422 U.S. at 499 (citing *Schlesinger v. Reservists Comm. to Stop the War*, 418 U.S. 208, 221-27 (1974)). In *Massachusetts v. EPA* the Court found that the State was injured in a particularized way by sea level rise. But none of the Plaintiffs here have been injured in the same way as Massachusetts—or indeed, in any way that distinguishes them from any other person in the Nation—and thus they are in no different a position than any other person when it comes to climate change impacts. Indeed, Plaintiffs acknowledge as much when they allege that Defendants’ acts have endangered the “stable climate system *required alike by our nation* and Plaintiffs,” Am. Compl. ¶ 279 (emphasis added), and “impose[d] harm *on the nation and on Plaintiffs*,” *id.* ¶ 154 (emphasis added)—an implicit admission that the grievances animating the Amended Complaint are shared by all. Whatever injuries climate change has caused or will cause, those injuries are “not focused any more on these petitioners than [they are] on the remainder of the world’s

population,” *Ctr. for Biological Diversity v. U.S. Dept. of the Interior*, 563 F.3d 466, 475 (D.C. Cir. 2009), and hence cannot establish particularized injury for standing for these Plaintiffs.³ See also *WildEarth Guardians v. Salazar*, 880 F. Supp. 2d 77, 83-87 (D.D.C. 2012), *aff’d sub nom. WildEarth Guardians v. Jewell*, 738 F.3d 298 (D.C. Cir. 2013)⁴; *Amigos Bravos v. BLM*, 816 F. Supp. 2d 1118, 1126-28 (D.N.M. 2011); *Sierra Club v. U.S. Def. Energy Support Ctr.*, Civ. A. No. 01:11-cv-41, 2011 WL 3321296, at *4-*6 (E.D. Va. July 29, 2011). Their claims should be dismissed.

2. Plaintiffs Lack Standing Because They Allege A Causal Chain That Consists Of Generalized Assertions Of Defendants’ “Contribution” To Climate Change.

Also deficient are the Amended Complaint’s allegations tracing the alleged injuries to the challenged actions of the Defendants. In *Massachusetts v. EPA*, the State could show that the particular EPA determination under challenge—that EPA lacked authority to regulate greenhouse gas emissions from new motor vehicles under the Clean Air Act—led to a substantial

³ Plaintiffs’ allegations concerning the approval of natural gas exportation through the Coos Bay facility do not change the fact that the injury in fact they allege is not particularized and concrete. Plaintiffs have not alleged that there was any facial or procedural defect in DOE/FE Order No. 3041, such as would support a claim under the Administrative Procedure Act or National Environmental Policy Act. Rather, they allege that the export of natural gas through the Coos Bay facility pursuant to Section 201 of the Energy Policy Act will “increase carbon pollution and exacerbate[s] already-dangerous climate instability,” and thus is unconstitutional because it contributes to the harms that Plaintiffs allege. Am. Compl. ¶ 288. Thus, the approval of the export of natural gas from this facility does not cause Plaintiffs any alleged harm that is not suffered by the citizenry as a whole.

⁴ In *WildEarth Guardians*, the D.C. Circuit affirmed the district court’s finding that the environmental plaintiffs lacked standing to allege constitutional claims for climate change impacts caused by global emissions, but held that plaintiffs had standing under the National Environmental Policy Act because of alleged harms to aesthetic and recreational interests caused by local pollution. *WildEarth Guardians*, 738 F.3d at 317-18. Plaintiffs in this case have not brought a NEPA claim, and they allege no separate and specific injuries apart from those related to global CO₂ emissions, so these alleged local impacts do not suffice to establish standing in this case.

amount of additional carbon dioxide emissions threatening the State’s interest in preserving its shoreline areas from rising sea levels. 549 U.S. at 524. The causal chain presented in the Amended Complaint, by contrast, is nothing more than “a series of links strung together by conclusory, generalized statements of ‘contribution.’” *Wash. Envtl. Council v. Bellon*, 732 F.3d 1131, 1142 (9th Cir. 2013).

Plaintiffs point to harms they have suffered that were allegedly caused by climate change, including harms to their recreational interests, *see, e.g.*, Am. Compl. ¶¶ 16, 18, 21, 29, 35; drinking water and diets, *see, e.g., id.* ¶¶ 16-18, 33; physical health, *see, e.g., id.* ¶¶ 19, 37, 62, 75; psychological well-being, *see, e.g., id.* ¶¶ 19, 21, 24, 33; and economic interests, *see, e.g., id.* ¶¶ 24, 26, 32, 38. But they never attempt to connect those impacts to the Defendants’ acts, except through vague and generalized assertions that those acts contribute to global climate change. *See, e.g., id.* ¶ 106 (“DOE’s actions and omissions have substantially contributed to unsafe levels of atmospheric CO₂ and a dangerous climate system.”); ¶ 112 (“DOI is substantially contributing to dangerous levels of atmospheric CO₂ and a dangerous climate system in our nation.”); ¶ 115 (“DOT acknowledges the severity of the threats of climate change, yet continues to facilitate the severity of climate change impacts by contributing approximately 27% of U.S. CO₂ emissions in 2013.”); ¶ 117 (“USDA has substantially contributed to and continues to substantially contribute to a dangerous climate system . . .”). The Ninth Circuit has explicitly rejected the argument that allegations that a source “contributed” to climate change are sufficient to satisfy Article III’s causation requirement: Plaintiffs “need not connect each molecule to their injuries, [but] simply saying that [Defendants] have failed to curb emission of greenhouse gases, which contribute (in some undefined way and to some undefined degree) to their injuries, relies on an ‘attenuated chain of conjecture’ insufficient to support standing.”

Wash. Env'tl. Council, 732 F.3d. at 1142-43.⁵ Because Plaintiffs do not adequately allege a causal connection between Defendants' actions and their generalized statements of harm, their claims should be dismissed.

3. Plaintiffs Lack Standing Because Their Alleged Injuries Cannot Be Redressed By The Court.

Plaintiffs also lack standing because the injuries they allege cannot be redressed by an order within this Court's authority to issue. "It is a prerequisite of justiciability that judicial relief will prevent or redress the claimed injury, or that there is a significant likelihood of such redress. Redressability in this sense is an aspect of standing." *Gonzales v. Gorsuch*, 688 F.2d 1263, 1267 (9th Cir. 1982) (citations omitted). Plaintiffs lack standing when they fail to provide evidence of "a close relation between . . . the injury asserted and the relief claimed." *Id.* Under the Supreme Court's standing cases, redressability is a matter of the "fit" between an act or omission and the injury that results from it: Plaintiffs must trace their injury to a *particular* government action that is prohibited, or inaction in the face of a duty to act, the reversal of which will concretely address their injury. Plaintiffs fail to establish standing where "the injury [is] too abstract," or "the line of causation between the illegal conduct and injury [is] too attenuated," such that "the prospect of obtaining relief from the injury as a result of a favorable ruling [is] too speculative." *Allen v. Wright*, 468 U.S. 737, 752 (1984), *abrogated in part on non-relevant*

⁵ The allegations regarding the Coos Bay facility suffer from the same deficiencies in causation as do Plaintiffs' allegations regarding all of Defendants' acts. The Ninth Circuit has observed that "there is limited scientific capability in assessing, detecting, or measuring the relationship between a certain [greenhouse gas] emission source and localized climate impacts in a given region. . . [I]t is currently beyond the scope of existing science to identify a specific source of CO₂ emissions and designate it as the cause of specific climate impacts at an exact location." *Wash. Env'tl. Council*, 732 F.3d at 1143 (quotation omitted).

grounds by Lexmark Intern., Inc. v. Static Control Components, Inc., --- U.S. ----, 134 S. Ct. 1377 (2014).

The Amended Complaint here presents a generalized attack on government action and inaction regarding climate change, rather than a challenge to specifically identifiable violations of law that can be concretely rectified by a favorable decision. Even assuming, *arguendo*, that Plaintiffs' injuries could satisfy the standing analysis in *Massachusetts v. EPA*—and they do not, *see Wash. Envtl. Council*, 732 F.3d at 1146—the relief that Plaintiffs seek far exceeds the relatively narrow request in that case to enact regulations under a specific provision in one statute. Instead, Plaintiffs seek a comprehensive national climate policy, overseen by a single federal district court, that would require wholesale changes to energy production and consumption in this country. Meeting this demand would require many Federal energy regulations to be rewritten, and would negate the purposes and findings of several Federal statutes that explicitly direct agencies to balance various policy goals with environmental protection.⁶ Formulating and enforcing this expansive relief lies outside this Court's competence

⁶ Congress balances energy needs against conservation and environmental goals in a host of statutes that subsidize fossil fuel production, regulate environmental impacts from energy consumption, and provide for efficient production and transportation of energy resources—exactly the activities that Plaintiffs attack in this case. *See, e.g.*, Energy Security Act of 1980, P.L. 96-294, § 100(3) (stating that a Congressional purpose is “attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment”); Public Utilities Regulatory Policies Act of 1978, P.L. 95-617, § 2 (“The Congress finds that the protection of the public health, safety, and welfare . . . require—(1) a program providing for increased conservation of electric energy, . . . (2) a program to improve the wholesale distribution of electric energy . . . , (4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable, [and] (5) a program to encourage the development of crude oil transportation systems. . .”), *codified at* 16 U.S.C. § 2601; Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, § 101 (“The Congress finds and declares that— . . . (b) coal mining operations presently contribute significantly to the Nation's energy requirements . . . and it is, therefore, essential to the national interest to insure the existence of an expanding and economically healthy underground coal mining industry; . . .

and jurisdiction. Agencies are “creatures of statute” whose powers and obligations are dependent upon congressional authorization. *Am. Bus Ass’n v. Slater*, 231 F.3d 1, 9 (D.C. Cir. 2000). Courts are not at liberty to encumber agencies with duties not contemplated by Congress. *Id.* at 9-10 (“Unless Congress delegates authority to an agency, the agency is without power to act”). Plaintiffs do not allege any statutory framework specifying the agency duties that are supposedly being violated, such that the Court could provide redress by requiring compliance with those specific duties.

Nor do Plaintiffs cite any statute that authorizes federal courts at the behest of allegedly injured parties to issue, for example, an injunction requiring national CO₂ emissions reductions of 6 percent per year for the next century, which they allege is the minimum required to reduce atmospheric CO₂ levels by the year 2100 to 350 ppm, a level that Plaintiffs claim will head off the future impacts they allege. *Am. Compl.* ¶¶ 257-59. Plaintiffs accordingly cannot show that their alleged injuries resulting from Defendants’ acts can be concretely redressed by any specific relief that is within the power of the Court to grant.⁷

[and] (d) the expansion of coal mining to meet the Nation’s energy needs makes even more urgent the establishment of appropriate standards to minimize damage to the environment and to productivity of the soil and to protect the health and safety of the public.”), *codified at* 30 U.S.C. § 1201; Energy Reorganization Act of 1974, P.L. 93-438, § 2(a) (“The Congress hereby declares that the general welfare and the common defense and security require effective action to develop, and increase the efficiency and reliability of use of, all energy sources to meet the needs of present and future generations, . . . to make the Nation self-sufficient in energy, [and] to advance the goals of restoring, protecting, and enhancing environmental quality. . .”), *codified at* 42 U.S.C. § 5801; Mining and Minerals Policy Act, P.L. 91-631, § 101 (“The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in . . . (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs”), *codified at* 30 U.S.C. § 21a.

⁷ This is equally true of Plaintiffs’ request for invalidation, on constitutional grounds, of Section 201 of the Energy Policy Act and the Department of Energy permit authorizing the export of natural gas from the Coos Bay facility, since invalidating Section 201 or vacating

4. Future Generations Have Suffered No Injury In Fact And Thus Lack Standing.

Regardless of whether any individual plaintiff has standing, Future Generations lack standing and are not proper plaintiffs. To have standing, a plaintiff must have suffered an injury in fact that is “concrete and particularized” and “actual or imminent, not conjectural or hypothetical.” *Lujan*, 504 U.S. at 561. By definition, Future Generations have not yet suffered any *actual* injury because Future Generations do not presently exist, such that they could sustain an injury. And even assuming that the future impacts of climate change are “imminent,” Future Generations do not have any constitutional or other rights that are in imminent danger of being harmed.⁸ While some federal and state courts have recognized that viable and even pre-viability fetuses may have legal interests under state tort law, *see, e.g., Santana v. Zilog, Inc.*, 95 F.3d 780, 785 (9th Cir. 1996), courts have rejected on standing grounds constitutional claims brought on behalf of non-persons. *See, e.g., Tilikum ex rel. People for the Ethical Treatment of Animals, Inc. v. Sea World Parks & Entm’t, Inc.*, 842 F. Supp. 2d 1259, 1262 (S.D. Cal. 2012) (rejecting constitutional claim brought on behalf of captive whales). To Defendants’ knowledge, no federal court has ever recognized that future, and therefore hypothetical, persons have

DOE/FE Order No. 3041 would not redress the recreational, health, economic, and dietary harms they allege to have experienced as a result of global climate change. This is simply the flip side of the Ninth Circuit’s holding that “[i]t is currently beyond the scope of existing science to identify a specific source of CO₂ emissions and designate it as the cause of specific climate impacts at an exact location.” *Wash. Envtl. Council*, 732 F.3d at 1143 (quotation omitted).

⁸ Plaintiffs appear to rely on the “Posterity” language in the Preamble to the Constitution as support for their assertion that Future Generations have constitutional rights that could support standing in this case. *See* Am. Compl. ¶ 278. But as several courts have held, the Preamble does not create actionable rights independent of those specifically articulated in the Constitution. *See, e.g., Tinsley v. Methodist Hosp. of Ind.*, 70 F.3d 1275, 1995 WL 695960, at *2 (7th Cir. 1995) (unpublished table decision); *Maybrick v. Soc. Sec. Admin.*, No. 2:13-CV-508 TS, 2013 WL 6571819, at *2 (D. Utah Dec. 13, 2013); *Hazelton v. City of Grand Prairie, Tex.*, 8 F. Supp. 2d 570, 578 n.18 (N.D. Tex. 1998).

constitutional rights that may be impaired, and thus have standing to maintain an action to vindicate those constitutional rights in federal court.

Furthermore, Plaintiffs have failed to allege any facts showing that the putative guardian of Future Generations has standing to pursue these claims on their behalf. Plaintiffs have not alleged any statute providing future persons a private right of action for constitutional claims that can be pursued by a third party (such as Dr. Hansen) on the non-person's behalf. *Cf. Cetacean Cmty. v. Bush*, 386 F.3d 1169, 1176 (9th Cir. 2004) ("If Article III does not prevent Congress from granting standing to an animal by statutorily authorizing a suit in its name, the question becomes whether Congress has passed a statute actually doing so."). Constitutional claims are personal and, absent statutory authorization, cannot be asserted vicariously. *United States v. Mitchell*, 915 F.2d 521, 526 n.8 (9th Cir. 1990). While a non-attorney may appear *pro se* on his own behalf, a non-attorney "has no authority to appear as an attorney for others than himself." *C.E. Pope Equity Trust v. United States*, 818 F.2d 696, 697 (9th Cir. 1987). Even if the Court determines that the individual plaintiffs have standing—and they do not—Future Generations clearly do not have standing because they have not suffered an injury in fact to a cognizable constitutional right that is actual or imminent.

B. Plaintiffs' Claims Are A Generalized Grievance Best Addressed Through Democratic Means, Not By A Federal Court.

The allegations on behalf of Future Generations simply highlight the generalized nature of the grievance that animates this case and why this judicial proceeding is not the appropriate forum for addressing it. Plaintiffs allege—not simply on behalf of certain persons living in the Nation presently, but also on behalf of *all* persons in the Nation yet to be born—that "the Judicial Branch [should] compel the Executive Branch to act in conformity with . . . an interest shared by all." *Schlesinger*, 418 U.S. at 217. This is a generalized grievance that raises substantial

separation of powers concerns because its resolution would transform the district court into a super-regulator setting national climate policy.

Explaining its generalized grievance cases, the Supreme Court in *Lujan* observed:

‘The province of the court,’ as Chief Justice Marshall said in *Marbury v. Madison*, ‘is, solely, to decide on the rights of individuals.’ Vindicating the public interest (including the public interest in Government observance of the Constitution and laws) is the function of Congress and the Chief Executive.

Lujan, 504 U.S. at 576 (citation omitted). Plaintiffs’ claims in this case amount to a generalized grievance because they seek to convert the universal public interest in having executive officers undertake appropriate measures to address the threat of climate change into an individual right, vindicable in the courts. Allowing such claims to proceed in open-ended litigation, divorced from any statutory duty to undertake specific action to reduce CO₂ emissions or address climate change, would require courts to make determinations about strategies to protect the climate that are essentially legislative in character, as well as determine how Executive Branch agencies should carry out those strategies. *See* Am. Compl. at 94 (Prayer for Relief requesting the Court to “[r]etain jurisdiction over this action to monitor and enforce Defendants’ compliance with the national remedial plan and all associated orders of this Court”). It is not the role of the district court to resolve questions such as how much the nation’s greenhouse gas emissions should be reduced to address global climate change; how much of the burden of reducing worldwide greenhouse gas emissions should be borne by the United States; which federal agencies should promulgate regulations or alter their modes of operation; and what is the appropriate level of funding for such efforts. By design, Article III confines a federal district court’s jurisdiction to resolving disputes between specific parties; courts are institutionally ill-suited to balance the various interests of, and the burdens to be borne by, the many entities, groups, and sectors of the

economy that, although not parties to this litigation, are affected by a phenomenon that spans the globe. *See Am. Elec. Power Co. v. Connecticut*, --- U.S. ----, 131 S. Ct. 2527, 2539-40 (2011).

The establishment of appropriate targets for the reduction of CO₂ emissions in the United States would entail a host of policy judgments that should be made by decision makers who are politically accountable, have expertise, and are able to pursue a coherent national or international strategy. *Cf. Massachusetts*, 549 U.S. at 524 (“[Agencies] whittle away at [massive problems] over time, refining their preferred approach as circumstances change and as they develop a more nuanced understanding of how best to proceed.”). Since the Supreme Court held in *Massachusetts v. EPA* in 2007 that CO₂ falls within delegated regulatory authority, federal agencies have undertaken substantial efforts to address climate change. *See, e.g., Am. Elec. Power*, 131 S. Ct. at 2533 (acknowledging EPA’s post-*Massachusetts* regulatory initiatives limiting greenhouse gas emissions); *Am. Compl.* ¶ 148 (noting that Defendant Environmental Protection Agency commenced “regulation of greenhouse gases under the Clean Air Act from mobile and stationary sources of air pollution” in 2011); Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,662 (Oct. 23, 2015); Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Utility Generating Units, 80 Fed. Reg. 64,510 (Oct. 23, 2015). The Court should decline Plaintiff’s invitation to short-circuit this regulatory process.

II. Plaintiffs Fail To State A Claim Under The Constitution.

Assuming, *arguendo*, that Plaintiffs have standing to maintain this action, Counts One through Three of the Amended Complaint must be dismissed for failure to state a claim. No court anywhere has ever recognized a federal constitutional right to be free of CO₂ emissions (or any pollutant), and more generally have consistently rejected attempts to constitutionalize permissible levels of environmental contamination and environmental impacts. Plaintiffs—those

under the age of 18, those of majority age, and Future Generations—do not constitute a discrete and insular minority for purposes of climate change, and Plaintiffs have not adequately alleged that they lack access to the political process. And the Ninth Amendment secures no substantive rights at all. Since Defendants’ acts do not implicate a fundamental right or a protected class, they are subject only to rational basis review, and Plaintiffs have not adequately alleged that the Federal Defendants’ acts or omissions were impermissible under any “reasonably conceivable” set of facts.

A. There Is No Constitutional Right To Be Free of CO₂ Emissions.

Plaintiffs do not allege that the Constitution explicitly provides a right to be free of climate change. They instead allege that such a right is found in the Fifth Amendment’s guarantee that “[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. Plaintiffs claim that “[o]ur nation’s climate system, including the atmosphere and oceans, is critical to” the enjoyment of the rights guaranteed by the Constitution, Am. Compl. ¶ 279, and that Defendants have placed Plaintiffs in a state of “climate danger,” *id.* ¶ 285, by “allowing fossil fuel production, consumption, and combustion at dangerous levels, thereby violating Plaintiffs’ substantive Fifth Amendment due process rights,” *id.* ¶ 284.

The Supreme Court has stated that courts should exercise the “utmost care and restraint” when contemplating expanding substantive due process protection beyond the rights explicitly identified in the Constitution. *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992). To be considered fundamental, an unenumerated right must be “deeply rooted in this Nation’s history and tradition,” *Moore v. City of E. Cleveland*, 431 U.S. 494, 503 (1977), and the Supreme Court has admonished lower federal courts to “exercise restraint in creating new definitions of substantive due process,” *Christy v. Hodel*, 857 F.2d 1324, 1330 (9th Cir. 1988). The party

asserting such a right has the burden of establishing it. *See Michael H. v. Gerald D.*, 491 U.S. 110, 125 (1989).

As the Ninth Circuit has recognized, the first step in determining whether an asserted fundamental right is deeply rooted in the Nation's history and tradition is to "adopt a narrow definition of the interest at stake." *Raich v. Gonzales*, 500 F.3d 850, 863 (9th Cir. 2007) (citing *Washington v. Glucksberg*, 521 U.S. 702, 722 (1997)). *See also id.* ("[W]e have a tradition of carefully formulating the interest at stake in substantive-due-process cases."). For example, in *Reno v. Flores*, the Supreme Court declined to describe an asserted fundamental right broadly as the "right to be free of physical restraint," in favor of the more narrow asserted "right to an individualized hearing on whether private placement [as opposed to placement in government-sponsored institutions] would be in the . . . 'best interests'" of children committed to the care of the state. 507 U.S. 292, 293, 299 (1993). The Court then noted that no court had ever recognized such a right and that "[t]he mere novelty of such a claim is reason enough to doubt that 'substantive due process' sustains it; the alleged right certainly cannot be considered 'so rooted in the traditions and conscience of our people as to be ranked as fundamental.'" *Id.* at 303.

The Court should use the same analytical framework in this case and reject Plaintiffs' claim to a fundamental constitutional right to be free of CO₂ emissions. No court has *ever* recognized such a right; more generally, no court has ever recognized a federal constitutional right to a natural environment free of pollutants. Quite the opposite: courts have consistently held that "there is no constitutional right to a pollution-free environment." *Nat'l Sea Clammers Ass'n v. City of New York*, 616 F.2d 1222, 1237-38 (3d Cir. 1980), *dismissed and vacated in part*

on other grounds, 453 U.S. 1 (1981).⁹ Nor is there cause for this Court create such a right. The Supreme Court has warned that “[b]y extending constitutional protection to an asserted right or liberty interest, [courts], to a great extent, place the matter outside the arena of public debate and legislative action. We must therefore ‘exercise the utmost care whenever we are asked to break new ground in this field’” *Glucksberg*, 521 U.S. at 720. Making environmental policy always involves balancing “competing social, political, and economic forces.” *Collins*, 503 U.S. at 128. The Constitution envisions that such balancing is distinctly the province of the Executive and Legislative branches of government, not that of federal courts. *See supra* at 17-19.¹⁰

⁹ *See also Concerned Citizens of Neb. v. U.S. Nuclear Regulatory Comm’n*, 970 F.2d 421, 426 (8th Cir. 1992) (no Ninth Amendment right to be free from environmental harm due to radioactive waste); *Ely v. Velde*, 451 F.2d 1130, 1139 (4th Cir. 1970) (declining “to elevate to a constitutional level” a claimed right to be protected from unnecessary and unreasonable environmental degradation and destruction); *S.F. Chapter of A. Philip Randolph Inst. v. EPA*, 2008 WL 859985, at *6-7 (N.D. Cal. Mar. 28, 2008) (“Plaintiffs also allege deprivation of the right to be free of climate change pollution, but that right is not protected by the Fourteenth Amendment either.”); *MacNamara v. Cnty. Council of Sussex Cnty.*, 738 F. Supp. 134, 142-43 (D. Del. 1990), *aff’d* 922 F.2d 832 (3d Cir. 1990); *Sequoyah v. Tenn. Valley Auth.*, 480 F. Supp. 608, 611 (E.D. Tenn. 1979), *aff’d*, 620 F.2d 1159 (6th Cir. 1980) (“[T]he Ninth Amendment grants no substantive rights to [environmental] plaintiffs”); *Upper W. Fork Watershed Assoc. v. Corps of Eng’rs, U. S. Army*, 414 F. Supp. 908, 931-32 (N.D. W.Va. 1976) *aff’d sub nom. Upper W. Fork River Watershed Ass’n v. Corps of Eng’rs, U.S. Army*, 556 F.2d 576 (4th Cir. 1977) (“[C]laims about environmental degradation cannot be elevated to Constitutional levels”); *Pinkney v. Ohio Env’tl. Prot. Agency*, 375 F. Supp. 305, 310 (N.D. Ohio 1974) (“[T]he Court has not found a guarantee of the fundamental right to a healthful environment implicitly or explicitly in the Constitution. Therefore, in light of the prevailing test of a fundamental right, the Court is unable to rule that the right to a healthful environment is a fundamental right under the Constitution.”); *Hagedorn v. Union Carbide Corp.*, 363 F. Supp. 1061, 1064-65 (N.D. W. Va. 1973); *Tanner v. Armco Steel Corp.*, 340 F. Supp. 532, 537 (S.D. Tex. 1972) (“[N]o legally enforceable right to a healthful environment, giving rise to an action for damages, is guaranteed by the Fourteenth Amendment or any other provision of the Federal Constitution.”).

¹⁰ Because Plaintiffs’ substantive due process claims regarding the Energy Policy Act and DOE/FE Order No. 3041 are derivative of Plaintiffs’ larger claim of a constitutional right to be free of climate change that is violated by Defendants’ aggregate acts, *see* Am. Compl. ¶¶ 288-91, those claims must also be dismissed.

B. Plaintiffs Are Not A Discrete Minority And Have No Equal Protection Claim.

Plaintiffs also allege that Defendants’ acts, in the aggregate, are an equal protection violation. Am. Compl. ¶ 291. Plaintiffs claim that Defendants’ acts have “denied Plaintiffs the same protection of fundamental rights afforded to prior and present generations of adult citizens,” and that because “fundamental rights are at stake and are being infringed by the affirmative aggregate acts of Defendants, this Court must apply strict scrutiny for a denial of equal protection of the law.” *Id.* ¶ 292. Plaintiffs also claim that they are a separate and insular minority for purposes of equal protection analysis, because “Defendants have a long history of deliberately discriminating against children and future generations in exerting their sovereign authority over our nation’s air space and federal fossil fuel resources for the economic benefit of present generations of adults.” *Id.* ¶ 294. Similarly, Plaintiffs allege, “Future generations do not have present political power or influence” and thus are an insular minority for purposes of equal protection analysis. *Id.* ¶ 295. Because Plaintiffs include “citizens presently below the voting age and future generations, this Court should determine they must be treated as protected classes.” *Id.* ¶ 297.

Plaintiffs’ assertions lack any basis in law. First, as noted above, the right to be free of CO₂ emissions is not a fundamental right deeply rooted in the Nation’s tradition and history. *Supra* at 20-22. “It is not the province of this Court to create substantive constitutional rights in the name of guaranteeing equal protection of the laws.” *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 33 (1973). Accordingly, where a legislative or executive act does not impair a fundamental right protected by the Constitution, there is no occasion to “depart[] from the settled mode of constitutional analysis . . . involving questions of economic and social policy,” which is to defer to a legislature’s rational choices unless the act impacts a protected class. *Id.*

Even taking Plaintiffs’ allegations as true, Defendants’ acts do not impact a protected class. Young people—whether defined as children below the age of majority, or young adults—are not a suspect class for equal protection purposes, at least as pertains to climate change. Courts have several times rejected attempts to constitutionalize environmental policy choices, including claims brought under the Fifth and Fourteenth Amendments. *See supra* at 21 n.9. More specifically, “[n]o cases have ever held . . . that children are a suspect class.” *Cunningham v. Beavers*, 858 F.2d 269, 273 (5th Cir. 1988). In fact, courts regularly apply rational basis scrutiny to classifications based on youth or infancy. *See, e.g., Douglas v. Hugh A. Stallings, M.D., Inc.*, 870 F.2d 1242, 1246 (7th Cir. 1989) (holding that “statutes which classify on the basis of age are subject only to the minimal rational relationship review”); *Jaffee v. Soc’y of New York Hosp.*, 1999 WL 246747, at *3 (S.D.N.Y. Apr. 27, 1999) (same). And at least one federal appellate court has held that persons between the ages of 18 and 45—an age range that would encompass the non-youth individual plaintiffs—are not a “‘discrete and insular’ group in need of ‘extraordinary protection from the majoritarian political process.’” *Price v. Cohen*, 715 F.2d 87, 93 (3d Cir. 1983) (citation omitted).

The Court should decline Plaintiffs’ invitation to create an equal protection claim for climate change impacts available to children or young adults. Plaintiffs are clearly not differently situated from any other person of any age when it comes to the alleged current impacts of climate change. *See supra* at 8-11. Nor have Plaintiffs alleged that they have been shut out of the political or electoral processes in any formal sense, such that they have been deprived of equal protection of the laws. The mere fact that children do not possess the right to vote is not an equal protection violation, *see, e.g., Hill v. Stone*, 421 U.S. 289, 297 (1975), and the “broad array of laws and government programs dedicated to protecting and nurturing

children—combined with the large numbers of voters who are parents or otherwise concerned about children—belies the argument that children and their needs cannot attract the attention of the legislature,” *Hedgepeth ex rel. Hedgepeth v. Wash. Metro. Area Transit Auth.*, 386 F.3d 1148, 1155 (D.C. Cir. 2004) (citing *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 445 (1985)). To Defendants’ knowledge, no court has ever recognized a constitutional claim based on the expectation that a group of young plaintiffs (even less, unborn plaintiffs) will confront an acute social problem during their expected lifetimes. There is a ripeness issue implicit in any such claim; further, this absence no doubt reflects the recognition that youth eventually become political decision makers, empowered to confront those problems. *Id.* at 1154 (“Youth is . . . far less ‘immutable’ than old age: minors mature to majority and literally outgrow their prior status.”). In fact, Plaintiffs’ allegations indicate that they already engage in political activism advocating for their preferred policy outcomes, and several have had opportunities to press their concerns to policy makers.¹¹ That Plaintiffs have not yet succeeded in enacting their preferred policies through the normal mechanisms of democratic decision making does not give rise to an equal protection claim. *See City of Mobile, Ala. v. Bolden*, 446 U.S. 55, 77 (1980) (the “right to equal participation in the electoral process does not protect any ‘political group,’ however defined, from electoral defeat”). “Any minority can be said to be powerless to assert

¹¹ *See, e.g.*, Am. Compl. ¶ 16 (Plaintiff “walked 1,600 miles from Nebraska to Washington D.C. in the Great March for Climate Action to raise awareness about the climate crisis”); ¶ 20 (since the age of six, Plaintiff “has advocated for reductions in CO₂ emissions before local, state, federal, and international governmental bodies, including three speeches before the United Nations, and [serves] on the Presidential Youth Council to advise the President of the United States”); ¶ 30 (Plaintiff “has taken individual action to try to protect the climate system by . . . lobbying his state legislators to pass comprehensive climate legislation”); ¶ 44 (Plaintiff “has been involved in both local and state initiatives to raise awareness about climate change and advocate for science-based CO₂ emission reductions”); ¶ 53 (Plaintiff “started a petition asking the city of Beaverton to adopt a resolution to lower the city’s carbon emissions”).

direct control over the legislature,” but that does not justify heightened scrutiny under the Fifth and Fourteenth Amendments. *Cleburne Living Ctr.*, 473 U.S. at 445. The Court should reject Plaintiffs’ equal protection claim, whatever its asserted basis.¹²

C. The Ninth Amendment Guarantees No Substantive Rights.

Plaintiffs also allege that Defendants have infringed on their unenumerated right to a stable climate system in violation of the Ninth Amendment. Am. Compl. ¶¶ 302-06. But “[t]he [N]inth [A]mendment has never been recognized as independently securing any constitutional right.” *Strandberg v. City of Helena*, 791 F.2d 744, 748 (9th Cir. 1986). Rather, it is “a rule of construction” that does not give rise to individual rights. *United States v. Bifield*, 702 F.2d 342, 349 (2d Cir. 1983); *see also Clynn v. Chapman*, 285 F. Supp. 2d 213, 219 (D. Conn. 2003) (dismissing Ninth Amendment cause of action for failure to state a claim). So while the Ninth Amendment may provide the basis for recognition of unenumerated rights, which themselves may be enforceable under the Fifth or Fourteenth Amendments, the Ninth Amendment itself secures no substantive right. *See Gibson v. Matthews*, 926 F.2d 532, 537 (6th Cir. 1991) (dismissing claim on the ground that “the [N]inth [A]mendment does not confer substantive rights in addition to those conferred by other portions of our governing law”); *DeLeon v. Little*, 981 F. Supp. 728, 734 (D. Conn. 1997) (holding that “the [Ninth Amendment] does not guarantee any constitutional right”) (quotation omitted); *Mann v. Meachem*, 929 F. Supp. 622, 634 (N.D.N.Y. 1996) (“The Ninth Amendment is recognized as a rule of construction and does

¹² Because Plaintiffs’ equal protection claims regarding the Energy Policy Act and DOE/FE Order No. 3041 are derivative of Plaintiffs’ larger claim that Defendants’ aggregate acts are an equal protection violation, *see* Am. Compl. ¶¶ 298-301, those equal protection claims must also be dismissed.

not protect any specific right”) (citation omitted). Since Plaintiffs have failed to state any claim under the Fifth or Fourteenth Amendments, this claim must also be dismissed.

D. Defendants’ Acts Have A Rational Basis.

Because the challenged acts and omissions of Defendants do not implicate a fundamental right or impact a suspect class, the Court must apply rational basis review and afford those acts a strong presumption of validity. *See FCC v. Beach Cmms’ns*, 508 U.S. 307, 313 (1993).

Evidentiary support is not required; this Court must uphold Defendant’s acts “if there is any *reasonably conceivable* state of facts that could provide a rational basis” for them. *Id.* at 315 (emphasis added). What is more, those attacking the rationality of legislative acts have the burden “‘to negative every conceivable basis which might support [them].’” *Id.* (quoting *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356, 364 (1973)). Plaintiffs cannot meet that burden, and their allegations do not even make the attempt. The federal government clearly has an interest in shaping greenhouse gas mitigation policies given their intricate interdependence with the nation’s broader energy generation landscape. *See supra* at 21 n.9. That interest is more than enough to justify Defendants’ strong efforts to reduce the Nation’s carbon emissions through regulations promulgated under various statutes and related regulating and permitting regimes while ensuring continued access to affordable, reliable energy sources.

III. This Court Lacks Jurisdiction Over Public Trust Doctrine Suits, Which Arise Under State Law.

Finally, Plaintiffs allege that they are “beneficiaries of rights under the public trust doctrine, rights that are secured by the Ninth Amendment and embodied in the reserved powers doctrines of the Tenth Amendment and the Vesting, Nobility, and Posterity Clauses of the Constitution.” Am. Compl. ¶ 308. Plaintiffs claim that Defendants have “alienated substantial portions of the atmosphere in favor of the interests of private parties so that these private parties

can treat our nation’s atmosphere as a dump for their carbon emissions.” *Id.* ¶ 310. This claim must be also be dismissed under Rule 12(b)(6).

The public trust doctrine has its roots in English common law. *See PPL Montana, LLC v. Montana*, --- U.S. ----, 132 S. Ct. 1215, 1234 (2012). The classic statement of the public trust doctrine was articulated in *Illinois Central Rail Company v. Illinois*, 146 U.S. 387 (1892). The Supreme Court there found that the Illinois legislature did not have authority to vest the State’s title to a portion of the navigable waters of Lake Michigan in a private party. The attempted transfer was beyond the authority of the legislature since it amounted to abdication of its obligation to regulate, improve, and secure submerged lands for the benefit of every individual. *Id.* at 453-60.

In cases decided both before and after *Illinois Central*, the Supreme Court has steadfastly and without exception treated the public trust doctrine as a matter of state law, not federal law. *See PPL Montana*, 132 S. Ct. at 1235 (“the public trust doctrine remains a matter of state law” and its “contours . . . do not depend upon the Constitution”); *Idaho v. Coeur d’Alene Tribe*, 521 U.S. 261, 285 (1997); *Phillips Petrol. Co. v. Mississippi*, 484 U.S. 469, 475 (1988); *Appleby v. City of New York*, 271 U.S. 364, 395 (1926); *Long Sault Dev. Co. v. Call*, 242 U.S. 272, 278-79 (1916); *Shively v. Bowlby*, 152 U.S. 1, 57-58 (1894). The Ninth Circuit has done the same. *United States v. 32.42 Acres of Land, More or Less, Located in San Diego Cnty., Cal.*, 683 F.3d 1030, 1037–38 (9th Cir. 2012) (relying on *PPL Montana* in holding that “the contours of [the public trust doctrine] are determined by the states, not by the United States Constitution”). Furthermore, in *Alec L. ex rel. Loortz v. McCarthy*, litigated by several of Plaintiffs’ counsel, the U.S. Court of Appeals for the District of Columbia Circuit rejected the precise claims Plaintiffs bring here. 561 F. App’x 7, 8 (D.C. Cir.) (per curiam), *cert. denied*, 135 S. Ct. 774 (2014).

Noting that there is no case “standing for the proposition that the public trust doctrine—or claims based upon violations of that doctrine—arise under the Constitution or laws of the United States,” the D.C. Circuit held that the Supreme Court had “categorically rejected . . . without qualification or reservation” any claim that there was a federal public trust doctrine. *Id.* On that basis, the D.C. Circuit affirmed the district court’s Rule 12 dismissal of plaintiff’s claim that there was a public trust duty to prevent CO₂ emissions into the atmosphere. *Id.* This Court should reach the same conclusion.

CONCLUSION

Considering the foregoing, Plaintiffs’ claims must be dismissed for lack of Article III standing under Rule 12(b)(1) or alternatively for failure to state a claim under Rule 12(b)(6).

Respectfully submitted this 17th day of November, 2015.

JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division

/s/ Justin A. Torres
JUSTIN A. TORRES
Trial Attorney, D.C. Bar No. 1003136
Environment and Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 305-0874
Fax: (202) 305-0506
justin.torres@usdoj.gov

Attorneys for Federal Defendants

CERTIFICATE OF COMPLIANCE

This brief complies with the applicable word-count limitation under LR 7-2(b), 26-3(b), 54-1(c), or 54-3(e) because it contains 10,029 words, including headings, footnotes, and quotations, but excluding the caption, table of contents, table of cases and authorities, signature block, exhibits, and any certificates of counsel.

/s/ Justin A. Torres
JUSTIN A. TORRES

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2015, a copy of the foregoing Federal Defendants' Memorandum of Points and Authorities in Support of the Motion to Dismiss was filed via the Court's electronic case filing (ECF) system, which will send notice to all counsel of record.

/s/ Justin A. Torres
JUSTIN A. TORRES

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

KELSEY ROSE CASCADIA JULIANA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 6:15-cv-01517-TC
)	
UNITED STATES OF AMERICA, et al.,)	
)	
Federal Defendants.)	
_____)	

FEDERAL DEFENDANTS' MOTION TO DISMISS

Federal Defendants, by their undersigned counsel, hereby move pursuant to Rule 12(b), subsections (1) and (6), of the Federal Rules of Civil Procedure, for dismissal of the action with prejudice on the grounds of lack of jurisdiction over the subject matter and failure to state a claim upon which relief can be granted. The grounds for this motion are set forth in more detail in the memorandum and exhibits submitted herewith. A proposed Order is attached.

Respectfully submitted this 17th day of November, 2015.

JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources Division

/s/ Justin A. Torres
JUSTIN A. TORRES
Trial Attorney, D.C. Bar No. 1003136
Environment and Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, DC 20044-7611
Tel: (202) 305-0874
Fax: (202) 305-0506
justin.torres@usdoj.gov

Attorneys for Federal Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2015, a copy of the foregoing
FEDERAL DEFENDANTS' MOTION TO DISMISS was filed via the Court's electronic case
filing (ECF) system, which will send notice to all counsel of record.

/s/ Justin A. Torres
JUSTIN A. TORRES

JULIA OLSON (OR Bar 062230)

JuliaAOlson@gmail.com

WILD EARTH ADVOCATES

1216 Lincoln St.

Eugene, OR 97401

Tel: (415) 786-4825

JOSEPH W. COTCHETT

jcotchett@cpmlegal.com

PHILIP L. GREGORY (applicant *pro hac vice*)

pgregory@cpmlegal.com

PAUL N. MCCLOSKEY

pmccloskey@cpmlegal.com

COTCHETT, PITRE & McCARTHY, LLP

San Francisco Airport Office Center

840 Malcolm Road

Burlingame, CA 94010

Tel: (650) 697-6000

Fax: (650) 697-0577

DANIEL M. GALPERN (OR Bar 061950)

dan.galpern@gmail.com

LAW OFFICES OF DANIEL M. GALPERN

1641 Oak Street

Eugene, OR 97401

Tel: (541) 968-7164

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON – EUGENE DIVISION

KELSEY CASCADIA ROSE JULIANA;
XIUHTEZCATL TONATIUH M., through
his Guardian Tamara Roske-Martinez;
ALEXANDER LOZNAK; JACOB LEBEL;
ZEALAND B., through his Guardian Kimberly
Pash-Bell; **AVERY M.,** through her Guardian
Holly McRae; **SAHARA V.,** through her
Guardian Toña Aguilar; **KIRAN ISAAC**
OOMMEN; TIA MARIE HATTON; ISAAC
V., through his Guardian Pamela Vergun;
MIKO V., through her Guardian Pamela
Vergun; **HAZEL V.,** through her Guardian
Margo Van Ummersen; **SOPHIE K.,** through

Case No.: 6:15-cv-01517-TC

**FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

**Constitutional Rights and Public Trust
Action (28 U.S.C. § 1331)**

her Guardian Dr. James Hansen; **JAIME B.**, through her Guardian Jamescita Peshlakai; **JOURNEY Z.**, through his Guardian Erika Schneider; **VICTORIA B.**, through her Guardian Daisy Calderon; **NATHANIEL B.**, through his Guardian Sharon Baring; **AJI P.**, through his Guardian Helaina Piper; **LEVI D.**, through his Guardian Leigh-Ann Draheim; **JAYDEN F.**, through her Guardian Cherri Foytlin; **NICHOLAS V.**, through his Guardian Marie Venner; **EARTH GUARDIANS**, a nonprofit organization; and **FUTURE GENERATIONS**, through their Guardian Dr. James Hansen;

Plaintiffs,

vs.

The UNITED STATES OF AMERICA; BARACK OBAMA, in his official capacity as President of the United States; **The OFFICE OF THE PRESIDENT OF THE UNITED STATES; CHRISTY GOLDFUSS**, in her official capacity as Director of Council on Environmental Quality; **SHAUN DONOVAN**, in his official capacity as Director of the Office of Management and Budget; **DR. JOHN HOLDREN**, in his official capacity as Director of the Office of Science and Technology Policy; **The UNITED STATES DEPARTMENT OF ENERGY; DR. ERNEST MONIZ**, in his official capacity as Secretary of Energy; **The UNITED STATES DEPARTMENT OF THE INTERIOR; SALLY JEWELL**, in her official capacity as Secretary of Interior; **The UNITED STATES DEPARTMENT OF TRANSPORTATION; ANTHONY FOXX**, in his official capacity as Secretary of Transportation; **The UNITED STATES DEPARTMENT OF AGRICULTURE; THOMAS J. VILSACK**, in his official capacity as Secretary of Agriculture; **The UNITED STATES DEPARTMENT OF COMMERCE; PENNY PRITZKER**, in her official capacity as Secretary of Commerce; **The UNITED STATES DEPARTMENT OF DEFENSE; ASHTON CARTER**, in his official capacity as Secretary of Defense; **The UNITED STATES DEPARTMENT OF STATE; JOHN KERRY**, in his official capacity as Secretary of State; **The UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; GINA**

MCCARTHY, in her official capacity as
Administrator of the EPA;

Defendants.

TABLE OF CONTENTS

	Page
<u>INTRODUCTION</u>	1
<u>JURISDICTION AND VENUE</u>	5
<u>PLAINTIFFS</u>	6
<u>DEFENDANTS</u>	36
<u>STATEMENT OF FACTS</u>	51
I. THE FEDERAL GOVERNMENT HAS KNOWN FOR DECADES THAT CARBON DIOXIDE POLLUTION WAS CAUSING CATASTROPHIC CLIMATE CHANGE AND THAT MASSIVE EMISSION REDUCTIONS AND A NATION-WIDE TRANSITION AWAY FROM FOSSIL FUELS WAS NEEDED TO PROTECT PLAINTIFFS’ CONSTITUTIONAL RIGHTS	51
II. IN SPITE OF KNOWING OF THE SEVERE DANGERS POSED BY CARBON POLLUTION, DEFENDANTS CREATED AND ENHANCED THE DANGERS THROUGH FOSSIL FUEL EXTRACTION, PRODUCTION, CONSUMPTION, TRANSPORTATION, AND EXPORTATION	56
A. Despite the Known Danger, Defendants Caused Climate Instability and Allowed U.S. Fossil Fuel Extraction, Production, Consumption, Transportation, and Exportation and Associated Emissions, to Dangerously Increase	56
B. Defendants Have Allowed Excessive Fossil Fuel Production on Federal Public Lands	59
C. Defendants Subsidize the Fossil Fuel Industry	60
D. Defendants Recklessly Allow Interstate and International Transport of Fossil Fuels	62
E. Defendants Recklessly Allow CO₂ Pollution From Combustion of Fossil Fuels	63
III. THE JORDAN COVE LNG EXPORTS	64
IV. CURRENT SCIENCE ON GLOBAL CLIMATE CHANGE AND OCEAN ACIDIFICATION	66

V. EXISTING IMPACTS OF CLIMATE CHANGE ACROSS THE NATION	68
VI. FUTURE NATIONAL CLIMATE IMPACTS EXPECTED BY 2050 AND 2100	76
VII. RESTORING THE ENERGY BALANCE AND PROTECTING AGAINST A DANGEROUS DESTABILIZED CLIMATE SYSTEM IS POSSIBLE BASED ON BEST AVAILABLE SCIENCE	80
VIII. THE FEDERAL GOVERNMENT’S ADMISSIONS OF ITS PUBLIC TRUSTEE OBLIGATIONS	81
<u>CLAIMS FOR RELIEF</u>	84
<u>First Claim for Relief:</u>	
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT	84
<u>Second Claim for Relief:</u>	
VIOLATION OF EQUAL PROTECTION PRINCIPLES EMBEDDED IN THE FIFTH AMENDMENT	88
<u>Third Claim for Relief:</u>	
THE UNENUMERATED RIGHTS PRESERVED FOR THE PEOPLE BY THE NINTH AMENDMENT	91
<u>Fourth Claim for Relief:</u>	
VIOLATION OF THE PUBLIC TRUST DOCTRINE	92
<u>PRAYER FOR RELIEF</u>	94

INTRODUCTION

1. For over fifty years, the United States of America¹ has known that carbon dioxide (“CO₂”) pollution from burning fossil fuels was causing global warming and dangerous climate change, and that continuing to burn fossil fuels would destabilize the climate system on which present and future generations of our nation depend for their wellbeing and survival. Defendants also knew the harmful impacts of their actions would significantly endanger Plaintiffs, with the damage persisting for millennia. Despite this knowledge, Defendants continued their policies and practices of allowing the exploitation of fossil fuels. Specifically, Department of Energy has approved the export of liquefied natural gas (“LNG”) from the Jordan Cove LNG terminal in Coos Bay, Oregon. This export terminal will be the largest projected source of CO₂ emissions in Oregon, and will significantly increase the harm that Defendants’ actions are causing to Plaintiffs. Defendants’ have long-standing knowledge of the cumulative danger that their aggregate actions are causing Plaintiffs. The Jordan Cove project enhances the cumulative danger caused by Defendants affirmative aggregate actions.

2. In a 1965 White House Report on “Restoring the Quality of Our Environment,” for example, the President’s Science Advisory Committee stated: “The land, water, air and living things of the United States are a heritage of the whole nation. They need to be protected for the benefit of all Americans, both now and in the future. The continued strength and welfare of our nation depend on the quantity and quality of our resources and on the quality of the environment in which our people live.”

3. The United States Environmental Protection Agency (“EPA”) in 1990 and the Congressional Office of Technology Assessment in 1991 prepared plans to significantly reduce

¹ Throughout this Complaint, the terms “United States” or “Federal Government” refer to

our nation's CO₂ emissions, stop global warming, and stabilize the climate system for the benefit of present and future generations. Both the EPA's 1990 Plan, "Policy Options for Stabilizing Global Climate," and the OTA's 1991 Plan, "Changing By Degrees: Steps to Reduce Greenhouse Gases," were prepared at the request of, and submitted to, Congress. Despite the imminent dangers identified in both the EPA's 1990 Plan and the OTA 1991 Plan, Defendants never implemented either plan.

4. Since 1990, Defendants have known that CO₂ levels in the atmosphere must be stabilized at or below 350 parts per million ("ppm") in order to protect our nation's climate system and that a swift transition away from fossil fuels was necessary. Twenty-five years later, today's best science confirms that 350 ppm is the maximum safe level of atmospheric CO₂ required to restore a stable climate system.

5. Defendants have for decades ignored experts they commissioned to evaluate the danger to our Nation, as well as their own plans for stopping the dangerous destabilization of the climate system. Specifically, Defendants have known of the unusually dangerous risks of harm to human life, liberty, and property that would be caused by continued fossil fuel burning. Instead, Defendants have willfully ignored this impending harm. By their exercise of sovereign authority over our country's atmosphere and fossil fuel resources, they permitted, encouraged, and otherwise enabled continued exploitation, production, and combustion of fossil fuels, and so, by and through their aggregate actions and omissions, Defendants deliberately allowed atmospheric CO₂ concentrations to escalate to levels unprecedented in human history, resulting in a dangerous destabilizing climate system for our country and these Plaintiffs.

6. The 1965 Report and the 1990 and 1991 Plans are only examples of the extensive knowledge Defendants have had about the dangers they caused to present and future generations,

including Plaintiffs. Since 1965, numerous other studies and reports also have informed Defendants of the significant harms that would be caused if Defendants did not reduce reliance on carbon-intense energy from fossil fuels and rapidly transition to carbon-free energy. These studies and reports concluded that continued fossil fuel dependency would drive the atmospheric concentration of CO₂ to dangerous levels that would destabilize the climate system.

7. Yet, rather than implement a rational course of effective action to phase out carbon pollution, Defendants have continued to permit, authorize, and subsidize fossil fuel extraction, development, consumption and exportation – activities producing enormous quantities of CO₂ emissions that have substantially caused or substantially contributed to the increase in the atmospheric concentration of CO₂. Through its policies and practices, the Federal Government bears a higher degree of responsibility than any other individual, entity, or country for exposing Plaintiffs to the present dangerous atmospheric CO₂ concentration. In fact, the United States is responsible for more than a quarter of global historic cumulative CO₂ emissions.

8. The present level of CO₂ and its warming, both realized and latent, are already in the zone of danger. Defendants have acted with deliberate indifference to the peril they knowingly created. As a result, Defendants have infringed on Plaintiffs' fundamental constitutional rights to life, liberty, and property. Defendants' acts also discriminate against these young citizens, who will disproportionately experience the destabilized climate system in our country.

9. By and through natural gas imports and exports, the Federal Government and the Department of Energy are further enhancing the dangerous climate situation, without due process and in violation of Plaintiffs' right to equal protection. As noted above, the Jordan Cove LNG Terminal in Coos Bay, Oregon, is the sole LNG export terminal in the Northwest and Oregon's

largest projected source of CO₂ emissions. The Department of Energy's approval of LNG exports from the Jordan Cove LNG Terminal heightens the danger to Plaintiffs that Defendants' actions in the aggregate have created. The result is an unconstitutional violation of Plaintiffs' fundamental rights.

10. Plaintiffs are especially vulnerable to the dangerous situation that Defendants have substantially caused. This Court is Plaintiffs' last resort to ensure their reasonable safety, and that of our Posterity, from the harm perpetrated by Defendants. There is an extremely limited amount of time to preserve a habitable climate system for our country; otherwise, the warming of our nation will become locked in or rendered increasingly severe. Recent scientific studies conclude that our country is now in a period of "carbon overshoot," with early consequences that are already threatening and that will, in the short term, rise to unbearable unless Defendants take immediate action to rapidly abate fossil fuel emissions and restore energy balance at a lower atmospheric CO₂ concentration.

11. The current policies, plans, and practices of the Federal Government will not achieve even a proportionate share of the fossil fuel emission reductions that must occur within this century. To the contrary, Defendants' policies, plans, and practices permit, authorize, and subsidize fossil fuel exploitation and consumption, and thus press our climate system further toward irretrievable impacts. A key recent instance is the government's approval of LNG exports from the Jordan Cove LNG Terminal. If Defendants continue to promote such development and further delay rapid, systematic annual emissions reductions, they will ensure a far less hospitable climate system, with far-reaching damage to our nation and Plaintiffs alike.

12. This Court should order Defendants to cease their permitting, authorizing, and subsidizing of fossil fuels and, instead, move to swiftly phase out CO₂ emissions, as well as take

such other action as necessary to ensure that atmospheric CO₂ is no more concentrated than 350 ppm by 2100, including to develop a national plan to restore Earth's energy balance, and implement that national plan so as to stabilize the climate system. Plaintiffs come before this Court to secure their fundamental rights under the Constitution, before it is too late.

JURISDICTION AND VENUE

13. This action is brought pursuant to the United States Constitution. It is authorized by Article III, Section 2, which extends the federal judicial power to all cases arising in equity under the Constitution. “The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution.” *Obergefell v. Hodges*, 576 U.S. ____, slip. op. at 10 (2015). That grant of equitable jurisdiction requires Article III courts to apply the underlying principles of the Constitution to new circumstances unforeseen by the framers, such as the irreversible destruction of the natural heritage of our whole nation. An actual controversy has arisen and exists between Plaintiffs and Defendants because Defendants have placed Plaintiffs in a dangerous situation, continue to infringe upon Plaintiffs’ constitutional rights, and have abrogated their duty of care to ensure Plaintiffs’ reasonable safety, among other violations of law. Plaintiffs have no adequate remedy at law to redress the harms herein, which are of a continuing nature and which, if left unresolved, will be irreversible.

14. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201 (creation of a remedy), and 28 U.S.C. § 2202 (further relief) as this action arises under the laws of the United States.

15. Venue lies in this judicial district by virtue of 28 U.S.C. § 1391(e). The majority of Youth Plaintiffs (as hereinafter defined) reside in this judicial district, some Defendants have offices in this judicial district, and the events, omissions, and harms giving rise to the claims

herein arise in substantial part in this judicial district. Pursuant to Local Rule 3-2, divisional venue lies in the Eugene Division because the largest number of Youth Plaintiffs reside in this division of the judicial district, and events, omissions, and harms giving rise to the claims herein arise in substantial part in this division of the judicial district.

PLAINTIFFS

16. Plaintiff **Kelsey Cascadia Rose Juliana** is a citizen of the U.S. and a resident of Eugene, Oregon. Kelsey is 19 years old and was born and raised in Oregon, the state where she hopes to work, grow food, recreate, have a family, and raise children. During the fall of 2014, Kelsey walked 1,600 miles from Nebraska to Washington D.C. in the Great March for Climate Action to raise awareness about the climate crisis. Kelsey is harmed by Defendants' actions and inactions regarding carbon pollution and the resulting climate destabilization and ocean acidification. Specifically, Defendants' actions have caused damage to and continue to threaten the resources on which she relies for her survival and wellbeing. Kelsey depends on the freshwaters of Oregon for drinking, hygiene, and recreation. She drinks the freshwater that flows from the McKenzie River and drinks from springs in the Oregon Cascades on hiking, canoeing, and backpacking trips. Kelsey also depends upon the marine and estuarine waters of Oregon as a food source and a place of recreation and vacationing. Kelsey spends time along the Oregon coast in places like Yachats and Florence and enjoys playing on the beach, tidepooling, and observing unique marine animals. An important part of Kelsey's diet includes food that comes from the marine waters and freshwater rivers, including salmon, cod, tuna, clams, mussels, and crab. Kelsey also depends upon food grown in Oregon both by small farmers in the Willamette Valley and by her family in their garden.

17. The current and projected drought and lack of snow caused by Defendants are already harming all of the places Kelsey enjoys visiting, as well as her drinking water, and her food sources—including wild salmon. During the summer of 2015, record-setting heat and low water levels killed salmon in Oregon’s rivers. In the coming decades, Kelsey will suffer even greater harm from the impacts of ocean acidification and rising sea levels on the marine life she eats for sustenance, and on the beaches, tidepools, and other places she visits along the Oregon coast.

18. In addition to coastal recreation, Kelsey enjoys snowshoeing, cross-country skiing, and snow camping. Warmer winters and declining snowpack make it harder for her to enjoy these winter activities. Kelsey also enjoys rafting, swimming in rivers, snorkeling on rivers, canoeing on lakes, hiking, rock-climbing, and backpacking in the warmer seasons. Increasing summer temperatures, and the resulting algal blooms in the lakes Kelsey visits harm her ability to enjoy these activities and prevent her from drinking the water. Intense wildfires, which also threaten Kelsey’s ability to enjoy summer activities. Kelsey has had to abandon camping trips because of nearby wildfires.

19. Defendants have caused psychological and emotional harm to Kelsey as a result of her fear of a changing climate, her knowledge of the impacts that will occur in her lifetime, and her knowledge that Defendants are continuing to cause harms that threaten her life and wellbeing. As a result of the acts and omissions of Defendants, Kelsey believes that she will not be able to continue to do all of the things described in this Complaint for her life, health, and enjoyment, nor will she one day be able to share those experiences with her children.

20. Plaintiff **Xiuhtezcatl Tonatiuh M.**, by and through his guardian and mother Tamara Roske-Martinez, is a 15-year-old citizen of the U.S. who lives in Boulder, Colorado. For

nine years, Xiuhtezcatl has advocated for reductions in CO₂ emissions before local, state, federal, and international governmental bodies, including three speeches before the United Nations, and service on the Presidential Youth Council to advise the President of the United States. As the youth director for his organization Earth Guardians, Xiuhtezcatl uses music, dance, art, videos, speeches, testimony, and youth organizing to urge his governments to stop taking actions that promote fossil fuel exploitation and result in dangerous climate change.

21. Of Aztec descent, Xiuhtezcatl engages in sacred indigenous spiritual and cultural practices to honor and protect the Earth. Xiuhtezcatl has suffered harm to his spiritual and cultural practices from Defendants' actions. Climate change also harms Xiuhtezcatl's personal safety, property, and recreational interests through the resulting increased frequency and intensity of wildfires, drought, declining snowpack, pine-beetle infested forests, and extreme flooding near his home in Colorado. Xiuhtezcatl's home, including the forests that he relies upon for his spiritual, physical, emotional, and mental wellbeing, will continue to die and burn as climate change worsens. Water will become increasingly scarce, adversely impacting every aspect of his life.

22. Xiuhtezcatl is also harmed by the adverse impacts to his air and water quality, and his health that result from the exploitation of fossil fuels in Colorado. Under authorizations by the Department of Energy, natural gas extracted through fracking in Colorado will be transported by pipeline to Oregon, liquefied at the Jordan Cove LNG Terminal in Coos Bay, and then shipped overseas for combustion. The LNG exports from Coos Bay, Oregon will harm Xiuhtezcatl because the export of natural gas enhances demand for natural gas extraction in Colorado and increases the atmospheric concentration of CO₂.

23. Plaintiff **Alexander Loznak** is a citizen of the U.S. and lives in the unincorporated area of Kellogg, Oregon. He is 18 years old and graduated from Roseburg High School in June 2015. Alex is experiencing harm caused by Defendants. For example, Alex is gravely concerned about how his life and his family's farm will continue to be affected by climate change.

24. Alex lives on his family's 570-acre farm, the Martha A. Maupin Century Farm ("Maupin Century Farm"), located along the Umpqua River. His great, great, great, great grandmother, Martha Poindexter Maupin, founded the farm in 1868 (she was one of the first women in Oregon to own a ranch) after arriving in the area by way of the Oregon Trail. The Maupin Century Farm is Alex's intellectual and spiritual base and a foundational piece of his life and heritage, and his identity and wellbeing depend on its preservation and protection. However, the drought conditions, unusually hot temperatures, and climate-induced migration of forest species are harming and will increasingly harm Alex's use and enjoyment of the Maupin Century Farm.

25. Alex's ability to fish on local rivers is harmed by drought and hot temperatures. The Pacific Connector Natural Gas Pipeline, which would connect to the Jordan Cove LNG Terminal at Coos Bay, would be located only about 30 miles from the Maupin Century Farm, in a forest where Alex recreates. The Pacific Connector Natural Gas Pipeline would cross bodies of water at 400 different locations in Oregon, including two places on the South Umpqua River where Alex recreates. Alex has walked along the pipeline route and has seen the old growth trees that will be logged and the special rivers that will be impacted in order to deliver natural gas to what would be the largest, most-polluting facility and power plant in Oregon, solely built to liquefy natural gas for export and ultimate combustion.

26. The Maupin Century Farm is also an important source of revenue and food for Alex and his family. On the Farm, Alex and his family grow plum trees and hazelnut trees, raise chickens and grass-fed cows, and have a large garden growing many of the fruits and vegetables that his family consumes. The record-setting heat waves and drought in Oregon adversely impact both Alex's life and the Farm, especially their hazelnut orchard. The heat waves and drought harm Alex's ability to work outside on the Farm during the summer months.

27. The Maupin Century Farm is home to many different species of wildlife, including deer, bears, mountain lions, and birds, which Alex enjoys seeing. Alex and his family hunt deer, elk, and wild turkeys to provide food. Each of these species of wildlife is adversely impacted by climate change caused by Defendants. Other food sources for Alex, including crab and seafood, are negatively impacted by ocean acidification, warming, and sea level rise caused by Defendants.

28. The health and bodily integrity of his family and their Farm, which they rely on for food and as a source of income—as well as for their personal wellbeing—increasingly are harmed by climate change caused by Defendants. The Maupin Century Farm has been passed from generation to generation in Alex's family, and in many ways Alex's future depends on that family farm. He would like to reside at, raise children on, and retire to the Maupin Century Farm, but he is concerned about how it will be further damaged by climate change caused by Defendants. Wildfires, more common and more destructive due to warmer summers and drought conditions, are increasingly common in Southern Oregon. The area where Alex lives is frequently smoky due to nearby wildfires during the warmer months. Additionally, Alex is allergic to pollen and suffers worse in unseasonably warm years. He also suffers from asthma,

which is worse in the increasingly smoky summer months. Alex's allergies and asthma will worsen as climate change caused by Defendants worsens.

29. For recreation, Alex enjoys activities in the snow in Oregon and also hiking in Northern Washington and Glacier National Park, where he has seen the glaciers receding due to climate change caused by Defendants. Alex plans to return to Montana, and he also plans to travel to Alaska, and his recreational and aesthetic interests are harmed as the glaciers continue to disappear before he can visit them.

30. Alex has taken individual action to try to protect the climate system by driving an efficient hybrid car, by starting a Climate Change Club at Roseburg High School with the goal of installing solar panels on the school's roof, by starting the League of Umpqua Climate Youth ("LUCY"), and by lobbying his state legislators to pass comprehensive climate legislation.

31. Plaintiff **Jacob Lebel** is an 18-year-old citizen of the U.S. residing in Roseburg, Oregon. In 2000, Jacob and his family immigrated to Oregon from Quebec, Canada, attracted by the state's pristine landscape and temperate weather. Since then, Jacob's family has established Rose Hill Farms, a diverse, organically managed farm, as well as a thriving local medical practice at White Oak Medical Clinic. Jacob grew up working on Rose Hill Farms, where he currently spends most of his time. Jacob intends to continue his use and enjoyment of Rose Hill Farms for these purposes and for his vocational career in the future. Jacob derives educational, inspirational, spiritual, and other benefits from his work at the Farm. Jacob is harmed and will continue to be harmed by Defendants' actions described herein and the climate change impacts to the Farm, including the deterioration of the Farm environment, rising temperatures, and a dwindling water supply.

32. In the summer, Rose Hill Farms depends on home-dug ponds to irrigate a large garden and three greenhouses, as well as several orchards of more than four hundred fruit and nut trees. The recent long, dry summers, droughts, and heat waves reduced, and are currently reducing, the supply of water in the ponds, just as the water needs of the crops and trees have increased. As climate impacts continue to grow in severity, so will this water shortage. Furthermore, experts predict that large destructive wildfires, aggravated by record-low snowpacks and consistently drier and hotter conditions, will become increasingly common in Oregon. A wildfire would destroy the fourteen years of work that have gone into making the Rose Hill Farms. In addition to the farm structures, orchards, greenhouses, and pastures at risk from a fire, approximately 70 percent of the 350 acres of land owned by Jacob's family is mixed conifer forest which they manage sustainably and which represents an enormous investment. Already, Jacob and his family are required to invest resources to install an irrigation system in order to contend with the increasing drought conditions as a result of climate destabilization caused by Defendants.

33. Throughout Jacob's life, wilderness and healthy natural environments have been essential parts of his spiritual and emotional wellbeing. Jacob frequently and regularly recreates in the natural areas of Oregon, through hiking, exploring, snowboarding, and rafting. Native ecosystems and animal species have always been the main source of inspiration for Jacob's writing, music, and poetry. Jacob also spends significant time fishing, gathering mussels, and crabbing as a source of both enjoyment and food for himself and his family. Jacob intends to continue all of these activities in the future. In 2014-2015, Jacob experienced drastic snow retreat on Crater Lake National Park and Mount Hood, as well as the nearby South Umpqua River drying up in some spots, adversely affecting his use and enjoyment of these areas. Low

river flows and warm water temperatures all have contributed and contribute to losses of fish in the salmon runs in the rivers near Roseburg, on which Jacob relies for recreation and food. Rising sea levels caused by Defendants threaten the natural areas of the Oregon coast used and enjoyed by Jacob. Ocean acidification caused by Defendants has already begun to adversely impact shellfish along the coast, and is projected to take its toll on crabs, mussels, and all shelled seafood. Jacob is adversely affected by these changes caused by Defendants' actions as described herein.

34. The Pacific Connector Natural Gas Pipeline, which would connect to the Jordan Cove LNG Terminal at Coos Bay, would run directly behind the Rose Hill Farms. The Pacific Connector Natural Gas Pipeline would adversely affect Jacob's aesthetic, inspirational, and spiritual enjoyment of the property. This pipeline also carries risks of dangerous leaks or explosions, which could trigger a wildfire in the hot summer months. The associated hundred-foot clear-cut area would affect the landscape integrity and biodiversity of Jacob's immediate surroundings, all of which adversely impact Jacob.

35. Plaintiff **Zealand B.**, by and through his guardian and mother Kimberly Pash-Bell, is an 11-year-old citizen of the U.S. and a resident of Eugene, Oregon. Zealand has worked to increase community awareness about climate change caused by Defendants and has advocated before local and state governmental bodies for science-based government action on climate change. Zealand and his family minimize their impact on the environment and reduce their carbon footprint by biking, gardening, participating in community-supported agriculture, buying locally-made products, and picking up litter in the places where they recreate. Zealand has experienced and will continue to experience harm from climate change caused by Defendants if immediate action is not taken to secure a stable climate system.

36. Zealand loves living in Oregon and hopes to stay in Oregon in the future. He enjoys skiing, biking, rock climbing, rafting, and camping in Oregon. Oregon's rivers are especially important to Zealand. While rafting along the rivers in Oregon, Zealand enjoys the solitude of the wilderness and the experience of seeing plants and animals in their natural habitat. Rafting trips with his family have been canceled or shortened due to the increased temperatures, drought, and reduced water levels. Zealand and his family twice experienced large forest fires while rafting on Oregon rivers.

37. The record-setting heat during the summer of 2015 adversely impacts Zealand and his enjoyment of outdoor activities by making bike-riding, playing soccer, and playing basketball difficult. Zealand suffers from allergies, which have increased in severity over the past few years, and caused him to decrease the amount of time that he spends outside in the spring and early summer. Heat waves and an increase in pollen counts will worsen with further climate change caused by Defendants and harm Zealand's recreational and health interests.

38. Warmer winters and decreased snowpack levels in Oregon have harmed, and will continue to harm, Zealand and his family. Zealand's mother usually works during the winter at the Willamette Pass ski resort, but that seasonal job was not available during the winter of 2014-2015 due to the lack of snow, resulting in lost income. The lack of snow also meant Zealand was unable to ski. Decreased snowpack levels in the future will also harm the availability of drinking water for Zealand, his family, and his community, as Eugene's only water source, the McKenzie River, is fed by melting snowpack.

39. Zealand and his family spend substantial time at the Oregon Coast. He enjoys playing in the dunes, camping, surfing, boogie boarding, and taking pictures of the ocean and surrounding areas. The impacts from warmer water temperatures, rising sea levels, and ocean

acidification caused by Defendants will negatively impact Zealand's future ability to enjoy the same areas on the coast that he now loves and to eat the same seafood, which is an important part of his diet.

40. Plaintiff **Avery M.**, by and through her guardian and mother Holly McRae, is a 10-year-old citizen of the U.S. and a resident of Eugene, Oregon. Avery has worked to increase awareness in her community about impacts of climate change caused by Defendants and advocated for CO₂ reductions before her representatives at both the municipal and state levels. Avery and her family limit their carbon footprint as much as possible by recycling, biking, eating less meat and growing some of their own food, repairing, reusing, and buying second-hand goods, decreasing energy use at home, and minimizing their vehicle and air travel.

41. The impacts from climate change caused by Defendants are harming and will continue to harm Avery and her enjoyment of and interaction with nature and wildlife. Avery's favorite activity is swimming in natural bodies of water. Avery and her family enjoy boating, hiking, backpacking, camping, and watching salmon spawn throughout Oregon. In 2015, Avery was not been able to participate in these recreational activities as frequently as past years due to warmer temperatures, drought, low water levels, forest fires, and algal blooms. The 2015 summer heat has caused Avery to avoid outdoor activities to prevent becoming overheated. Avery also suffers from allergies, which will worsen with increased pollen count and a changing climate caused by Defendants. Avery enjoys taking vacations to Yellowstone with her family and has seen burned, beetle-killed forests on these trips. The increase of hungry bears in the area due to the decline in white bark pine trees forced her family to postpone Avery's first big backpacking trip in the area.

42. Climate change caused by Defendants has reduced snowpack levels in Oregon, negatively impacting Avery's enjoyment of winter activities and the future availability of drinking water for her and her family. Every winter, Avery takes a trip with her family to Clear Lake, where she enjoys snowshoeing and sledding. These winter activities were not possible from 2013-2015 due to lack of snow.

43. Avery enjoys eating seafood and going to the Oregon coast, where she wades in the water and explores tide pools. At the coast, Avery has noticed coastal erosion and her recreational experience is harmed by seeing dead wildlife from the coastal changes. Warmer water temperatures, sea level rise, and ocean acidification caused by Defendants will worsen and negatively impact Avery's enjoyment of the Oregon coast and the food she eats.

44. Plaintiff **Sahara V.**, by and through her guardian and mother Toña Aguilar, is an 11-year-old citizen of the U.S. and a resident of Eugene, Oregon. Sahara is experiencing harm as a result of Defendants' aggregate actions and omissions in causing climate change. Sahara has been involved in both local and state initiatives to raise awareness about climate change and advocate for science-based CO₂ emission reductions. In order to reduce her impact on the environment, Sahara and her family bike, garden, recycle, and practice vegetarianism. Sahara spends time with her family recreating in Oregon's rivers, lakes, beaches, sand dunes, and forests. She enjoys swimming, biking, camping, and mushroom hunting. Sahara frequently visits her grandparents' home on the Mohawk River and has witnessed the water levels decrease dramatically.

45. Climate impacts caused by Defendants, such as increased temperatures and drought conditions, infringe upon Sahara's enjoyment and use of freshwater resources and will continue to do so in the future if immediate action is not taken to reduce CO₂ emissions. Sahara

and her family take frequent trips to the Oregon coast to visit her grandparents, who own property in Yachats. On the Oregon coast, Sahara enjoys climbing rocks and sand dunes, swimming, and tidepooling to see marine life. Sahara's enjoyment of these activities is being increasingly harmed in the future by sea level rise, greater erosion, enhanced ocean acidification, and increased water temperatures.

46. Sahara has asthma, and the increased frequency of forest fires in Oregon, due to hotter and drier conditions, has triggered severe asthma attacks for Sahara. The smoke inhibits her ability to breath, causes her throat to close up, and necessitates the use of her inhaler. As a result of Defendants' actions in causing climate change, Sahara has become more susceptible to grass allergies, further aggravating her asthma. These health effects will worsen as climate change becomes more severe. Warmer winters and the lack of snow in Oregon have prevented Sahara's enjoyment of winter activities and will negatively impact her water supply in the future. Sahara wants to stay in Oregon, yet she fears her children and grandchildren will be unable to experience and enjoy Oregon's natural resources and wildlife.

47. Plaintiff **Kiran Isaac Oommen** is an 18-year-old citizen of the U.S. and a resident of Eugene, Oregon. Kiran enjoys camping, hiking, kayaking, biking, and swimming in Oregon. In recent years, decreased water levels and rising temperatures have limited his enjoyment of both these activities and the special places in Oregon he visits. Local Oregon produce and seafood are staples in Kiran's diet. Ocean acidification and the warmer water temperatures and lower water levels in rivers and streams have negatively impacted his ability to enjoy eating shellfish and salmon. Kiran enjoys cross-country skiing in the winter, but was not able to ski in 2015 due to the lack of snow in Oregon. Kiran enjoys visiting the Oregon coast to

walk along the beach, swim, and go tidepooling. Impacts of climate change, such as sea level rise, will negatively impact Kiran's future ability to enjoy the Oregon coast.

48. Due to drastic seasonal variations, Kiran has endured increasingly severe grass and tree pollen allergies, making it difficult for him to enjoy outdoor activities. Kiran used to be able to regularly visit his friend's family farm in southern Oregon but the increased prevalence of forest fires due to dry conditions and high temperatures has impacted Kiran's ability to visit this farm, as the intensity of the smoke and ash have shortened his trips and inhibited his ability to breathe.

49. Kiran has family he visits in Olympia, Washington and near Miami, Florida, both areas scientists predict will be gravely impacted by sea level rise. When Kiran visited Florida in the past, he enjoyed seeing wildlife and experiencing the beauty of the Florida Keys, which is a place he plans to visit again. Kiran would like to continue visiting his family in these coastal areas in the future, but the increasing severity of climate impacts, unless promptly abated, will prevent him from doing so – as large portions of these areas will be inundated by the rising seas.

50. Plaintiff **Tia Marie Hatton** is a citizen of the U.S. and a resident of Bend, Oregon. She is 18 years old and will enter the University of Oregon in September 2015. For the past two years Tia has experienced pronounced climate change impacts in Bend and surrounding areas. Tia is an avid Nordic skier, and has skied competitively since middle school. During 2013-2015, her ability to ski was limited by the record low snowfall in the Bend area. Tia regularly skis at Virginia Meissner Sno-Park and Willamette Pass Resort. These areas were closed this past winter because of record low snowfall. In 2015, ski teams from across Oregon, including Tia's team, had to move their state competition to higher elevations at Mt. Bachelor where trails were limited and not well groomed. In the future, unless the severe impacts to our

nation's climate system are immediately abated, she will not be able to ski at all, even at higher elevations.

51. For the 2015 summer, Oregon's Governor issued a drought declaration for Deschutes County, where Tia lives. Tia spends most of her time recreating outdoors, not only skiing, but cross-country running, rock climbing, hiking, camping, and kayaking. Warmer summer temperatures and forest fires in Deschutes National Forest south of Bend are preventing Tia from participating in these activities as often as she would like and once could. For the past several years there have been fires every summer in the forests surrounding Bend, and residents have had to evacuate. Tia is psychologically impacted by these events, as it is hard for her to watch the destruction of the wilderness she loves and its ecosystems. Tia and her family vacation around Oregon and have experienced coastal erosion in Seaside, Florence, and Newport. Tia has also experiences the climate impacts similar to those in the Bend area when she visits the Steens Mountain for running camp.

52. Tia works hard to protect the environment and create awareness about the impacts of climate change caused by Defendants. In high school she was a member of her school's Green Club, and spent time planning Earth Day activities to raise awareness and educate the student body. Tia tries to limit her transportation via cars and is participating in the Bend Energy Challenge, a nationwide energy-saving competition, to help her family save energy and make their home healthier.

53. Plaintiff **Isaac V.**, by and through his guardian and mother, Pamela Vergun, is a thirteen-year-old U.S. citizen and a resident of Beaverton, Oregon. Isaac is involved in climate activism and he founded Plant for the Planet Academy in Oregon, along with his mom and sister. Isaac started a petition asking the city of Beaverton to adopt a resolution to lower the city's

carbon emissions. At home, his family installed solar panels on their roof and they drive an electric vehicle.

54. Isaac and his family are experiencing the adverse impacts of climate change caused by Defendants. 2015 has been the hottest summer Isaac remembers, with temperatures at 100 degrees Fahrenheit in his hometown. The groundwater level in his backyard has dropped significantly, causing trees to die. Isaac enjoys recreating along the Spring Water Trail near Portland, Oregon and is harmed by the drought conditions, which have eliminated a substantial portion of the flow in Johnson Creek. In parts of southern and eastern Oregon, wildfires are tearing through forests where Isaac enjoys recreating, threatening the ecosystems he relies upon for his personal enjoyment.

55. In winter, Isaac recreates in the Oregon snow and thereby derives emotional, spiritual, and physical benefits. He intends to continue his use and enjoyment of the snow. The record-low snowfall across the state, caused by Defendants' actions and the climate change resulting from those actions, harms Isaac by reducing his opportunity to recreate in the snow.

56. Since he was very young, Isaac has had asthma. Isaac's asthma is worsening and will continue to worsen as air quality becomes more polluted from increased pollen counts and smoke from wildfires. Isaac enjoys athletic activities including hiking, soccer, and basketball. He intends to continue these activities in the future. Increasing temperatures caused by Defendants' actions will worsen his asthma, affect his athletic performance, and make him less likely to play sports.

57. Plaintiff **Miko V.**, by and through her guardian and mother, Pamela Vergun, is a 14-year-old citizen of the United States and a resident of Beaverton, Oregon. Miko is a climate activist. Along with her Mother and brother, Miko started the first Plant for the Planet Academy

in Oregon to help plant 150 trees per person in the United States to combat deforestation. She is spreading awareness to other young people and working to educate adults about the climate crisis. At home, her family has solar panels on their roof and they use an electric hybrid vehicle to reduce their emissions when they drive. Miko is committed to living a low-carbon lifestyle.

58. Miko was born in the Marshall Islands, and her low-lying home island is threatened by sea level rise. She fears she will never be able to travel back to the Marshall Islands as she intends to because the islands will likely be underwater in the future. In the last couple of years, Miko has experienced record-breaking heat waves in Beaverton and Portland, Oregon. Miko recently visited Timothy Lake, 75 miles southeast of Beaverton, to swim and fish, but the water levels were lower than usual, negatively impacting her use and enjoyment of the area.

59. Seafood is an important part of Miko's diet. Ocean acidification and warming ocean, coastal, and river waters are negatively affecting the health of fish and sea life on which Miko depends.

60. Plaintiff **Hazel V.**, by and through her guardian and mother Margo Van Ummersen, is an 11-year-old citizen of the U.S. and a resident of Eugene, Oregon. Hazel has advocated in her community to raise awareness about climate change caused by Defendants and before her city leaders to ask for science-based reductions of CO₂ emissions. Hazel and her family reduce their carbon footprint by gardening, recycling, buying local products, biking, and walking.

61. Hazel enjoys swimming, canoeing, kayaking, camping, and hiking in Oregon. In recent years, she has been unable to fully enjoy these activities and special places she visits due to the increased temperatures, low water levels, and abnormal seasonal variations caused by the

acts and omissions of Defendants. Hazel frequently visits the Oregon coast, where she enjoys bodysurfing, playing on the beach, tidepooling, harvesting seaweed, and hunting mushrooms. Increased surface and ocean temperatures, sea level rise, and ocean acidification caused by the acts of Defendants threaten Hazel's future ability to enjoy these activities, which are important aspects of her childhood. Salmon and seafood are important parts of Hazel's diet that will continue to be threatened due to increased water temperatures, drought, and ocean acidification caused by the acts of Defendants.

62. During the winter, Hazel enjoys skiing and sledding. However, due to declining snowpack and warmer winters, she has been unable to ski or sled. Decreased snowfall in the Cascades will have long-term adverse impacts on the water level in the McKenzie River, which provides drinking water to Hazel's hometown of Eugene. In June 2015, extreme heat caused by the acts of Defendants adversely impacted Hazel's health on a trip she took to Washington, D.C. During that trip, she suffered from two episodes of heat exhaustion.

63. Plaintiff **Sophie K.**, by and through her guardian and grandfather, Dr. James Hansen, is a 16-year-old citizen of the U.S., and a resident of Allentown, Pennsylvania. Through stories from her grandfather, Dr. James Hansen, Sophie has become passionate about climate science and feels a sense of urgency and responsibility to compel government action on climate change. Extreme weather events, including Hurricane Sandy, caused Sophie to miss school on many occasions; hailstorms have damaged her house; floodwaters often inundate roads by her house; and Sophie has even been forced to prepare for tornado warnings, which are very unusual for the area where she lives. Intense summer heat now diminishes Sophie's ability to participate in and enjoy outdoor activities, including track and tennis. Sophie would like to have the ability to one day live in coastal cities like New York or Los Angeles, but rising sea levels may inundate

these coastal areas within Sophie's lifetime unless Defendants cease their actions that otherwise will soon ensure these catastrophic impacts. Sophie is distressed knowing the inundation of these, and other coastal hubs of our nation's economy and commerce, will have profoundly negative economic impacts on our nation and on her own life as she gets older, looks for work to support herself, and begins her professional career.

64. Climate change substantially caused by the acts of Defendants is harming, and will continue to harm, the ability of Sophie and her family to grow food in her garden as the population of bees and other pollinators decline. In 2015, Sophie's health was adversely impacted for the first time by pollen allergies, a condition exacerbated by global and regional warming. Extreme weather events, intense heat, and rising seas have had, and will increasingly have, a negative impact on Sophie. Sophie is deeply concerned about the future because she knows that climate change will not only harm her, but will also harm the entire fabric of human civilization and all living things on Earth that she cherishes and relies on for her life, liberties, and property.

65. Plaintiff **Jaime B.**, by and through her guardian and mother Jamescita Peshlakai, is a 14-year-old citizen of the U.S. and a resident of Flagstaff, Arizona. Jaime is a member of the Navajo Nation. Jaime was born into the Bitter Water Clan, with maternal grandfathers of the Red House Clan and paternal grandfathers of the Towering House Clan. Jaime and her family are experiencing harm from climate change caused by the acts of Defendants and will experience even more severe climate impacts in the future. Since she was four years old, Jaime has been working to protect the earth. Beginning in elementary school, Jaime has written letters to President Obama about her concerns for the environment, asking him to protect the Arctic National Wildlife Refuge and ensure that oil spills do not continue to happen.

66. Jaime grew up in Cameron, Arizona, on the Navajo Nation Reservation. In 2011, Jaime and her Mother had to move from Cameron to Flagstaff because of water scarcity. Jaime and her extended family on the Reservation remember times when there was enough water on the Reservation for agriculture and farm animals, but now the springs they once depended on year-round are drying up. Jaime and her Mother were not able to sustain living on the Reservation because of the costs of hauling water into Cameron for themselves and their animals. Jaime is worried that her extended family, all of whom live on the Reservation, will also be displaced from their land, which will erode her culture and way of life. Participating in sacred Navajo ceremonies on the Reservation is an important part of Jaime's life, and climate impacts caused by the acts of Defendants are starting to harm the ability for Jamie and her tribe to participate in their traditional ceremonies.

67. Jaime now lives on property her Mother owns in the Kaibab National Forest. The forest is Jaime's favorite place to spend time. Jaime finds peace being outside in the forest surrounding her home, and she walks for 1-2 hours in the forest after school every day. Jaime's ability to spend time in the forest is going to be limited due to increasing climate change caused by the acts of Defendants. Large parts of the Kaibab National Forest have been destroyed due to pine beetle infestations and forest fires. In 2014, Jaime and her Mother were evacuated from their home for two days because of the Oak Creek Canyon fire north of their property. Winds brought smoke and ash into their neighborhood. Jaime is worried that the area surrounding their home is becoming unsafe due to an increase in drought conditions and forest fires caused by the acts of Defendants. Jaime and her Mother have seen climate change impact the vegetables they grow for food on their property in Flagstaff. Jaime's severe allergies have become increasingly worse over the last several years. She takes over-the-counter medication to combat her

symptoms. With record-setting temperatures and a drought that has lasted several years, Jaime fears for her future and for the future of her family, their history, their traditions, and their way of life.

68. Plaintiff **Journey Z.**, by and through his guardian and mother Erika Schneider, is a 15-year-old citizen of the U.S. Journey is a Native American born in South Dakota and a federally enrolled member of the Yankton Sioux Tribe. In 2009, Journey and his family moved to the island of Kaua‘i, Hawai‘i. Journey attends a Hawaiian cultural immersion school, has adopted the Hawaiian culture as his own, and speaks the native Hawaiian language. Journey has deep cultural and spiritual connections with the Earth and all life. These connections depend on a stable climate system for survival, providing Journey with a fundamental sense of responsibility to protect the Earth for his generation and for future generations. Journey is a youth leader on the Rising Youth for a Sustainable Earth (“RYSE”) Youth Council and a youth ambassador for the Center for Native American Youth. Journey has advocated directly to President Obama’s administration and other federal government officials to secure government action to stabilize the climate system and protect his fundamental rights.

69. Journey participates in many culturally important activities, such as working in the taro fields, organic farming, playing Tahitian drum, fire dancing, and performing Halau Hula O Leilani. He also enjoys swimming, snorkeling, fishing, canoeing, stand-up paddle boarding, and walking and biking along the beach. His participation in and enjoyment of these activities has been and will continue to be negatively impacted by the impacts of climate change and ocean acidification caused by Defendants.

70. Journey’s food security and his enjoyment of the biological diversity of the coral reefs are and will continue to be adversely impacted by ocean acidification and the climate

change impacts of sea-level rise, increased sea surface temperature, alteration in ocean circulation, and increased storm intensity, all caused by the acts of Defendants. These problems are all deleterious to coral reefs in Hawai‘i and their associated ecosystems and fisheries. Journey’s health, personal safety, cultural practices, and recreational interests are adversely impacted by the climate impacts of rising sea levels and intense storms that increase coastal flooding and erosion in Hawai‘i, damaging coastal ecosystems, infrastructure, and agriculture, on which Journey relies. Watching beaches erode away and disappear has emotionally harmed Journey. Journey performs Halau Hula O Leilani at the hotels along the beaches and will not be able to do so in the future with continued sea level rise. The rock wall at Journey’s favorite swimming beach eroded and fell into the ocean, and additional erosion will make it unsafe for Journey to swim there in the future. Decreased rainfall on Kaua‘i and the resulting lower river water levels, combined with saltwater inundation from sea level rise, have caused serious water quality problems, high bacteria levels, and increased shark activities that threaten Journey’s health and safety, preventing his use and enjoyment of rivers he frequently enjoyed. Declining freshwater availability also threatens Journey’s future access to drinking water and ability to stay on the island. Drought conditions on part of Kaua‘i and saltwater inundation negatively impact the soil and the agricultural productivity of the farms and taro patches where Journey works. While total rainfall has decreased, rain intensity has increased. In 2012, this increased rain intensity threatened Journey’s personal safety when he and his family were displaced by widespread flooding and evacuated to a Red Cross shelter.

71. Plaintiff **Victoria B.**, by and through her guardian and mother Daisy Calderon, is a 16-year-old citizen of the U.S. and a resident of White Plains, New York. In September 2015, Victoria will be a junior in high school at Notre Dame School of Manhattan in New York City.

Since 2013, Victoria has been active in the climate movement, educating people about climate change and working to mitigate it. Victoria was a fellow with the Alliance for Climate Education and continues to advocate for education and action on climate change in New York.

72. Victoria has become emotionally distressed by the increase in superstorms in the Northeast. Victoria was harmed by Hurricane Sandy when she and her family lost power to their home, her school shut down, and her forms of public transportation were not operating. Victoria is also harmed by the increasing sweltering summer temperatures, which limit the time she spends outdoors in New York. In recent years, her pollen allergies have become worse, making it even more difficult to enjoy being outside. Victoria lives on low-lying land, which is threatened by rising sea levels and more frequent storm surges.

73. Plaintiff **Nathaniel B.**, by and through his guardian and mother Sharon Baring, is a 15-year-old citizen of the U.S. and a resident of Fairbanks, Alaska. Nathaniel and his family are already witnessing the impacts of climate change and he is psychologically harmed knowing of the inevitable and increasingly severe climate impacts he will experience in the future.

74. Nathaniel is an avid Nordic skier who also enjoys downhill skiing. Nathaniel has been harmed by the reduced snowfall during the past few winters. Snow that typically comes in August is coming as late as November. In 2014-2015, Anchorage received its lowest seasonal snowfall to date. Nathaniel is experiencing more ice storms in Fairbanks. Last year the city declared a state of disaster after a severe ice storm created widespread power outages. Nathaniel and his family suffered without power for nearly a week in temperatures of 18 degrees Fahrenheit.

75. This summer, Alaska experienced over 300 wildfires across the state, all occurring at once. Wildfires have become a common occurrence every summer in Alaska.

During the summer of 2015, Fairbanks was surrounded by numerous wildfires and air quality rivaled that of some of the world's smoggiest cities. As an asthma and allergy sufferer, the hot dry wildfire season makes it hard for Nathaniel to breathe outside and participate in cross-country running, one of his favorite sports. Nathaniel is distraught knowing that changing temperatures caused by Defendants will affect his way of life and the animals and ecosystems that surround him and on which he relies for recreation and food. His family raises chickens on their property and they hunt for moose and grouse for food. These animals are harmed by the extreme climate changes happening in Alaska caused by Defendants. Nathaniel has also noticed a sharp decline of salmon, especially king salmon, which is important for his diet. This summer Alaska had a very small king salmon run on the Yukon River. Nathaniel and his family take fishing trips and he has experienced firsthand the decline in salmon runs. Nathaniel enjoys visiting Alaska's glaciers and intends to continue to do so. However, the glaciers Nathaniel visits are significantly receding, including the Mendenhall Glacier in Juneau, which has retreated over 1.5 miles.

76. Nathaniel is working hard to take actions to reverse and mitigate the effects of climate change through his membership in Alaska Youth for Environmental Action and his work with Citizens Climate Lobby and his church. At home, Nathaniel and his family try to ride bikes as much as possible. Nathaniel participates in the "dime a gallon" program at church, where members contribute a certain pre-arranged amount for every gallon of gas they use for transportation, which is then used to install insulation in their buildings, and other greening projects, such as solar panels.

77. Plaintiff **Aji P.**, by and through his guardian and mother Helaina Piper, is a 15-year-old citizen of the U.S. and a resident of West Seattle, Washington. Aji is experiencing the

impacts of climate change caused by Defendants, and has been harmed by the increasing severity of such impacts. In 2014, the State of Washington had the worst wildfire in the state's recorded history, the Carlton Complex fire. Aji and his family were impacted by that wildfire while on a trip through the Cascade Mountains when they were forced to breathe the smoke in the air. During the summer of 2015, Aji has struggled to participate in his regular summer outdoor activities because of temperatures climbing above 90 degrees Fahrenheit for extended periods, which is highly unusual for temperate Seattle.

78. Aji has also experienced the negative effects of climate change on Puget Sound and the freshwater systems and fish. The decreasing water quality in Puget Sound is causing dead zones to occur and ocean acidification is killing fish and shellfish. Aji recreates in these areas and enjoys seeing marine life. The impacts to shellfish and the diminishing numbers of starfish harm Aji's recreational and aesthetic interests. Aji has also been unable to touch or eat shellfish in Puget Sound due to toxicity levels. Aji is distraught by seeing the ecosystems surrounding his home harmed by climate change and ocean acidification caused by Defendants.

79. The impacts of climate change in other places in the western United States are also affecting Aji. On a trip to Montana with his grandparents, Aji experienced dead forests killed by pine bark beetles. Although Aji's mother is from Albuquerque, New Mexico, and they have family there, Aji and his family will not move back to New Mexico because of water shortage issues and the declining aquifer.

80. Aji advocates for actions to reverse and mitigate the effects of climate change caused by Defendants. He is a member of Plant for the Planet Leadership Corps, in which he plants trees, helps restore local forests, and speaks to the public about climate change impacts. He is also a member of Rising Youth for a Sustainable Earth. Aji is a vegetarian and he and his

family try to limit the time they spend driving as much as possible, opting to walk, bike, or take public transportation.

81. Plaintiff **Levi D.**, by and through his guardian and mother Leigh-Ann Draheim, is a citizen of the U.S. and a resident of Indialantic, Florida. Levi is 8-years-old and he is experiencing the impacts of climate change and working to take action and spread awareness about protecting the climate system.

82. Levi lives with his Mother and maternal grandparents in Indialantic, which is situated on a barrier island that separates the Indian River Lagoon from the Atlantic Ocean. The barrier island consists of primarily unconsolidated sand that sits on top of porous limestone bedrock. During the summer of 2015, Levi experienced a lack of rainfall that the island usually receives in the afternoons. Temperatures have been abnormally hot, making it harder than normal for Levi and his family to grow vegetables and herbs.

83. The beaches on the island are Levi's backyard. During the summer months he spends time at the beach five days a week. In the last couple of years, Levi has noticed a Sargassum seaweed invasion, with seaweed covering the beaches along the island. Levi is having a hard time enjoying beach activities because the rotting seaweed smells like sulfur. Levi has also seen climate impacts affect ecosystems at the beach, and has specifically experienced fewer sea turtles in the area. Levi can no longer swim in the Indian River Lagoon because of increasing flesh-eating bacteria and dead fish. Levi and his family are able to smell the dead fish in their community. He is also now limited by where he can swim in the Atlantic Ocean, due to an increase in flesh-eating bacteria.

84. Levi and his family regularly visit the City of Satellite Beach. In 2009, Satellite Beach, an 8-minute drive from Levi's house, authorized a project to assess rising sea levels and

work to mitigate impacts. In July 2010, the Sea Level Rise Subcommittee of Satellite Beach provided the results of the study: the City needs to plan for sea level rise. The island's real estate prices are declining, and Levi's family knows the property they own will decrease in value, and could eventually be lost completely, due to sea level rise caused by climate change and melting ice.

85. In the last two years, Levi's severe allergies have made it harder for him to spend time outdoors. Experiencing nature and wilderness in healthy conditions is important for Levi's emotional wellbeing, and his fears for the future of the beaches and springs in Florida and the wildlife that inhabit them are causing adverse psychological impacts to Levi. Levi works hard to keep the environment healthy on the coast by cleaning up the beaches and maintaining the dunes; at church by teaching his friends about how they can help the environment; and at home by conserving water by taking short timed showers, eating a vegetarian diet, and recycling.

86. Plaintiff **Jayden F.**, by and through her mother and guardian Cherri Foytlin, is a 12-year-old citizen of the U.S. and a resident of Rayne, Louisiana. In 2005, Jayden moved to Louisiana. Since then, she has lived through three hurricanes and many more tropical storms. Jayden has suffered harm and will continue to suffer harm to her and her family's personal safety, bodily integrity, property, economic stability, food security, and recreational interests from rising sea levels, increased frequency and severity of hurricanes with ensuing storm surges, flooding, and high winds, all associated with or exacerbated by climate change caused by Defendants. Jayden is also directly harmed by Defendants' support and promotion of fossil fuel development in Louisiana, which adversely impacts her air and water quality and health and exacerbates the climate impacts she has experienced and will experience in the region.

87. Impacts from climate change and fossil fuel development threaten Jayden's life, liberty, and property. With warmer ocean water temperatures, hurricanes are becoming more frequent and more destructive. Rising sea level means higher storm surges, even from relatively minor storms, which increase coastal flooding, storm damage, and land loss where she lives. Defendants' approval of the dredging of canals through marshes for oil and gas exploration and pipelines has compounded the problem by its destruction of natural storm barriers, increased erosion, and intense saltwater intrusion, resulting in additional land loss. In 2008, during Hurricane Gustav, Jayden's family lost power and water for a week.

88. The air and water pollution from the development of fossil fuels in southern Louisiana also threaten the health of Jayden and her family. Jayden and her family used to enjoy visiting the beach frequently, swimming in the Gulf of Mexico, crabbing, and eating seafood, but she has avoided these activities since the BP oil spill because residual oil is continually dispersed across the Gulf when the increasing number of storms or hurricanes come ashore due to climate change, making such normally enjoyable activities dangerous. Jayden enjoys traveling and visiting family friends all along the Gulf Coast in every state from Texas to Florida and plans to do so in the future, but the coastal impacts from climate change caused by Defendants, including increased coastal flooding, storm damage, and land loss, will impair her ability to do so in the future.

89. Plaintiff **Nicholas V.**, by and through his legal guardian and mother, Marie Venner, is a 14-year-old citizen of the U.S. and a resident of Lakewood, Colorado. Nick sees climate change caused by Defendants as a threat to human civilization and has given numerous presentations educating people about the science of climate change. As a Catholic, he is drawn

to the intersection between his church and environmental stewardship, and was inspired by Pope Francis's 2015 encyclical, *On Care for Our Common Home*.

90. Pine beetles and wildfires, forcing Nick to stop visiting some of his favorite places, have destroyed forests in Colorado, where Nick used to go hiking, fishing, and camping. Nick enjoys fishing, especially in Boulder Creek, but due to wildfires and variable water flows from droughts and floods, he has not been able to go fishing for the past three years. Nick and his family grow fruit trees, have a garden, and buy food from local farmers. Hail, rainstorms, drought, and pests have ruined their garden several years over the last decade. The unusual weather has affected Nick's consumption of the locally grown produce available through community-supported agriculture. Rising summer temperatures make it harder for Nick to enjoy outdoor activities, including hiking, biking, and tennis. Warmer winters mean Nick gets to ski less; moreover, when he does go skiing, his favorite parts of the mountain frequently are closed.

91. Plaintiff **Earth Guardians** is a tribe of young activists, artists and musicians from across the globe stepping up as leaders and growing a resilient movement with youth, at the forefront, who are empowered to create a sustainable world for themselves and future generations. Earth Guardians has crews and youth members across the United States and globally, including in Eugene, Oregon. Earth Guardians' **Rising Youth for a Sustainable Earth** is a diverse council of young climate leaders who are taking action and empowering youth around the world to do the same. The Generation RYSE Youth Council is made up of 16 youth leaders from around the nation, ages 10-21, who conduct trainings and sustainability initiatives in their own communities, working to protect their climate system. Members of Earth Guardians and RYSE are youth beneficiaries of the federal public trust and are harmed by the substantial impairment and alienation of their public trust resources. Their fundamental rights are infringed

by Defendants ongoing actions to allow fossil fuel exploitation, which endangers their lives, liberties and property.

92. Plaintiff **Future Generations, by and through their Guardian Dr. James Hansen**, retain the legal right to inherit well-stewarded public trust resources and to protection of their future lives, liberties, and property – all of which are imminently threatened by the actions of Defendants challenged herein. Guardian Hansen stands in this case both to demand effective governmental action to protect these fundamental rights and, until that is done, a cessation of governmental action that exacerbates the imposed risk.

93. Dr. James Hansen is the former Director of the NASA Goddard Institute for Space Studies, and is presently an Adjunct Professor at Columbia University's Earth Institute, where he directs a program in Climate Science, Awareness, and Solutions. Dr. Hansen trained in physics and astronomy in the space science program of Dr. James Van Allen at the University of Iowa, receiving a bachelor's degree with highest distinction in physics and mathematics, master's degree in astronomy, and Ph.D. in physics in 1967. In his early research Dr. Hansen used telescopic observations of Venus to extract detailed information on the physical properties of the cloud and haze particles that veil Venus. Since the mid-1970s, Dr. Hansen has focused on studies and computer simulations of the Earth's climate, for the purpose of understanding the human impact on global climate. His testimony on climate change to Congress in the 1980s helped raise broad awareness of the global warming issue.

94. In recent years, Dr. Hansen has drawn attention to the danger of passing climate tipping points, producing irreversible climate impacts that would yield a different planet from the one on which civilization developed. Dr. Hansen has also outlined steps that are needed to stabilize climate. Dr. Hansen's most recent work clearly establishes that danger and those steps,

and it is summarized in Dr. Hansen's declaration, which Plaintiffs attach hereto as Exhibit A.

Dr. Hansen has long advocated for government actions to protect the climate system for present and future generations.

95. Dr. Hansen is an elected member of the United States National Academy of Sciences (1995) and a recipient of the Heinz Award for the Environment (2001), the Leo Szilard Award for Use of Physics for the Benefit of Society (2007), the American Association for the Advancement of Science Award for Scientific Freedom and Responsibility (2007), the Sophie Prize (2010), and the Blue Planet Prize (2010).

96. Youth Plaintiffs² represent the youngest living generation, beneficiaries of the public trust. Youth Plaintiffs have a substantial, direct, and immediate interest in protecting the atmosphere, other vital natural resources, their quality of life, their property interests, and their liberties. They also have an interest in ensuring that the climate system remains stable enough to secure their constitutional rights to life, liberty, and property, rights that depend on a livable future. A livable future includes the opportunity to drink clean water, to grow food, to be free from direct and imminent property damage caused by extreme weather events, to benefit from the use of property, and to enjoy the abundant and rich biodiversity of our nation. Youth Plaintiffs are suffering both immediate and threatened injuries as a result of actions and omissions by Defendants alleged herein and will continue to suffer life-threatening and irreversible injuries without the relief sought. Youth Plaintiffs have suffered and will continue to suffer harm to their health, personal safety, bodily integrity, cultural and spiritual practices, economic stability, food security, property, and recreational interests from the impacts of climate change and ocean acidification caused by Defendants. Youth Plaintiffs have also been denied

² The term "Youth Plaintiffs" refers to each of the individually named Plaintiffs.

the procedural right to participate in decision-making regarding the Department of Energy's approval of LNG exports from the Jordan Cove LNG terminal in Coos Bay, Oregon. Youth Plaintiffs, and all of them, have suffered procedural harm as a result of this denial.

97. Absent immediate, meaningful action by Defendants to cease their permitting, authorizing, subsidizing, and supporting fossil fuel exploitation, production, and consumption, and otherwise to act to phase-out CO₂ emissions, Plaintiffs would suffer increasingly severe consequences. By 2100, these Youth Plaintiffs (many of whom should still be alive), and future generations, would live with a climate system that is no longer conducive to their survival.

DEFENDANTS

98. Defendant **the United States of America** ("United States") is the sovereign trustee of national natural resources, including air, water, sea, shores of the sea, and wildlife. In its sovereign capacity, the United States controls our nation's air space and atmosphere. In its sovereign capacity, the United States controls federal public lands, waters, and other natural resources, including fossil fuel reserves. In its sovereign capacity, the United States controls articles of interstate and international commerce, including extraction, development, and conditions for the utilization of fossil fuels, such as allowing CO₂ emissions from major sources. As a result of both its exercise of control over articles of interstate and international commerce, as well as its failure to limit and phase-out CO₂ emissions, the United States has caused dangerous levels of CO₂ to build up in the atmosphere. That build-up seriously threatens the relatively stable climate system that enabled civilization to develop over the last 10,000 years. It impairs essential national public trust resources required by Youth Plaintiffs and future generations. This failure to prevent the present and looming climate crisis constitutes a breach in the government's basic duty of care to protect Plaintiffs' fundamental constitutional rights.

99. Defendant **Barack Obama, the President of the United States**, in his official capacity, is vested with the executive power of the United States and must faithfully execute the office and preserve, protect, and defend the Constitution. Through his office, the President has permitted and encouraged fossil fuel exploitation, utilization, and exports, which activities generate additional CO₂ emissions and, in light of the present baseline of atmospheric concentrations, dangerously interfere with the climate system in violation of Plaintiffs' constitutional rights. Moreover, consistent with these efforts that exacerbate the climate crisis, the President has failed to utilize his Office to initiate any comprehensive effort to phase out fossil fuel emissions by amounts that could avert dangerous disruption of the climate system.

100. Defendant **the Office of the President of the United States** includes the Council on Environmental Quality ("CEQ"), the Office of Management and Budget ("OMB"), and the Office of Science and Technology Policy ("OSTP").

- a. CEQ's mission is to promote the well-being of our country for both current and future generations, which includes curbing the carbon pollution that is causing climate change.
- b. OMB serves as the implementation and enforcement arm of all Presidential policy, including budget development and execution, coordination and review of all significant federal regulations, and issuance of executive orders. OMB promotes the government's affirmative aggregate acts in the areas of fossil fuel production, consumption, and combustion by coordination and review of Federal regulations by executive agencies and review and assessment of information collection requests.

- c. OSTP leads interagency efforts to develop and implement sound science and technology policies and budgets, and to work with state and local governments, the scientific community, private sectors, and other nations toward this end. Pursuant to authority granted by Congress under National Science and Technology Policy, Organization, and Priorities Act of 1976, President Bush's 2001 Executive Order 13226, and President Obama's 2010 Executive Order 13539, OSTP has been involved in the President's strategy for addressing climate change. Despite its charge to ensure that the policies of the Executive are informed by sound science, OSTP has permitted additional fossil fuel projects, including extraction, processing, transportation, combustion, and exportation of coal, oil, and gas from conventional and unconventional reserves.

101. The Presidential policies promoted by CEQ, OMB, and OSTP have been contrary to sound science. These policies have led to the current dangerous levels of atmospheric CO₂, dangerous interference with a stable climate system, and violations of Plaintiffs' constitutional rights. Specifically, the President's strategy both continues to allow dangerous levels of carbon pollution and, at best, promise very modest future limitations and no near-term CO₂ phase out, as is required to preserve a habitable climate system.

102. Defendant **Christy Goldfuss** is the current Managing Director of CEQ, and in her official capacity is responsible for all actions of CEQ.

103. Defendant **Shaun Donovan** is the current Director of OMB, and in his official capacity is responsible for all actions of OMB.

104. Defendant **Dr. John Holdren** is the current Director of OSTP, and in his official capacity is responsible for all actions of OSTP.

105. Defendant **the United States Department of Energy** (“DOE”) is a federal agency whose mission is to advance the national, economic, and energy security of the United States through clean, reliable, and affordable energy; to protect the environment; and to encourage innovations in science and technology that improve the quality of life. DOE’s mission statement is to “ensure America’s security and prosperity by addressing . . . environmental . . . challenges through transformative science.” DOE through the Office of Fossil Energy issues short-term and long-term authorizations for the import and export of natural gas pursuant to authority granted by Congress under the Natural Gas Act of 1938, 15 U.S.C. § 717, as amended by section 201 of the Energy Policy Act of 1992, Pub. L. No. 102-486, § 201, 106 Stat. 2776, 2866. DOE permits domestic energy production and interstate commerce of fossil fuels pursuant to authority granted by Congress under the Department of Energy Organization Act of 1977, 42 U.S.C. § 7112. DOE through the Office of Energy Efficiency and Renewable Energy, regulates the minimum number of light duty alternative fuel vehicles required in certain federal fleets pursuant to authority granted by Congress under the Energy Policy Act of 1992. DOE, through the Building Technology Office, also sets energy efficiency standards, which dictate energy consumption rates for appliances and equipment pursuant to authority granted by Congress under The Energy Policy and Conservation Act, 42 U.S.C. § 6201, as amended.

- a. The Federal Energy Regulatory Commission (“FERC”), an agency of DOE, regulates the transmission and sale of electricity and natural gas in interstate commerce; regulates the transportation of oil by pipeline in interstate commerce; reviews proposals for natural gas terminals,

pipelines, and storage facilities; ensures the safe operation and reliability of proposed and operating LNG terminals; and monitors and investigates energy markets.

106. DOE has knowingly failed to perform its duty to transition our nation away from the use of fossil fuel energy. DOE's actions and omissions have substantially contributed to unsafe levels of atmospheric CO₂ and a dangerous climate system.

107. DOE, through the Office of Fossil Energy, issued DOE/FE Order No. 3041, granting long-term multi-contract authorization to export liquefied natural gas by vessel from the Jordan Cove LNG Terminal in Coos Bay.

108. **Defendant Dr. Ernest Moniz** is the current Secretary of Energy and, in his official capacity, is responsible for all actions of DOE.

109. Defendant **the United States Department of the Interior** ("DOI") manages one-fifth of our nation's land, including forests and grazing lands, thirty-five thousand miles of coastline, and 1.76 billion acres of the Outer Continental Shelf. DOI's mission is to protect America's natural resources and heritage, honor cultures and tribal communities, and supply the energy to power the future of our country. DOI claims to be taking the lead in protecting our nation's resources from climate impacts and in managing federal public lands to mitigate climate change.

110. DOI, through the Bureau of Land Management ("BLM"), leases minerals and manages oil and gas development activities on over 570 million acres of federal lands, as well as on private lands where the federal government retained mineral rights, pursuant to the authority granted by Congress in the Mineral Leasing Act of 1920, 30 U.S.C. § 182, as amended, and the

Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1719(a). BLM and other federal agencies manage most of the land suitable for oil and gas development in the U.S.

111. DOI, through the Bureau of Ocean Energy Management (“BOEM”), leases the Outer Continental Shelf, the submerged lands, subsoil, and seabed, lying between the seaward extent of the jurisdiction of the States and the seaward extent of Federal jurisdiction, for oil and gas development pursuant to authority granted by Congress under the Outer Continental Shelf Lands Act of 1953, 43 U.S.C. § 1333(a), as amended. As of January 2015, BOEM was administering more than 6,000 active oil and gas leases covering nearly 33 million Outer Continental Shelf acres. Pursuant to authority granted by Congress under the Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 594, 760, DOI repealed the 160-acre cap on coal leases, allowed the advanced payment of royalties from coal mines, and provided incentives to companies to drill for oil in the Gulf of Mexico.

112. Through its action in permitting the extraction of coal, coal-bed methane, oil, oil-shale and natural gas, and oil, coal and electric infrastructure and transmission facilities, and logging, livestock grazing, and off-road vehicle use on public land, the DOI is substantially contributing to dangerous levels of atmospheric CO₂ and a dangerous climate system in our nation.

113. Defendant **Sally Jewell** is the current Secretary of Interior and, in her official capacity, is responsible for all actions of DOI.

114. Defendant **the United States Department of Transportation** (“DOT”) is a federal agency overseeing this nation’s aviation, road, highway, railway, truck, and marine transportation infrastructure. DOT’s regulations of emissions related to that infrastructure play a vital role in the Federal Government’s response to climate change.

- a. DOT, through the Federal Aviation Administration, the Federal Highway Administration, and the Pipeline and Hazardous Materials Safety Administration, oversees and regulates the spending programs that finance construction and maintenance of our nation's transportation infrastructure, pursuant to authority granted by Congress under the Department of Transportation Act of 1966, 49 U.S.C. § 305, as amended.
- b. DOT, through the National Highway Traffic Safety Administration, sets fuel economy standards for U.S. vehicle manufacturers, pursuant to authority granted by Congress under the Energy Policy and Conservation Act of 1975, Pub. L. No. 94-163, § 301, 89 Stat. 902, 903, 905, as amended by the Energy Independence and Security Act of 2007, 49 U.S.C. § 32902.

115. With the power to regulate the means of transportation throughout our country, DOT has the responsibility to ensure that all modes of transportation use only clean energy and eliminate dangerous carbon pollution. Further, DOT permits the transport of fossil fuels via truck and rail. DOT's stated mission is to "[enhance] the quality of life of the American people, today and into the future." DOT acknowledges the severity of the threats of climate change, yet continues to facilitate the severity of climate change impacts by contributing approximately 27% of U.S. CO₂ emissions in 2013.

116. Defendant **Anthony Foxx** is the current Secretary of Transportation and, in his official capacity, is responsible for all actions of DOT.

117. Defendant **the United States Department of Agriculture** ("USDA") is a federal agency whose vision statement expresses the agency's goal to preserve and conserve our nation's

natural resources. USDA's mission statement states that it will use the best available science as it carries out its responsibilities in caring for natural resources. USDA has authority over our nation's food and agriculture, as well as many natural resources, including national forests, which serve the vital role of absorbing CO₂ from our atmosphere—commonly referred to as “carbon sequestering.”

- a. USDA, through the U.S. Forest Service, authorizes 25% of U.S. coal production.
- b. The U.S. Forest Service, along with BLM, coordinates and authorizes the leasing of federal public lands for the extraction of oil and gas pursuant to authority granted by Congress under the Mineral Leasing Act of 1920, as amended by both the Federal Onshore Oil and Gas Leasing Reform Act, and the Mineral Leasing Act for Acquired Lands. The U.S. Forest Service, in conjunction with BLM, issues leases and mining permits for coal mining development and oversees coal mining on federal public lands pursuant to authority granted by Congress, under the Mineral Leasing Act of 1920, as amended, and the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1273.
- c. USDA's Forest Service Minerals & Geology Management division manages and oversees aspects of the development and production of energy and mineral resources, including authorizing ancillary projects such as roads and pipelines that are part of the energy and minerals development projects of USDA.

- d. USDA has substantially contributed to and continues to substantially contribute to a dangerous climate system by permitting large-scale logging in national forests, by supporting polluting farming and agricultural practices, and by authorizing fossil fuel extraction and use under its jurisdiction. USDA has not protected the nation's National Forest System as a carbon sink.

118. Defendant **Thomas J. Vilsack** is the current Secretary of Agriculture and, in his official capacity, is responsible for all actions of the USDA.

119. Defendant **the United States Department of Commerce** ("Commerce") is a federal agency that is supposed to promote sustainable development. Commerce has authority over the monitoring equipment for greenhouse gas ("GHG") emissions, giving it direct oversight of our nation's industries and emissions pursuant to authority granted by Congress under Title 15 of the United States Code.

- a. Commerce, through National Institute of Standards and Technology, oversees research in energy efficiency opportunities for homes and companies nationwide.
- b. Commerce, through the International Trade Administration's Office of Energy and Environmental Industries, promotes fossil fuel export opportunities, including identifying for the fossil fuel industry oil and gas markets where export activities can make the biggest impact, pursuant to authority granted by Congress, under the Reorganization Plan No. 3 of 1979.

- c. Commerce, through the Bureau of Industry and Security (“BIS”), authorizes and administers the rules governing crude oil exports pursuant to 15 C.F.R. § 754.2. BIS issues permits to export crude oil to all destinations, including Canada.
- d. Commerce, through the National Oceanic and Atmospheric Administration, is charged with overseeing the preservation and protection of the oceans and the atmosphere pursuant to authority granted by Congress under the Reorganization Plan No. 4 of 1970.
- e. Commerce has abrogated its duty to preserve and protect the atmosphere and other natural resources under its jurisdiction and has not prevented the waste of the public trust in the atmosphere and oceans.

120. Defendant **Penny Pritzker** is the current Secretary of Commerce and, in her official capacity, is responsible for all actions of Commerce.

121. Defendant **the United States Department of Defense** (“DOD”) is a federal agency charged with ensuring the security of this nation. DOD considers climate change a threat multiplier for its potential to exacerbate many challenges confronting our nation, including infectious disease, regional instability, mass migrations, and terrorism. Climate change has impacted and will continue to impact all military installations, as well as the DOD’s supply chains, equipment, vehicles, and weapon systems.

- a. DOD is our nation’s largest employer and is responsible for significant carbon pollution from both its vehicle fleet, and its 500 bases of military infrastructure, including 300,000 buildings totaling 2.2 billion square feet.

- b. For all exports of coal, oil, and gas by ship, the DOD’s Army Corps of Engineers authorizes marine export facilities, pursuant to the Clean Water Act and the Rivers & Harbors Act. The Army Corps of Engineers also maintains international navigation channels, including the navigation channel at Coos Bay, pursuant to authority granted by Congress under the Rivers & Harbors Act. Such exports endanger the climate system on which our nation and plaintiffs alike depend.

122. Defendant **Ashton Carter** is the current Secretary of Defense and, in his official capacity, is responsible for all actions of DOD.

123. Defendant **the United States Department of State** (“State Department”) is a federal agency whose stated mission is to “shape and sustain a peaceful, prosperous, just, and democratic world and foster conditions for stability and progress for the benefit of the American people and people everywhere.” The State Department plays a lead role in Defendants’ response to climate change. The State Department prepared the 2014 U.S. Climate Action Report, which states that the Federal Government is “committed to continuing enhanced action . . . to lead the global effort to achieve a low-emission, climate resilient future.”

- a. The State Department leads international efforts on climate change on behalf of the Office of the President.
- b. The State Department, through the Office of the Special Envoy for Climate Change is the Administration’s chief climate negotiator. In 2009, Special Envoy for Climate Change Todd Stern stated: “The costs of inaction—or inadequate actions—are unacceptable. But along with this challenge comes a great opportunity. By transforming to a low-carbon

economy, we can stimulate global economic growth and put ourselves on a path of sustainable development for the 21st century.”

- c. The Secretary of State receives all applications for Presidential Permits for the construction, connection, operation, or maintenance, at the borders of the United States, of facilities for the exportation or importation of petroleum, petroleum products, coal, or other fuels, including hazardous liquids to or from a foreign country, and is required to issue a Presidential Permit if such exportation would serve the national interest, under Executive Order 13337, and pursuant to 3 U.S.C. § 301. Specifically, the State Department has jurisdiction over all cross-border oil pipelines, and in the last decade has been considering and approving longer cross-border projects, including those transporting oil sands crude, otherwise known as tar sands. All petroleum products entering and leaving the U.S. by pipeline do so under State Department approval. Currently there are at least 13 active Presidential Permits for oil pipelines. The State Department has consistently approved such permits, even though it has full authority and discretion to deny them where fossil fuel projects endanger the nation by causing or enhancing dangerous climate change.

124. Defendant **John Kerry** is the current Secretary of State and, in his official capacity, is responsible for all actions of the State Department.

125. Defendant **the United States Environmental Protection Agency** (“EPA”) permits and regulates the activities, industries, and sources of carbon pollution in the U.S. under the Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response,

Compensation, and Liability Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act. The stated mission of the EPA is to protect human health and the environment and ensure that the Federal Government's actions to reduce environmental risks are based on the best available science. EPA sets CO₂ standards for power plants, which account for our nation's largest source of CO₂ emissions at 37% of U.S. annual emissions. EPA has authorized, and continues to authorize installations and activities that emit prodigious amounts of CO₂, which authorizations dangerously disrupt and fail to preserve a habitable climate system – in violation of Plaintiffs' fundamental rights.

- a. EPA, through the Office of Ground Water and Drinking Water and the Office of Science and Technology, exempts oil and gas producers from certain requirements of the Safe Drinking Water Act (thereby easing regulatory burdens to oil and gas development), pursuant to authority granted by Congress, under the Energy Policy Act of 2005.

126. EPA abrogated its duty to implement its 1990 Plan, entitled "Policy Options for Stabilizing Global Climate," to reduce CO₂ emissions (a pollutant under its jurisdiction) in line with the best available science, and continues to allow CO₂ emissions in excess of what is necessary for climate stability.

127. That failure is not allayed by EPA's August 3, 2015 final "Clean Power Plan" because CO₂ emissions reductions projected under the "Clean Power Plan" do not even approach the rate required to preserve a habitable climate system. First, the "Clean Power Plan" affects emissions only in the power sector. Second, the "Clean Power Plan" aims for power plant emissions reductions of only approximately 32% from 2005 levels by full implementation in 2030. Those power plant emission reductions from 2005 levels would achieve only an 8-10%

reduction in total U.S. emissions by 2030. The annualized emissions reduction rate is thus, even accepting EPA's biased math, approximately 1.25% per year, a reduction rate that is a fifth of that minimally required to preserve a habitable climate system. Moreover, nearly half of the EPA-asserted emission reduction was already realized in the 2005-2014 period, namely *before* the "Clean Power Plan" was finalized. Furthermore, upon information and belief, the "Clean Power Plan" will allow fossil fuel-fired power units to continue to operate and will encourage increased investment in, utilization, and reliance on natural gas (whose principle constituent, methane, is a highly potential greenhouse gas). The "Clean Power Plan," moreover, does nothing to halt or otherwise diminish fossil fuel extraction, production, and exportation in the United States, fails even to return U.S. emissions to 1990 levels, and continues to allow CO₂ emissions far in excess of what is minimally required to secure a stable climate system. EPA's "Clean Power Plan," accordingly, is not an adequate or proportionally appropriate response to the climate crisis. By allowing emissions to continue at dangerous levels, EPA continues to jeopardize the climate system on which Plaintiffs depend, now and in the future.

128. Defendant **Gina McCarthy** is the current Administrator of EPA and, in her official capacity, is responsible for all actions of EPA.

129. Defendants have permitted, authorized, and subsidized the extraction, production, transportation, and utilization of fossil fuels across the U.S. (and beyond). Defendants retain authority to limit or to deny that extraction, production, transportation, and utilization of fossil fuels, and otherwise to limit or prohibit their emissions. The vastness of our nation's fossil fuel enterprise renders it infeasible for Plaintiffs to challenge every instance of Defendants' violations and, even if feasible, challenging each of Defendants' actions would overwhelm the court. Nonetheless, Defendants' liability arises in part from their aggregate actions. Those actions have

substantially caused the present climate crisis. They form the predicate for Plaintiffs' allegations that current and new fossil fuel projects, to the extent they will further raise atmospheric CO₂ levels, infringe upon Plaintiffs' constitutional rights.

130. President Barack Obama, Director Christy Goldfuss, Director Shaun Donovan, Director Dr. John Holdren, Secretary Dr. Ernest Moniz, Secretary Sally Jewell, Secretary Anthony Foxx, Secretary Thomas J. Vilsack, Secretary Penny Pritzker, Secretary Ashton Carter, Secretary John Kerry, and Administrator Gina McCarthy, through their respective offices, departments, and agencies, CEQ, OMB, OSTP, DOE, DOI, DOT, USDA, Commerce, DOD, State Department, and EPA, are primarily responsible for authorizing, permitting, and incentivizing fossil fuel production, consumption, transportation, and combustion, causing the atmospheric CO₂ concentration to increase to at least 400 ppm and, thus, substantial harm to Plaintiffs. Defendants have failed to preserve a habitable climate system for present and future generations, and instead have created dangerous levels of atmospheric CO₂ concentrations. The affirmative aggregate acts and omissions of Defendants, jointly and severally, have violated and continue to violate Plaintiffs' fundamental constitutional rights to freedom from deprivation of life, liberty, and property; Plaintiffs' constitutional rights to equal protection; Plaintiffs' unenumerated inherent and inalienable natural rights; and Plaintiffs' rights as beneficiaries of the federal public trust.

STATEMENT OF FACTS

I. THE FEDERAL GOVERNMENT HAS KNOWN FOR DECADES THAT CARBON DIOXIDE POLLUTION WAS CAUSING CATASTROPHIC CLIMATE CHANGE AND THAT MASSIVE EMISSION REDUCTIONS AND A NATION-WIDE TRANSITION AWAY FROM FOSSIL FUELS WAS NEEDED TO PROTECT PLAINTIFFS' CONSTITUTIONAL RIGHTS.

131. As early as 1899, scientists understood that CO₂ concentrations in the atmosphere cause heat retention on Earth and that a doubling or tripling of the CO₂ content in 1899 would significantly elevate Earth's surface temperature. Scientists also understood that CO₂ was the determinative factor for global heating. By the turn of the 20th Century, it was widely accepted in the scientific community that increasing the atmospheric concentration of CO₂ could cause global climate change.

132. By 1965, the Executive Branch reported that anthropogenic pollutants, including CO₂, impair our nation's economy and its quality of life. In the 1965 Report of President Lyndon Johnson's Scientific Advisors, "Restoring the Quality of Our Environment," the White House confirmed that anthropogenic pollutants, including CO₂, threaten "the health, longevity, livelihood, recreation, cleanliness and happiness of citizens who have no direct stake in their production, but cannot escape their influence."

133. For fifty years, the Executive Branch has known that "pollutants have altered on a global scale the CO₂ content of the air" through "the burning of coal, oil and natural gas." The Executive Branch predicted that CO₂ "will modify the heat balance of the atmosphere to such an extent that marked changes in climate, not controllable th[r]ough local or even national efforts, could occur." The Executive Branch warned that "carbon dioxide [gases] are accumulating in such large quantities that they may eventually produce marked climatic change."

134. Fifty years ago, the Executive Branch described the marked climatic changes from CO₂ pollution as including the melting of the Antarctic icecap, rising sea levels, warming oceans, acidifying waters, and additional releasing of CO₂ and methane due to these events. It recommended reducing the heating of the Earth because of the extraordinary economic and human importance of our climate system.

135. Fifty years ago, the White House recommended that a tax system be implemented to tax polluters, including air pollution, “in proportion to their contribution to pollution” to incentivize pollution reduction.

136. In 1969, Patrick Moynihan, then-Adviser to President Nixon, wrote a letter to White House counsel John Ehrlichman stating that CO₂ pollution resulting from burning fossil fuels was a problem perhaps on the scale of “apocalyptic change,” threatening the loss of cities like New York and Washington D.C. from sea level rise. The 1969 Moynihan Letter urged the Federal Government to immediately address this threat.

137. In 1978, Congress passed the National Climate Program Act “to establish a national climate program that will assist the Nation and the world to understand and respond to natural and man-induced climate processes and their implications.” 15 U.S.C. § 2901(3).

138. On June 23, 1988, Plaintiff-Guardian Dr. James Hansen, then Director of NASA’s Institute for Space Studies and a leading climate scientist in the Federal Government, testified before Congress that carbon pollution in the atmosphere was causing global warming and that impacts were already being observed.

139. Around the time of Dr. Hansen’s testimony, Congress directed its own offices and EPA to separately prepare reports on how to stabilize the global climate system and transition our country away from the use of fossil fuels.

140. In response, in December 1990, EPA submitted a report to Congress on “Policy Options for Stabilizing Global Climate.” The EPA’s 1990 Report concluded: “responses to the greenhouse problem that are undertaken now will be felt for decades in the future, and lack of action now will similarly bequeath climate change to future generations.”

141. The EPA’s 1990 Report called for a 50% reduction in total U.S. CO₂ emissions below 1990 levels by 2025. EPA explained that such reductions were the only pathway to achieve Congress’ goal of stopping global warming and stabilizing the climate system. The EPA’s 1990 Report also called for stabilizing atmospheric CO₂ concentrations at 350 ppm, the current level of that time, a response to the congressional objective that total global warming not exceed 1.5° C above the preindustrial level. In its 1990 Report, EPA confirmed the Executive Branch’s findings from 1965 that CO₂ was a “dangerous” pollutant.

142. In 1991, promptly following EPA’s 1990 Report, the Congressional Office of Technology Assessment (“OTA”) delivered to Congress its own report, “Changing By Degrees: Steps to Reduce Greenhouse Gases.” Finding the United States was the single largest contributor to carbon pollution, the OTA’s 1991 Report developed “an energy conservation, energy-supply, and forest-management package that can achieve a 20- to 35-percent emissions reduction” through a mix of regulatory and market-based federal policies, in order to prevent global warming and climate change. OTA reported that, if its “package” was implemented, the Federal Government could lower CO₂ emissions 35% from 1987 levels by 2015 and possibly save the Federal Government \$20 billion per year. OTA determined that the 35% necessary reduction in CO₂ emissions was only the beginning and further efforts in the 21st century would be required to stabilize our nation’s climate system.

143. The OTA's 1991 Report stated that major reductions of CO₂ would require significant new initiatives by the Federal Government and must be sustained over decades, even before all the scientific certainties are resolved: "[I]t is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emission of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects." The OTA's 1991 Report informed Congress that the level of emission reductions needed would require the country to wean itself from fossil fuels. OTA also urged that, while global warming was a problem on a global scale, U.S. leadership was critical to solving the problem and would seriously impact what happened around the globe.

144. Concluding that actions would be required across the federal government, both the EPA's 1990 Report and the OTA's 1991 Report concluded that an essential component of reducing CO₂ emissions was implementing a rising carbon tax.

145. On October 15, 1992, following receipt of the EPA and OTA Reports, the Senate ratified the United Nations Framework Convention on Climate Change ("UNFCCC"). The UNFCCC was executed to "protect the climate system for the benefit of present and future generations of humankind." The UNFCCC evidences an "overwhelming weight" of support for protection of the atmosphere under the norms and principles of intergenerational equity. UNFCCC, Art. 3. The minimal objective of the UNFCCC is the "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner." UNFCCC, Art. 2.

146. The recommendations in the EPA’s 1990 Report (“Policy Options for Stabilizing Global Climate”) and the OTA’s 1991 Report (“Changing By Degrees: Steps to Reduce Greenhouse Gases”) were never implemented. U.S. fossil fuel production, consumption, and combustion all continued to accelerate at dangerous speeds for decades.

147. On December 7, 2009, nearly 17 years after the United States ratified the UNFCCC, the then-Administrator of EPA, Lisa Jackson, issued EPA’s formal endangerment finding under the Clean Air Act. The finding stated that current and projected atmospheric concentrations of greenhouse gases including, in particular, CO₂, threatened the public health and welfare of current and future generations. EPA issued its endangerment determination only after being compelled to do so by the U.S. Supreme Court in *Massachusetts v. EPA*, 549 U.S. 497 (2007).

148. On January 2, 2011, EPA commenced partial regulation of greenhouse gases under the Clean Air Act from mobile and stationary sources of air pollution.

149. More than two decades have passed since the EPA’s 1990 Report and the OTA’s 1991 Report were issued to Congress. Little has been accomplished in the way of phasing out emissions even though, as DOE admits in its strategic plan, “our responsibility to future generations is to eliminate most of our carbon emissions and transition to a sustainable energy future.”

150. During the last decade, Defendants have repeatedly stated that allowing “business as usual” CO₂ emissions will imperil future generations with dangerous and unacceptable economic, social, and environmental risks. As Defendants have acknowledged, the use of fossil fuels is a major source of these emissions, placing our nation on an increasingly costly, insecure, and environmentally dangerous path.

II. IN SPITE OF KNOWING OF THE SEVERE DANGERS POSED BY CARBON POLLUTION, DEFENDANTS CREATED AND ENHANCED THE DANGERS THROUGH FOSSIL FUEL EXTRACTION, PRODUCTION, CONSUMPTION, TRANSPORTATION, AND EXPORTATION

A. Despite the Known Danger, Defendants Caused Climate Instability and Allowed U.S. Fossil Fuel Extraction, Production, Consumption, Transportation, and Exportation and Associated Emissions, to Dangerously Increase

151. Between 1751 and 2014, the United States has been responsible for emitting 25.5% of the world's cumulative CO₂ emissions to the atmosphere from within its borders. Those emissions do not account for the embedded emissions in imported goods and materials that are consumed in the United States. Defendants enabled and permitted those cumulative emissions.

152. In the last fifty years, total U.S. production and consumption of fossil fuels drastically increased.

153. Acting with deliberate indifference, Defendants have not implemented, or complied with, the EPA's 1990 Report and the OTA's 1991 Report to reduce carbon pollution from fossil fuels, stop global warming, and protect the climate system for future generations. Had Defendants followed the EPA's 1990 Report and the OTA's 1991 Report, CO₂ emissions today would be reduced by 35% from 1987 levels. Instead, since 1991, Defendants have knowingly allowed at least an additional 130,466 million metric tons of CO₂ emissions from fossil fuel combustion.

154. Accordingly, instead of pursuing their own plans to slash emissions and reduce the risk of dangerous climate change, Defendants knowingly acted to exacerbate that risk and impose harm on the nation and on Plaintiffs.

155. Total Fossil fuel production in the U.S. climbed to 65.244 Quadrillion Btu in 2014, up substantially from such consumption in 1965.

U.S. Primary Energy Production by Source (Quadrillion Btu)				
Year	Coal	Natural Gas	Petroleum	Fossil Fuels
1965	13.055	15.775	16.521	45.351
1991	21.636	18.229	15.701	55.566
2014	20.287	26.516	18.441	65.244

156. Total Fossil fuel energy consumption in the U.S. climbed to 80.366 Quadrillion Btu in 2014, up substantially from such consumption in 1965.

U.S. Primary Energy Consumption by Source (Quadrillion Btu)				
Year	Coal	Natural Gas	Petroleum	Fossil Fuels
1965	11.581	15.769	23.246	50.596
1991	18.992	20.033	32.846	71.871
2014	17.991	27.592	34.783	80.366

157. Fossil fuel emissions from energy consumption in the U.S. climbed to 5.4 billion metric tons of CO₂ in 2014, up substantially from such emissions in 1965.

U.S. CO ₂ Emissions From Energy Consumption by Source (Million Metric Tons of CO ₂)				
Year	Coal	Natural Gas	Petroleum	Total Fossil Fuels
1965	1,075	828	1,483	3,386

1991	1,807	1,047	2,005	4,859
2014	1,713	1,441	2,249	5,404

158. In 2011, fossil fuel combustion in the U.S. accounted for 94% of CO₂ emissions.

159. The above emissions figures are from U.S. Government sources and, regrettably, underreport the amount of emissions that Defendants’ actions have substantially caused. EPA uses a sector-based emission inventory, upon which the other Defendants also rely. A sector-based emission inventory accounts only for in-boundary emissions, and not those attributed to embedded emissions – emissions that account for the consumption of goods imported to the U.S. Defendants have not provided a national consumption-based inventory for CO₂ emissions, which would include all embedded CO₂ emissions for goods produced outside of the U.S. and consumed within the U.S.

160. In 2012, the U.S. was the largest producer of natural gas, producing a total that year of 24,058 billion cubic feet (Bcf). Also in 2012, the U.S. was second in “Total Primary Coal Production,” with 1,016,458 thousand short tons; second in “Total Primary Energy Production,” producing 79.212 Quadrillion Btu; and second in “Total Primary Energy Consumption,” consuming 95.058 Quadrillion Btu.

161. In 2014, according to the United States Energy Information Administration (“EIA”), the U.S. was the largest producer of total petroleum and other liquids with 13,973 thousand barrels produced per day.

162. The U.S. is by far the dominant producer of both shale gas and tight oil in the world. Also, the U.S. is one of four countries in the world that is producing commercial volumes

of either natural gas from shale formations (shale gas) or crude oil from shale formations (tight oil).

163. The aggregate actions by Defendants in allowing fossil fuel production, consumption, and emissions to increase in the U.S. since 1965 ignored science driven considerations of climate system protection. These aggregate actions were taken with deliberate indifference to the need for a national carbon budget or a national plan that includes an analysis of the cumulative impacts of Defendants' actions upon the climate system and with respect to the fundamental rights of the present and future generations.

B. Defendants Have Allowed Excessive Fossil Fuel Production on Federal Public Lands.

164. In 2013, 25% of all fossil fuels extracted in the U.S. originated on federal public lands.

165. In 2014, Defendant United States, through the President, DOI through BLM, DOD through Army Corps of Engineers, and EPA, authorized and oversaw the sale of 421 million tons of coal from federally-leased lands.

166. Since January 1990, DOI through BLM has leased 107 coal tracts, and associated coal production and revenues have grown. In 2015, the BLM reported that approximately 40% of all coal produced in the United States comes from federal lands. The United States has more coal deposits available than any other fossil fuel resource within its borders and, as of 2015, has 28% of the world's coal reserves.

167. In 1985, there were 18,849 recorded federal producing oil and gas leases issued by DOI through BLM. By 2014 there were 23,657 recorded federal producing oil and gas leases issued by DOI through BLM.

168. As of June 2014, DOI's BLM has authorized approximately 47,000 oil and gas leases on public lands, and approximately 95,000 oil and gas wells, with an additional 3,000 wells drilled annually by the oil and gas industry. The BLM oversees approximately 700 million subsurface acres of mineral estate. There are currently 36 million acres of federal land under lease for potential fossil fuel development in 33 states, pursuant to DOI's BLM authorization.

169. From 2009-2011, the President and DOI through BLM processed more applications for permits to drill oil and gas, despite receiving far fewer applications, than the prior administration from 2006-2008.

170. Since 1985, DOI through BLM has issued between 1,486 to 6,617 permits annually to drill on federal lands. BLM has approved approximately 99% of all received applications for permits to drill, without taking into consideration that such permits would endanger Plaintiffs or increase Plaintiffs' susceptibility to harm.

C. Defendants Subsidize the Fossil Fuel Industry

171. In addition to leasing federal public lands for fossil fuel exploitation, the United States subsidizes, funds, and subsidizes fossil fuel production and consumption.

172. The United States subsidizes the fossil fuel industry by undervaluing royalty rates for federal public leasing, as well as through royalty relief resulting in the loss of billions of dollars of foregone revenue. U.S. royalty rates are consistently less than state royalty rates. For example, Texas's royalty rate for leasing is double the federal percentage.

173. Through eleven federal fossil fuel production tax provisions, the United States incurs approximately \$4.7 billion in annual revenue costs. Through a fossil fuel consumption subsidy, the United States annually forgoes approximately \$3.4 billion in revenue.

174. The United States provides approximately \$5.1 billion per year in tax provision subsidies to support fossil-fuel exploration.

175. Two tax code provisions for the benefit of the fossil fuel enterprise were introduced in the early 1900s. These provisions are still in place today, resulting in substantial revenue losses. The “intangible drilling costs” provision was introduced in 1916, 26 U.S.C. § 263(c); in 1926 the “percentage depletion allowance” provision was introduced, 26 U.S.C. § 613.

176. According to the International Monetary Fund (“IMF”), the United States is the world’s top subsidizer of fossil fuels, in absolute terms, in the amount of \$502 billion per year, which includes the IMF’s accounting of negative externalities.

177. The United States has supported fossil fuel development through overseas public financing, primarily through the Export-Import Bank of the United States, an agency of the Office of the President. For example, through the Export-Import Bank of the United States, the Office of the President provided \$14.8 billion in commitments for 78 transactions or projects in the petroleum sector, including 49 transactions in Latin American, 14 in Africa, six in Russia/FSU, five in the Middle East, and four in Asia. In fiscal year 2010, the Export-Import Bank of the United States provided approximately \$3 billion in financing for the Papua New Guinea LNG Project or Papua New Guinea Liquefied Natural Gas Project and \$18 million for the Sangatta Surface Coal Mine in Indonesia. The Export-Import Bank of the United States also supported numerous coal and gas power plants.

178. The United States supports fossil fuel development by allowing the fossil fuel industry to avoid the true social cost of CO₂ emissions from fossil fuels. Based on EPA’s social cost of carbon estimates, CO₂ emissions from fossil fuels have the potential to cause trillions of dollars in damages.

D. Defendants Recklessly Allow Interstate and International Transport of Fossil Fuels

179. Despite knowledge of the harm to Plaintiffs caused by the CO₂ emissions from fossil fuels, Defendants recklessly allow all interstate transport of fossil fuels. Despite knowledge of the harm to Plaintiffs caused by the CO₂ emissions from fossil fuels, Defendants recklessly authorize and/or permit the exportation and importation of fossil fuels and/or the facilities allowing the exports and imports of fossil fuels.

180. The Office of the President exercises permitting authority over the construction and operation of “pipelines, conveyor belts, and similar facilities for the exportation or importation of petroleum, [and] petroleum products.” President Obama has failed to dismantle the U.S. fossil fuel edifice, adding an additional 100,000 miles to the 2.5 million miles of oil and gas pipelines within the nation.

181. A presidential exemption or federal license is required for all exports of crude oil to all destinations. In 2014, DOE oversaw the importation of 2,677,911 thousand barrels of crude oil, and Commerce through BIS authorized the exportation of 126,152 thousand barrels of crude oil, both increases from 2013.

182. No natural gas can be exported or imported without DOE authorization through FERC. FERC permits all LNG export terminals, including Jordan Cove LNG Terminal. Since 1995, the U.S. has imported 71,730 Bcf of natural gas and exported 14,623 Bcf. In 2014, through DOE’s authorization, 51,824 thousand barrels of natural gas plant liquids and liquefied refinery gases were imported and 257,948 thousand barrels of natural gas plant liquids and liquefied refinery gases were exported.

183. Although in 1975 Congress authorized the Office of the President to restrict coal exports under the Energy Policy and Conservation Act of 1975, 42 U.S.C. § 6212(a), the

President has not exercised this authority to impose any significant export restrictions on coal. In fact, since 1990, the United States has promoted expanding coal exports. Coastal facilities through which coal may be exported are subject to federal approvals. In the Pacific Northwest alone, three new marine coal terminal projects are under various stages of federal permitting and review.

184. In 2011, the U.S. exported 107 million short tons of coal. In 2012, U.S. coal exports totaled 125 million short tons, the highest level of coal exports in over twenty years. Most recently, in 2014 the EIA reported that the U.S. imported 11 million short tons of coal and exported 97 million short tons of coal.

E. Defendants Recklessly Allow CO₂ Pollution From Combustion of Fossil Fuels

185. Either directly or through the control of the Federal Government, Defendants authorize the combustion of all fossil fuels in the U.S., including coal, oil, and gas. Such combustion occurs primarily in the energy and refineries sector, the transportation sector, and the manufacturing sector.

186. In 2012, petroleum accounted for 36.5% of the total primary energy consumption in the U.S., the single largest source of energy consumption. All U.S. petroleum refineries are permitted and regulated by EPA.

187. In 2013, fossil fuel combustion from various industrial processes accounted for approximately 15% of total CO₂ emissions in the U.S. The EPA regulates these industrial processes.

188. The DOE establishes efficiency standards in buildings and appliances. These standards affect levels of energy consumption and combustion.

189. Since 1975, through the Corporate Average Fuel Economy (“CAFE”) program, the United States has required manufacturers of vehicles sold in the U.S. to comply with fuel economy standards set by DOT. By controlling the fuel economy standards, Defendants have exercised control over CO₂ emissions in the transportation sector.

190. From 1996-2014, through tax breaks, the United States subsidized the purchase, and thus increased demand for, vehicles weighing more than 6,000 pounds (“SUVs”). SUVs are less fuel-efficient and emit greater quantities of CO₂ per mile than lighter-weight vehicles, other factors held equal.

191. In 2012, U.S. CO₂ equivalent emissions from transportation were 1,837 million metric tons. In 2012, CO₂ equivalent emissions from transportation of all vehicles in the U.S., including aviation, passenger cars, SUVs, heavy-duty trucks, freight rail, ships, and boats, were responsible for 28% of total U.S. greenhouse gas emissions.

III. THE JORDAN COVE LNG EXPORTS

192. Enacted in 1992, Section 201 of the Energy Policy Act mandates the authorization of natural gas imports from, or exports to, a nation with which the United States has a free trade agreement, without modification or delay, to any person applying for such authorization. Accordingly, under the Energy Policy Act, such natural gas imports and exports are automatically deemed consistent with the public interest. 15 U.S.C. § 717b(c).

193. Pursuant to Section 201 of the Energy Policy Act, on December 7, 2011, DOE, through the Office of Fossil Energy, issued DOE/FE Order No. 3041, granting long-term multi-contract authorization to Jordan Cove Energy Project, L.P. to export liquefied natural gas from Jordan Cove LNG Terminal in Coos Bay, Oregon, to free trade agreement nations. The DOE/FE Order authorizes the export of up to 13,140 Bcf of natural gas over 30 years. That quantity of

natural gas would result in approximately 716.2 million metric tons of CO₂ emissions, more than all of the CO₂ emitted in 2012 by our nation's largest emitter, Texas.

194. Jordan Cove will be operational in the first quarter of 2018, according to the Vice President of the Jordan Cove Energy Project, LLC, seven years after receiving its export authorization from DOE.

195. Pursuant to its authorization, the Jordan Cove LNG L.P. has given notice to DOE that, by the end of 2015, even before it has all final approvals from other agencies, it will enter into "binding long-term liquefaction tolling service agreements" for the full liquefaction capacity of the export terminal.

196. The sources of natural gas for Jordan Cove LNG's exports authorized by DOE include suppliers operating in the Rocky Mountain region of the U.S., western Wyoming, northwestern Colorado, northern Utah, northern Nevada, and northern California.

197. In a letter of support for Jordan Cove LNG Terminal exports, Governor John Hickenlooper of Colorado wrote to DOE and FERC: "Jordan Cove is of specific interest to Colorado . . . The project terminal is the only LNG facility on the west coast that would directly link Colorado to new energy markets via the Ruby Pipeline which originates in northwest Colorado and carries natural gas from that region to states further west of Colorado."

198. Jordan Cove LNG will liquefy this natural gas for export at its proposed LNG export terminal in Coos Bay, Oregon. Jordan Cove plans to build a new power plant to provide the additional electricity needed to liquefy the natural gas for export. The proposed 420-MW South Dunes Power Plant would be the second-largest single source of greenhouse gas emissions in Oregon and would be the largest single source of CO₂ emissions in Oregon in 2020 if it were

built. The Jordan Cove South Dunes Power Plant would emit 51.6 million tons of CO₂ over 30 years, or 1.72 million tons of CO₂ per year.

199. According to the EIA, liquefying natural gas requires the energy equivalent of 10% of the gas being exported.

200. The CO₂ emissions resulting from the Jordan Cove LNG Terminal exports and the South Dunes Power Plant emissions will harm Youth Plaintiffs who live in and around Oregon, as well as Future Generation Plaintiffs, by further endangering the climate system.

201. Youth Plaintiffs who live in Colorado are also adversely impacted by the opening up of an international market for the export of natural gas being extracted through hydraulic fracturing in the State of Colorado, and in the Rocky Mountain region of the U.S. generally, and then shipped by pipeline to Oregon for liquefaction and export abroad, ultimately to be burned, thereby causing additional CO₂ emissions. The Youth Plaintiffs from Colorado and Oregon are harmed by the fossil fuel exploitation in and running through their states, which will be connected by the Pacific Connector Natural Gas Pipeline and 3,900 mile gas transmission system crossing the states of Washington, Oregon, Idaho, Wyoming, Utah, and Colorado.

IV. CURRENT SCIENCE ON GLOBAL CLIMATE CHANGE AND OCEAN ACIDIFICATION

202. There is a scientific consensus that climate change endangers humanity and nature. Present climate change is a consequence of anthropogenic GHGs, primarily CO₂, derived from the combustion of fossil fuels. The fossil fuel emissions have led to an energy imbalance and consequent dangerous disruption of the climate system upon which our nation and Plaintiffs depend.

203. Atmospheric CO₂ levels greater than 350 ppm cause this energy imbalance. That energy imbalance is now approximately 0.6 Watts/m² averaged over the entire planet, equivalent

to exploding more than 400,000 Hiroshima atomic bombs per day, 365 days per year, throughout our planet.

204. The 2014 National Climate Assessment acknowledged that “[t]he cumulative weight of the scientific evidence . . . confirms that climate change is affecting the American people now, and that choices we make will affect our future and that of future generations.”

205. Greenhouse gases in the atmosphere act like a blanket over the Earth, trapping energy received from the sun. More GHG emissions in the atmosphere means that more energy is retained on Earth, with less being radiated back into space.

206. A substantial portion of every ton of CO₂ emitted by humans persists in the atmosphere for as long as a millennium or more. Therefore, the impacts associated with past and current CO₂ emissions will be borne by our children and future generations. Our nation will continue to warm in response to concentrations of CO₂ from past emissions, as well as future emissions.

207. The current level of atmospheric CO₂ concentration caused by human-made climate change has already taken our country into the danger zone.

208. In 2013, the atmospheric CO₂ concentration exceeded 400 ppm for the first time in recorded history. The pre-industrial concentration was 280 ppm. Emissions must be rapidly and systematically reduced to well below the natural rate of draw-down into Earth’s forests, soils, and crust in order to restore energy balance and avoid crossing tipping points that set in motion disastrous impacts to human civilization and nature.

209. March 2015 was the first month that the monthly global average concentration of CO₂ was 400 ppm for an entire month, reaching levels that have not been seen for about three

million years. CO₂ concentrations have risen more than 120 ppm since pre-industrial times, with half of that rise occurring since 1980.

210. Earth has now warmed about 0.9°C above pre-industrial temperatures. That temperature is equivalent to the maximum temperatures of the Holocene era, the period of climate stability over the last 10,000 years that enabled human civilization to develop. Warming is expected to hit 1°C in 2015-16.

211. Civilization and the water sources, crops, foods, wildlife, marine life, and coastlines on which people depend have developed within a very narrow set of climatic conditions. It will be nearly impossible for Plaintiff to adapt to all of the current climate change impacts in the quick time-frame in which they will occur. The survival and well-being of Plaintiffs is significantly threatened by climate destabilization.

212. Cessation of Defendants' actions in permitting, authorizing, or otherwise subsidizing new fossil fuel projects, along with cessation of government actions that limit carbon sequestration in soils and forests, could reduce the earth's energy imbalance, the severity of our disruption of the climate system, and the severity and pace of ocean acidification, within the lifetimes of Youth Plaintiffs.

V. EXISTING IMPACTS OF CLIMATE CHANGE ACROSS THE NATION

213. Climate change already damaging human and natural systems, causing loss of life and pressing species to extinction. Unless arrested by government action informed by science, climate change will impose increasingly severe impacts on our nation and others, potentially to the point of collapse.

214. Recent scientific reports, for example, warn of the disintegration of both the West Antarctic ice sheet and the East Antarctic ice sheet, causing multi-meter sea-level rise. Such will

devastate coastal regions, including much of the eastern seaboard. Millions of Americans and trillions of dollars in property damage will result. The risk of this devastation approaches certainty, unless fossil fuel emissions are rapidly phased out. The recent studies more fully than prior studies account for the potential for non-linear ice sheet melting, which could raise the sea level by 10 feet (or more) by mid-century.

215. If carbon pollution is not quickly abated, there is near scientific certainty that humanity will suffer sea level rise of several meters, submerging much of the eastern seaboard of the U.S., including Florida, as well as other low lying areas of Europe, the Far-East, and the Indian sub-continent.

216. Well-documented and observable impacts from the changes in Earth's climate system highlight that the current level of atmospheric CO₂ concentration has already taken our nation into a danger zone. Increased CO₂ emissions are already resulting not only in the warming of land surfaces, but also in the warming of oceans, increasing atmospheric moisture levels, rising global sea levels, and changing rainfall and atmospheric air circulation patterns that affect water and heat distribution.

217. One key observable change is the rapid increase in recorded surface temperatures. As a result of increased atmospheric CO₂ from human activities, our nation has been warming as scientists predicted as early as 1965. The increased concentrations of greenhouse gases in our atmosphere have raised global surface temperature by approximately 0.9° Celsius. In the last thirty years, Earth has been warming at a rate three times faster than that over the previous one hundred years. 2014 was the hottest on record, according to the National Aeronautics and Space Administration ("NASA").

218. As expected, our country's sea levels have also risen from glacial and ice cap melting, as well as from the thermal expansion of the ocean itself. Based on measurements taken from 1993 to 2010, sea levels have been rising at an average rate of 3.2 millimeters per year. Though sea levels rose about 170.18 millimeters (0.2 meters) over the last century, within the last decade, the rate of sea-level rise has nearly doubled. Rising seas have caused and will cause flooding in coastal and low-lying areas. The combination of rising sea levels and more severe storms creates conditions conducive to severe storm surges during high tides. In coastal communities this can overwhelm levees and sea walls, as witnessed during Hurricane Katrina, Hurricane Sandy, and other major storms.

219. Today, rising sea levels are submerging low-lying lands, eroding beaches, converting wetlands to open water, exacerbating coastal flooding, and increasing the salinity of estuaries and freshwater aquifers. Between 1996 and 2011, twenty square miles of land were inundated by rising sea levels along the Atlantic coast. Coastal states, such as Maryland and Louisiana, are experiencing wetland loss due to rising sea levels. Scientists have predicted that wetlands in the mid-Atlantic region of the U.S. cannot withstand a seven-millimeter per year rise in sea levels.

220. Similarly, climate change is already causing, and will continue to result in, more frequent, extreme, and costly weather events, such as floods and hurricanes. The annual number of major tropical storms and hurricanes has increased over the past 100 years in North America, coinciding with increasing temperatures in the Atlantic sea surface. Across the U.S., nine of the top ten years for extreme one-day precipitation events have occurred since 1990.

221. Changes in our country's water cycle as a result of climate change also increase the potential for, and severity of, droughts. Even in arid regions, increased precipitation is likely

to cause flash flooding, and will be followed by drought. These changes are already occurring. Droughts in parts of the Midwestern, Southeastern, and Southwestern U.S. have increased in frequency and severity within the last fifty years, coinciding with rising temperatures. Most of the recent heat waves can be attributed to human-caused climate disruption.

222. In higher altitude and latitude regions, including in mountainous areas, more precipitation is falling as rain rather than snow. With early snow melt occurring because of climate change, the reduction in snowpack can aggravate water supply problems. The snow cover extent of North America in June 2015 was 0.75 million square miles, the second lowest ever recorded behind June 2012, with 0.68 million square miles. The average area of North America covered by snow decreased by about 3,500 square miles per year between 1972 and 2013.

223. Arctic sea ice is declining precipitously and is expected to disappear completely in the coming decades. In 2013, Arctic sea ice extent for September was 700,000 square miles below the 1981-2010 average for the same period. In 2014, the Arctic sea ice extent for September was 463,000 square miles below average. In 2015, the maximum extent of the Arctic sea ice was the lowest in the satellite record. With less sea ice, less solar radiation is reflected back to space, a positive feedback loop serving to amplify regional and global warming.

224. Similarly, there has been an increase in permafrost temperatures and melting in Alaska. Substantial methane releases from thawing permafrost have already been observed in Alaska. Because much of the Alaskan permafrost overlays old peat bogs that sequester methane, permafrost melting will release methane that will further increase global warming to even more dangerous levels. CO₂ and methane released from thawing permafrost could contribute as much as 0.4°F to 0.6°F of warming by 2100.

225. Mountain glaciers are receding nationwide because of warming temperatures. In 2010, Glacier National Park in Montana had only twenty-five glaciers larger than twenty-five acres, as opposed to 150 such glaciers in 1850. In the Brooks Range of northern Alaska, all of the glaciers are in retreat and in southeastern Alaska, 98% are in retreat.

226. The melting of mountain glaciers is particularly serious in areas that rely on snow melt for irrigation and drinking water supply. In effect, a large snow pack or glacier acts as a supplemental reservoir or water tower, holding a great deal of water in the form of ice and snow through the winter and spring and releasing it in the summer when rainfall is lower or absent. The water systems of the western U.S., particularly in California and Oregon, heavily rely on this natural water storage. Yet as temperatures warm, not only will these areas lose this supplemental form of water storage, but severe flooding is also likely to increase as rainfall accelerates the melting of glaciers and snow packs.

227. Changes in water supply and water quality will also impact agriculture in the U.S. Increased heat and associated issues such as pests, crop diseases, and weather extremes, will all impact crop and livestock production and quality. For example, anthropogenic climate change in the U.S. has produced warmer summers, enabling the mountain pine beetle to produce two generations of beetles in a single summer season, where it had previously only been able to produce one. In Alaska, the spruce beetle is maturing in one year when it had previously taken two years. The expansion of the forest beetle population has killed millions of hectares of trees across the U.S. and resulted in millions of dollars lost from decreased tourism revenues.

228. Agriculture is extremely susceptible to climate change, threatening food security. Higher temperatures generally reduce yields of desirable crops while promoting pest and weed

proliferation. Climate change is predicted to decrease crop yields, increase crop prices, decrease nationwide calorie availability, and increase malnutrition.

229. Increased wildfires, shifting precipitation patterns, higher temperatures, and drought conditions also threaten forest industries and private property. In the U.S., 72,000 wildfires have been recorded, on average, each year since 1983. Nine of the ten years with the largest acreage burned have occurred in the fourteen years since 2000.

230. Increased CO₂ emissions are having a severe negative impact on the health of our oceans. The oceans absorb approximately 25-30% of global CO₂ emissions, resulting in a 30% increase in surface ocean acidity.

231. Ocean acidification has been rising at a geologically unprecedented rate. Currently, acidity is rising at least 100 times faster than at any other period during the last 100,000 years, threatening marine life, including human food sources. Organisms at risk include: corals, oysters, clams, scallops, mussels, abalone, crabs, geoducks, barnacles, sea urchins, sand dollars, sea stars, sea cucumbers, many common single-celled organisms and protists that act as prey, and various forms of seaweed. The loss of some of these species can cause entire food webs to collapse.

232. By 2100, the surface waters of the ocean could be nearly 150% more acidic, resulting in a pH that the oceans have not experienced for more than 20 million years. In recent years, ocean acidification has already contributed to oyster reproductive failures impacting the Pacific Northwest's shellfish industry, including oyster harvests in Coos Bay, Oregon. In addition, warmer water in regional estuaries, such as Puget Sound, may contribute to a higher incidence of harmful blooms of algae linked to paralytic shellfish poisoning and may result in

adverse economic impacts from beach closures affecting recreational harvesting of shellfish, such as razor clams.

233. The rise in ocean acidity places coral reefs at considerable risk. Given that coral reefs are among the most biologically diverse and economically important ecosystems, the impact of their loss cannot be overstated. Coral reefs provide shelter to a quarter of all marine species.

234. For major U.S. coral reefs, projections show extensive bleaching and dramatic loss of shallow coral cover occurring by 2050, and near complete loss by 2100. In Hawai'i, coral cover is projected to decline from 38% (current coral cover) to approximately 5% by 2050, with further declines thereafter. In Florida and Puerto Rico, where present-day temperatures are already close to bleaching thresholds, coral is projected to disappear even faster. Given the severity of these impacts, it is inevitable that these effects would be felt across our country, and by future generations.

235. Climate change and ocean acidification are threatening the survival and wellbeing of plants, fish, wildlife, and biodiversity. As many as one in six species are threatened with extinction due to climate change. Many more species that do not face extinction will face changes in abundance, distributions, and species interactions that cause adverse impacts for ecosystems and humans.

236. Salmon have historically been associated with human society and been a major contributor to the economy. Due to physical changes to freshwater ecosystems resulting from climate change, salmon populations have declined significantly across the country. The optimum water temperature for salmonids is 55° to 64° Fahrenheit; massive fish kills have occurred at or above 71° Fahrenheit. As of 2015, four salmon species in eighteen locations are

on NOAA's Endangered and Threatened Marine Species list; in five locales they are extinct. Scientists from the Salmon 2100 Project, housed in an EPA research laboratory in Oregon, have predicted that, despite current recovery efforts, salmon runs are not likely to sustain themselves through 2100 and other recovery strategies must be adopted to combat climatic shifts.

237. Fossil fuel extraction and combustion, and the resulting climate change, is already contributing to an increase in allergies, asthma, cancer, cardiovascular disease, stroke, heat-related morbidity and mortality, food-borne diseases, injuries, toxic exposures, mental health and stress disorders, and neurological diseases and disorders. Climate change threatens the basic requirements for maintaining health like clean air, pure water, sufficient food, and adequate shelter. It also increases occurrence of infectious diseases.

238. In the U.S., 8,000 Americans have died from heat-related illnesses over the last three decades. There are now twice as many Lyme disease cases than were reported in 1991. In the past three decades, the percentage of Americans with asthma has more than doubled, and climate change is putting those Americans at greater risk of requiring hospitalization. Longer growing seasons allow for ragweed to produce pollen for a longer period, resulting in aggravated and prolonged allergies for millions of Americans.

239. Climate change also harms our national security, adding tension even in stable regions of the world. The DOD acknowledged the severity of climate change and its connections to national security when, in its 2014 Quadrennial Defense Review, climate change was classified as a "threat multiplier": "Pentagon leaders have identified three main ways that climate change will affect security; accelerating instability in parts of the world wracked by drought, famine, and climate-related migrations; threatening U.S. military bases in arid Western states or

on vulnerable coastlines; and increasing the need for U.S. forces to respond to major humanitarian disasters.”

240. By 2025, 40% of the world’s population will be living in countries experiencing significant water shortages, while sea-level rise could cause displacement of tens, or even hundreds, of millions of people. As a result, the U.S. will experience an additional need to accept immigrant and refugee populations as droughts increase and food production declines in other countries. Increased extreme weather events (such as hurricanes) will also present an increased strain on foreign aid provided by the U.S. and materially increased deployment of our country’s military forces.

241. Our nation is already observing significant impacts from the relatively small amount of warming that has occurred. These impacts constitute harbingers of far more dangerous changes to come. If unabated, continued GHG emissions, especially CO₂, will initiate dynamic climate change and effects that spin out of control for Plaintiffs and future generations as the planet’s energy imbalance triggers amplifying feedbacks and the climate system and biological system pass critical tipping points. Such changes would be irreversible on any time scale relevant to Plaintiffs and threaten their survival.

VI. FUTURE NATIONAL CLIMATE IMPACTS EXPECTED BY 2050 AND 2100

242. By 2050, Youth Plaintiffs will range in age from 43 to 55.

243. By 2100, global mean sea level rise is projected to be at 56 inches, if sea level rise occurs linearly. Based on that global projection, it is predicted that the U.S. will experience a 56-65 inch sea level rise on the East Coast, up to a 76-87 inch sea level rise in areas surrounding the Gulf of Mexico, and a 47-65 inch sea level rise along the West Coast. Sea level rise could be even more catastrophic depending upon the rate of disintegration of the Antarctic ice sheets. Sea

level rise will result in increased erosion and the loss of land. In Washington and Oregon, more than 140,000 acres of coastal lands lie within 40 inches in elevation of high tide. Among the most vulnerable parts of the coast is the heavily populated south Puget Sound region, which includes Olympia, Tacoma, and Seattle, Washington.

244. New scientific evidence demonstrates that a non-linear process could trigger much greater sea level rise in a time frame of 50 to 200 years.

245. Global temperature increases are projected to increase by 9° Fahrenheit by 2100. In the U.S., the largest temperature increases are expected in the Mountain West and Northern regions consisting of 14° and 12° Fahrenheit, respectively.

246. In an EPA-funded study, “Ensemble Projections of Wildfire Activity and Carbonaceous Aerosol Concentrations Over the Western United States in the Mid-21st Century,” scientists estimated that, by 2050, wildfire activity is expected to double in the Southwest, Pacific Northwest, Rocky Mountains Forest, and the Eastern Rockies/Great Plains regions. In the western U.S., increases in temperature are projected to cause an increase of 54% in annual mean area burned by 2050 relative to the present day. Changes in area burned are ecosystem dependent, with the forests of the Pacific Northwest and Rocky Mountains experiencing the greatest increases of 78% and 175%, respectively. Increased area burned results in near doubling of wildfire carbonaceous aerosol emissions by midcentury. The increase in wildfires and the associated emissions will have harmful impacts on health. Polar bears are just one of the species listed as endangered due to the impacts of a changing climate on their habitat. If emissions continue to rise at current rates throughout the 21st century, polar bears will likely be extirpated from much of their present-day range, including Alaska’s North Slope Borough. Sea ice, which

polar bears depend upon to access their prey, is projected to disappear by 2100. Experts project there will be massive species extinction this century.

247. Human-induced warming, if business continues as usual, is projected to raise average temperatures by about 6° to 11° Fahrenheit in this century. Heat waves would then increase in frequency, severity, and duration. For example, by the end of this century, if Defendants do not dramatically reduce emissions, the number of heat-wave days in Los Angeles is projected to double, and the number of heat-wave days in Chicago to quadruple, resulting in many more deaths.

248. While potential climate change impacts on water resources vary between regions, the western states will be particularly impacted by drought, reduced precipitation, increased evaporation, and increased water loss from plants.

249. Warmer temperatures particularly impact the Pacific Northwest because reduced snowpack and earlier snowmelt alter the timing and amount of water supplies. By 2050, snowmelt is projected to shift three to four weeks earlier than the 20th century average. Since earlier snowmelt will result in warmer and shallower rivers and streams in summer and fall, diseases and parasites that tend to flourish in warmer water threaten to eliminate up to 40% of remaining Northwest salmon populations by 2050.

250. By 2050, biologists conservatively expect decreases in salmon populations will lead to 11% to 14% less annual carcass biomass available to bald eagles, our country's national bird.

251. Defendants, through the Department of Homeland Security, have acknowledged mass human migrations are a potential impact of climate change, and have developed a mass

migration plan. Estimates put the number of climate-induced migrants worldwide at 200 million by 2050.

252. Climate change projections estimate an increase in monetary damages associated with inland flooding across most of the contiguous U.S. Approximately 190,000 of our nation's bridges are vulnerable to increased inland flooding caused by climate change, with adaptation costs estimated at \$170 billion for the period from 2010 to 2050. In the Northwest, a region including Washington and parts of Oregon and Idaho, 56% of inland bridges are identified as vulnerable in the second half of the 21st Century.

253. In 2100 alone, adaptation costs associated with the 50-year, 24-hour storm moniker in 50 U.S. cities are estimated to range from \$1.1 to \$12 billion. Further, climate change is projected to result in \$5.0 trillion in damage to coastal properties in the contiguous U.S. through 2100.

254. Due to extreme temperature increases and unsuitable working conditions, our nation's labor force may experience a drastic decline in labor hours and lost wages. In 2100, a projected 1.8 billion labor hours will be lost along with approximately \$170 billion in lost wages.

255. By 2050, climate change is expected to add thousands of additional premature deaths per year nationally from combined ozone and particle health effects. Higher surface temperatures, especially in urban areas, promote the formation of ground-level ozone, which has adverse impacts on human health by irritating the respiratory system, reducing lung function, aggravating asthma, and inflaming and damaging cells that line the airways. Climate change is expected to increase the frequency of high ozone pollution events by 50% to 100% by 2050.

VII. RESTORING THE ENERGY BALANCE AND PROTECTING AGAINST A DANGEROUS DESTABILIZED CLIMATE SYSTEM IS POSSIBLE BASED ON BEST AVAILABLE SCIENCE

256. An urgent and critical undertaking is required to protect the climate system and cause a cessation of Defendants' infringement of Plaintiffs' constitutional rights. Defendants must act rapidly and effectively to phase out CO₂ emissions so as to restore Earth's energy balance. Absent such immediate action, the Federal Government must cease permitting and authorizing fossil fuel projects so as not to exacerbate the climate crisis and further infringe on Plaintiffs' constitutional rights.

257. Global atmospheric CO₂ concentrations must be reduced to below 350 ppm by the end of the century in order to limit the period of CO₂ overshoot and stabilize our climate system.

258. To reduce global atmospheric CO₂ concentrations to 350 ppm by the end of this century would require a near-term peak in CO₂ emissions and a global reduction in CO₂ emissions of at least 6% per year, alongside approximately 100 gigatons of carbon drawdown this century from global reforestation and improved agriculture. If emissions had peaked and reductions had begun in 2005, only a 3.5% per year global reduction would have been necessary to reach 350 ppm by 2100. If significant annual emission reductions are delayed until 2020, a 15% per year reduction rate will be required to reach 350 ppm by 2100. If such reductions are delayed beyond 2020, it might not be possible to return to 350 ppm until 2500 Or beyond.

259. Reducing the global atmospheric CO₂ concentration to 350 ppm by the end of the century is also necessary in order to protect oceans and marine life. As a result of CO₂ emissions, of which approximately 25% are absorbed by the oceans, humans, marine organisms, and ecosystems are already harmed and will increasingly be harmed by ocean acidification. To prevent the further impairment or depletion of the oceans and oceanic resources, it is imperative

that Defendants take immediate measures to return atmospheric CO₂ concentrations to below 350 ppm by the end of this century.

260. Targets that aim to limit atmospheric CO₂ concentrations at or below 450 ppm are insufficient to avoid severe, irreversible damage as a result of ocean acidification and ocean warming. For example, the weight of recent evidence establishes that, at a prolonged 450 ppm level, coral reefs will become extremely rare, if not extinct, and at least half of coral-associated wildlife will become either rare or extinct. As a result, coral reef ecosystems will likely be reduced to crumbling frameworks with few calcareous corals remaining.

261. Current actions by Defendants will not yield atmospheric CO₂ levels of 350 ppm by the end of the century, are not based on any scientific standard, and are not adequate to prevent and remedy the degradation, diminution, or depletion of our country's public trust resources.

262. The actions and omissions of Defendants make it extremely difficult for Plaintiffs to protect their vital natural systems and a livable world. Defendants must act immediately to restore energy balance and implement a plan to put the nation on a trajectory that, if adhered to by other major emitters, will reduce the atmospheric CO₂ concentrations to no more than 350 ppm by 2100.

VIII. THE FEDERAL GOVERNMENT'S ADMISSIONS OF ITS PUBLIC TRUSTEE OBLIGATIONS

263. Defendants are trustees of national public natural resources. The national public natural resources include the air (atmosphere), seas, shores of the sea, water, and wildlife.

264. In 1968, Congress declared that the Federal Government has "continuing responsibility" to "use all practicable means" so as to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." 42 U.S.C. § 4331(b)(1).

265. Congress also declared that the Federal Government is among the “trustees for natural resources” and directed Defendants to act as trustees, on behalf of the public beneficiaries, of all natural resources under their management and control. 42 U.S.C. § 9607 (f)(1); *see also* 33 U.S.C. § 2706 (Oil Pollution Act).

266. Pursuant to Congressional direction, the President designated the following federal agencies to act on behalf of the public as trustees for natural resources: the USDA, Commerce, DOD, DOE, and DOI. In this context, the term natural resources “means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled (referred to as ‘managed or controlled’) by the United States (including the resources of the exclusive economic zone).” 40 C.F.R. § 300.600(a); *see* 42 U.S.C. § 9607 (f)(2)(A).

267. According to the National Research Council, “fisheries within federal waters are held in public trust for the people of the United States.”

268. According to the U.S. Commission on Ocean Policy, “the U.S. government holds ocean and coastal resources in the public trust – a special responsibility that necessitates balancing different uses of those resources for the continued benefit of all Americans.”

269. According to NOAA, it “has an obligation to conserve, protect, and manage living marine resources in a way that ensures their continuation as functioning components of marine ecosystems, affords economic opportunities, and enhances the quality of life for the American public.” Further, NOAA affirmed that air is a natural resource under the public trust doctrine, and that the Federal Government shares jurisdiction with states over such public trust resources.

270. NOAA admits that one principle of the public trust doctrine is: “The public has fundamental rights and interests in natural resources such as the sea, the shore, and the air.”

271. The DOI admits that the public trust doctrine “now encompasses all natural resources,” and that natural resources include “land, fish, wildlife, biota, air, water, ground water, drinking water supplies and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the U.S.” The DOI admits that the “Department of the Interior, Department of Commerce (delegated to NOAA), Department of Energy, Department of Agriculture, Department of Defense, and any other Federal Land Managing Agency” are “Federal Trustees.”

272. The State Department admitted “an obligation to current and future generations to take action” on climate change.

273. The United States has taken the position before federal courts that the Federal Government is a trustee over important national natural resources, including wildlife, and has both rights and obligations under the public trust doctrine.

274. By way of example, in a 2010 complaint filed against British Petroleum, the United States alleged: “Natural resources under the trusteeship of the United States and other sovereigns have been injured, destroyed, or lost as a result of discharged oil and associated removal efforts. The discharged oil is harmful to natural resources exposed to the oil, including aquatic organisms, birds, wildlife, vegetation, and habitats.”

275. Since 1965, Defendants have known they each have mandatory duties to abate CO₂ pollution from fossil fuels in order to stop global climate change: “The pervasive nature of pollution, its disregard of political boundaries including state lines, the national character of the technical, economic and political problems involved, and the recognized Federal responsibilities for administering vast public lands which can be changed by pollution, for carrying out large enterprises which can produce pollutants, for preserving and improving the nation’s natural

resources, all make it mandatory that the Federal Government assume leadership and exert its influence in pollution abatement on a national scale.”

276. Defendants have exerted their influence, control, custodianship, and sovereignty over the polluted atmosphere and the exploitation of fossil fuels, but they have not abated the harm. Because Defendants have put Plaintiffs in danger and increased Plaintiffs’ susceptibility to harm, Defendants are responsible for taking action to protect Plaintiffs. In fact, Defendants have exacerbated the harm to our atmosphere in violation of Plaintiffs’ constitutional rights.

CLAIMS FOR RELIEF

First Claim for Relief

Violation of the Due Process Clause of the Fifth Amendment

277. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

278. The Constitution recognizes and preserves the fundamental right of citizens to be free from government actions that harm life, liberty, and property. These inherent and inalienable rights reflect the basic societal contract of the Constitution to protect citizens and posterity from government infringement upon basic freedoms and basic (or natural) rights. The rights to life, liberty, and property have evolved and continue to evolve as technological advances pose new threats to these fundamental rights and as new insights reveal discord between the Constitution’s central protections and the conduct of government. As set forth in the Preamble of the Constitution, these rights belong to present generations as well to our “Posterity” (or future generations).

279. Our nation’s climate system, including the atmosphere and oceans, is critical to Plaintiffs’ rights to life, liberty, and property. Our nation’s climate system has been, and continues to be, harmed by Defendants. Defendants harmed our nation’s climate system with

full appreciation of the results of their acts. Plaintiffs' substantive Fifth Amendment rights have been infringed because Defendants directly caused atmospheric CO₂ to rise to levels that dangerously interfere with a stable climate system required alike by our nation and Plaintiffs. The present CO₂ concentration and continuing CO₂ emissions – a function, in substantial part, of Defendants' historic and continuing permitting, authorizing, and subsidizing of fossil fuel extraction, production, transportation, and utilization – endangers Plaintiffs' lives, liberties, and property.

280. For the past fifty years, Defendants have known about the danger to Plaintiffs' safety created by carbon pollution. Acting with full appreciation of the consequences of their acts, Defendants knowingly caused, and continue to cause, dangerous interference with our atmosphere and climate system. Defendants have knowingly endangered Plaintiffs' health and welfare by approving and promoting fossil fuel development, including exploration, extraction, production, transportation, importation, exportation, and combustion, and by subsidizing and promoting this fossil fuel exploitation. All of these deliberate actions by Defendants have cumulatively resulted in dangerous levels of atmospheric CO₂, which deprive Plaintiffs of their fundamental rights to life, liberty, and property.

281. Plaintiffs are suffering harm by the dangerous aggregate actions and deliberate omissions of Defendants. Defendants' dangerous interference with a stable climate system is having such irreversible and catastrophic consequences as to shock the conscience. The conduct, if not fundamentally altered, will have even worse consequences for future generations.

282. The affirmative aggregate acts of Defendants have been and are infringing on Plaintiffs' right to life by causing dangerous CO₂ concentrations in our nation's atmosphere and dangerous interference with our country's stable climate system.

283. The affirmative aggregate acts of Defendants have been and are infringing on Plaintiffs' liberties by placing Plaintiffs in a position of danger with a destabilized climate system and dangerous levels of CO₂ in our country's atmosphere. Defendants' aggregate acts of increasing CO₂ concentrations in the atmosphere have been and are harming Plaintiffs' dignity, including their capacity to provide for their basic human needs, safely raise families, practice their religious and spiritual beliefs, maintain their bodily integrity, and lead lives with access to clean air, water, shelter, and food.

284. After knowingly creating this dangerous situation for Plaintiffs, Defendants continue to knowingly enhance that danger by allowing fossil fuel production, consumption, and combustion at dangerous levels, thereby violating Plaintiffs' substantive Fifth Amendment due process rights.

285. After placing Plaintiffs in a position of climate danger, Defendants have continued to act with deliberate indifference to the known danger they helped create and enhance. A destabilized climate system poses unusually serious risks of harm to Plaintiffs' lives and their bodily integrity and dignity. As described at length, *supra*, these risks are so substantial as to shock the conscience. Defendants have had longstanding, actual knowledge of the serious risks of harm and have failed to take necessary steps to address and ameliorate the known, serious risk to which they have exposed Plaintiffs. With deliberate indifference, Defendants have not implemented their own plans for climate stabilization or any other comprehensive policy measures to effectively reduce CO₂ emissions to levels that would adequately protect Plaintiffs from the dangerous situation of climate destabilization.

286. By exercising sovereignty over the air space and the federal public domain, by assuming authority and regulatory responsibility over fossil fuels, and by allowing and

permitting fossil fuel production, consumption, and its associated CO₂ pollution, Defendants have also assumed custodial responsibilities over the climate system within its jurisdiction and influence. In assuming control of our nation's atmosphere, air space, the federal domain, fossil fuels, and climate system, Defendants have imposed severe limitations on Plaintiffs' freedom to act on their own behalf to secure a stable climate system and, therefore, have a special relationship with Plaintiffs, and a concomitant duty of care to ensure their reasonable safety. By their affirmative acts resulting in dangerous interference with a stable climate system, Defendants have abrogated their duty of care to protect Plaintiffs' fundamental rights to life, liberty, and property. In their custodial role, Defendants have failed to protect Plaintiffs' needs with respect to the climate system in violation of the Fifth Amendment.

287. Furthermore, Defendants' acts, if not fundamentally altered without delay, will effect a complete taking of some of Plaintiffs' property interests by virtue of the sea level rise that is an incident of Defendants' unlawful actions.

288. The United States, through DOE, is depriving Plaintiffs of their fundamental rights to be free from the dangerous government acts, which infringe on their fundamental rights to life, liberty, and property, by requiring and giving approval for the exportation and importation of natural gas resources in the U.S. through section 201 of the Energy Policy Act of 1992. The extraction, interstate transport, liquefaction, exportation, and ultimate combustion of U.S. natural gas, facilitated by section 201 of the Energy Policy Act, increase carbon pollution and exacerbate already-dangerous climate instability. Section 201 of the Energy Policy Act is unconstitutional on its face and as applied to Plaintiffs through DOE's issuance of the section 201 permit for Jordan Cove LNG Terminal in Coos Bay, Oregon. The Energy Policy Act and

DOE's actions taken pursuant to the Energy Policy Act deprive Plaintiffs of their fundamental rights to life, liberty, and property.

289. The affirmative aggregate acts of Defendants in the areas of fossil fuel extraction, production, transportation, importation and exportation, and consumption, as described in this Complaint, are causing dangerous concentrations of CO₂ in the atmosphere and a dangerous climate system, and irreversible harm to the natural systems critical to Plaintiffs' rights to life, liberty, and property. The affirmative aggregate acts of Defendants cannot and do not operate to secure a more compelling state interest than Plaintiffs' fundamental rights to life, liberty, and property.

WHEREFORE, Plaintiffs pray for relief as more fully set forth below.

Second Claim for Relief
Violation of Equal Protection Principles
Embedded in the Fifth Amendment

290. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

291. Defendants have violated the equal protection principles of the Fourteenth Amendment, embedded in the Due Process Clause of the Fifth Amendment.

292. The affirmative aggregate acts of Defendants in the areas of fossil fuel production and consumption irreversibly discriminate against Plaintiffs' exercise of their fundamental rights to life, liberty, and property, and abridge central precepts of equality. The affirmative aggregate acts of Defendants in the areas of fossil fuel production and consumption have caused and are causing irreversible climate change. As a result, the harm caused by Defendants has denied Plaintiffs the same protection of fundamental rights afforded to prior and present generations of adult citizens. The imposition of this disability on Plaintiffs serves only to disrespect and

subordinate them. The principles of the Equal Protection Clause, which are embedded in the Due Process Clause, prohibit the Federal Government's unjustified infringement of Plaintiffs' right to be free from Defendants' aggregate acts that destabilize our nation's climate system whose protection is fundamental to Plaintiffs' fundamental rights to life, liberty, and property. Because fundamental rights are at stake and are being infringed by the affirmative aggregate acts of Defendants, this Court must apply strict scrutiny for a denial of equal protection of the law.

293. The Fifth Amendment's Due Process Clause and the Fifth Amendment's equal protection principles are profoundly connected but set forth distinct principles, which are implicated here. The reason why a stable climate system is inherent in our fundamental rights to life, liberty, and property becomes more clear and compelling because of the grave and continuing harm to children that results from discriminatory laws and actions that prevent a stable climate system. The application of these dual principles requires strict scrutiny of Defendants' discriminatory laws and actions.

294. Plaintiffs are separate suspect classes in need of extraordinary protection from the political process pursuant to the principles of Equal Protection. As evidenced by their affirmative aggregate acts, Defendants have a long history of deliberately discriminating against children and future generations in exerting their sovereign authority over our nation's air space and federal fossil fuel resources for the economic benefit of present generations of adults. Plaintiffs are an insular minority with no voting rights and little, if any, political power or influence over Defendants and their actions concerning fossil fuels. Plaintiffs have immutable age characteristics that they cannot change.

295. Future generations do not have present political power or influence, have immutable characteristics, and are also an insular minority.

296. Plaintiffs have no avenues of redress other than this Court, as Plaintiffs cannot challenge or alter the acts of Defendants concerning fossil fuels. Plaintiffs will disproportionately experience the irreversible and catastrophic impacts of an atmosphere and oceans containing dangerous levels of CO₂ and a dangerous destabilized national climate system. The adults living in our country today will not experience the full scope of catastrophic harms that will be experienced by Plaintiffs.

297. For purposes of the present action, Plaintiffs should be treated as protected classes because the overwhelming majority of harmful effects caused by the acts of Defendants will occur in the future. As Plaintiffs include citizens presently below the voting age and future generations, this Court should determine they must be treated as protected classes, and federal laws and actions that disproportionately discriminate against and endanger them must be invalidated.

298. The affirmative aggregate acts of Defendants reflect a *de facto* policy choice to favor influential and entrenched short-term fossil fuel energy interests to the long-term detriment of Plaintiff—precisely the sort of dysfunctional majoritarian outcome that our constitutional democratic system is designed to check. Such a check is especially appropriate here because our country will soon pass the point where Plaintiffs will no longer be able to secure equal protection of the laws and protection against an uninhabitable climate system.

299. The Energy Policy Act's mandatory authorization for export and import of natural gas discriminates against Plaintiffs by exacerbating already-dangerous levels of atmospheric CO₂ and a dangerous climate system, the consequences of which will be irreversible and catastrophic in Plaintiffs' lifetimes. The Energy Policy Act, section 201, creates a disproportionate impact on suspect classes. Historical evidence demonstrates Defendants' discriminatory and intentional acts

against children and future generations in order to foster the short-term economic and energy interests of other classes, including corporations. The Energy Policy Act unconstitutionally deprives minor children and future generations of equal protection of the law because the full impacts of excess atmospheric CO₂ and the dangerous climate system, resulting from the U.S. government-authorized natural gas exports and imports, will be disproportionately imposed upon minor children, including Youth Plaintiffs, and for millennia by future generations.

300. Section 201 of the Energy Policy Act violates Plaintiffs' rights of equal protection under the law.

301. The affirmative aggregate acts of Defendants unconstitutionally favor the present, temporary economic benefits of certain citizens, especially corporations, over Plaintiffs' rights to life, liberty, and property.

WHEREFORE, Plaintiffs pray for relief as more fully set forth below.

Third Claim for Relief
The Unenumerated Rights Preserved for the People
by the Ninth Amendment

302. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

303. Protecting the vital natural systems of our nation for present and future generations is fundamental to our scheme of ordered liberty and is deeply rooted in this nation's history and tradition. Without a stable climate system, both liberty and justice are in peril. Our nation's obligation to protect vital natural systems for Posterity has been recognized throughout American history, particularly through our country's conservation legislation. Our nation's founders intended that the federal government would have both the authority and the responsibility to be a steward of our country's essential natural resources. This stewardship is

clear from the delegation of powers to manage lands and the conveyed authority to address major challenges facing our nation as a whole. Among the implicit liberties protected from government intrusion by the Ninth Amendment is the right to be sustained by our country's vital natural systems, including our climate system.

304. Fundamental to our scheme of ordered liberty, therefore, is the implied right to a stable climate system and an atmosphere and oceans that are free from dangerous levels of anthropogenic CO₂. Plaintiffs hold these inherent, inalienable, natural, and fundamental rights.

305. The affirmative aggregate acts of Defendants have unconstitutionally caused, and continue to materially contribute to, dangerous levels of atmospheric and oceanic CO₂ and a destabilized climate system.

306. The affirmative aggregate acts of Defendants have infringed, and continue to infringe, on Plaintiffs' fundamental constitutional rights.

WHEREFORE, Plaintiffs pray for relief as more fully set forth below.

Fourth Claim for Relief
Violation of the Public Trust Doctrine

307. Plaintiffs hereby re-allege and incorporate by reference each of the allegations set forth above.

308. Plaintiffs are beneficiaries of rights under the public trust doctrine, rights that are secured by the Ninth Amendment and embodied in the reserved powers doctrines of the Tenth Amendment and the Vesting, Nobility, and Posterity Clauses of the Constitution. These rights protect the rights of present and future generations to those essential natural resources that are of public concern to the citizens of our nation. These vital natural resources include at least the air (atmosphere), water, seas, the shores of the sea, and wildlife. The overarching public trust resource is our country's life-sustaining climate system, which encompasses our atmosphere,

waters, oceans, and biosphere. Defendants must take affirmative steps to protect those trust resources.

309. As sovereign trustees, Defendants have a duty to refrain from “substantial impairment” of these essential natural resources. The affirmative aggregate acts of Defendants in the areas of fossil fuel production and consumption have unconstitutionally caused, and continue to cause, substantial impairment to the essential public trust resources. Defendants have failed in their duty of care to safeguard the interests of Plaintiffs as the present and future beneficiaries of the public trust. Such abdication of duty abrogates the ability of succeeding members of the Executive Branch and Congress to provide for the survival and welfare of our citizens and to promote the endurance of our nation.

310. As sovereign trustees, the affirmative aggregate acts of Defendants are unconstitutional and in contravention of their duty to hold the atmosphere and other public trust resources in trust. Instead, Defendants have alienated substantial portions of the atmosphere in favor of the interests of private parties so that these private parties can treat our nation’s atmosphere as a dump for their carbon emissions. Defendants have failed in their duty of care as trustees to manage the atmosphere in the best interests of the present and future beneficiaries of the trust property, including, but not limited to, Plaintiffs. Such abdication of duty abrogates the sovereign powers of succeeding members of the Executive Branch and Congress to provide for the survival and welfare of our Nation’s citizens and to promote the endurance of our Nation.

WHEREFORE, Plaintiffs pray for relief as more fully set forth below.

PRAYER FOR RELIEF

“[W]hen the rights of persons are violated, ‘the Constitution requires redress by the courts,’ notwithstanding the more general value of democratic decisionmaking.” *Obergefell v. Hodges*, 576 U.S. ____, slip. op. at 24 (2015) (internal citations omitted).

1. Declare that Defendants have violated and are violating Plaintiffs’ fundamental constitutional rights to life, liberty, and property by substantially causing or contributing to a dangerous concentration of CO₂ in the atmosphere, and that, in so doing, Defendants dangerously interfere with a stable climate system required by our nation and Plaintiffs alike;
2. Enjoin Defendants from further violations of the Constitution underlying each claim for relief;
3. Declare the Energy Policy Act, Section 201, to be unconstitutional on its face;
4. Declare DOE/FE Order No. 3041, granting long-term multi-contract authorization to Jordan Cove Energy for LNG exports from its Coos Bay terminal, to be unconstitutional as applied and set it aside;
5. Declare Defendants’ public trust violations and enjoin Defendants from violating the public trust doctrine underlying each claim for relief;
6. Order Defendants to prepare a consumption-based inventory of U.S. CO₂ emissions;
7. Order Defendants to prepare and implement an enforceable national remedial plan to phase out fossil fuel emissions and draw down excess atmospheric CO₂ so as to stabilize the climate system and protect the vital resources on which Plaintiffs now and in the future will depend;
8. Retain jurisdiction over this action to monitor and enforce Defendants’ compliance with the national remedial plan and all associated orders of this Court; and

9. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 10th day of September, 2015,

s/ Julia A. Olson

JULIA OLSON (OR Bar 062230)

JuliaAOlson@gmail.com

WILD EARTH ADVOCATES

1216 Lincoln St.

Eugene, OR 97401

Tel: (415) 786-4825

PHILIP L. GREGORY (applicant *pro hac vice*)

pgregory@cpmlegal.com

COTCHETT, PITRE & McCARTHY, LLP

San Francisco Airport Office Center

840 Malcolm Road

Burlingame, CA 94010

Tel: (650) 697-6000

Fax: (650) 697-0577

DANIEL M. GALPERN (OR Bar 061950)

dan.galpern@gmail.com

LAW OFFICES OF DANIEL M. GALPERN

1641 Oak Street

Eugene, OR 97401

Tel: (541) 968-7164

Attorneys for Plaintiffs

PROTECTIVE ORD,STAYED

U.S. District Court
District of Oregon (Eugene (6))
CIVIL DOCKET FOR CASE #: 6:15-cv-01517-AA

Juliana, et al v United States of America, et al
Assigned to: Judge Ann L. Aiken
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 08/12/2015
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Date Filed	#	Docket Text
08/12/2015	<u>1</u>	Complaint. <i>for Declaratory and Injunctive Relief</i> Filing fee in the amount of \$400 collected. Agency Tracking ID: 0979-4236704 Jury Trial Requested: No. Filed by Miko V., Nicholas V., Sahara V., Nathaniel B., Xiuhtezcatl Tonatiuh M., Earth Guardians, Kelsey Cascadia Rose Juliana, Aji P., Future Generations, Victoria B., Sophie K., Avery M., Alexander Loznak, Tia Hatton, Hazel V., Jayden F., Journey Z., Jaime B., Kiran Oommen, Jacob Lebel, Levi D., Isaac V., Zealand B. against All Defendants (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3). (Olson, Julia) (Entered: 08/12/2015)
08/12/2015	<u>2</u>	Proposed Summons (Attachments: # <u>1</u> Civil Cover Sheet) Filed by All Plaintiffs. (Olson, Julia) (Entered: 08/12/2015)
08/12/2015	<u>3</u>	Notice of Case Assignment to Magistrate Judge Thomas M. Coffin and Discovery and Pretrial Scheduling Order. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. Discovery is to be completed by 12/10/2015. Joint Alternate Dispute Resolution Report is due by 1/11/2016. Pretrial Order is due by 1/11/2016. Ordered by Magistrate Judge Thomas M. Coffin. (kf) (Entered: 08/12/2015)
08/13/2015	<u>4</u>	Summons Issued Electronically as to Ashton Carter, Shaun Donovan, Anthony Foxx, Christy Goldfuss, John Holdren, Sally Jewell, John Kerry, Gina McCarthy, Ernest Moniz, Barack Obama, Office of the President of the United States, Penny Pritzker, United States Department of Agriculture, United States Department of Commerce, United States Department of Defense, United States Department of Energy, United States Department of Interior, United States Department of State, United States Department of Transportation, United States Environmental Protection Agency, Thomas J. Vilsack. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. (kf) (Entered: 08/13/2015)
08/14/2015	<u>5</u>	Proposed Summons Filed by All Plaintiffs. (Olson, Julia) (Entered: 08/14/2015)
08/19/2015	<u>6</u>	Summons Issued Electronically as to United States of America. NOTICE: Counsel shall print and serve the summonses and all documents issued by the Clerk at the time of filing upon all named parties in accordance with Local Rule 3-5. (kf) (Entered: 08/19/2015)
09/10/2015	<u>7</u>	First Amended Complaint <i>for Declaratory and Injunctive Relief</i> . Filed by Nicholas V., Sahara V., Xiuhtezcatl Tonatiuh M., Nathaniel B., Kelsey Cascadia Rose Juliana, Aji P., Victoria B., Jaime B., Jayden F., Isaac V., Miko V., Earth Guardians, Future Generations, Sophie K., Avery M., Alexander Loznak, Tia Marie Hatton, Hazel V., Journey Z., Kiran Isaac Oommen, Jacob Lebel, Levi D., Zealand B. against All Defendants (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3). (Olson, Julia) (Entered: 09/10/2015)
09/15/2015	<u>8</u>	Notice of Appearance of Justin Torres appearing on behalf of All Defendants Filed by on behalf of All Defendants (Torres, Justin) (Entered: 09/15/2015)
09/21/2015	<u>9</u>	Motion for Leave to Appear Pro Hac Vice <i>for Attorney Philip L. Gregory</i> . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-4293065. Filed by All Plaintiffs. (Galpern, Daniel) (Entered: 09/21/2015)

09/23/2015	<u>10</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Philip L. Gregory for Jaime B.,Philip L. Gregory for Nathaniel B.,Philip L. Gregory for Victoria B.,Philip L. Gregory for Zealand B.,Philip L. Gregory for Levi D.,Philip L. Gregory for Earth Guardians,Philip L. Gregory for Jayden F.,Philip L. Gregory for Future Generations,Philip L. Gregory for Tia Marie Hatton,Philip L. Gregory for Kelsey Cascadia Rose Juliana,Philip L. Gregory for Sophie K.,Philip L. Gregory for Jacob Lebel,Philip L. Gregory for Alexander Loznak,Philip L. Gregory for Avery M.,Philip L. Gregory for Xiuhtezcatl Tonatiuh M.,Philip L. Gregory for Kiran Isaac Oommen,Philip L. Gregory for Aji P.,Philip L. Gregory for Hazel V.,Philip L. Gregory for Isaac V.,Philip L. Gregory for Miko V.,Philip L. Gregory for Nicholas V.,Philip L. Gregory for Sahara V.,Philip L. Gregory for Journey Z.. Application Fee in amount of \$100 collected. Receipt No. 0979-4293065 issued. Signed on 9/23/15 by Magistrate Judge Thomas M. Coffin. (ljb) (Entered: 09/24/2015)
09/23/2015	11	Notification of CM/ECF Account for Attorney Philip L. Gregory (appearing <i>Pro Hac Vice</i>). Your login is: plgregory . Go to the CM/ECF login page to set your password. (ljb) (Entered: 09/24/2015)
09/28/2015	<u>12</u>	Consent Motion for Extension of Time to Answer <i>or File Responsive Pleading</i> . Filed by All Defendants. (Attachments: # <u>1</u> Proposed Order) (Torres, Justin) (Entered: 09/28/2015)
10/19/2015	13	ORDER: Granting Motion for Extension of Time to Answer <u>12</u> . Answer is due by 11/13/2015. Response to any motions filed by defendants pursuant to Fed. R. Civ. P. 12 are due by 12/11/2015. Reply in support of any motions filed by defendants pursuant to Fed. R. Civ. P. 12 are due by 12/30/2015. Oral Argument on any motions will set after the motions have been filed. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 10/19/2015)
11/12/2015	<u>14</u>	Motion to Intervene . Oral Argument requested. Filed by The National Association of Manufacturers, American Fuel & Petrochemical Manufacturers, American Petroleum Institute. (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>15</u>	Memorandum in Support of <i>Motion to Intervene</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to intervene <u>14</u> .) (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>16</u>	Declaration of Dr. Chad Moutray of the <i>National Association of Manufacturers in Support of Proposed Intervenor-Defendants' Motion for Intervention</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to intervene <u>14</u> .) (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>17</u>	Declaration of Howard J. Feldman of the <i>American Petroleum Institute in Support of Proposed Intervenor-Defendants' Motion for Intervention</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to intervene <u>14</u> .) (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>18</u>	Declaration of David Friedman of <i>American Fuel & Petrochemical Manufacturers in Support of Proposed Intervenor-Defendants' Motion for Intervention</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to intervene <u>14</u> .) (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>19</u>	Motion to Dismiss Filer is subject to the requirements of Fed. R. Civ. P. 7.1, Motion to Dismiss for Failure to State a Claim . Oral Argument requested. Filed by The National Association of Manufacturers, American Fuel & Petrochemical Manufacturers, American Petroleum Institute. (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>20</u>	Memorandum in Support of <i>Intervenor-Defendants' Motion to Dismiss</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to Dismiss, Motion to Dismiss for Failure to State a Claim,, <u>19</u> .) (Eckert, C.) (Entered: 11/12/2015)

11/12/2015	<u>21</u>	Motion for Leave to Appear Pro Hac Vice <i>for Attorney Quin M. Sorenson</i> . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-4366747. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>22</u>	Motion for Leave to Appear Pro Hac Vice <i>for Attorney Benjamin E. Tannen</i> . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-4366779. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 11/12/2015)
11/12/2015	<u>23</u>	Motion for Leave to Appear Pro Hac Vice <i>for Attorney Roger R. Martella, Jr.</i> . Filing fee in the amount of \$100 collected; Agency Tracking ID: 0979-4366788. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 11/12/2015)
11/13/2015	<u>24</u>	Corporate Disclosure Statement <i>Intervenor-Defendants' Corporate Disclosure Statement</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 11/13/2015)
11/13/2015	<u>25</u>	Consent Motion for Extension of Time to Answer <i>or File Responsive Pleading</i> . Filed by All Defendants. (Attachments: # <u>1</u> Proposed Order) (Torres, Justin) (Entered: 11/13/2015)
11/16/2015	26	ORDER: Granting Motion for Extension of Time to Answer <u>25</u> . Answer is due by 11/18/2015. Response to any motions filed by defendants pursuant to Fed. R. Civ. P. 12 are due by 12/16/2015. Reply in support of any motions filed by defendants pursuant to Fed. R. Civ. P. 12 are due by 12/31/2015. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 11/16/2015)
11/16/2015	<u>28</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Roger R. Martella, Jr for American Fuel & Petrochemical Manufacturers,Roger R. Martella, Jr for American Petroleum Institute,Roger R. Martella, Jr for The National Association of Manufacturers. Application Fee in amount of \$100 collected. Receipt No. 0979-4366788 issued. Signed on 11/16/15 by Magistrate Judge Thomas M. Coffin. (ljb) (Entered: 11/19/2015)
11/16/2015	<u>29</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Benjamin E. Tannen for American Fuel & Petrochemical Manufacturers,Benjamin E. Tannen for American Petroleum Institute,Benjamin E. Tannen for The National Association of Manufacturers. Application Fee in amount of \$100 collected. Receipt No. 0979-4366779 issued. Signed on 11/16/15 by Magistrate Judge Thomas M. Coffin. (ljb) (Entered: 11/19/2015)
11/16/2015	30	Notification of CM/ECF Account for Attorney Benjamin E. Tannen (<i>Pro Hac Vice</i> admission). Your login is: betannen . Go to the CM/ECF login page to set your password. (ljb) (Entered: 11/19/2015)
11/16/2015	<u>31</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Quin M. Sorenson for American Fuel & Petrochemical Manufacturers,Quin M. Sorenson for American Petroleum Institute,Quin M. Sorenson for The National Association of Manufacturers. Application Fee in amount of \$100 collected. Receipt No. 0979-4366747 issued. Signed on 11/16/15 by Magistrate Judge Thomas M. Coffin. (ljb) (Entered: 11/19/2015)
11/16/2015	32	Notification of CM/ECF Account for Attorney Quin M. Sorenson (<i>Pro Hac Vice</i> admission). Your login is: qmsorenson . Go to the CM/ECF login page to set your password. (ljb) (Entered: 11/19/2015)
11/17/2015	<u>27</u>	Motion to Dismiss for Failure to State a Claim , Motion to Dismiss for Lack of Jurisdiction . Oral Argument requested. Filed by All Defendants. (Attachments: # <u>1</u> Memorandum of Points & Authorities, # <u>2</u> Exhibit Declaration of Cassandra Bernstein, # <u>3</u> Proposed Order) (Torres, Justin) (Entered: 11/17/2015)
11/30/2015	<u>33</u>	Response in Opposition to Motion to Intervene <u>14</u> Oral Argument requested. Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment Declaration of Julia A. Olson In Support of Plaintiffs' REsponse in Opposition to Motion to Intervene) (Olson, Julia) (Entered: 11/30/2015)

12/11/2015	<u>34</u>	Notice of Attorney Substitution: Attorney Sean C. Duffy is substituted as counsel of record in place of Attorney Justin Torres Filed by All Defendants (Duffy, Sean) (Entered: 12/11/2015)
12/11/2015	<u>35</u>	Consent Motion for Extension of Time to File a Response/Reply to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Proposed Order) (Olson, Julia) (Entered: 12/11/2015)
12/15/2015	<u>36</u>	ORDER: Granting Motion for Extension of Time to File Response/Reply to Motion to Dismiss <u>27</u> filed by United States Department of Interior, Thomas J. Vilsack, Barack Obama, Christy Goldfuss, Penny Pritzker, Gina McCarthy, John Holdren, Shaun Donovan, Office of the President of the United States, United States Department of Commerce, Anthony Foxx, John Kerry, United States Department of Defense, United States Department of Transportation, Ashton Carter, Sally Jewell, United States of America, United States Department of Agriculture, United States Department of State, Ernest Moniz, United States Department of Energy, United States Environmental Protection Agency. Response is due by 1/6/2016. Reply is due by 2/3/2016. Oral Argument is set for 2/17/2016 at 02:00PM in Eugene Courtroom 4 before Magistrate Judge Thomas M. Coffin. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 12/15/2015)
12/17/2015	<u>37</u>	Reply <i>in Support of Proposed Intervenor-Defendants' Motion to Intervene</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion to intervene <u>14</u> .) (Eckert, C.) (Entered: 12/17/2015)
12/21/2015	<u>38</u>	Scheduling Order by Magistrate Judge Thomas M. Coffin regarding Motion to Intervene <u>14</u> . Oral Argument is set for 1/13/2016 at 02:00PM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. The court will initiate the call. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 12/21/2015)
01/05/2016	<u>39</u>	Motion to File Excess Pages <i>on January 6, 2016 Response</i> re Order on motion for extension of time to file Response/Reply,,, <u>36</u> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Proposed Order) (Olson, Julia) (Entered: 01/05/2016)
01/06/2016	<u>40</u>	ORDER: Granting Motion to File Excess Pages <u>39</u> . Plaintiffs are allowed to file a response in opposition to the motion to dismiss <u>27</u> not to exceed 45 pages. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 01/06/2016)
01/06/2016	<u>41</u>	Response in Opposition to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> , Consent Motion for Extension of Time to File a Response/Reply to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> <u>35</u> , Motion to File Excess Pages <i>on January 6, 2016 Response</i> re Order on motion for extension of time to file Response/Reply,,, <u>36</u> <u>39</u> Oral Argument requested. Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment Declaration of Alex Loznak in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>2</u> Attachment Declaration of Avery M. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>3</u> Attachment Declaration of Jacob Lebel in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>4</u> Attachment Declaration of Jaime B. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>5</u> Attachment Declaration of Journey Z. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>6</u> Attachment Declaration of Kelsey Juliana in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>7</u> Attachment Declaration of Levi D. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>8</u> Attachment Declaration of Sahara V. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>9</u> Attachment Declaration of Victoria B. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>10</u> Attachment Declaration of Xiuhtezcatl M. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss, # <u>11</u> Attachment Declaration of Zealand B. in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss) (Olson, Julia) (Entered: 01/06/2016)
01/06/2016	<u>42</u>	Supplemental Declaration of Dr. James E. Hansen <i>in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3) (Olson, Julia) (Entered: 01/06/2016)

01/06/2016	<u>43</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> .) (Olson, Julia) (Entered: 01/06/2016)
01/06/2016	<u>44</u>	Declaration of Dr. Michael C. MacCracken <i>in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> .) (Olson, Julia) (Entered: 01/06/2016)
01/06/2016	<u>45</u>	Proposed Form of Order Submitted <i>Denying Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 01/06/2016)
01/06/2016	<u>46</u>	Declaration of John E. Davidson <i>in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> .) (Olson, Julia) (Entered: 01/06/2016)
01/08/2016	<u>47</u>	Supplemental Declaration of Dr. James E. Hansen <i>Corrected with Caption</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3) (Olson, Julia) (Entered: 01/08/2016)
01/12/2016	<u>48</u>	ORDER: The order setting oral argument on the Motion to Intervene <u>14</u> <u>38</u> is amended as follows: parties who wish to participate in the hearing are ordered to call into the Court's conference line no less than 5 minutes prior to the scheduled hearing. The conference information will be be sent to the parties by separate e-mail. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 01/12/2016)
01/13/2016	<u>49</u>	MINUTES of Proceedings: Telephone Motion Hearing. Order granting Motion to Intervene <u>14</u> . Formal order to follow. Response to Intervenor's Motion to Dismiss <u>19</u> is due by 2/2/2016. Oral Argument re: Motions to Dismiss <u>19</u> and <u>27</u> is reset from 2/17/2016 to 3/9/2016 at 10:00AM in Eugene Courtroom 4 before Magistrate Judge Thomas M. Coffin Julia Olson; Philip Gregory; Daniel Galpern present as counsel for plaintiffs. Sean Duffy present as counsel for defendants. Marie Eckert; Quin Sorenson present as counsel for intervenors. (Court Reporter Deborah Bonds.) Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 01/13/2016)
01/14/2016	<u>50</u>	ORDER: Granting Motion to Intervene <u>14</u> . Signed on 1/14/2016 by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 01/14/2016)
01/15/2016	<u>51</u>	Motion to Appear as Amicus Curiae . Filed by Global Catholic Climate Movement and Leadership Council of Women Religious. (Attachments: # <u>1</u> Attachment AMICI CURIAE BRIEF IN SUPPORT OF PLAINTIFFS) (Tebbutt, Charles) (Entered: 01/15/2016)
01/27/2016	<u>52</u>	Consent Motion for Extension of Time to File a Response/Reply to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 01/27/2016)
02/01/2016	<u>53</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 1/13/2016 before Judge Thomas M. Coffin, Court Reporter Deborah M. Bonds, telephone number 541-485-0111. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 2/11/2016. Redaction Request due 2/25/2016. Redacted Transcript Deadline set for 3/7/2016. Release of Transcript Restriction set for 5/5/2016. (Anderson, Kristi) (Entered: 02/01/2016)
02/02/2016	<u>54</u>	ORDER: Granting Motion for Extension of Time to File Reply to Motion to Dismiss for Failure to State a Claim, Motion to Dismiss for Lack of Jurisdiction <u>27</u> filed by United States Department of Interior, Thomas J. Vilsack, Barack Obama, Christy Goldfuss, Penny Pritzker, Gina McCarthy, John Holdren, Shaun Donovan, Office of the President of the United States, United States Department of Commerce, Anthony Foxx, John Kerry, United States Department of Defense, United States Department of Transportation, Ashton Carter, Sally Jewell, United States of America, United States Department of Agriculture, United States Department of State, Ernest Moniz, United States Department of Energy, United States Environmental Protection Agency. Reply is due by 2/10/2016. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 02/02/2016)

02/02/2016	<u>55</u>	ORDER: Granting Motion to Appear as Amicus Curiae <u>51</u> . Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 02/02/2016)
02/02/2016	<u>56</u>	Response in Opposition to Motion to Dismiss Filer is subject to the requirements of Fed. R. Civ. P. 7.1 Motion to Dismiss for Failure to State a Claim <u>19</u> Oral Argument requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 02/02/2016)
02/10/2016	<u>57</u>	Reply to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 02/10/2016)
02/10/2016	<u>58</u>	Motion to Strike . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 02/10/2016)
02/19/2016	<u>59</u>	Reply <i>Entitled Reply in Support of Intervenor–Defendants' Motion to Dismiss</i> to Motion to Dismiss Filer is subject to the requirements of Fed. R. Civ. P. 7.1 Motion to Dismiss for Failure to State a Claim <u>19</u> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 02/19/2016)
02/24/2016	<u>60</u>	Amicus Motion to Appear as Amicus Curiae . Filed by John Davidson. (Blackwell, Michelle) (Entered: 02/24/2016)
02/24/2016	<u>61</u>	Response in Opposition to Motion to Strike <u>58</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 02/24/2016)
03/03/2016	<u>62</u>	Response in Opposition to Amicus Motion to Appear as Amicus Curiae <u>60</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 03/03/2016)
03/07/2016	<u>63</u>	Notice of Case Reassignment: This case has been reassigned from Magistrate Judge Thomas M. Coffin to Magistrate Judge Jolie A. Russo. (eo) (Entered: 03/07/2016)
03/07/2016	<u>64</u>	Notice of Case Reassignment: This case has been reassigned from Magistrate Judge Jolie A. Russo to Magistrate Judge Thomas M. Coffin. <i>NOTE: This case was reassigned from Judge Coffin to Judge Russo in error. This reassignment corrects that error and reassigns the case back to Judge Coffin.</i> (eo) (Entered: 03/07/2016)
03/07/2016	<u>65</u>	Response <i>Entitled: Intervenor's Opposition to Motion for Leave to File Amicus Curiae Brief [ECF No. 60]</i> to Amicus Motion to Appear as Amicus Curiae <u>60</u> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 03/07/2016)
03/09/2016	66	MINUTES of Proceedings: Motion Hearing Held regarding Motion to Dismiss <u>27</u> and Motion to Dismiss <u>19</u> . Motions are taken under advisement as of 3/14/2016. Julia Olson present as counsel for plaintiffs. Sean Duffy present as counsel for defendants. Quin Sorenson present as counsel for intervenors. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 03/09/2016)
04/05/2016	<u>67</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 3/9/2016 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541–431–4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER–See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 4/15/2016. Redaction Request due 4/29/2016. Redacted Transcript Deadline set for 5/9/2016. Release of Transcript Restriction set for 7/8/2016. (Anderson, Kristi) (Entered: 04/05/2016)
04/08/2016	<u>68</u>	Order and Findings & Recommendation: Order denying Motion to Strike <u>58</u> . Findings & Recommendation: Motion to Dismiss <u>19</u> , Motion to Dismiss for Failure to State a Claim and Motion to Dismiss for Lack of Jurisdiction <u>27</u> should be denied. Objections to the Findings and Recommendation are due by 4/25/2016. Signed on 4/8/2016 by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 04/08/2016)
04/08/2016	69	Order referring Motion to Dismiss <u>19</u> , Findings & Recommendation <u>68</u> , Motion to Dismiss <u>27</u> to Judge Ann L. Aiken. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 04/08/2016)
04/08/2016	70	ORDER: Granting Motion to Appear as Amicus Curiae <u>60</u> . Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 04/08/2016)

04/20/2016	<u>71</u>	Unopposed Motion for Extension of Time to File an Objection to <i>Findings and Recommendation</i> to <u>68</u> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 04/20/2016)
04/20/2016	<u>72</u>	ORDER: Granting Motion for Extension of Time to File Objection to F & R <u>71</u> . Objections to the Findings and Recommendation are due by 5/2/2016. Ordered by Judge Ann L. Aiken. (rh) (Entered: 04/20/2016)
05/02/2016	<u>73</u>	Objections to Findings & Recommendation: Motion to Dismiss Filer is subject to the requirements of Fed. R. Civ. P. 7.1 Motion to Dismiss for Failure to State a Claim <u>19</u> , Motion to Dismiss for Failure to State a Claim Motion to Dismiss <u>68</u> Oral Argument requested. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 05/02/2016)
05/02/2016	<u>74</u>	Objections to Motion to Dismiss for Failure to State a Claim Motion to Dismiss for Lack of Jurisdiction <u>27</u> , Findings & Recommendation: Motion to Dismiss Filer is subject to the requirements of Fed. R. Civ. P. 7.1 Motion to Dismiss for Failure to State a Claim <u>19</u> , Motion to Dismiss for Failure to State a Claim Motion to Dismiss <u>68</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 05/02/2016)
05/16/2016	<u>75</u>	Response to Objections to Findings & Recommendation. <i>of Federal Defendants</i> Related document(s): <u>74</u> Objections to Findings & Recommendation,. Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 05/16/2016)
05/16/2016	<u>76</u>	Response to Objections to Findings & Recommendation. <i>of Intervenor Defendants</i> Related document(s): <u>73</u> Objections to Findings & Recommendation,. Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/16/2016)
06/08/2016	<u>77</u>	Scheduling Order by Judge Ann L. Aiken regarding Findings & Recommendation <u>68</u> : Motion to Dismiss <u>19</u> , Motion to Dismiss for Failure to State a Claim and Motion to Dismiss for Lack of Jurisdiction <u>27</u> should be denied. Oral Argument is set for 9/13/2016 at 10:00AM in Eugene Courtroom 1 before Judge Ann L. Aiken. Ordered by Judge Ann L. Aiken. (rh) (Entered: 06/08/2016)
09/07/2016	<u>78</u>	Declaration of Jayden F <i>in Support of Plaintiffs' Opposition to Defendants' Motion to Dismiss</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion,,,,,, <u>41</u> , Response to Objections to Findings & Recommendation <u>76</u> , Response to Objections to Findings & Recommendation <u>75</u> , Response in Opposition to Motion, <u>56</u> .) (Attachments: # <u>1</u> Exhibit A) (Olson, Julia) (Entered: 09/07/2016)
09/12/2016	<u>79</u>	Motion to Appear as Amicus Curiae . Filed by League of Women Voters of the United States/League of Women Voters of Oregon. (Attachments: # <u>1</u> Proposed Document) (Eiva, Travis) (Entered: 09/12/2016)
09/12/2016	<u>80</u>	Notice re Response in Opposition to Motion <u>41</u> , Response to Objections to Findings & Recommendation <u>76</u> , Response to Objections to Findings & Recommendation <u>75</u> , Response in Opposition to Motion, <u>56</u> <i>of Supplemental Authority</i> Filed by All Plaintiffs (Related document(s): Response in Opposition to Motion <u>41</u> , Response to Objections to Findings & Recommendation <u>76</u> , Response to Objections to Findings & Recommendation <u>75</u> , Response in Opposition to Motion, <u>56</u> .) (Olson, Julia) Modified to correct typos on 9/14/2016 (ljb). (Entered: 09/12/2016)
09/13/2016	<u>81</u>	MINUTES of Proceedings: Motion Hearing Held regarding Motion to Dismiss for Failure to State a Claim, Motion to Dismiss/Lack of Jurisdiction <u>27</u> , Motion to Dismiss, Motion to Dismiss for Failure to State a Claim <u>19</u> , and Findings & Recommendation <u>68</u> . Motions are taken under advisement as of 9/19/2016. Julia Olson present as counsel for plaintiffs. Sean Duffy present as counsel for defendants. Quin Sorenson present as counsel for intervenors. Court Reporter: Kristi Anderson. Judge Ann L. Aiken presiding. (plb) (Entered: 09/29/2016)
10/06/2016	<u>82</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 9/13/16 before Judge Ann Aiken, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 10/17/2016.

		Redaction Request due 10/31/2016. Redacted Transcript Deadline set for 11/10/2016. Release of Transcript Restriction set for 1/9/2017. (Anderson, Kristi) (Entered: 10/06/2016)
11/10/2016	<u>83</u>	ORDER: Granting Findings and Recommendation. The Court adopts Judge Coffin's Findings & Recommendation <u>68</u> , as elaborated in this opinion. Defendants' Motion to Dismiss <u>27</u> and Intervenor's Motion to Dismiss <u>19</u> are DENIED. <u>68</u> . Signed on 11/10/2016 by Judge Ann L. Aiken. (rr) (Entered: 11/10/2016)
11/10/2016	84	ORDER: Denying Motion to Dismiss <u>19</u> ; Denying <u>19</u> Motion to Dismiss for Failure to State a Claim. See, formal Order and Opinion <u>83</u> Ordered on 11/10/2016 by Judge Ann L. Aiken. (rr) (Entered: 11/10/2016)
11/10/2016	85	ORDER: Denying <u>27</u> Motion to Dismiss for Failure to State a Claim; Denying Motion to Dismiss Case for Lack of Jurisdiction <u>27</u> . See, formal Order and Opinion <u>83</u> . Ordered on 11/10/2016 by Judge Ann L. Aiken. (rr) (Entered: 11/10/2016)
11/14/2016	86	Scheduling Order by Magistrate Judge Thomas M. Coffin. Rule 16 Conference is set for 11/28/2016 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. Call-in information will be sent to the parties by separate order. The parties are ordered to call in at least five (5) minutes prior to the scheduled hearing. The parties should be prepared to discuss the status of discovery, any actual or potential discovery related conflicts, magistrate consent, potential trial dates, other issues presented by this action, and proposed modifications to the schedule outlined in the initial Discovery and Pretrial Scheduling Ordered issued by the court at the commencement of the action. The parties additionally should be prepared to discuss Alternate Dispute Resolution (ADR) pursuant to L.R. 16.4. Pursuant to this minute order the parties are relieved of their responsibility set forth in the Discovery and Pretrial Scheduling Order, Section (c). Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 11/14/2016)
11/18/2016	<u>87</u>	Motion for Extension of Time to Answer <i>First</i> Amended Complaint,, <u>7</u> . Filed by The National Association of Manufacturers, American Fuel & Petrochemical Manufacturers, American Petroleum Institute. (Eckert, C.) (Entered: 11/18/2016)
11/18/2016	<u>88</u>	Motion for Extension of Time to Answer . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 11/18/2016)
11/22/2016	<u>89</u>	Response <i>in Opposition</i> to Motion for Extension of Time to Answer <u>88</u> , Motion for Extension of Time to Answer <i>First</i> Amended Complaint,, <u>7</u> <u>87</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/22/2016)
11/22/2016	90	ORDER: Granting Motions for Extension of Time to Answer <u>87</u> and <u>88</u> insofar as the current answer deadlines of 11/28/2016 are vacated. In addition to hearing from the parties regarding a discovery and pretrial schedule, the court will hear further argument with regard to the requested answer deadlines by defendants and intervenor defendants at the Rule 16 Conference set for 11/28/2016 at 10:00AM by Telephone before Magistrate Judge Thomas M. Coffin. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 11/22/2016)
11/28/2016	91	MINUTES of Proceedings: Telephone Rule 16 Conference. Order granting Motions for Extension of Time to Answer <u>87</u> and <u>88</u> . Intervenor Defendants' answers are due by 12/15/2016. Defendants' answers are due by 1/13/2017. No further extensions of time will be allowed. Parties are ordered to meet and confer after answers are filed regarding a pretrial schedule and to file status reports by 1/31/2017 with a proposed schedule. Rule 16 Conference is continued to 2/7/2017 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. Call-in information will be sent by separate order. The parties are ordered to call in at least 5 minutes before the scheduled hearing. Julia Olson; Philip Gregory present as counsel for plaintiffs. Sean Duffy present as counsel for defendants. Benjamin Tannen; Marie Eckert; Quin Sorenson present as counsel for intervenor defendants. (Court Reporter Kristi Anderson.)Magistrate Judge Thomas M. Coffin presiding. (plb) Added counsel present for intervenor defendants on 1/11/2017 (plb). (Entered: 11/30/2016)
11/30/2016	92	ORDER: Granting Motion to Appear as Amicus Curiae <u>79</u> . Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 11/30/2016)

12/15/2016	<u>93</u>	Answer to <u>7</u> Amended Complaint,, <i>Titled: Intervenor–Defendants' Answer to First Amended Complaint for Declaratory and Injunctive Relief</i> . Filed by The National Association of Manufacturers, American Fuel & Petrochemical Manufacturers, American Petroleum Institute. (Eckert, C.) (Entered: 12/15/2016)
01/04/2017	<u>94</u>	Notice of Attorney Withdrawal: <i>Titled: Intervenor–Defendants' Notice of Withdrawal of Attorney Quin M. Sorenson</i> Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers (Eckert, C.) (Entered: 01/04/2017)
01/04/2017	<u>95</u>	Motion for Leave to Appear Pro Hac Vice <i>for Attorney Frank R. Volpe</i> . Filing fee in the amount of \$300 collected; Agency Tracking ID: 0979–4860282. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 01/04/2017)
01/10/2017	<u>96</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Frank R. Volpe for American Fuel & Petrochemical Manufacturers, Frank R. Volpe for American Petroleum Institute, Frank R. Volpe for The National Association of Manufacturers. Application Fee in amount of \$300 collected. Receipt No. 0979–4860282 issued. Signed on 1/10/17 by Magistrate Judge Thomas M. Coffin. (ljb) (Entered: 01/11/2017)
01/10/2017	97	Notification of CM/ECF Account for Frank R. Volpe (<i>Pro Hac Vice</i> admission). Your login is: frvolpe . Go to <u>the CM/ECF login page</u> to set your password. (ljb) (Entered: 01/11/2017)
01/13/2017	<u>98</u>	Answer to <u>7</u> Amended Complaint,, . Filed by United States of America, Ashton Carter, United States Department of Energy, Office of the President of the United States, Sally Jewell, Anthony Foxx, Thomas J. Vilsack, United States Environmental Protection Agency, Barack Obama, Ernest Moniz, John Kerry, Christy Goldfuss, United States Department of State, Shaun Donovan, United States Department of Agriculture, John Holdren, United States Department of Commerce, United States Department of Transportation, Gina McCarthy, United States Department of Defense, United States Department of Interior. (Duffy, Sean) (Entered: 01/13/2017)
01/19/2017	99	Scheduling Order by Magistrate Judge Thomas M. Coffin. Discovery Hearing is set for 1/27/2017 at 09:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. Call-in information will be sent by separate order. The parties are ordered to call in at least 5 minutes prior to the scheduled hearing. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 01/19/2017)
01/24/2017	<u>100</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 11/28/2016 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541–431–4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER–See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 2/3/2017. Redaction Request due 2/17/2017. Redacted Transcript Deadline set for 2/27/2017. Release of Transcript Restriction set for 4/27/2017. (Anderson, Kristi) (Entered: 01/24/2017)
01/25/2017	<u>101</u>	Motion to Compel <i>DEPOSITION OF REX TILLERSON</i> . Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. (Attachments: # <u>1</u> Exhibit 1–3) (Gregory, Philip) (Entered: 01/25/2017)
01/25/2017	<u>102</u>	Brief <i>Intervenor–Defendants' Brief Regarding Notice of Deposition</i> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8) (Eckert, C.) (Entered: 01/25/2017)
01/25/2017	<u>103</u>	Brief <i>Setting Forth Federal Defendants Position on Discovery Dispute</i> . Filed by All Defendants. (Duffy, Sean) (Entered: 01/25/2017)
01/26/2017	<u>104</u>	Memorandum in Support <i>Reply in Support of Intervenor–Defendants Brief Regarding Notice of Deposition</i> . Filed by American Fuel & Petrochemical Manufacturers,

		American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Brief, <u>102</u>) (Eckert, C.) (Entered: 01/26/2017)
01/26/2017	<u>105</u>	Reply to Motion to Compel <i>DEPOSITION OF REX TILLERSON</i> <u>101</u> . Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. (Gregory, Philip) (Entered: 01/26/2017)
01/26/2017	<u>106</u>	Memorandum in Support <i>Federal Defendants' Position on Discovery Dispute</i> . Filed by All Defendants. (Duffy, Sean) (Entered: 01/26/2017)
01/27/2017	<u>107</u>	MINUTES of Proceedings: Telephone Discovery Hearing. Order Denying Motion to Compel <u>101</u> to the extent that Intervenor Defendants are not obligated to produce Rex Tillerson for deposition as he is no longer affiliated with Intervenor Defendants. The Rule 16 Conference is reset on 2/7/2017 at 10:00AM to occur in Eugene Courtroom 4 before Magistrate Judge Thomas M. Coffin. Philip Gregory; Daniel Galpern present as counsel for plaintiffs. Sean Duffy present as counsel for defendants. Marie Eckert; Frank Volpe present as counsel for intervenor defendants. (Court Reporter Kristi Anderson.) Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 01/27/2017)
01/31/2017	<u>108</u>	Status Report by All Defendants. Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit) (Duffy, Sean) (Entered: 01/31/2017)
01/31/2017	<u>109</u>	Status Report <i>titled Intervenor-Defendants' Status Report Re Discovery and Proposed Pre-trial Schedule</i> by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 01/31/2017)
01/31/2017	<u>110</u>	Status Report <i>with a proposed schedule</i> by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. (Gregory, Philip) Modified to correct typos on 2/1/2017 (ljb). (Entered: 01/31/2017)
02/03/2017	<u>111</u>	Exhibits <i>1 and 2</i> re Status Report,, <u>110</u> . Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. (Gregory, Philip) (Entered: 02/03/2017)
02/07/2017	<u>112</u>	MINUTES of Proceedings: Rule 16 Conference. Plaintiffs are ordered to disclose expert witnesses and make document requests within 45 days of this hearing. Status Conference is set for 3/8/2017 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. The parties are ordered to call into the court's conference line at least 5 minutes prior to the scheduled hearing. Call-in information will be sent by separate order. Julia Olson; Philip Gregory; Daniel Galpern present as counsel for plaintiffs. Sean Duffy; Marissa Piropato present as counsel for defendants. Marie Eckert; Frank Volpe present as counsel for intervenor defendants. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 02/07/2017)
02/07/2017	<u>113</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 1/27/2017 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 2/17/2017. Redaction Request due 3/3/2017. Redacted Transcript Deadline set for 3/13/2017. Release of Transcript Restriction set for 5/11/2017. (Anderson, Kristi) (Entered: 02/07/2017)

02/09/2017	<u>114</u>	Notice <i>Plaintiffs' Substitution of Parties Pursuant to Federal Rule of Civil Procedure, Rule 25(d)</i> Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z. (Gregory, Philip) (Entered: 02/09/2017)
02/17/2017	<u>115</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 2/7/2017 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 2/27/2017. Redaction Request due 3/13/2017. Redacted Transcript Deadline set for 3/23/2017. Release of Transcript Restriction set for 5/22/2017. (Anderson, Kristi) (Entered: 02/17/2017)
02/17/2017	<u>116</u>	Notice of Consent to Extend Deadline to Serve Answers and Objections to Plaintiffs' Requests for Admissions Filed by All Defendants (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 02/17/2017)
03/03/2017	<u>117</u>	Notice of Attorney Withdrawal: <i>Intervenor-Defendants' Notice of Withdrawal of Attorney Roger R. Martella, Jr.</i> Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers (Eckert, C.) (Entered: 03/03/2017)
03/03/2017	<u>118</u>	Motion for Leave to Appear Pro Hac Vice for Attorney Mark D. Hopson . Filing fee in the amount of \$300 collected; Agency Tracking ID: 0979-4927602. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 03/03/2017)
03/07/2017	<u>119</u>	Status Report <i>AS OF MARCH 7, 2017 WITH A PROPOSED SCHEDULE</i> by All Plaintiffs. Filed by All Plaintiffs. (Olson, Julia) (Entered: 03/07/2017)
03/07/2017	<u>120</u>	Motion for Leave to Appeal <i>Order Denying Motions to Dismiss</i> . Expedited Hearing requested. Filed by All Defendants. (Attachments: # <u>1</u> Attachment) (Duffy, Sean) (Entered: 03/07/2017)
03/07/2017	<u>121</u>	Motion for Stay . Expedited Hearing requested. Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 03/07/2017)
03/08/2017	<u>123</u>	MINUTES of Proceedings: Telephone Status Conference. Defendants are allowed 60 days from the date of this hearing to submit responses to plaintiffs' requests for admissions and documents. The parties' are ordered to file a Status Report by 3/31/2017. Status Conference is set for 4/7/2017 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. The parties are ordered to call into the court's conference line at least 5 minutes prior to the scheduled hearing. Call-in information will be sent by separate order. Julia Olson; Philip Gregory; Daniel Galpern present as counsel for plaintiffs. Peter Dykema; Sean Duffy; Marissa Piropato present as counsel for defendants. Frank Volpe present as counsel for intervenor defendants. Court Reporter: Jan Duiven. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 03/13/2017)
03/10/2017	<u>122</u>	Motion for Leave to Appeal <i>Order Denying Motions to Dismiss</i> . Expedited Hearing requested. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Attachments: # <u>1</u> Attachment) (Tannen, Benjamin) (Entered: 03/10/2017)
03/13/2017	<u>128</u>	ORDER: Granting Application for Special Admission <i>Pro Hac Vice</i> of Mark D. Hopson for American Fuel & Petrochemical Manufacturers, American Petroleum Institute, and for The National Association of Manufacturers. Application Fee in amount of \$300 collected. Receipt No. 0979-4927602 issued. Signed on 3/13/2017 by Magistrate Judge Thomas M. Coffin. (rdr) (Entered: 03/21/2017)
03/14/2017	<u>124</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Telephonic Status Conference held on March 8, 2017 before Judge Thomas M. Coffin, Court Reporter Jan Duiven, telephone number 541-485-0111. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through

		PACER—See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 3/21/2017. Redaction Request due 4/4/2017. Redacted Transcript Deadline set for 4/14/2017. Release of Transcript Restriction set for 6/12/2017. (cw) (Entered: 03/14/2017)
03/14/2017	<u>125</u>	Motion for Extension of Time to File a Response/Reply to Motion for Stay <u>121</u> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit Declaration of Philip L. Gregory in Support of Plaintiffs' Motion for Extension of Time, # <u>2</u> Exhibit Declaration of Julia A. Olson in Support of Plaintiffs Motion for Extension of Time) (Olson, Julia) (Entered: 03/14/2017)
03/17/2017	<u>126</u>	Response in Opposition to Motion for Extension of Time to File a Response/Reply to Motion for Stay <u>121</u> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120 125</i> , Motion for Stay <u>121</u> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> . Filed by All Defendants. (Duffy, Sean) (Entered: 03/17/2017)
03/17/2017	127	ORDER: Granting Motion for Extension of Time to File Response/Reply. Responses are due by 4/3/2017. Ordered on 3/17/2017 by Magistrate Judge Thomas M. Coffin. (rdr) (Entered: 03/17/2017)
03/21/2017	129	Notification of CM/ECF Account for Mark D. Hopson (<i>Pro Hac Vice</i> admission). Your login is: mdhopson . Go to the CM/ECF login page to set your password. (rdr) (Entered: 03/21/2017)
03/21/2017	<u>130</u>	First Application for to the bar of the U.S. District Court, District of Oregon NOTE: failure to update your account information under the Utilities menu could result in a delay processing your application. Filed by All Defendants. (Piropato, Marissa) (Entered: 03/21/2017)
04/03/2017	<u>131</u>	Joint Status Report <i>As of April 3, 2017</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3) (Olson, Julia) (Entered: 04/03/2017)
04/03/2017	<u>132</u>	Response in Opposition to <i>Intervenor Defendants'</i> to Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> Oral Argument requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 04/03/2017)
04/03/2017	<u>133</u>	Response in Opposition to <i>Federal Defendants'</i> to Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> Oral Argument requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 04/03/2017)
04/03/2017	<u>134</u>	Response in Opposition to Motion for Stay <u>121</u> Oral Argument requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 04/03/2017)
04/03/2017	<u>135</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Response in Opposition to Federal Defendants Motion to Certify Order for Interlocutory Appeal</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>134</u> .) (Olson, Julia) (Entered: 04/03/2017)
04/06/2017	<u>136</u>	Supplemental Declaration of Julia A. Olson . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>134</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 04/06/2017)
04/07/2017	137	MINUTES of Proceedings: Telephone Status Conference. Order denying request for stay pending consideration of the Motions to Certify <u>120</u> and <u>122</u> . The deadline for production of documents is extended until the parties meet and confer regarding discovery. The parties are ordered to file a status report by 5/11/2017. Status Conference is set for 5/18/2017 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. The parties are ordered to call into the the previously ordered conference line at least 5 minutes prior to the scheduled hearing. Julia Olson; Philip Gergory; Daniel Galpern present as counsel for plaintiffs. Sean Duffy; Marisa Piropato present as counsel for defendants. Marie Eckert; Frank Volpe present as counsel for defendant intervenors. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 04/10/2017)

04/10/2017	<u>138</u>	Reply Titled: Reply in Support of Intervenor–Defendants' Motion for Interlocutory Appeal. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Related document(s): Motion for Leave to Appeal, <u>122</u> .) (Eckert, C.) (Entered: 04/10/2017)
04/10/2017	<u>139</u>	Reply in Support to Motion for Leave to Appeal Order Denying Motions to Dismiss <u>120</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 04/10/2017)
04/10/2017	<u>140</u>	Reply in Support to Motion for Stay <u>121</u> . Filed by Ashton Carter, Shaun Donovan, Anthony Foxx, Christy Goldfuss, John Holdren, Sally Jewell, John Kerry, Gina McCarthy, Ernest Moniz, Barack Obama, Office of the President of the United States, Penny Pritzker, Donald J. Trump, United States Department of Agriculture, United States Department of Commerce, United States Department of Defense, United States Department of Energy, United States Department of Interior, United States Department of State, United States Department of Transportation, United States Environmental Protection Agency, United States of America, Thomas J. Vilsack. (Duffy, Sean) (Entered: 04/10/2017)
04/18/2017	<u>141</u>	Notice of Appearance of Marissa Piropato appearing on behalf of All Defendants Filed by on behalf of All Defendants (Piropato, Marissa) (Entered: 04/18/2017)
04/20/2017	<u>142</u>	ORDER: Intervenor Defendants are ordered to electronically file with the court their responses to Plaintiffs' requests for admissions. If Intervenor Defendants have not yet submitted responses to Plaintiffs' requests for admissions, they are ordered to electronically file them with the court concurrent to their submission to plaintiffs. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 04/20/2017)
04/24/2017	<u>143</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 4/7/2017 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, e-mail address kristi_anderson@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER—See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 5/1/2017. Redaction Request due 5/15/2017. Redacted Transcript Deadline set for 5/25/2017. Release of Transcript Restriction set for 7/24/2017. (Anderson, Kristi) (Entered: 04/24/2017)
04/24/2017	<u>144</u>	Motion for Clarification of April 10, 2017 Minute Order. Expedited Hearing requested. Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit) (Duffy, Sean) (Entered: 04/24/2017)
04/25/2017	<u>145</u>	ORDER: Granting Motion for Clarification <u>144</u> as follows: At the status conference of April 7, 2017, the court viewed the government to be requesting to stay production of documents until after a meet and confer with plaintiffs and the court agreed for the reason that the meet and confer would conceivably reduce the request for production. The subject of the requests for admission addressed to the government was not a topic of discussion and the court did not rule on those. In view of the confusion over this matter, the court will extend the deadline for the government to respond to the request for admission from May 8, 2017, to May 31, 2017. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 04/25/2017)
05/01/2017	<u>146</u>	Findings & Recommendation: Motion for Leave to Appeal Order Denying Motions to Dismiss <u>122</u> and Motion for Leave to Appeal Order Denying Motions to Dismiss <u>120</u> should be denied. Motion for Stay <u>121</u> is denied. Objections to the Findings and Recommendation are due by 5/15/2017. Signed on 5/1/2017 by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 05/01/2017)
05/01/2017	<u>147</u>	Order referring Findings & Recommendation: Motion for Leave to Appeal Order Denying Motions to Dismiss <u>122</u> and Motion for Leave to Appeal Order Denying Motions to Dismiss <u>120</u> should be denied <u>146</u> , Motion for Leave to Appeal Order Denying Motions to Dismiss <u>122</u> , Motion for Leave to Appeal Order Denying Motions to Dismiss <u>120</u> to Judge Ann L. Aiken. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 05/01/2017)
05/05/2017	<u>148</u>	Application for to the bar of the U.S. District Court, District of Oregon NOTE: failure to update your account information under the Utilities menu could result in a delay processing your application. Filed by Ashton Carter, Shaun Donovan,

		Anthony Foxx, Christy Goldfuss, John Holdren, Sally Jewell, John Kerry, Gina McCarthy, Ernest Moniz, Office of the President of the United States, Penny Pritzker, Donald J. Trump, United States Department of Agriculture, United States Department of Commerce, United States Department of Defense, United States Department of Energy, United States Department of Interior, United States Department of State, United States Department of Transportation, United States of America, Thomas J. Vilsack. (Dykema, Peter) (Entered: 05/05/2017)
05/05/2017	<u>149</u>	<i>Objections to Findings & Recommendation</i> APPEAL OF MAGISTRATE JUDGE DECISION to a District Court Judge by Ashton Carter, Shaun Donovan, Anthony Foxx, Christy Goldfuss, John Holdren, Sally Jewell, John Kerry, Gina McCarthy, Ernest Moniz, Barack Obama, Office of the President of the United States, Penny Pritzker, Donald J. Trump, United States Department of Agriculture, United States Department of Commerce, United States Department of Defense, United States Department of Energy, United States Department of Interior, United States Department of State, United States Department of Transportation, United States Environmental Protection Agency, United States of America, Thomas J. Vilsack re <u>146</u> Findings & Recommendation: Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> should be denied . Filed by Ashton Carter, Shaun Donovan, Anthony Foxx, Christy Goldfuss, John Holdren, Sally Jewell, John Kerry, Gina McCarthy, Ernest Moniz, Barack Obama, Office of the President of the United States, Penny Pritzker, Donald J. Trump, United States Department of Agriculture, United States Department of Commerce, United States Department of Defense, United States Department of Energy, United States Department of Interior, United States Department of State, United States Department of Transportation, United States Environmental Protection Agency, United States of America, Thomas J. Vilsack. (Duffy, Sean) (Entered: 05/05/2017)
05/09/2017	<u>150</u>	Notice of Attorney Substitution:Attorney Courtney B. Johnson is substituted as counsel of record in place of Attorney Travis Stephen Eiva Filed by League of Women Voters of the United States/League of Women Voters of Oregon (Johnson, Courtney) (Entered: 05/09/2017)
05/09/2017	<u>151</u>	Objections to Magistrate Judge's Order Scheduling, Findings & Recommendation,, <u>146</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit) (Duffy, Sean) (Entered: 05/09/2017)
05/09/2017	<u>152</u>	Objections <i>Intervenor-Defendants' Objections</i> to Findings & Recommendation: Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> should be denied <u>146</u> . Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 05/09/2017)
05/10/2017	<u>153</u>	Motion for Extension of Time <i>Intervenor-Defendants' Motion for An Extension of Time to Respond to Plaintiffs' Requests for Admissions</i> . Expedited Hearing requested. Filed by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 05/10/2017)
05/11/2017	<u>154</u>	Response in Opposition to Motion for Extension of Time <i>Intervenor-Defendants' Motion for An Extension of Time to Respond to Plaintiffs' Requests for Admissions 153</i> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/11/2017)
05/11/2017	<u>155</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Opposition to Intervenor Defendants Motion for Extension of Time to Respond to Plaintiffs Request for Admissions</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>154</u> .) (Olson, Julia) (Entered: 05/11/2017)
05/12/2017	<u>156</u>	ORDER: Granting in part Motion for Extension of Time <u>153</u> to the extent that Intervenor Defendants' responses to plaintiffs' requests for admissions are due by 5/18/2017. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 05/12/2017)
05/12/2017	<u>157</u>	Joint Status Report by All Defendants. Filed by All Defendants. (Duffy, Sean) (Entered: 05/12/2017)

05/18/2017	<u>158</u>	MINUTES of Proceedings: Telephone Status Conference. Further Status Conference is set for 6/14/2017 at 10:30AM in Eugene Courtroom 4 before Magistrate Judge Thomas M. Coffin. Order granting intervenor defendant's oral motion for extension of time to submit responses to plaintiffs' requests for admissions. Responses are due by 5/25/2017. Julia Olson; Daniel Galpern present as counsel for plaintiffs. Sean Duffy; Marissa Pirovato present as counsel for defendants. Marie Eckert; Frank Volpe present as counsel for intervenor defendants. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 05/19/2017)
05/19/2017	<u>159</u>	Response to Objections to Findings & Recommendation. Related document(s): <u>149</u> Appeal of Magistrate Judge Decision to District Court Judge,,,,,. Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8) (Olson, Julia) (Entered: 05/19/2017)
05/22/2017	<u>160</u>	Motion for Extension of Time to File a Response to Objection of <i>Intervenor Defendants</i> to Findings & Recommendation: Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 122</i> , Motion for Leave to Appeal <i>Order Denying Motions to Dismiss 120</i> should be denied <u>146</u> . Expedited Hearing requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/22/2017)
05/22/2017	<u>161</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs' Motion for Extension of Time</i> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/22/2017)
05/22/2017	<u>162</u>	ORDER: Granting Motion for Extension of Time to File a Response to Objection to F & R <u>160</u> . Responses to any objections to the Findings and Recommendation are due by 5/26/2017. Ordered on 5/22/2017 by Judge Ann L. Aiken. (ck) (Entered: 05/22/2017)
05/22/2017	<u>163</u>	Motion to Withdraw <i>Intervenor-Defendant The National Association of Manufacturers' Motion to Withdraw</i> . Filed by The National Association of Manufacturers. (Eckert, C.) (Entered: 05/22/2017)
05/23/2017	<u>164</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 5/18/2017 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 5/30/2017. Redaction Request due 6/13/2017. Redacted Transcript Deadline set for 6/23/2017. Release of Transcript Restriction set for 8/21/2017. (Anderson, Kristi) (Entered: 05/23/2017)
05/23/2017	<u>165</u>	Response to Objections to Findings & Recommendation. <i>DENYING MOTION TO STAY LITIGATION</i> Related document(s): <u>151</u> Objections to Magistrate Judges Order,. Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/23/2017)
05/25/2017	<u>166</u>	Motion to Withdraw <i>Intervenor-Defendant American Petroleum Institutes Motion to Withdraw</i> . Filed by American Petroleum Institute. (Eckert, C.) (Entered: 05/25/2017)
05/25/2017	<u>167</u>	Motion to Withdraw <i>Intervenor-Defendant American Fuel & Petrochemical Manufacturers Motion to Withdraw</i> . Filed by American Fuel & Petrochemical Manufacturers. (Eckert, C.) (Entered: 05/25/2017)
05/26/2017	<u>168</u>	Response to Objections to Findings & Recommendation. Related document(s): <u>152</u> Objections to Findings & Recommendation,. Filed by All Plaintiffs. (Olson, Julia) (Entered: 05/26/2017)
06/05/2017	<u>169</u>	Response to Motion to Withdraw <i>Intervenor-Defendant The National Association of Manufacturers' Motion to Withdraw 163</i> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/05/2017)
06/05/2017	<u>170</u>	Declaration of Julia A. Olson <i>IN RESPONSE TO INTERVENOR DEFENDANT NATIONAL ASSOCIATION OF MANUFACTURERS MOTION TO WITHDRAW</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>169</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5) (Olson, Julia) (Entered: 06/05/2017)

06/06/2017	<u>171</u>	Notice re Appeal of Magistrate Judge Decision to District Court Judge,,,,, <u>149</u> Filed by All Defendants (Related document(s): Appeal of Magistrate Judge Decision to District Court Judge,,,,, <u>149</u> .) (Duffy, Sean) (Entered: 06/06/2017)
06/08/2017	<u>172</u>	ORDER: The Court Adopts the Findings and Recommendation of Magistrate Judge Thomas Coffin <u>146</u> . Defendants' Motions to certify the November 10 Order for Interlocutory appeal <u>120</u> <u>122</u> are denied. Defendants' request for a stay <u>121</u> is denied as moot. See, Formal Order. Signed on 6/8/2017 by Judge Ann L. Aiken. (ck) (Entered: 06/08/2017)
06/08/2017	<u>173</u>	Response to Motion to Withdraw <i>Intervenor–Defendant American Petroleum Institutes Motion to Withdraw</i> <u>166</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/08/2017)
06/08/2017	<u>174</u>	Declaration of Julia A. Olson <i>In Support of Plaintiffs' Response to Intervenor API's Motion to Withdraw</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>173</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8) (Olson, Julia) (Entered: 06/08/2017)
06/08/2017	<u>175</u>	Response to Motion to Withdraw <i>Intervenor–Defendant American Fuel & Petrochemical Manufacturers Motion to Withdraw</i> <u>167</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/08/2017)
06/08/2017	<u>176</u>	Declaration of Julia A. Olson <i>In Support of Plaintiffs' Response to Intervenor AFPM's Motion to Withdraw</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>175</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5) (Olson, Julia) (Entered: 06/08/2017)
06/09/2017	<u>177</u>	Notice of Filing Petition for Writ of Mandamus Filed by All Defendants (Attachments: # <u>1</u> Exhibit Petition for Writ of Mandamus) (Duffy, Sean) (Entered: 06/09/2017)
06/09/2017		Writ of Mandamus Filed in the 9th Circuit. Case number 17–71692 assigned. (kf) (Entered: 03/02/2018)
06/12/2017	<u>178</u>	Joint Status Report <i>As of June 12, 2017</i> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/12/2017)
06/14/2017	<u>181</u>	MINUTES of Proceedings: Status Conference. Plaintiffs' disclosure of Group 2 experts must be completed by 6/23/2017. Exchange of Plaintiffs' Group 1 Expert Witness Reports must be completed by 7/5/2017. Exchange of Plaintiffs' Group 2 Expert Witness Reports must be completed by 7/31/2017. Defendants' disclosure of rebuttal experts must be completed by 9/14/2017. Exchange of Defendants' Rebuttal Expert Witness Reports must be completed by 10/13/2017. Exchange of Plaintiffs' Rebuttal Expert Witness Reports must be completed by 11/1/2017. Trial Memoranda are due by 12/4/2017. Intervenor Defendants' oral motion to submit a consolidated reply to the pending motions to withdraw and for extension of time to 6/22/2017 is granted. Intervenor Defendants' discovery obligations are stayed pending resolution of the motions to withdraw. Julia Olson; Philip Gregory; Daniel Galpern present as counsel for plaintiffs. Sean Duffy; Frank Singer present as counsel for defendants. Marie Eckers; Frank Volpe present as counsel for intervenor defendants. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 06/26/2017)
06/16/2017	<u>179</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 6/14/2017 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541–431–4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER–See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 6/23/2017. Redaction Request due 7/7/2017. Redacted Transcript Deadline set for 7/17/2017. Release of Transcript Restriction set for 9/14/2017. (Anderson, Kristi) (Entered: 06/16/2017)
06/22/2017	<u>180</u>	Reply <i>in Support of Intervenor–Defendants' Separate Motions to Withdraw</i> to Motion to Withdraw <i>Intervenor–Defendant American Fuel & Petrochemical Manufacturers Motion to Withdraw</i> <u>167</u> , Motion to Withdraw <i>Intervenor–Defendant The National Association of Manufacturers' Motion to Withdraw</i> <u>163</u> , Motion to Withdraw <i>Intervenor–Defendant American Petroleum Institutes Motion to Withdraw</i> <u>166</u> . Filed

		by American Fuel & Petrochemical Manufacturers, American Petroleum Institute, The National Association of Manufacturers. (Eckert, C.) (Entered: 06/22/2017)
06/28/2017	<u>182</u>	ORDER: Granting Motion to Withdraw <u>163</u> ; Granting Motion to Withdraw <u>166</u> ; Granting Motion to Withdraw <u>167</u> . Signed on 6/28/2017 by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 06/28/2017)
10/04/2017	<u>183</u>	Notice of Attorney Withdrawal: Filed by All Plaintiffs. (Olson, Julia) (Entered: 10/04/2017)
03/07/2018	<u>184</u>	Notice of Change of Address. <i>and Counsel</i> Filed by All Plaintiffs. (Gregory, Philip) (Entered: 03/07/2018)
03/16/2018	<u>185</u>	Motion for Hearing <i>Status Conference</i> . Expedited Hearing requested. Filed by All Plaintiffs. (Gregory, Philip) (Entered: 03/16/2018)
03/16/2018	<u>186</u>	Declaration of Philip L. Gregory <i>in Support of Motion of Plaintiffs Requesting Status Conference</i> . Filed by All Plaintiffs. (Related document(s): Motion for Hearing <u>185</u> .) (Gregory, Philip) (Entered: 03/16/2018)
03/19/2018	<u>187</u>	Response to Motion for Hearing <i>Status Conference</i> <u>185</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit) (Duffy, Sean) (Entered: 03/19/2018)
03/21/2018	<u>188</u>	Scheduling Order by Magistrate Judge Thomas M. Coffin regarding Motion for Hearing <i>Status Conference</i> <u>185</u> . Status Conference is set for 3/26/2018 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. Parties wishing to participate in the status conference are ordered to call into the Court's conference line at least 5 minutes prior to the scheduled hearing. Call-in information will be sent by separate order. Parties should be prepared to discuss a schedule moving forward and whether an in-person status conference should be scheduled. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 03/21/2018)
03/26/2018	<u>189</u>	MINUTES of Proceedings: Telephone Status Conference. Order granting Motion for Status Conference <u>185</u> . The parties are ordered to meet and confer at the U.S. Courthouse in Eugene, Oregon on 4/11/2018. Status Conference is set for 4/12/2018 at 10:00AM in Eugene Courtroom 4 before Magistrate Judge Thomas M. Coffin. It is further ordered that exchange of plaintiffs' expert witness statements (except that of James Gustave Speth) must be completed by 4/13/2018. Exchange of defendants' rebuttal expert witness statements must be completed by 7/12/2018. Exchange of plaintiffs' rebuttal expert witness statements must be completed by 8/13/2018. Trial memoranda are due by 9/12/2018. Julia Olson; Philip Gregory present as counsel for plaintiffs. Sean Duffy; Marissa Pirocato present as counsel for defendants. (Court Reporter Kristi Anderson.) Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 03/26/2018)
03/30/2018	<u>190</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Status Conference held on 3/26/2018 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 4/6/2018. Redaction Request due 4/20/2018. Redacted Transcript Deadline set for 4/30/2018. Release of Transcript Restriction set for 6/28/2018. (Anderson, Kristi) (Entered: 03/30/2018)
04/12/2018	<u>192</u>	MINUTES of Proceedings: Status Conference. Status Conference is set for 5/10/2018 at 10:00AM in Eugene Courtroom 3 before Magistrate Judge Thomas M. Coffin. Disclosure of defendants' expert witnesses must be completed by 7/12/2018. Exchange of defendants' expert witness statements must be completed by 8/13/2018. Exchange of rebuttal expert witness statements must be completed by 9/12/2018. Court Trial is set for 10/29/2018 at 09:00AM in Eugene Courtroom 1 before Judge Ann L. Aiken. Julia Olson; Philip Gregory present as counsel for plaintiffs. Sean Duffy; Marissa Pirocato present as counsel for defendants. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 04/23/2018)
04/13/2018	<u>191</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 4/12/2018 before Judge Thomas M. Coffin, Court Reporter Kristi L. Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal

		or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER—See Policy at ord.uscourts.gov . Notice of Intent to Redact Transcript is due by 4/20/2018. Redaction Request due 5/4/2018. Redacted Transcript Deadline set for 5/14/2018. Release of Transcript Restriction set for 7/12/2018. (Anderson, Kristi) (Entered: 04/13/2018)
05/07/2018	<u>193</u>	Notice of Appearance of Clare Boronow appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Boronow, Clare) (Entered: 05/07/2018)
05/08/2018	<u>194</u>	Joint Status Report by All Defendants. Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit) (Duffy, Sean) (Entered: 05/08/2018)
05/09/2018	<u>195</u>	Motion for Judgment on the Pleadings . Filed by All Defendants. (Boronow, Clare) (Entered: 05/09/2018)
05/09/2018	<u>196</u>	Motion for Protective Order , Motion for Stay of <i>All Discovery</i> . Expedited Hearing requested. Filed by All Defendants. (Attachments: # <u>1</u> Exhibit Plaintiffs' 30(b)(6) Notice for Dept. of Interior, # <u>2</u> Exhibit Plaintiffs' 30(b)(6) Notice for USDA) (Boronow, Clare) (Entered: 05/09/2018)
05/10/2018	<u>197</u>	Notice of Appearance of Frank J. Singer appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Singer, Frank) (Entered: 05/10/2018)
05/10/2018	<u>198</u>	MINUTES of Proceedings: Status Conference. A further Status Conference is set for 6/6/2018 at 10:00AM in Eugene Courtroom 3 before Magistrate Judge Thomas M. Coffin. Julia Olson, Philip Gregory present as counsel for plaintiff(s). Sean Duffy, Marissa Piropato, Frank Singer present as counsel for defendant(s). Court Reporter: Jan Duiven. Magistrate Judge Thomas M. Coffin presiding. (ck) (Entered: 05/10/2018)
05/16/2018	<u>199</u>	Scheduling Order by Judge Ann L. Aiken. Telephonic Oral Argument regarding scheduling is set for 5/23/2018 at 02:30PM in Eugene by telephone before Judge Ann L. Aiken. The parties shall call in to the conference. Conference call information will be provided by the Court in a separate entry. Ordered by Judge Ann L. Aiken. (ck) (Entered: 05/16/2018)
05/18/2018	<u>200</u>	Notice of Appearance of Andrea K. Rodgers appearing on behalf of All Plaintiffs Filed by on behalf of All Plaintiffs. (Rodgers, Andrea) (Entered: 05/18/2018)
05/18/2018	<u>201</u>	Motion for Extension of Time to file <i>Response in Opposition to Defendants Motion for Judgment on the Pleadings</i> . Expedited Hearing requested. Filed by All Plaintiffs. (Gregory, Philip) (Entered: 05/18/2018)
05/18/2018	<u>202</u>	Declaration of Julia A. Olson in Support of Motion for Extension of Time to File <i>Response in Opposition to Defendants Motion for Judgment on the Pleadings</i> . Filed by All Plaintiffs. (Related document(s): Motion for Extension of Time <u>201</u> .) (Attachments: # <u>1</u> Exhibit 1) (Gregory, Philip) Incorrect event selected; Modified from Affidavit to Declaration on 5/21/2018; Parties noticed. (kf) (Entered: 05/18/2018)
05/18/2018	<u>203</u>	Declaration of Philip L. Gregory in Support of Motion for Extension of Time to File <i>Response in Opposition to Defendants Motion for Judgment on the Pleadings</i> . Filed by All Plaintiffs. (Related document(s): Motion for Extension of Time <u>201</u> .) (Gregory, Philip) Incorrect event selected; Modified from Affidavit to Declaration on 5/21/2018; Parties noticed. (kf) (Entered: 05/18/2018)
05/18/2018	<u>204</u>	Response to Motion for Extension of Time to file <i>Response in Opposition to Defendants Motion for Judgment on the Pleadings</i> <u>201</u> . Filed by All Defendants. (Boronow, Clare) (Entered: 05/18/2018)
05/21/2018	<u>205</u>	ORDER: I have reviewed the parties' submissions in connection with plaintiffs' motion for an extension of time <u>201</u> to file a response to defendants' motion for judgment on the pleadings <u>195</u> . Plaintiffs' motion is GRANTED IN PART as follows: plaintiffs' response to defendants' motion for judgment on the pleadings will be due, at the earliest, on 6/15/2018. I reserve ruling on plaintiffs' request for a further extension pending the telephonic oral argument that is already set for 5/23/2018 at 2:30 p.m. Ordered by Judge Ann L. Aiken. (ck) (Entered: 05/21/2018)

05/22/2018	<u>206</u>	Joint Brief <i>Letter re briefing schedule for Defendants' Motion for Judgment on the Pleadings</i> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Boronow, Clare) (Entered: 05/22/2018)
05/22/2018	<u>207</u>	Motion for Summary Judgment . Filed by All Defendants. (Duffy, Sean) (Entered: 05/22/2018)
05/23/2018	<u>208</u>	Response in Opposition to Motion for Protective Order Motion for Stay of <i>All Discovery</i> <u>196</u> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit A) (Olson, Julia) (Entered: 05/23/2018)
05/23/2018	<u>209</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for a Protective Order and Stay of Discovery Pending Defendants' Motion for Judgment on the Pleadings</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>208</u> .) (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Olson, Julia) (Entered: 05/23/2018)
05/23/2018	210	MINUTES of Proceedings: Telephonic Motion Hearing Held regarding <u>201</u> Motion for Extension of Time to file Response in Opposition to Defendants Motion for Judgment on the Pleadings <u>195</u> before Judge Ann L. Aiken. The Court grants no further extension than what was previously allowed. Response is due by 6/15/2018. Reply is due by 6/29/2018. The parties are to confer and propose a date and time for Oral Argument to the Court by 5/30/2018 at 5:00 p.m. Julia Olson, Philip Gregory, Andrea Rodgers present as counsel for plaintiff(s). Frank Singer, Sean Duffy, Marissa Pirocato present as counsel for defendant(s). Court Reporter: Kristi Anderson. (ck) (Entered: 05/24/2018)
05/24/2018	<u>211</u>	<i>Notice of Filing Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari</i> Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 05/24/2018)
05/25/2018	<u>212</u>	ORDER: Denying Motion for a Protective Order <u>196</u> ; Denying Motion for Stay <u>196</u> . Signed on 5/25/2018 by Magistrate Judge Thomas M. Coffin. (plb) (Main Document <u>212</u> replaced on 5/29/2018) (plb). (Entered: 05/25/2018)
05/29/2018	213	Clerk's Notice of Docket Correction regarding Order on motion for protective order, Order on motion for stay <u>212</u> . The PDF attached to this entry at filing was incorrect. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. (plb) (Entered: 05/29/2018)
05/30/2018	214	Scheduling Order by Judge Ann L. Aiken. Oral Argument regarding Motion for Judgment on the Pleadings <u>195</u> is set for 7/18/2018 at 02:00PM in Eugene Courtroom 1 before Judge Ann L. Aiken. Motion is taken under advisement as of 7/18/2018. Ordered by Judge Ann L. Aiken. (ck) (Entered: 05/30/2018)
06/01/2018	<u>215</u>	Objections to Magistrate Judge's Order: Order on motion for protective order, Order on motion for stay <u>212</u> . Filed by All Defendants. (Boronow, Clare) Modified on 6/15/2018 to term erroneously filed motion event. (kf). (Entered: 06/01/2018)
06/01/2018	<u>216</u>	Motion for Stay of <i>Discovery Pending Resolution of Objections</i> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 06/01/2018)
06/04/2018	<u>217</u>	Motion for Protective Order . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10) (Pirocato, Marissa) (Entered: 06/04/2018)
06/05/2018	<u>218</u>	Joint Status Report <i>as of June 5, 2018</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7) (Olson, Julia) (Entered: 06/05/2018)
06/06/2018	<u>219</u>	Stipulation <i>Protective Order</i> by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak, Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. Filed by Jaime B., Nathaniel B., Victoria B., Zealand B., Levi D., Earth Guardians, Jayden F., Future Generations, Tia Marie Hatton, Kelsey Cascadia Rose Juliana, Sophie K., Jacob Lebel, Alexander Loznak,

		Avery M., Xiuhtezcatl Tonatiuh M., Kiran Isaac Oommen, Aji P., Hazel V., Isaac V., Miko V., Nicholas V., Sahara V., Journey Z.. (Olson, Julia) (Entered: 06/06/2018)
06/06/2018	<u>220</u>	MINUTES of Proceedings: Status Conference. A further Status Conference is set for 7/17/2018 at 10:00AM in Eugene Courtroom 3 before Magistrate Judge Thomas M. Coffin. Julia Olson, Philip Gregory, Andrea Rodgers present as counsel for plaintiffs. Sean Duffy, Marissa Pirocato, Frank Singer (by phone), Clare Boronow (by phone) present as counsel for defendants. Court Reporter: Kristi Anderson. Magistrate Judge Thomas M. Coffin presiding. (ck) (Entered: 06/06/2018)
06/07/2018	<u>221</u>	Stipulated Protective Order. Signed on 6/7/2018 by Magistrate Judge Thomas M. Coffin. (ck) (Entered: 06/07/2018)
06/07/2018	<u>222</u>	Response in Opposition to Defendants' Motion to STay Discovery Pending Resolution of Objections to Motion for Stay of Discovery Pending Resolution of Objections <u>216</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/07/2018)
06/08/2018	<u>223</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 6/6/2018 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, email kristi_anderson@ord.uscourts.gov. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER--See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 6/15/2018. Redaction Request due 6/29/2018. Redacted Transcript Deadline set for 7/9/2018. Release of Transcript Restriction set for 9/6/2018. (Anderson, Kristi) (Main Document 223 replaced on 6/11/2018) (plb). (Entered: 06/08/2018)
06/08/2018	<u>224</u>	Motion for Extension of Time to File a Response/Reply in Opposition to Defendants' to Motion for Summary Judgment <u>207</u> . Expedited Hearing requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/08/2018)
06/08/2018	<u>225</u>	Declaration of Julia A. Olson in Support of Plaintiffs' Motion to Extend Time to Respond to Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Related document(s): Motion for Extension of Time to File Response/Reply to a Motion <u>224</u> .) (Olson, Julia) (Entered: 06/08/2018)
06/08/2018	<u>226</u>	Motion to Defer Consideration of Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/08/2018)
06/08/2018	<u>227</u>	Declaration of Julia A. Olson in Support of Plaintiffs' Motion to Defer Consideration of Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Related document(s): Motion – Miscellaneous <u>226</u> .) (Olson, Julia) (Entered: 06/08/2018)
06/08/2018	<u>228</u>	Declaration of Andrea K. Rodgers in Support of Plaintiffs' Motion to Defer Consideration of Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Related document(s): Motion – Miscellaneous <u>226</u> .) (Olson, Julia) (Entered: 06/08/2018)
06/08/2018	<u>229</u>	Declaration of Philip L. Gregory in Support of Plaintiffs' Motion to Defer Consideration of Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Related document(s): Motion – Miscellaneous <u>226</u> .) (Olson, Julia) (Entered: 06/08/2018)
06/11/2018	<u>230</u>	Clerk's Notice of Docket Correction regarding Transcript of Proceedings, <u>223</u> . The PDF attached to this entry at filing was incorrect. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. (plb) (Entered: 06/11/2018)
06/12/2018	<u>231</u>	Reply to Motion for Stay of Discovery Pending Resolution of Objections <u>216</u> . Filed by All Defendants. (Boronow, Clare) (Entered: 06/12/2018)
06/12/2018	<u>232</u>	Notice re Motion for Extension of Time to File Response/Reply to a Motion <u>224</u> Notice of Errata Filed by All Plaintiffs. (Related document(s): Motion for Extension of Time to File Response/Reply to a Motion <u>224</u> .) (Rodgers, Andrea) (Entered: 06/12/2018)
06/12/2018	<u>233</u>	Corrected Motion for Extension of Time to File a Response/Reply to Motion for Summary Judgment <u>207</u> . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 06/12/2018)

		06/12/2018)
06/13/2018	<u>234</u>	Motion for Extension of Time to File a Response/Reply <i>to Defendants'</i> to Motion for Protective Order <u>217</u> . Expedited Hearing requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/13/2018)
06/13/2018	<u>235</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs' Motion to Extend Time to Respond To Defendants' Motion for Protective Order</i> . Filed by All Plaintiffs. (Related document(s): Motion for Extension of Time to File Response/Reply to a Motion <u>234</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/13/2018)
06/13/2018	<u>236</u>	Response in Opposition to Motion for Extension of Time to File a Response/Reply <i>in Opposition to Defendants'</i> to Motion for Summary Judgment <u>207</u> <u>224</u> , Corrected Motion for Extension of Time to File a Response/Reply to Motion for Summary Judgment <u>207</u> <u>233</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 06/13/2018)
06/13/2018	<u>237</u>	Response to Motion for Extension of Time to File a Response/Reply <i>to Defendants'</i> to Motion for Protective Order <u>217</u> <u>234</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 06/13/2018)
06/14/2018	238	ORDER: As the Government notes in its motion, in order to stay discovery pending resolution of objections to a discovery order, the movant must show that (1) it is likely it will succeed on the merits of the appeal, (2) it will suffer irreparable injury in the absence of a stay, (3) other parties will not be substantially injured by a stay, and (4) the stay will not harm public interest. See NML Capital, Ltd. v. Republic of Argentina, No. 2:14-cv-492-RFB-VCF, 2015 WL 3489684, at *4 (D. Nev. June 3, 2015). In briefing the motion, the Government does not clearly explain what "irreparable harm" it will suffer in the absence of a stay pending resolution of the Government's objections, Nor does the Court find irreparable harm likely under the circumstances. To the extent that the Government does address the "balance of hardships," formulation of the relevant test, NML Capital, 2015 WL 3489684, at *4, its concerns would seem to be better addressed by specific objections to specific discovery requests, rather than by a blanket stay of all discovery pending this Court's review of the Government's objections. Accordingly, the motion, <u>216</u> is DENIED. Ordered by Judge Ann L. Aiken. (ck) (Entered: 06/14/2018)
06/14/2018	239	ORDER: Having considered the arguments in briefing, plaintiffs' Corrected Motion for Extension of Time to File a Response <u>233</u> is GRANTED in part and DENIED in part. Plaintiffs' Response shall be due no later than 14 days from the date of this Order. Defendants' request to continue the trial date by an equal number of days is DENIED. Plaintiffs' original Motion for Extension of Time to File a Response <u>224</u> is DENIED as moot. Plaintiffs' Response is due by 6/28/2018, Defendants' Reply is due by 7/12/2018. Ordered by Judge Ann L. Aiken. (ck) (Entered: 06/14/2018)
06/14/2018	240	ORDER: Granting Motion for Extension of Time to File Response to Motion for Protective Order <u>217</u> filed by United States Department of Interior, Thomas J. Vilsack, Barack Obama, Christy Goldfuss, Penny Pritzker, Gina McCarthy, John Holdren, Shaun Donovan, Office of the President of the United States, United States Department of Commerce, Anthony Foxx, John Kerry, United States Department of Defense, United States Department of Transportation, Ashton Carter, Donald J. Trump, Sally Jewell, United States of America, United States Department of Agriculture, United States Department of State, Ernest Moniz, United States Department of Energy, United States Environmental Protection Agency. Response is due by 6/28/2018. Motion is taken under advisement as of 7/2/2018. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 06/14/2018)
06/15/2018	<u>241</u>	Response in Opposition to Motion for Judgment on the Pleadings <u>195</u> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit A – Answer to Writ Petition) (Gregory, Philip) Modified on 6/18/2018, per attorney's 6/18/18 e-mail notice. (kf) (Entered: 06/15/2018)
06/15/2018	<u>242</u>	Response In Opposition to Defendants' Objections to Order <i>Denying Motion For A Protective Order And Stay of Discovery (Not Filed Pursuant To Protective Order)</i> Related document(s): <u>215</u> . Filed by All Plaintiffs. (Gregory, Philip) Modified on 6/18/2018, per attorney's 6/18/18 e-mail notice. (kf) (Entered: 06/15/2018)

06/21/2018	<u>243</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Oral argument held on 5/23/2018 before Judge Ann Aiken, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 6/28/2018. Redaction Request due 7/12/2018. Redacted Transcript Deadline set for 7/23/2018. Release of Transcript Restriction set for 9/19/2018. (Anderson, Kristi) (Entered: 06/21/2018)
06/22/2018	<u>244</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Status conference held on 5/10/2018 before Judge Thomas M. Coffin, Court Reporter Jan Duiven, telephone number 541-485-0111. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 6/29/2018. Redaction Request due 7/13/2018. Redacted Transcript Deadline set for 7/23/2018. Release of Transcript Restriction set for 9/20/2018. (Anderson, Kristi) (Entered: 06/22/2018)
06/22/2018	<u>245</u>	Response in Opposition to Motion to <i>Defer Consideration of Defendants' Motion for Summary Judgment</i> <u>226</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 06/22/2018)
06/25/2018	<u>246</u>	Notice of Filing Application for a Further Extension of Time Within Which to File a Petition for a Writ of Certiorari Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 06/25/2018)
06/25/2018	<u>247</u>	Unopposed Motion to Hold Defendants' Motion for Protective Order in Abeyance and to Suspend Briefing Schedule. Expedited Hearing requested. Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 06/25/2018)
06/25/2018	<u>248</u>	Declaration of Philip Gregory in Support of Plaintiffs' Unopposed Motion to Hold Defendants' Motion for Protective Order in Abeyance and to Suspend Briefing Schedule. Filed by All Plaintiffs. (Related document(s): Motion – Miscellaneous <u>247</u> .) (Rodgers, Andrea) (Entered: 06/25/2018)
06/27/2018	<u>249</u>	ORDER: Granting Motion to Hold Defendants' Motion for Protective Order <u>217</u> in Abeyance and to Suspend Briefing Schedule <u>247</u> until the Court decides Plaintiffs motions to seek judicial notice of the documents referenced in Requests for Admissions and to give the parties the opportunity to reach agreement on substituting contention interrogatories for the pending Rule 30(b)(6) depositions. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 06/27/2018)
06/27/2018	<u>250</u>	Consent Motion to File Excess Pages for Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment. Expedited Hearing requested. Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 06/27/2018)
06/27/2018	<u>251</u>	Declaration of Philip Gregory in Support of Plaintiffs' Consent Motion to Enlarge Page Limits for Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment. Filed by All Plaintiffs. (Related document(s): Motion to File Excess Pages <u>250</u> .) (Rodgers, Andrea) (Entered: 06/27/2018)
06/27/2018	<u>252</u>	ORDER: Granting Motion to File Excess Pages <u>250</u> . Plaintiffs are granted leave to enlarge the size of their response to Defendant's Motion for Summary Judgment <u>207</u> to 55 pages, with no word limitation. Ordered on 6/27/2018 by Judge Ann L. Aiken. (rdr) (Entered: 06/27/2018)
06/28/2018	<u>253</u>	Scheduling Order by Magistrate Judge Thomas M. Coffin. The Status Conference set for 7/17/2018 at 10:00AM before Magistrate Judge Thomas M. Coffin is reset from Eugene Courtroom 3 to Eugene Courtroom 1 . Ordered by Magistrate Judge Thomas M. Coffin. (ck) (Entered: 06/28/2018)
06/28/2018	<u>254</u>	Motion in limine Seeking Judicial Notice of Federal Government Documents. Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix) (Rodgers, Andrea) (Entered: 06/28/2018)
06/28/2018	<u>255</u>	Response in Opposition to Defendants' to Motion for Summary Judgment <u>207</u> Oral Argument requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/28/2018)

06/28/2018	<u>256</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>257</u>	Declaration of Frank Ackerman <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>258</u>	Declaration of Peter Erickson <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>259</u>	Declaration of Dr. Howard Frumkin <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>260</u>	Declaration of Dr. Ove Hoegh-Guldberg <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>261</u>	Declaration of Dr. Mark Jacobson <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>262</u>	Declaration of Dr. Eric Rignot <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>263</u>	Declaration of Dr. G. Philip Robertson <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>264</u>	Declaration of Dr. Steven W. Running <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>265</u>	Declaration of Catherine Smith <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>266</u>	Declaration of Dr. Joseph E. Stiglitz <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>267</u>	Declaration of Dr. Kevin E. Trenberth <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>268</u>	Declaration of Dr. James H. Williams <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>269</u>	Declaration of Andrea Wulf <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia)

		(Entered: 06/28/2018)
06/28/2018	<u>270</u>	Declaration of Julia A. Olson <i>In Support of Motion in Limine Seeking Judicial Notice of Federal Government Documents</i> . Filed by All Plaintiffs. (Related document(s): Motion in Limine <u>254</u> .) (Attachments: # <u>1</u> Exhibit 39, # <u>2</u> Exhibit 40, # <u>3</u> Exhibit 41, # <u>4</u> Exhibit 42, # <u>5</u> Exhibit 43, # <u>6</u> Exhibit 44, # <u>7</u> Exhibit 45, # <u>8</u> Exhibit 46, # <u>9</u> Exhibit 47, # <u>10</u> Exhibit 48, # <u>11</u> Exhibit 49, # <u>12</u> Exhibit 50, # <u>13</u> Exhibit 51, # <u>14</u> Exhibit 52, # <u>15</u> Exhibit 53, # <u>16</u> Exhibit 54, # <u>17</u> Exhibit 55, # <u>18</u> Exhibit 56, # <u>19</u> Exhibit 57, # <u>20</u> Exhibit 58, # <u>21</u> Exhibit 59, # <u>22</u> Exhibit 60, # <u>23</u> Exhibit 61, # <u>24</u> Exhibit 62, # <u>25</u> Exhibit 63, # <u>26</u> Exhibit 64, # <u>27</u> Exhibit 65, # <u>28</u> Exhibit 66, # <u>29</u> Exhibit 67, # <u>30</u> Exhibit 68, # <u>31</u> Exhibit 69, # <u>32</u> Exhibit 70, # <u>33</u> Exhibit 71, # <u>34</u> Exhibit 72, # <u>35</u> Exhibit 73, # <u>36</u> Exhibit 74, # <u>37</u> Exhibit 75, # <u>38</u> Exhibit 76, # <u>39</u> Exhibit 77, # <u>40</u> Exhibit 78, # <u>41</u> Exhibit 79, # <u>42</u> Exhibit 80, # <u>43</u> Exhibit 81, # <u>44</u> Exhibit 82, # <u>45</u> Exhibit 83, # <u>46</u> Exhibit 84, # <u>47</u> Exhibit 85, # <u>48</u> Exhibit 86, # <u>49</u> Exhibit 87, # <u>50</u> Exhibit 88, # <u>51</u> Exhibit 89, # <u>52</u> Exhibit 90, # <u>53</u> Exhibit 91, # <u>54</u> Exhibit 92, # <u>55</u> Exhibit 93, # <u>56</u> Exhibit 94, # <u>57</u> Exhibit 95, # <u>58</u> Exhibit 96, # <u>59</u> Exhibit 97, # <u>60</u> Exhibit 98, # <u>61</u> Exhibit 99, # <u>62</u> Exhibit 100, # <u>63</u> Exhibit 101, # <u>64</u> Exhibit 102, # <u>65</u> Exhibit 103, # <u>66</u> Exhibit 104, # <u>67</u> Exhibit 105, # <u>68</u> Exhibit 106, # <u>69</u> Exhibit 107, # <u>70</u> Exhibit 108, # <u>71</u> Exhibit 109, # <u>72</u> Exhibit 110, # <u>73</u> Exhibit 111, # <u>74</u> Exhibit 112, # <u>75</u> Exhibit 113, # <u>76</u> Exhibit 114, # <u>77</u> Exhibit 115, # <u>78</u> Exhibit 116, # <u>79</u> Exhibit 117, # <u>80</u> Exhibit 118, # <u>81</u> Exhibit 119, # <u>82</u> Exhibit 120, # <u>83</u> Exhibit 121, # <u>84</u> Exhibit 122, # <u>85</u> Exhibit 123, # <u>86</u> Exhibit 124, # <u>87</u> Exhibit 125, # <u>88</u> Exhibit 126, # <u>89</u> Exhibit 127, # <u>90</u> Exhibit 128, # <u>91</u> Exhibit 129, # <u>92</u> Exhibit 130, # <u>93</u> Exhibit 131, # <u>94</u> Exhibit 132, # <u>95</u> Exhibit 133, # <u>96</u> Exhibit 134, # <u>97</u> Exhibit 135, # <u>98</u> Exhibit 136, # <u>99</u> Exhibit 137, # <u>100</u> Exhibit 138, # <u>101</u> Exhibit 139, # <u>102</u> Exhibit 140, # <u>103</u> Exhibit 141, # <u>104</u> Exhibit 142, # <u>105</u> Exhibit 143, # <u>106</u> Exhibit 144, # <u>107</u> Exhibit 145, # <u>108</u> Exhibit 146, # <u>109</u> Exhibit 147, # <u>110</u> Exhibit 148, # <u>111</u> Exhibit 149, # <u>112</u> Exhibit 150, # <u>113</u> Exhibit 151, # <u>114</u> Exhibit 152, # <u>115</u> Exhibit 153, # <u>116</u> Exhibit 154, # <u>117</u> Exhibit 155, # <u>118</u> Exhibit 156, # <u>119</u> Exhibit 157, # <u>120</u> Exhibit 158, # <u>121</u> Exhibit 159, # <u>122</u> Exhibit 160, # <u>123</u> Exhibit 161, # <u>124</u> Exhibit 162, # <u>125</u> Exhibit 163, # <u>126</u> Exhibit 164, # <u>127</u> Exhibit 165, # <u>128</u> Exhibit 166, # <u>129</u> Exhibit 167, # <u>130</u> Exhibit 168, # <u>131</u> Exhibit 169, # <u>132</u> Exhibit 170, # <u>133</u> Exhibit 171, # <u>134</u> Exhibit 172, # <u>135</u> Exhibit 173, # <u>136</u> Exhibit 174, # <u>137</u> Exhibit 175, # <u>138</u> Exhibit 176, # <u>139</u> Exhibit 177, # <u>140</u> Exhibit 178, # <u>141</u> Exhibit 179, # <u>142</u> Exhibit 180, # <u>143</u> Exhibit 181, # <u>144</u> Exhibit 182, # <u>145</u> Exhibit 183, # <u>146</u> Exhibit 184, # <u>147</u> Exhibit 185, # <u>148</u> Exhibit 186, # <u>149</u> Exhibit 187, # <u>150</u> Exhibit 188, # <u>151</u> Exhibit 189, # <u>152</u> Exhibit 190, # <u>153</u> Exhibit 191, # <u>154</u> Exhibit 192, # <u>155</u> Exhibit 193, # <u>156</u> Exhibit 194, # <u>157</u> Exhibit 195, # <u>158</u> Exhibit 196) (Rodgers, Andrea) (Entered: 06/28/2018)
06/28/2018	<u>271</u>	Declaration of Dr. Lise Van Susteren <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>272</u>	Declaration of Dr. Susan E. Pacheco <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>273</u>	Exhibits C to the Declaration and Expert Report of Dr. Lise Van Susteren <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> re Response to Motion <u>255</u> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Olson, Julia) (Main Document 273 replaced on 7/12/2018) (cw). (Entered: 06/28/2018)
06/28/2018	<u>274</u>	Declaration of Dr. James E. Hansen <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25) (Olson, Julia) (Entered: 06/28/2018)

06/28/2018	<u>275</u>	Declaration of Dr. Harold R. Wanless <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>276</u>	Exhibits 26 to the Declaration of James E. Hansen <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> re Response to Motion <u>255</u> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>277</u>	Declaration of Alexander Loznak <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>278</u>	Declaration of Avery M. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>279</u>	Declaration of Hazel V. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>280</u>	Declaration of Isaac V. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>281</u>	Declaration of Jacob Lebel <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>282</u>	Declaration of Jaime B. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>283</u>	Declaration of Jayden F <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>284</u>	Declaration of Journey Z. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>285</u>	Declaration of Kelsey Cascadia Rose Juliana <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>286</u>	Declaration of Kiran Isaac Oommen <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>287</u>	Declaration of Levi D. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>288</u>	Declaration of Miko V. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment</i> . (DOCUMENT RESTRICTED ACCORDING TO

		PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>289</u>	Declaration of Nathaniel B. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>290</u>	Declaration of Nicholas V. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>291</u>	Declaration of Sahara V. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>292</u>	Declaration of Sophie K. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>293</u>	Declaration of Tia Marie Hatton <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>294</u>	Declaration of Victoria B. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>295</u>	Declaration of Xiuhtezcatl Tonatiuh M. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>296</u>	Declaration of Zealand B. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>297</u>	Declaration of Aji P. <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>298</u>	Declaration of James Gustave "Gus" Speth <i>in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment.</i> Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1) (Olson, Julia) (Entered: 06/28/2018)
06/28/2018	<u>299</u>	Exhibits <i>Declaration of Julia A. Olson re Motion in limine Seeking Judicial Notice of Federal Government Documents</i> <u>254</u> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 197, # <u>2</u> Exhibit 198, # <u>3</u> Exhibit 199, # <u>4</u> Exhibit 200, # <u>5</u> Exhibit 201, # <u>6</u> Exhibit 202, # <u>7</u> Exhibit 203, # <u>8</u> Exhibit 204, # <u>9</u> Exhibit 205, # <u>10</u> Exhibit 206, # <u>11</u> Exhibit 207, # <u>12</u> Exhibit 208, # <u>13</u> Exhibit 209, # <u>14</u> Exhibit 210, # <u>15</u> Exhibit 211, # <u>16</u> Exhibit 212, # <u>17</u> Exhibit 213, # <u>18</u> Exhibit 214, # <u>19</u> Exhibit 215, # <u>20</u> Exhibit 216, # <u>21</u> Exhibit 217, # <u>22</u> Exhibit 218, # <u>23</u> Exhibit 219, # <u>24</u> Exhibit 220, # <u>25</u> Exhibit 221, # <u>26</u> Exhibit 222, # <u>27</u> Exhibit 223, # <u>28</u> Exhibit 224, # <u>29</u> Exhibit 225, # <u>30</u> Exhibit 226, # <u>31</u> Exhibit 227, # <u>32</u> Exhibit 228, # <u>33</u> Exhibit 229, # <u>34</u> Exhibit 230, # <u>35</u> Exhibit 231, # <u>36</u> Exhibit 232, # <u>37</u> Exhibit 233, # <u>38</u> Exhibit 234, # <u>39</u> Exhibit 235, # <u>40</u> Exhibit 236, # <u>41</u> Exhibit 237, # <u>42</u> Exhibit 238, # <u>43</u> Exhibit 239, # <u>44</u> Exhibit 240, # <u>45</u> Exhibit 241, # <u>46</u> Exhibit 242, # <u>47</u> Exhibit 243, # <u>48</u> Exhibit 244, # <u>49</u> Exhibit 245, # <u>50</u> Exhibit 246, # <u>51</u> Exhibit 247, # <u>52</u> Exhibit 248, # <u>53</u>

		Exhibit 249, # <u>54</u> Exhibit 250, # <u>55</u> Exhibit 251, # <u>56</u> Exhibit 252, # <u>57</u> Exhibit 253, # <u>58</u> Exhibit 254, # <u>59</u> Exhibit 255, # <u>60</u> Exhibit 256, # <u>61</u> Exhibit 257, # <u>62</u> Exhibit 258, # <u>63</u> Exhibit 259, # <u>64</u> Exhibit 260, # <u>65</u> Exhibit 261, # <u>66</u> Exhibit 262, # <u>67</u> Exhibit 263, # <u>68</u> Exhibit 264, # <u>69</u> Exhibit 265, # <u>70</u> Exhibit 266, # <u>71</u> Exhibit 267, # <u>72</u> Exhibit 268, # <u>73</u> Exhibit 269, # <u>74</u> Exhibit 270, # <u>75</u> Exhibit 271, # <u>76</u> Exhibit 272, # <u>77</u> Exhibit 273, # <u>78</u> Exhibit 274, # <u>79</u> Exhibit 275, # <u>80</u> Exhibit 276, # <u>81</u> Exhibit 277, # <u>82</u> Exhibit 278, # <u>83</u> Exhibit 279, # <u>84</u> Exhibit 280, # <u>85</u> Exhibit 281, # <u>86</u> Exhibit 282, # <u>87</u> Exhibit 283, # <u>88</u> Exhibit 284, # <u>89</u> Exhibit 285, # <u>90</u> Exhibit 286, # <u>91</u> Exhibit 287, # <u>92</u> Exhibit 288, # <u>93</u> Exhibit 289, # <u>94</u> Exhibit 290, # <u>95</u> Exhibit 291, # <u>96</u> Exhibit 292, # <u>97</u> Exhibit 293, # <u>98</u> Exhibit 294, # <u>99</u> Exhibit 295, # <u>100</u> Exhibit 296, # <u>101</u> Exhibit 297, # <u>102</u> Exhibit 298, # <u>103</u> Exhibit 299, # <u>104</u> Exhibit 300, # <u>105</u> Exhibit 301, # <u>106</u> Exhibit 302, # <u>107</u> Exhibit 303, # <u>108</u> Exhibit 304, # <u>109</u> Exhibit 305, # <u>110</u> Exhibit 306, # <u>111</u> Exhibit 307, # <u>112</u> Exhibit 308, # <u>113</u> Exhibit 309, # <u>114</u> Exhibit 310, # <u>115</u> Exhibit 311, # <u>116</u> Exhibit 312, # <u>117</u> Exhibit 313, # <u>118</u> Exhibit 314, # <u>119</u> Exhibit 315, # <u>120</u> Exhibit 316, # <u>121</u> Exhibit 317, # <u>122</u> Exhibit 318, # <u>123</u> Exhibit 319, # <u>124</u> Exhibit 320, # <u>125</u> Exhibit 321, # <u>126</u> Exhibit 322, # <u>127</u> Exhibit 323, # <u>128</u> Exhibit 324, # <u>129</u> Exhibit 325, # <u>130</u> Exhibit 326, # <u>131</u> Exhibit 327, # <u>132</u> Exhibit 328, # <u>133</u> Exhibit 329, # <u>134</u> Exhibit 330, # <u>135</u> Exhibit 331, # <u>136</u> Exhibit 332, # <u>137</u> Exhibit 333, # <u>138</u> Exhibit 334, # <u>139</u> Exhibit 335, # <u>140</u> Exhibit 336, # <u>141</u> Exhibit 337, # <u>142</u> Exhibit 338, # <u>143</u> Exhibit 339, # <u>144</u> Exhibit 340, # <u>145</u> Exhibit 341, # <u>146</u> Exhibit 342, # <u>147</u> Exhibit 343, # <u>148</u> Exhibit 344, # <u>149</u> Exhibit 345, # <u>150</u> Exhibit 346, # <u>151</u> Exhibit 347, # <u>152</u> Exhibit 348, # <u>153</u> Exhibit 349, # <u>154</u> Exhibit 350, # <u>155</u> Exhibit 351, # <u>156</u> Exhibit 352, # <u>157</u> Exhibit 353, # <u>158</u> Exhibit 354, # <u>159</u> Exhibit 355, # <u>160</u> Exhibit 356, # <u>161</u> Exhibit 357, # <u>162</u> Exhibit 358, # <u>163</u> Exhibit 359, # <u>164</u> Exhibit 360, # <u>165</u> Exhibit 361, # <u>166</u> Exhibit 362, # <u>167</u> Exhibit 363, # <u>168</u> Exhibit 364, # <u>169</u> Exhibit 365, # <u>170</u> Exhibit 366, # <u>171</u> Exhibit 367, # <u>172</u> Exhibit 368, # <u>173</u> Exhibit 369, # <u>174</u> Exhibit 370, # <u>175</u> Exhibit 371, # <u>176</u> Exhibit 372, # <u>177</u> Exhibit 373, # <u>178</u> Exhibit 374, # <u>179</u> Exhibit 375, # <u>180</u> Exhibit 376, # <u>181</u> Exhibit 377, # <u>182</u> Exhibit 378, # <u>183</u> Exhibit 379, # <u>184</u> Exhibit 380, # <u>185</u> Exhibit 381, # <u>186</u> Exhibit 382, # <u>187</u> Exhibit 383, # <u>188</u> Exhibit 384, # <u>189</u> Exhibit 385, # <u>190</u> Exhibit 1, # <u>191</u> Exhibit 2, # <u>192</u> Exhibit 3, # <u>193</u> Exhibit 4, # <u>194</u> Exhibit 5, # <u>195</u> Exhibit 6, # <u>196</u> Exhibit 7, # <u>197</u> Exhibit 8, # <u>198</u> Exhibit 9, # <u>199</u> Exhibit 10, # <u>200</u> Exhibit 11, # <u>201</u> Exhibit 12, # <u>202</u> Exhibit 13, # <u>203</u> Exhibit 14, # <u>204</u> Exhibit 15, # <u>205</u> Exhibit 16, # <u>206</u> Exhibit 17, # <u>207</u> Exhibit 18, # <u>208</u> Exhibit 19, # <u>209</u> Exhibit 20, # <u>210</u> Exhibit 21, # <u>211</u> Exhibit 22, # <u>212</u> Exhibit 23, # <u>213</u> Exhibit 24, # <u>214</u> Exhibit 25, # <u>215</u> Exhibit 26, # <u>216</u> Exhibit 27, # <u>217</u> Exhibit 28, # <u>218</u> Exhibit 29, # <u>219</u> Exhibit 30, # <u>220</u> Exhibit 31, # <u>221</u> Exhibit 32, # <u>222</u> Exhibit 33, # <u>223</u> Exhibit 34, # <u>224</u> Exhibit 35, # <u>225</u> Exhibit 36, # <u>226</u> Exhibit 37, # <u>227</u> Exhibit 38) (Rodgers, Andrea) (Entered: 06/28/2018)
06/29/2018	<u>300</u>	ORDER: The Court has carefully reviewed Judge Coffin's order in light of Defendants' objections. The Court concludes that the order is not clearly erroneous or contrary to law. Accordingly, the Court AFFIRMS Magistrate Judge Coffin's Order <u>212</u> denying Defendants' Motion for Protective Order and Stay of All Discovery <u>196</u> . The Court declines to certify this decision for interlocutory appeal under 28 U.S.C. § 1292(b). Signed on 6/29/2018 by Judge Ann L. Aiken. (ck) (Entered: 06/29/2018)
06/29/2018	301	Administrative Record Lodged with the Clerk's Office. Thumb Drive Lodged by Plaintiffs. Lodged administrative records are maintained in the Clerk's Office but are not filed or made a part of the electronic record in CM/ECF. (kf) (Entered: 06/29/2018)
06/29/2018	<u>302</u>	Reply to Motion for Judgment on the Pleadings <u>195</u> . Filed by All Defendants. (Duffy, Sean) (Entered: 06/29/2018)
06/29/2018	<u>303</u>	Declaration of Julia A. Olson <i>Noticing the Conventional Filing of Documents in Support of Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment and Certificate of Service</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Rodgers, Andrea) (Entered: 06/29/2018)
06/29/2018	<u>304</u>	Reply to Defendants' Opposition to Plaintiffs to Motion to Defer Consideration of Defendants' Motion for Summary Judgment <u>226</u> . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 06/29/2018)

07/02/2018	<u>306</u>	Notice from USSC of extension of time regarding Application No. 17A1304. USSC 17-71692. (kf) Modified file date to match USCA on 8/10/2018. (kf) (Entered: 07/03/2018)
07/03/2018	<u>305</u>	Motion to Amend/Correct <i>Schedule for Oral Argument re</i> Motion for Summary Judgment <u>207</u> . Expedited Hearing requested. Filed by All Defendants. (Boronow, Clare) (Entered: 07/03/2018)
07/05/2018	<u>307</u>	Motion for Stay <i>Pending Petition for Writ of Mandamus</i> . Expedited Hearing requested. Filed by All Defendants. (Boronow, Clare) (Entered: 07/05/2018)
07/05/2018	<u>308</u>	Notice of Filing of <i>Petition for Writ of Mandamus</i> Filed by All Defendants. (Attachments: # <u>1</u> Exhibit <i>Petition for Writ of Mandamus</i>) (Boronow, Clare) (Entered: 07/05/2018)
07/10/2018	<u>309</u>	Unopposed Motion to File Excess Pages <i>for Reply in support of Motion for Summary Judgment</i> . Expedited Hearing requested. Filed by All Defendants. (Boronow, Clare) (Entered: 07/10/2018)
07/10/2018	310	ORDER: Granting Motion to File Excess Pages <u>309</u> . Ordered on 7/10/2018 by Judge Ann L. Aiken. (rdr) (Entered: 07/10/2018)
07/10/2018	<u>311</u>	Response in Opposition to Motion to Amend/Correct <i>Schedule for Oral Argument re</i> Motion for Summary Judgment <u>207</u> <u>305</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 07/10/2018)
07/11/2018	<u>312</u>	Unopposed Motion for Extension of Time to File a Response/Reply to Motion in limine <i>Seeking Judicial Notice of Federal Government Documents</i> <u>254</u> . Expedited Hearing requested. Filed by All Defendants. (Boronow, Clare) (Entered: 07/11/2018)
07/12/2018	313	ORDER: Granting Motion for Extension of Time to File Response to Motion in limine <i>Seeking Judicial Notice of Federal Government Documents</i> <u>254</u> Defendants Response is due by 7/24/2018. Ordered on 7/12/2018 by Judge Ann L. Aiken. (rdr) (Entered: 07/12/2018)
07/12/2018	314	Clerk's Notice of Docket Correction regarding <u>273</u> Exhibits,. The PDF attached to this entry at filing was incorrect. The document was missing a case caption cover page. A corrected PDF has been uploaded and has replaced the incorrect attachment. The Notice of Electronic Filing will be regenerated to all parties. (cw) (Entered: 07/12/2018)
07/12/2018	<u>315</u>	Reply to Motion for Summary Judgment <u>207</u> . Filed by All Defendants. (Boronow, Clare) (Entered: 07/12/2018)
07/13/2018	316	ORDER: Denying Motion <u>226</u> ; Granting Motion to Amend/Correct <u>305</u> .The Motion to Defer Consideration of Defendants' Motion for Summary Judgment <u>226</u> is DENIED at this time. Defendant's Motion to Amend Schedule <u>305</u> is GRANTED. Oral Argument on the Motion for Summary Judgment shall be heard simultaneously with argument on the Motion for Judgment on the Pleadings. <u>195</u> . Oral Argument is set for 7/18/2018 at 02:00PM in Eugene Courtroom 1 before Judge Ann L. Aiken. Ordered on 7/13/2018 by Judge Ann L. Aiken. (rdr) (Entered: 07/13/2018)
07/13/2018	<u>317</u>	Response in Opposition to Motion for Stay <i>Pending Petition for Writ of Mandamus</i> <u>307</u> . Filed by All Plaintiffs. (Gregory, Philip) (Entered: 07/13/2018)
07/16/2018	<u>319</u>	Joint Status Report (<i>CORRECTED DOCKET ENTRY</i>). Filed by All Defendants. (Piropato, Marissa) (Entered: 07/16/2018)
07/17/2018	<u>320</u>	Exhibits to July 17, 2018 re Joint Status Report <u>319</u> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Olson, Julia) (Entered: 07/17/2018)
07/17/2018	<u>321</u>	Notice of Application to the Supreme Court for Stay Filed by All Defendants. (Attachments: # <u>1</u> Attachment Application to Supreme Court for Stay) (Boronow, Clare) (Entered: 07/17/2018)
07/17/2018	<u>322</u>	Notice of Attorney Withdrawal: Filed by John Davidson. (Blackwell, Michelle) (Entered: 07/17/2018)

07/17/2018	<u>323</u>	MINUTES of Proceedings: Status Conference held before Magistrate Judge Thomas M. Coffin. Plaintiffs' counsel may disclose the identity of the individuals identified in the government's letter <u>320</u> to the extent reasonably necessary to permit them to prepare for expert depositions. The information contained in the government's letter otherwise remains subject to the parties' protective order <u>221</u> , and plaintiffs shall not disclose the identities of those individuals to the media or other third parties except to the extent authorized by this order. A further Status Conference is set for 8/16/2018 at 11:00AM in Eugene Courtroom 3 before Magistrate Judge Thomas M. Coffin. Julia Olson, Philip Gregory present as counsel for plaintiff(s). Frank Singer, Marissa Pirocato, Clare Boronow present as counsel for defendant(s). Court Reporter: Kristi Anderson. (ck) (Entered: 07/17/2018)
07/17/2018	<u>324</u>	ORDER: Denying Motion for Stay Pending Petition for Writ of Mandamus <u>307</u> . Ordered by Judge Ann L. Aiken. (ck) (Entered: 07/17/2018)
07/18/2018	<u>325</u>	MINUTES of Proceedings: Motion Hearing Held before Judge Ann L. Aiken regarding Motion for Summary Judgment <u>207</u> and Motion for Judgment on the Pleadings <u>195</u> . The Court hears argument as stated on the record. The Court takes the matter under advisement. Formal Written Opinion to follow. Julia Olson, Andrea Rodgers, Philip Gregory present as counsel for plaintiff(s). Marissa Pirocato, Frank Singer, Clare Boronow present as counsel for defendant(s). Court Reporter: Kristi Anderson. (ck) (Entered: 07/18/2018)
07/20/2018	<u>326</u>	Notice of Filing of Defendants' Letter to Supreme Court Filed by All Defendants. (Attachments: # <u>1</u> Exhibit Defendants' Letter to Clerk of U.S. Supreme Court) (Boronow, Clare) (Entered: 07/20/2018)
07/24/2018	<u>327</u>	Response to Motion in limine <i>Seeking Judicial Notice of Federal Government Documents</i> <u>254</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 07/24/2018)
07/31/2018	<u>328</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 7/17/2018 before Judge Thomas M. Coffin, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov . Notice of Intent to Redact Transcript is due by 8/7/2018. Redaction Request due 8/21/2018. Redacted Transcript Deadline set for 8/31/2018. Release of Transcript Restriction set for 10/29/2018. (Anderson, Kristi) (Entered: 07/31/2018)
07/31/2018	<u>329</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 7/18/2018 before Judge Ann Aiken, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov . Notice of Intent to Redact Transcript is due by 8/7/2018. Redaction Request due 8/21/2018. Redacted Transcript Deadline set for 8/31/2018. Release of Transcript Restriction set for 10/29/2018. (Anderson, Kristi) (Entered: 07/31/2018)
08/01/2018	<u>330</u>	Notice of Order of United States Supreme Court Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 08/01/2018)
08/03/2018	<u>331</u>	Reply to Motion in limine <i>Seeking Judicial Notice of Federal Government Documents</i> <u>254</u> . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 08/03/2018)
08/03/2018	<u>332</u>	Declaration of Andrea K. Rodgers in Support of Plaintiffs' Reply in Support of Motion in Limine <i>Seeking Judicial Notice of Federal Government Documents</i> . Filed by All Plaintiffs. (Related document(s): Reply to Motion <u>331</u> .) (Attachments: # <u>1</u> Exhibit) (Rodgers, Andrea) (Entered: 08/03/2018)
08/13/2018	<u>333</u>	Notice of Appearance of Erika Norman appearing on behalf of All Defendants Filed by on behalf of All Defendants. (Norman, Erika) (Entered: 08/13/2018)
08/15/2018	<u>334</u>	Supplemental Declaration of Andrea K. Rodgers in Support of Plaintiffs' Reply in Support of Motion in Limine <i>Seeking Judicial Notice of Federal Government Documents</i> . Filed by All Plaintiffs. (Related document(s): Reply to Motion <u>331</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4) (Rodgers, Andrea) (Entered: 08/15/2018)

08/16/2018	<u>335</u>	Scheduling Order by Judge Ann L. Aiken. Telephonic Status Conference is set for 8/27/2018 at 01:30PM in Eugene by telephone before Judge Ann L. Aiken. The parties shall call in to the conference. Conference call information will be provided by the Court in a separate entry. Ordered by Judge Ann L. Aiken. (ck) (Entered: 08/16/2018)
08/16/2018	<u>336</u>	Joint Status Report . Filed by All Plaintiffs. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Rodgers, Andrea) (Entered: 08/16/2018)
08/16/2018	<u>337</u>	MINUTES of Proceedings: Status Conference held before Magistrate Judge Thomas M. Coffin. Plaintiffs may serve rebuttal expert reports on 9/19/2018. Defendants are allowed until 10/26/2018 to serve a rebuttal expert report of James Gustave Speth. The parties are directed to raise the issue regarding the trial memo deadline to Judge Ann Aiken. A further Status Conference is set for 9/21/2018 at 10:00AM in Eugene Courtroom 3 before Magistrate Judge Thomas M. Coffin. Julia Olson, Philip Gregory present as counsel for plaintiff(s). Clare Boronow, Marissa Piropato, Sean Duffy, Frank Singer, Erika Norman present as counsel for defendant(s). Court Reporter: Kristi Anderson. (ck) (Entered: 08/16/2018)
08/24/2018	<u>338</u>	Supplement <i>NOTICE OF DISPUTED FACTS RAISED BY DEFENDANTS EXPERT REPORTS IN SUPPORT OF PLAINTIFFS RESPONSE IN OPPOSITION TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>255</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7) (Olson, Julia) (Entered: 08/24/2018)
08/24/2018	<u>339</u>	Exhibits 8 re Supplement, <u>338</u> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Olson, Julia) (Entered: 08/24/2018)
08/24/2018	<u>340</u>	Second Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 08/24/2018)
08/24/2018	<u>341</u>	Declaration of Andrea K. Rodgers <i>in Support of Second Motion in Limine Seeking Judicial Notice of Publicly Available Documents</i> . Filed by All Plaintiffs. (Related document(s): Motion in Limine <u>340</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27, # <u>28</u> Exhibit 28, # <u>29</u> Exhibit 29, # <u>30</u> Exhibit 30, # <u>31</u> Exhibit 31, # <u>32</u> Exhibit 32, # <u>33</u> Exhibit 33, # <u>34</u> Exhibit 34, # <u>35</u> Exhibit 35, # <u>36</u> Exhibit 36, # <u>37</u> Exhibit 37, # <u>38</u> Exhibit 38, # <u>39</u> Exhibit 39, # <u>40</u> Exhibit 40, # <u>41</u> Exhibit 41, # <u>42</u> Exhibit 42, # <u>43</u> Exhibit 43, # <u>44</u> Exhibit 44, # <u>45</u> Exhibit 45, # <u>46</u> Exhibit 46, # <u>47</u> Exhibit 47, # <u>48</u> Exhibit 48, # <u>49</u> Exhibit 49, # <u>50</u> Exhibit 50, # <u>51</u> Exhibit 51, # <u>52</u> Exhibit 52, # <u>53</u> Exhibit 53, # <u>54</u> Exhibit 54, # <u>55</u> Exhibit 55, # <u>56</u> Exhibit 56, # <u>57</u> Exhibit 57, # <u>58</u> Exhibit 58, # <u>59</u> Exhibit 59, # <u>60</u> Exhibit 60, # <u>61</u> Exhibit 61, # <u>62</u> Exhibit 62, # <u>63</u> Exhibit 63, # <u>64</u> Exhibit 64, # <u>65</u> Exhibit 65, # <u>66</u> Exhibit 66, # <u>67</u> Exhibit 67, # <u>68</u> Exhibit 68, # <u>69</u> Exhibit 69, # <u>70</u> Exhibit 70, # <u>71</u> Exhibit 71, # <u>72</u> Exhibit 72, # <u>73</u> Exhibit 73, # <u>74</u> Exhibit 74, # <u>75</u> Exhibit 75, # <u>76</u> Exhibit 76, # <u>77</u> Exhibit 77, # <u>78</u> Exhibit 78, # <u>79</u> Exhibit 79, # <u>80</u> Exhibit 80, # <u>81</u> Exhibit 81, # <u>82</u> Exhibit 82, # <u>83</u> Exhibit 83, # <u>84</u> Exhibit 84, # <u>85</u> Exhibit 85, # <u>86</u> Exhibit 86, # <u>87</u> Exhibit 87, # <u>88</u> Exhibit 88, # <u>89</u> Exhibit 89, # <u>90</u> Exhibit 90, # <u>91</u> Exhibit 91, # <u>92</u> Exhibit 92, # <u>93</u> Exhibit 93, # <u>94</u> Exhibit 94, # <u>95</u> Exhibit 95, # <u>96</u> Exhibit 96, # <u>97</u> Exhibit 97, # <u>98</u> Exhibit 98, # <u>99</u> Exhibit 99, # <u>100</u> Exhibit 100, # <u>101</u> Exhibit 101, # <u>102</u> Exhibit 102, # <u>103</u> Exhibit 103, # <u>104</u> Exhibit 104, # <u>105</u> Exhibit 105, # <u>106</u> Exhibit 106, # <u>107</u> Exhibit 107, # <u>108</u> Exhibit 108, # <u>109</u> Exhibit 109, # <u>110</u> Exhibit 110, # <u>111</u> Exhibit 111, # <u>112</u> Exhibit 112, # <u>113</u> Exhibit 113, # <u>114</u> Exhibit 114, # <u>115</u> Exhibit 115, # <u>116</u> Exhibit 116, # <u>117</u> Exhibit 117, # <u>118</u> Exhibit 118, # <u>119</u> Exhibit 119, # <u>120</u> Exhibit 120, # <u>121</u> Exhibit 121, # <u>122</u> Exhibit 122, # <u>123</u> Exhibit 123, # <u>124</u> Exhibit 124, # <u>125</u> Exhibit 125, # <u>126</u> Exhibit 126, # <u>127</u> Exhibit 127, # <u>128</u> Exhibit 128, # <u>129</u> Exhibit 129, # <u>130</u> Exhibit 130, # <u>131</u> Exhibit 131, # <u>132</u> Exhibit 132, # <u>133</u> Exhibit 133, # <u>134</u> Exhibit 134, # <u>135</u> Exhibit 135, # <u>136</u> Exhibit 136, # <u>137</u> Exhibit 137, # <u>138</u> Exhibit 138, # <u>139</u> Exhibit 139, # <u>140</u> Exhibit 140, # <u>141</u> Exhibit 141, # <u>142</u> Exhibit 142, # <u>143</u> Exhibit 143, # <u>144</u> Exhibit 144, # <u>145</u> Exhibit 145, # <u>146</u> Exhibit 146, # <u>147</u> Exhibit 147, # <u>148</u> Exhibit 148, # <u>149</u> Exhibit 149, # <u>150</u> Exhibit 150, # <u>151</u>

Exhibit 151, # 152 Exhibit 152, # 153 Exhibit 153, # 154 Exhibit 154, # 155 Exhibit 155, # 156 Exhibit 156, # 157 Exhibit 157, # 158 Exhibit 158, # 159 Exhibit 159, # 160 Exhibit 160, # 161 Exhibit 161, # 162 Exhibit 162, # 163 Exhibit 163, # 164 Exhibit 164, # 165 Exhibit 165, # 166 Exhibit 166, # 167 Exhibit 167, # 168 Exhibit 168, # 169 Exhibit 169, # 170 Exhibit 170, # 171 Exhibit 171, # 172 Exhibit 172, # 173 Exhibit 173, # 174 Exhibit 174, # 175 Exhibit 175, # 176 Exhibit 176, # 177 Exhibit 177, # 178 Exhibit 178, # 179 Exhibit 179, # 180 Exhibit 180, # 181 Exhibit 181, # 182 Exhibit 182, # 183 Exhibit 183, # 184 Exhibit 184, # 185 Exhibit 185, # 186 Exhibit 186, # 187 Exhibit 187, # 188 Exhibit 188, # 189 Exhibit 189, # 190 Exhibit 190, # 191 Exhibit 191, # 192 Exhibit 192, # 193 Exhibit 193, # 194 Exhibit 194, # 195 Exhibit 195, # 196 Exhibit 196, # 197 Exhibit 197, # 198 Exhibit 198, # 199 Exhibit 199, # 200 Exhibit 200, # 201 Exhibit 201, # 202 Exhibit 202, # 203 Exhibit 203, # 204 Exhibit 204, # 205 Exhibit 205, # 206 Exhibit 206, # 207 Exhibit 207, # 208 Exhibit 208, # 209 Exhibit 209, # 210 Exhibit 210, # 211 Exhibit 211, # 212 Exhibit 212, # 213 Exhibit 213, # 214 Exhibit 214, # 215 Exhibit 215, # 216 Exhibit 216, # 217 Exhibit 217, # 218 Exhibit 218, # 219 Exhibit 219, # 220 Exhibit 220, # 221 Exhibit 221, # 222 Exhibit 222, # 223 Exhibit 223, # 224 Exhibit 224, # 225 Exhibit 225, # 226 Exhibit 226, # 227 Exhibit 227, # 228 Exhibit 228, # 229 Exhibit 229, # 230 Exhibit 230, # 231 Exhibit 231, # 232 Exhibit 232, # 233 Exhibit 233, # 234 Exhibit 234, # 235 Exhibit 235, # 236 Exhibit 236, # 237 Exhibit 237, # 238 Exhibit 238, # 239 Exhibit 239, # 240 Exhibit 240, # 241 Exhibit 241, # 242 Exhibit 242, # 243 Exhibit 243, # 244 Exhibit 244, # 245 Exhibit 245, # 246 Exhibit 246, # 247 Exhibit 247, # 248 Exhibit 248, # 249 Exhibit 249, # 250 Exhibit 250, # 251 Exhibit 251, # 252 Exhibit 252, # 253 Exhibit 253, # 254 Exhibit 254, # 255 Exhibit 255, # 256 Exhibit 256, # 257 Exhibit 257, # 258 Exhibit 258, # 259 Exhibit 259, # 260 Exhibit 260, # 261 Exhibit 261, # 262 Exhibit 262, # 263 Exhibit 263, # 264 Exhibit 264, # 265 Exhibit 265, # 266 Exhibit 266, # 267 Exhibit 267, # 268 Exhibit 268, # 269 Exhibit 269, # 270 Exhibit 270, # 271 Exhibit 271, # 272 Exhibit 272, # 273 Exhibit 273, # 274 Exhibit 274, # 275 Exhibit 275, # 276 Exhibit 276, # 277 Exhibit 277, # 278 Exhibit 278, # 279 Exhibit 279, # 280 Exhibit 280, # 281 Exhibit 281, # 282 Exhibit 282, # 283 Exhibit 283, # 284 Exhibit 284, # 285 Exhibit 285, # 286 Exhibit 286, # 287 Exhibit 287, # 288 Exhibit 288, # 289 Exhibit 289, # 290 Exhibit 290, # 291 Exhibit 291, # 292 Exhibit 292, # 293 Exhibit 293, # 294 Exhibit 294, # 295 Exhibit 295, # 296 Exhibit 296, # 297 Exhibit 297, # 298 Exhibit 298, # 299 Exhibit 299, # 300 Exhibit 300, # 301 Exhibit 301, # 302 Exhibit 302, # 303 Exhibit 303, # 304 Exhibit 304, # 305 Exhibit 305, # 306 Exhibit 306, # 307 Exhibit 307, # 308 Exhibit 308, # 309 Exhibit 309, # 310 Exhibit 310, # 311 Exhibit 311, # 312 Exhibit 312, # 313 Exhibit 313, # 314 Exhibit 314, # 315 Exhibit 315, # 316 Exhibit 316, # 317 Exhibit 317, # 318 Exhibit 318, # 319 Exhibit 319, # 320 Exhibit 320, # 321 Exhibit 321, # 322 Exhibit 322, # 323 Exhibit 323, # 324 Exhibit 324, # 325 Exhibit 325, # 326 Exhibit 326, # 327 Exhibit 327, # 328 Exhibit 328, # 329 Exhibit 329, # 330 Exhibit 330, # 331 Exhibit 331, # 332 Exhibit 332, # 333 Exhibit 333, # 334 Exhibit 334, # 335 Exhibit 335, # 336 Exhibit 336, # 337 Exhibit 337, # 338 Exhibit 338, # 339 Exhibit 339, # 340 Exhibit 340, # 341 Exhibit 341, # 342 Exhibit 342, # 343 Exhibit 343, # 344 Exhibit 344, # 345 Exhibit 345, # 346 Exhibit 346, # 347 Exhibit 347, # 348 Exhibit 348, # 349 Exhibit 349, # 350 Exhibit 350, # 351 Exhibit 351, # 352 Exhibit 352, # 353 Exhibit 353, # 354 Exhibit 354, # 355 Exhibit 355, # 356 Exhibit 356, # 357 Exhibit 357, # 358 Exhibit 358, # 359 Exhibit 359, # 360 Exhibit 360, # 361 Exhibit 361, # 362 Exhibit 362, # 363 Exhibit 363, # 364 Exhibit 364, # 365 Exhibit 365, # 366 Exhibit 366, # 367 Exhibit 367, # 368 Exhibit 368, # 369 Exhibit 369, # 370 Exhibit 370, # 371 Exhibit 371, # 372 Exhibit 372, # 373 Exhibit 373, # 374 Exhibit 374, # 375 Exhibit 375, # 376 Exhibit 376, # 377 Exhibit 377, # 378 Exhibit 378, # 379 Exhibit 379, # 380 Exhibit 380, # 381 Exhibit 381, # 382 Exhibit 382, # 383 Exhibit 383, # 384 Exhibit 384, # 385 Exhibit 385, # 386 Exhibit 386, # 387 Exhibit 387, # 388 Exhibit 388, # 389 Exhibit 389, # 390 Exhibit 390, # 391 Exhibit 391, # 392 Exhibit 392, # 393 Exhibit 393, # 394 Exhibit 394, # 395 Exhibit 395, # 396 Exhibit 396, # 397 Exhibit 397, # 398 Exhibit 398, # 399 Exhibit 399, # 400 Exhibit 400, # 401 Exhibit 401, # 402 Exhibit 402, # 403 Exhibit 403, # 404 Exhibit 404, # 405 Exhibit 405, # 406 Exhibit 406, # 407 Exhibit 407, # 408 Exhibit 408, # 409 Exhibit 409, # 410 Exhibit 410, # 411 Exhibit 411, # 412 Exhibit 412, # 413 Exhibit 413, # 414 Exhibit 414, # 415 Exhibit 415, # 416 Exhibit 416, # 417 Exhibit 417, # 418 Exhibit 418, # 419 Exhibit 419, # 420 Exhibit 420, # 421 Exhibit 421, # 422 Exhibit 422, # 423 Exhibit 423, # 424 Exhibit 424, # 425 Exhibit 425, # 426 Exhibit 426, # 427 Exhibit 427, # 428 Exhibit 428

		<p>428, # <u>429</u> Exhibit 429, # <u>430</u> Exhibit 430, # <u>431</u> Exhibit 431, # <u>432</u> Exhibit 432, # <u>433</u> Exhibit 433, # <u>434</u> Exhibit 434, # <u>435</u> Exhibit 435, # <u>436</u> Exhibit 436, # <u>437</u> Exhibit 437, # <u>438</u> Exhibit 438, # <u>439</u> Exhibit 439, # <u>440</u> Exhibit 440, # <u>441</u> Exhibit 441, # <u>442</u> Exhibit 442, # <u>443</u> Exhibit 443, # <u>444</u> Exhibit 444, # <u>445</u> Exhibit 445, # <u>446</u> Exhibit 446, # <u>447</u> Exhibit 447, # <u>448</u> Exhibit 448, # <u>449</u> Exhibit 449, # <u>450</u> Exhibit 450, # <u>451</u> Exhibit 451, # <u>452</u> Exhibit 452, # <u>453</u> Exhibit 453, # <u>454</u> Exhibit 454, # <u>455</u> Exhibit 455, # <u>456</u> Exhibit 456, # <u>457</u> Exhibit 457, # <u>458</u> Exhibit 458, # <u>459</u> Exhibit 459, # <u>460</u> Exhibit 460, # <u>461</u> Exhibit 461, # <u>462</u> Exhibit 462, # <u>463</u> Exhibit 463, # <u>464</u> Exhibit 464, # <u>465</u> Exhibit 465, # <u>466</u> Exhibit 466, # <u>467</u> Exhibit 467, # <u>468</u> Exhibit 468, # <u>469</u> Exhibit 469, # <u>470</u> Exhibit 470, # <u>471</u> Exhibit 471, # <u>472</u> Exhibit 472, # <u>473</u> Exhibit 473, # <u>474</u> Exhibit 474, # <u>475</u> Exhibit 475, # <u>476</u> Exhibit 476, # <u>477</u> Exhibit 477, # <u>478</u> Exhibit 478, # <u>479</u> Exhibit 479, # <u>480</u> Exhibit 480, # <u>481</u> Exhibit 481, # <u>482</u> Exhibit 482, # <u>483</u> Exhibit 483, # <u>484</u> Exhibit 484, # <u>485</u> Exhibit 485, # <u>486</u> Exhibit 486, # <u>487</u> Exhibit 487, # <u>488</u> Exhibit 488, # <u>489</u> Exhibit 489, # <u>490</u> Exhibit 490, # <u>491</u> Exhibit 491, # <u>492</u> Exhibit 492, # <u>493</u> Exhibit 493, # <u>494</u> Exhibit 494, # <u>495</u> Exhibit 495, # <u>496</u> Exhibit 496, # <u>497</u> Exhibit 497, # <u>498</u> Exhibit 498, # <u>499</u> Exhibit 499, # <u>500</u> Exhibit 500, # <u>501</u> Exhibit 501, # <u>502</u> Exhibit 502, # <u>503</u> Exhibit 503, # <u>504</u> Exhibit 504, # <u>505</u> Exhibit 505, # <u>506</u> Exhibit 506, # <u>507</u> Exhibit 507, # <u>508</u> Exhibit 508, # <u>509</u> Exhibit 509, # <u>510</u> Exhibit 510, # <u>511</u> Exhibit 511, # <u>512</u> Exhibit 512, # <u>513</u> Exhibit 513, # <u>514</u> Exhibit 514, # <u>515</u> Exhibit 515, # <u>516</u> Exhibit 516, # <u>517</u> Exhibit 517, # <u>518</u> Exhibit 518, # <u>519</u> Exhibit 519, # <u>520</u> Exhibit 520, # <u>521</u> Exhibit 521, # <u>522</u> Exhibit 522, # <u>523</u> Exhibit 523, # <u>524</u> Exhibit 524, # <u>525</u> Exhibit 525, # <u>526</u> Exhibit 526, # <u>527</u> Exhibit 527, # <u>528</u> Exhibit 528, # <u>529</u> Exhibit 529, # <u>530</u> Exhibit 530, # <u>531</u> Exhibit 531, # <u>532</u> Exhibit 532, # <u>533</u> Exhibit 533, # <u>534</u> Exhibit 534, # <u>535</u> Exhibit 535, # <u>536</u> Exhibit 536, # <u>537</u> Exhibit 537, # <u>538</u> Exhibit 538, # <u>539</u> Exhibit 539, # <u>540</u> Exhibit 540, # <u>541</u> Exhibit 541, # <u>542</u> Exhibit 542, # <u>543</u> Exhibit 543, # <u>544</u> Exhibit 544, # <u>545</u> Exhibit 545, # <u>546</u> Exhibit 546, # <u>547</u> Exhibit 547, # <u>548</u> Exhibit 548, # <u>549</u> Exhibit 549, # <u>550</u> Exhibit 550, # <u>551</u> Exhibit 551, # <u>552</u> Exhibit 552, # <u>553</u> Exhibit 553, # <u>554</u> Exhibit 554, # <u>555</u> Exhibit 555, # <u>556</u> Exhibit 556, # <u>557</u> Exhibit 557, # <u>558</u> Exhibit 558, # <u>559</u> Exhibit 559, # <u>560</u> Exhibit 560, # <u>561</u> Exhibit 561, # <u>562</u> Exhibit 562, # <u>563</u> Exhibit 563, # <u>564</u> Exhibit 564, # <u>565</u> Exhibit 565, # <u>566</u> Exhibit 566, # <u>567</u> Exhibit 567, # <u>568</u> Exhibit 568, # <u>569</u> Exhibit 569, # <u>570</u> Exhibit 570, # <u>571</u> Exhibit 571, # <u>572</u> Exhibit 572, # <u>573</u> Exhibit 573, # <u>574</u> Exhibit 574, # <u>575</u> Exhibit 575, # <u>576</u> Exhibit 576, # <u>577</u> Exhibit 577, # <u>578</u> Exhibit 578, # <u>579</u> Exhibit 579, # <u>580</u> Exhibit 580, # <u>581</u> Exhibit 581, # <u>582</u> Exhibit 582, # <u>583</u> Exhibit 583, # <u>584</u> Exhibit 584, # <u>585</u> Exhibit 585, # <u>586</u> Exhibit 586, # <u>587</u> Exhibit 587, # <u>588</u> Exhibit 588, # <u>589</u> Exhibit 589, # <u>590</u> Exhibit 590, # <u>591</u> Exhibit 591, # <u>592</u> Exhibit 592, # <u>593</u> Exhibit 593, # <u>594</u> Exhibit 594, # <u>595</u> Exhibit 595, # <u>596</u> Exhibit 596, # <u>597</u> Exhibit 597, # <u>598</u> Exhibit 598, # <u>599</u> Exhibit 599, # <u>600</u> Exhibit 600, # <u>601</u> Exhibit 601, # <u>602</u> Exhibit 602, # <u>603</u> Exhibit 603, # <u>604</u> Exhibit 604, # <u>605</u> Exhibit 605, # <u>606</u> Exhibit 606, # <u>607</u> Exhibit 607, # <u>608</u> Exhibit 608) (Rodgers, Andrea) (Entered: 08/24/2018)</p>
08/27/2018	343	<p>MINUTES of Proceedings: Telephonic Status Conference held before Judge Ann L. Aiken. The parties are to exchange exhibit lists by 10/1/2018. The parties are ordered to submit witness lists (including a time estimate for each witness and a brief description of their testimony), exhibit lists, trial memoranda (including an estimate on the total length of the trial), objections to exhibits, and motions in limine no later than 10/15/2018. The Court will send the parties further instructions regarding the submission of electronic versions of their exhibits. The parties are further ordered to confer regarding exhibits and witnesses and be prepared to discuss related objections and stipulations at the pretrial conference. Pretrial Conference is set for 10/23/2018 at 10:00AM in Eugene Courtroom 1 before Judge Ann L. Aiken. Julia Olson, Philip Gregory, Andrea Rodgers present as counsel for plaintiffs. Clare Boronow, Erika Norman, Frank Singer, Sean Duffy, Marissa Piropato present as counsel for defendants. Court Reporter: Kristi Anderson. (ck) (Entered: 08/29/2018)</p>
08/28/2018	342	<p>Administrative Record Lodged with the Clerk's Office. One Thumb Drive labeled exh 609 Lodged by Plaintiffs (Related to Declaration <u>341</u>). Lodged administrative records are maintained in the Clerk's Office but are not filed or made a part of the electronic record in CM/ECF. (kf) (Entered: 08/28/2018)</p>
09/05/2018	<u>344</u>	<p>Sur-Response <i>Plaintiffs Notice of Disputed Facts in Support of Plaintiffs' Opposition</i> to Motion for Summary Judgment <u>207</u> . Filed by All Defendants. (Duffy, Sean)</p>

		(Entered: 09/05/2018)
09/05/2018	<u>345</u>	Notice re Motion for Summary Judgment <u>207</u> , Motion for Judgment on the Pleadings <u>195</u> of <i>Supplemental Authority</i> Filed by All Defendants. (Related document(s): Motion for Summary Judgment <u>207</u> , Motion for Judgment on the Pleadings <u>195</u> .) (Duffy, Sean) (Entered: 09/05/2018)
09/07/2018	<u>346</u>	Motion for Extension of Time to File a Response/Reply to Second Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> <u>340</u> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 09/07/2018)
09/10/2018	<u>347</u>	Notice of Attorney Substitution: Attorney Sean Malone is substituted as counsel of record in place of Attorney Charles M. Tebbutt Filed by Global Catholic Climate Movement and Leadership Council of Women Religious. (Malone, Sean) (Entered: 09/10/2018)
09/11/2018	<u>348</u>	Response to Motion for Extension of Time to File a Response/Reply to Second Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> <u>340</u> <u>346</u> . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 09/11/2018)
09/11/2018	<u>349</u>	Declaration of Andrea K. Rodgers <i>in Support of Plaintiffs' Response to Defendants' Motion for Extension to Respond to Plaintiffs Second Motion in Limine To Take Judicial Notice of Documents</i> . Filed by All Plaintiffs. (Related document(s): Response to Motion <u>348</u> .) (Rodgers, Andrea) (Entered: 09/11/2018)
09/14/2018	<u>350</u>	Reply to Motion for Extension of Time to File a Response/Reply to Second Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> <u>340</u> <u>346</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Boronow, Clare) (Entered: 09/14/2018)
09/14/2018	<u>351</u>	Supplemental Declaration of Andrea K. Rodgers <i>in Support of Plaintiffs' Reply in Support of Motion in Limine Seeking Judicial Notice of Federal Government Documents</i> . Filed by All Plaintiffs. (Related document(s): Reply to Motion <u>331</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4) (Rodgers, Andrea) (Entered: 09/14/2018)
09/20/2018	352	Scheduling Order by Judge Ann L. Aiken. Court Trial is set for 10/29/2018 – 11/2/2018 at 09:00AM in Eugene Courtroom 1 before Judge Ann L. Aiken. Court Trial is set for 11/5/2018 – 11/9/2018 at 09:00AM in Eugene Courtroom 1 before Judge Ann L. Aiken. Ordered by Judge Ann L. Aiken. (ck) (Entered: 09/20/2018)
09/21/2018	353	MINUTES of Proceedings: Status Conference held before Magistrate Judge Thomas M. Coffin. The current status of the case is discussed as stated on the record. Julia Olson, Philip Gregory (by phone), Andrea Rodgers (by phone) present as counsel for plaintiffs. Sean Duffy, Marissa Piropato, Frank Singer (by phone) present as counsel for defendants. Court Reporter: Sara Wilson. (ck) (Entered: 09/21/2018)
09/26/2018	<u>354</u>	Motion to Amend/Correct <i>Pretrial Schedule</i> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 09/26/2018)
09/26/2018	<u>355</u>	Declaration of Sean C. Duffy <i>in Support of Motion to Amend Pretrial Deadlines to Exchange Exhibit Lists, Submit Exhibit Lists, and to File Objections to Exhibits</i> . Filed by All Defendants. (Related document(s): Motion to Amend/Correct <u>354</u> .) (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit) (Duffy, Sean) (Entered: 09/26/2018)
09/28/2018	356	ORDER: Defendants Motion for Extension of Time to File Response/Reply <u>346</u> is GRANTED. The Government's Response to plaintiffs' Second Motion in limine <u>340</u> shall be due no later than 10/4/2018. Defendants Motion to Amend/Correct Pretrial Schedule <u>354</u> is GRANTED. The parties shall exchange trial exhibit lists no later than 10/12/18. Further, the parties shall submit to the Court their exhibit lists as well as objections to exhibits no later than October 19, 2018. Ordered on 9/28/2018 by Judge Ann L. Aiken. (rdr) (Entered: 09/28/2018)
09/28/2018	<u>357</u>	Response to Second Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> <u>340</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 09/28/2018)

10/03/2018	358	Scheduling Order by Magistrate Judge Thomas M. Coffin. Status Conference is set for 10/4/2018 at 10:00AM in Eugene by telephone before Magistrate Judge Thomas M. Coffin. Parties who wish to participate in the status conference are ordered to call into the Court's conference line at least 5 minutes prior to the scheduled hearing. Call-in information will be sent by separate order. Ordered by Magistrate Judge Thomas M. Coffin. (plb) (Entered: 10/03/2018)
10/04/2018	359	MINUTES of Proceedings: Telephone Status Conference Held. Julia Olson; Andrea Rodgers; Philip Gregory present as counsel for plaintiffs. Clare Boronow; Erika Norman; Frank Singer; Sean Duffy; Marissa Piropato present as counsel for defendants. Court Reporter: Jan Duiven. Magistrate Judge Thomas M. Coffin presiding. (plb) (Entered: 10/05/2018)
10/05/2018	<u>360</u>	Notice of Case Reassignment: This case has been reassigned from Magistrate Judge Thomas M. Coffin to Judge Ann L. Aiken. (plb) (Entered: 10/05/2018)
10/05/2018	<u>361</u>	Motion for Stay of Discovery and Trial Pending Supreme Court Review. Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 10/05/2018)
10/09/2018	362	Scheduling Order by Judge Ann L. Aiken regarding Motion for Stay of Discovery and Trial Pending Supreme Court Review <u>361</u> . In order to give expedited consideration to defedants' Motion for Stay <u>361</u> , plaintiffs' response shall be due no later than 10/11/2018. Motion is taken under advisement as of 10/11/2018. Ordered by Judge Ann L. Aiken. (ck) (Entered: 10/09/2018)
10/11/2018	<u>363</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 10/4/2018 before Judge Thomas M. Coffin, Court Reporter Jan Duiven, telephone number 541-485-0111. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 10/18/2018. Redaction Request due 11/1/2018. Redacted Transcript Deadline set for 11/13/2018. Release of Transcript Restriction set for 1/9/2019. (Anderson, Kristi) (Entered: 10/11/2018)
10/11/2018	<u>364</u>	Response in Opposition to Motion for Stay of Discovery and Trial Pending Supreme Court Review <u>361</u> . Filed by All Plaintiffs. (Gregory, Philip) (Entered: 10/11/2018)
10/12/2018	<u>365</u>	Notice of Filing Petition for Writ of Mandamus Requesting a Stay of District Court Proceedings Pending Supreme Court Review Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 10/12/2018)
10/12/2018	<u>366</u>	Reply to Second Motion in limine Seeking Judicial Notice of Publicly Available Documents <u>340</u> . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 10/12/2018)
10/12/2018	<u>367</u>	Declaration of Andrea K. Rodgers in Support of Plaintiffs' reply in Support of Second Motion in Limine Seeking Judicial Notice of Publicly Available Documents. Filed by All Plaintiffs. (Related document(s): Reply to Motion <u>366</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5) (Rodgers, Andrea) (Entered: 10/12/2018)
10/15/2018	<u>368</u>	OPINION AND ORDER: Granting in Part Denying in Part Motion in Limine <u>254</u> . See formal Opinion and Order. Signed on 10/15/2018 by U.S District Judge Ann Aiken. (rdr) Modified on 10/15/2018 by changing Order to Opinion and Order (ck). (Entered: 10/15/2018)
10/15/2018	<u>369</u>	OPINION AND ORDER: Federal defendants' Motion for Judgment on the Pleadings <u>195</u> is GRANTED IN PART and DENIED IN PART. Federal defendants' Motion for Summary Judgment <u>207</u> is GRANTED in part and DENIED in part. Federal defendants' requests to certify this opinion and order for interlocutory appeal are DENIED. See formal Opinion and Order. Signed on 10/15/2018 by Judge Ann L. Aiken. (rdr) Modified on 10/15/2018 by changing Order to Opinion and Order (ck) (Entered: 10/15/2018)
10/15/2018	370	Order for Administrative Correction of the Record pursuant to Fed. R. Civ. P. 60(a) regarding Order on Motion for Judgment on the Pleadings, Order on motion for summary judgment <u>369</u> and Order on motion in limine <u>368</u> . A Clerical error has been discovered in the case record. The Clerk is directed to make the following

		administrative corrections to the record and, if necessary, regenerate the Notice of Electronic Filing to all parties: Change Order to Opinion and Order in the docket text. (ck) (Entered: 10/15/2018)
10/15/2018	<u>371</u>	Motion in limine <i>to Exclude Certain Testimony of Six Experts; Memorandum of Points and Authorities</i> . Filed by All Defendants. (Norman, Erika) (Entered: 10/15/2018)
10/15/2018	<u>372</u>	Motion in limine <i>to Strike the Improper Rebuttal Report and Exclude the Testimony of Dr. Akilah Jefferson; Memorandum of Points and Authorities</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit) (Norman, Erika) (Entered: 10/15/2018)
10/15/2018	<u>373</u>	Witness List . Filed by All Defendants. (Duffy, Sean) (Entered: 10/15/2018)
10/15/2018	<u>374</u>	ORDER: Federal defendants Motion for Stay of Discovery and Trial <u>361</u> is DENIED. The Court has previously considered similar arguments to those raised in this motion. The Court finds that the government has not shown a likelihood success on the merits or irreparable injury that would justify a stay at this time. <i>Nken v. Holder</i> 556 U.S. 418, 433–34 (2009). Ordered on 10/15/2018 by Judge Ann L. Aiken. (rdr) (Entered: 10/15/2018)
10/15/2018	<u>375</u>	Request for Judicial Notice <i>of Congressional Hearing Reports</i> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit Table of Congressional Hearing Reports, # <u>2</u> Exhibit Declaration) (Boronow, Clare) (Entered: 10/15/2018)
10/15/2018	<u>376</u>	Motion for Leave <i>to Manually File Congressional Hearing Reports for which Defendants Seek Judicial Notice</i> . Filed by All Defendants. (Boronow, Clare) (Entered: 10/15/2018)
10/15/2018	<u>377</u>	Notice <i>of Manual Filing of Congressional Hearing Reports for which Defendants Seek Judicial Notice</i> Filed by All Defendants. (Boronow, Clare) (Entered: 10/15/2018)
10/15/2018	<u>378</u>	Trial Memorandum . Filed by All Defendants. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) (Duffy, Sean) (Entered: 10/15/2018)
10/15/2018	<u>379</u>	Motion in limine <i>to Exclude the Expert Testimony of Professor Catherine Smith</i> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit Expert Report of Catherine Smith, # <u>2</u> Exhibit Excerpts from Deposition of Catherine Smith) (Boronow, Clare) (Entered: 10/15/2018)
10/15/2018	<u>380</u>	Third Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 10/15/2018)
10/15/2018	<u>381</u>	Declaration of Andrea K. Rodgers <i>in Support of Plaintiffs' Third Motion in Limine Seeking Judicial Notice</i> . Filed by All Plaintiffs. (Related document(s): Motion in Limine <u>380</u> .) (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27, # <u>28</u> Exhibit 28, # <u>29</u> Exhibit 29, # <u>30</u> Exhibit 30, # <u>31</u> Exhibit 31, # <u>32</u> Exhibit 32, # <u>33</u> Exhibit 33, # <u>34</u> Exhibit 34, # <u>35</u> Exhibit 35, # <u>36</u> Exhibit 36, # <u>37</u> Exhibit 37, # <u>38</u> Exhibit 38, # <u>39</u> Exhibit 39, # <u>40</u> Exhibit 40, # <u>41</u> Exhibit 41, # <u>42</u> Exhibit 42, # <u>43</u> Exhibit 43, # <u>44</u> Exhibit 44, # <u>45</u> Exhibit 45, # <u>46</u> Exhibit 46, # <u>47</u> Exhibit 47, # <u>48</u> Exhibit 48, # <u>49</u> Exhibit 49, # <u>50</u> Exhibit 50, # <u>51</u> Exhibit 51, # <u>52</u> Exhibit 52, # <u>53</u> Exhibit 53, # <u>54</u> Exhibit 54, # <u>55</u> Exhibit 55, # <u>56</u> Exhibit 56, # <u>57</u> Exhibit 57, # <u>58</u> Exhibit 58, # <u>59</u> Exhibit 59, # <u>60</u> Exhibit 60, # <u>61</u> Exhibit 61, # <u>62</u> Exhibit 62, # <u>63</u> Exhibit 63, # <u>64</u> Exhibit 64, # <u>65</u> Exhibit 65, # <u>66</u> Exhibit 66, # <u>67</u> Exhibit 67, # <u>68</u> Exhibit 68, # <u>69</u> Exhibit 69, # <u>70</u> Exhibit 70, # <u>71</u> Exhibit 71, # <u>72</u> Exhibit 72, # <u>73</u> Exhibit 73, # <u>74</u> Exhibit 74, # <u>75</u> Exhibit 75, # <u>76</u> Exhibit 76, # <u>77</u> Exhibit 77, # <u>78</u> Exhibit 78, # <u>79</u> Exhibit 79, # <u>80</u> Exhibit 80, # <u>81</u> Exhibit 81, # <u>82</u> Exhibit 82, # <u>83</u> Exhibit 83, # <u>84</u> Exhibit 84, # <u>85</u> Exhibit 85, # <u>86</u> Exhibit 86, # <u>87</u> Exhibit 87, # <u>88</u> Exhibit 88, # <u>89</u> Exhibit 89, # <u>90</u> Exhibit 90, # <u>91</u> Exhibit 91, # <u>92</u> Exhibit 92, # <u>93</u> Exhibit 93, # <u>94</u> Exhibit 94, # <u>95</u> Exhibit 95, # <u>96</u> Exhibit 96, # <u>97</u> Exhibit 97, # <u>98</u> Exhibit 98, # <u>99</u> Exhibit 99, # <u>100</u> Exhibit 100, # <u>101</u>

Exhibit 101, # 102 Exhibit 102, # 103 Exhibit 103, # 104 Exhibit 104, # 105 Exhibit 105, # 106 Exhibit 106, # 107 Exhibit 107, # 108 Exhibit 108, # 109 Exhibit 109, # 110 Exhibit 110, # 111 Exhibit 111, # 112 Exhibit 112, # 113 Exhibit 113, # 114 Exhibit 114, # 115 Exhibit 115, # 116 Exhibit 116, # 117 Exhibit 117, # 118 Exhibit 118, # 119 Exhibit 119, # 120 Exhibit 120, # 121 Exhibit 121, # 122 Exhibit 122, # 123 Exhibit 123, # 124 Exhibit 124, # 125 Exhibit 125, # 126 Exhibit 126, # 127 Exhibit 127, # 128 Exhibit 128, # 129 Exhibit 129, # 130 Exhibit 130, # 131 Exhibit 131, # 132 Exhibit 132, # 133 Exhibit 133, # 134 Exhibit 134, # 135 Exhibit 135, # 136 Exhibit 136, # 137 Exhibit 137, # 138 Exhibit 138, # 139 Exhibit 139, # 140 Exhibit 140, # 141 Exhibit 141, # 142 Exhibit 142, # 143 Exhibit 143, # 144 Exhibit 144, # 145 Exhibit 145, # 146 Exhibit 146, # 147 Exhibit 147, # 148 Exhibit 148, # 149 Exhibit 149, # 150 Exhibit 150, # 151 Exhibit 151, # 152 Exhibit 152, # 153 Exhibit 153, # 154 Exhibit 154, # 155 Exhibit 155, # 156 Exhibit 156, # 157 Exhibit 157, # 158 Exhibit 158, # 159 Exhibit 159, # 160 Exhibit 160, # 161 Exhibit 161, # 162 Exhibit 162, # 163 Exhibit 163, # 164 Exhibit 164, # 165 Exhibit 165, # 166 Exhibit 166, # 167 Exhibit 167, # 168 Exhibit 168, # 169 Exhibit 169, # 170 Exhibit 170, # 171 Exhibit 171, # 172 Exhibit 172, # 173 Exhibit 173, # 174 Exhibit 174, # 175 Exhibit 175, # 176 Exhibit 176, # 177 Exhibit 177, # 178 Exhibit 178, # 179 Exhibit 179, # 180 Exhibit 180, # 181 Exhibit 181, # 182 Exhibit 182, # 183 Exhibit 183, # 184 Exhibit 184, # 185 Exhibit 185, # 186 Exhibit 186, # 187 Exhibit 187, # 188 Exhibit 188, # 189 Exhibit 189, # 190 Exhibit 190, # 191 Exhibit 191, # 192 Exhibit 192, # 193 Exhibit 193, # 194 Exhibit 194, # 195 Exhibit 195, # 196 Exhibit 196, # 197 Exhibit 197, # 198 Exhibit 198, # 199 Exhibit 199, # 200 Exhibit 200, # 201 Exhibit 201, # 202 Exhibit 202, # 203 Exhibit 203, # 204 Exhibit 204, # 205 Exhibit 205, # 206 Exhibit 206, # 207 Exhibit 207, # 208 Exhibit 208, # 209 Exhibit 209, # 210 Exhibit 210, # 211 Exhibit 211, # 212 Exhibit 212, # 213 Exhibit 213, # 214 Exhibit 214, # 215 Exhibit 215, # 216 Exhibit 216, # 217 Exhibit 217, # 218 Exhibit 218, # 219 Exhibit 219, # 220 Exhibit 220, # 221 Exhibit 221, # 222 Exhibit 222, # 223 Exhibit 223, # 224 Exhibit 224, # 225 Exhibit 225, # 226 Exhibit 226, # 227 Exhibit 227, # 228 Exhibit 228, # 229 Exhibit 229, # 230 Exhibit 230, # 231 Exhibit 231, # 232 Exhibit 232, # 233 Exhibit 233, # 234 Exhibit 234, # 235 Exhibit 235, # 236 Exhibit 236, # 237 Exhibit 237, # 238 Exhibit 238, # 239 Exhibit 239, # 240 Exhibit 240, # 241 Exhibit 241, # 242 Exhibit 242, # 243 Exhibit 243, # 244 Exhibit 244, # 245 Exhibit 245, # 246 Exhibit 246, # 247 Exhibit 247, # 248 Exhibit 248, # 249 Exhibit 249, # 250 Exhibit 250, # 251 Exhibit 251, # 252 Exhibit 252, # 253 Exhibit 253, # 254 Exhibit 254, # 255 Exhibit 255, # 256 Exhibit 256, # 257 Exhibit 257, # 258 Exhibit 258, # 259 Exhibit 259, # 260 Exhibit 260, # 261 Exhibit 261, # 262 Exhibit 262, # 263 Exhibit 263, # 264 Exhibit 264, # 265 Exhibit 265, # 266 Exhibit 266, # 267 Exhibit 267, # 268 Exhibit 268, # 269 Exhibit 269, # 270 Exhibit 270, # 271 Exhibit 271, # 272 Exhibit 272, # 273 Exhibit 273, # 274 Exhibit 274, # 275 Exhibit 275, # 276 Exhibit 276, # 277 Exhibit 277, # 278 Exhibit 278, # 279 Exhibit 279, # 280 Exhibit 280, # 281 Exhibit 281, # 282 Exhibit 282, # 283 Exhibit 283, # 284 Exhibit 284, # 285 Exhibit 285, # 286 Exhibit 286, # 287 Exhibit 287, # 288 Exhibit 288, # 289 Exhibit 289, # 290 Exhibit 290, # 291 Exhibit 291, # 292 Exhibit 292, # 293 Exhibit 293, # 294 Exhibit 294, # 295 Exhibit 295, # 296 Exhibit 296, # 297 Exhibit 297, # 298 Exhibit 298, # 299 Exhibit 299, # 300 Exhibit 300, # 301 Exhibit 301, # 302 Exhibit 302, # 303 Exhibit 303, # 304 Exhibit 304, # 305 Exhibit 305, # 306 Exhibit 306, # 307 Exhibit 307, # 308 Exhibit 308, # 309 Exhibit 309, # 310 Exhibit 310, # 311 Exhibit 311, # 312 Exhibit 312, # 313 Exhibit 313, # 314 Exhibit 314, # 315 Exhibit 315, # 316 Exhibit 316, # 317 Exhibit 317, # 318 Exhibit 318, # 319 Exhibit 319, # 320 Exhibit 320, # 321 Exhibit 321, # 322 Exhibit 322, # 323 Exhibit 323, # 324 Exhibit 324, # 325 Exhibit 325, # 326 Exhibit 326, # 327 Exhibit 327, # 328 Exhibit 328, # 329 Exhibit 329, # 330 Exhibit 330, # 331 Exhibit 331, # 332 Exhibit 332, # 333 Exhibit 333, # 334 Exhibit 334, # 335 Exhibit 335, # 336 Exhibit 336, # 337 Exhibit 337, # 338 Exhibit 338, # 339 Exhibit 339, # 340 Exhibit 340, # 341 Exhibit 341, # 342 Exhibit 342, # 343 Exhibit 343, # 344 Exhibit 344, # 345 Exhibit 345, # 346 Exhibit 346, # 347 Exhibit 347, # 348 Exhibit 348, # 349 Exhibit 349, # 350 Exhibit 350, # 351 Exhibit 351, # 352 Exhibit 352, # 353 Exhibit 353, # 354 Exhibit 354, # 355 Exhibit 355, # 356 Exhibit 356, # 357 Exhibit 357, # 358 Exhibit 358, # 359 Exhibit 359, # 360 Exhibit 360, # 361 Exhibit 361, # 362 Exhibit 362, # 363 Exhibit 363, # 364 Exhibit 364, # 365 Exhibit 365, # 366 Exhibit 366, # 367 Exhibit 367, # 368 Exhibit 368, # 369 Exhibit 369, # 370 Exhibit 370, # 371 Exhibit 371, # 372 Exhibit 372, # 373 Exhibit 373, # 374 Exhibit 374, # 375 Exhibit 375, # 376 Exhibit 376, # 377 Exhibit 377, # 378 Exhibit

		378, # <u>379</u> Exhibit 379, # <u>380</u> Exhibit 380, # <u>381</u> Exhibit 381, # <u>382</u> Exhibit 382, # <u>383</u> Exhibit 383, # <u>384</u> Exhibit 384, # <u>385</u> Exhibit 385, # <u>386</u> Exhibit 386, # <u>387</u> Exhibit 387, # <u>388</u> Exhibit 388, # <u>389</u> Exhibit 389, # <u>390</u> Exhibit 390, # <u>391</u> Exhibit 391, # <u>392</u> Exhibit 392, # <u>393</u> Exhibit 393, # <u>394</u> Exhibit 394, # <u>395</u> Exhibit 395, # <u>396</u> Exhibit 396, # <u>397</u> Exhibit 397, # <u>398</u> Exhibit 398, # <u>399</u> Exhibit 399, # <u>400</u> Exhibit 400, # <u>401</u> Exhibit 401, # <u>402</u> Exhibit 402, # <u>403</u> Exhibit 403, # <u>404</u> Exhibit 404, # <u>405</u> Exhibit 405, # <u>406</u> Exhibit 406, # <u>407</u> Exhibit 407, # <u>408</u> Exhibit 408, # <u>409</u> Exhibit 409, # <u>410</u> Exhibit 410, # <u>411</u> Exhibit 411, # <u>412</u> Exhibit 412, # <u>413</u> Exhibit 413, # <u>414</u> Exhibit 414, # <u>415</u> Exhibit 415, # <u>416</u> Exhibit 416, # <u>417</u> Exhibit 417, # <u>418</u> Exhibit 418, # <u>419</u> Exhibit 419, # <u>420</u> Exhibit 420, # <u>421</u> Exhibit 421, # <u>422</u> Exhibit 422, # <u>423</u> Exhibit 423, # <u>424</u> Exhibit 424, # <u>425</u> Exhibit 425, # <u>426</u> Exhibit 426, # <u>427</u> Exhibit 427, # <u>428</u> Exhibit 428, # <u>429</u> Exhibit 429, # <u>430</u> Exhibit 430, # <u>431</u> Exhibit 431, # <u>432</u> Exhibit 432, # <u>433</u> Exhibit 433, # <u>434</u> Exhibit 434, # <u>435</u> Exhibit 435, # <u>436</u> Exhibit 436, # <u>437</u> Exhibit 437, # <u>438</u> Exhibit 438, # <u>439</u> Exhibit 439, # <u>440</u> Exhibit 440, # <u>441</u> Exhibit 441, # <u>442</u> Exhibit 442, # <u>443</u> Exhibit 443, # <u>444</u> Exhibit 444, # <u>445</u> Exhibit 445, # <u>446</u> Exhibit 446, # <u>447</u> Exhibit 447, # <u>448</u> Exhibit 448, # <u>449</u> Exhibit 449, # <u>450</u> Exhibit 450, # <u>451</u> Exhibit 451, # <u>452</u> Exhibit 452, # <u>453</u> Exhibit 453, # <u>454</u> Exhibit 454, # <u>455</u> Exhibit 455) (Rodgers, Andrea) (Entered: 10/15/2018)
10/15/2018	<u>382</u>	Witness List . Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 10/15/2018)
10/15/2018	<u>383</u>	Proposed Pretrial Order by All Plaintiffs. Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 10/15/2018)
10/15/2018	<u>384</u>	Trial Brief . Filed by All Plaintiffs. (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) (Rodgers, Andrea) (Entered: 10/15/2018)
10/16/2018	385	ORDER: Granting Motion for Leave to Manually File Congressional Hearing Reports for which Defendants Seek Judicial Notice. <u>376</u> . Ordered on 10/16/2018 by Judge Ann L. Aiken. (rdr) (Entered: 10/16/2018)
10/16/2018	386	Exhibit. This filing includes a conventionally filed thumb drive labeled Congressional Hearings. This conventional filing is maintained in the Clerk's Office but cannot be made a part of the court's electronic record in CM/ECF. Filed by Defendants. (bd) (Entered: 10/17/2018)
10/17/2018	<u>387</u>	Amended Witness List . Filed by All Plaintiffs. (Olson, Julia) (Entered: 10/17/2018)
10/17/2018	<u>388</u>	Motion to Compel <i>Responses to Interrogatories</i> . Oral Argument requested.Expedited Hearing requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 10/17/2018)
10/17/2018	<u>389</u>	Declaration of Philip L. Gregory <i>in Support of Plaintiffs' Motion to Compel Responses to Interrogatories</i> . Filed by All Plaintiffs. (Related document(s): Motion to compel <u>388</u> .) (Olson, Julia) (Entered: 10/17/2018)
10/18/2018	<u>390</u>	Notice of Filing of Petition for a Writ of Mandamus Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 10/18/2018)
10/18/2018	<u>391</u>	Notice of Filing of Application to the Supreme Court for a Stay Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 10/18/2018)
10/18/2018	<u>392</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 8/27/2018 before Judge Ann Aiken, Court Reporter Kristi Anderson, telephone number 541-431-4112. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER-See Policy at ord.uscourts.gov . Notice of Intent to Redact Transcript is due by 10/25/2018. Redaction Request due 11/8/2018. Redacted Transcript Deadline set for 11/19/2018. Release of Transcript Restriction set for 1/16/2019. (Anderson, Kristi) (Entered: 10/18/2018)
10/18/2018	<u>393</u>	Notice re Proposed Pretrial Order – Individual <u>383</u> Notice of Errata Filed by All Plaintiffs. (Related document(s): Proposed Pretrial Order – Individual <u>383</u> .) (Rodgers, Andrea) (Entered: 10/18/2018)
10/18/2018	<u>394</u>	Corrected Proposed Pretrial Order by All Plaintiffs. Filed by All Plaintiffs. (Rodgers, Andrea) (Entered: 10/18/2018)

10/18/2018	<u>395</u>	Motion to Strike Proposed Pretrial Order – Individual <u>394</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G) (Boronow, Clare) (Entered: 10/18/2018)
10/19/2018	<u>396</u>	Exhibit List . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Norman, Erika) (Entered: 10/19/2018)
10/19/2018	<u>397</u>	Motion to Strike <i>Plaintiffs' Trial Exhibit List, or, in the Alternative, Objections to Plaintiffs' Trial Exhibit List</i> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit) (Norman, Erika) (Entered: 10/19/2018)
10/19/2018	<u>398</u>	Notice re Motion to Strike <u>397</u> <i>Defendants' Notice of Filing Objections to Plaintiffs' Exhibit List</i> Filed by All Defendants. (Related document(s): Motion to Strike <u>397</u> .) (Norman, Erika) (Entered: 10/19/2018)
10/19/2018	<u>399</u>	Order from the United States Supreme Court, USCA # 18A410: UPON CONSIDERATION of the application of counsel for the applicants, IT IS ORDERED that discovery and trial in the United States District Court for the District of Oregon, in case No. 6:15-cv-01517, are stayed pending receipt of a response, due on or before Wednesday, October 24, 2018, by 3 p.m., and further order of the undersigned or of the Court. Signed on October 19th, 2018, by Chief Justice John G. Roberts, Jr.. (eo) (Entered: 10/19/2018)
10/19/2018	<u>400</u>	Objection to Trial Exhibit <i>Defendants' Exhibit List</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 10/19/2018)
10/19/2018	<u>401</u>	Declaration of Andrea K. Rodgers <i>in Support of Plaintiffs' Objections to Defendants' Exhibit List</i> . Filed by All Plaintiffs. (Related document(s): Objection to Trial Exhibit <u>400</u> .) (Rodgers, Andrea) (Entered: 10/19/2018)
10/19/2018	<u>402</u>	Exhibit List . Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 10/19/2018)
10/22/2018	403	Scheduling Order by Judge Ann L. Aiken. Pursuant to the Order from the United States Supreme Court <u>399</u> , the Pretrial Conference set for 10/23/2018 at 10:00AM is hereby VACATED. Ordered by Judge Ann L. Aiken. (ck) (Entered: 10/22/2018)
10/24/2018	404	Scheduling Order by Judge Ann L. Aiken. Pursuant to the United States Supreme Court's Order <u>399</u> staying this case, all trial dates and associated deadlines are hereby VACATED. This Court will schedule a status and scheduling conference when the stay is lifted. Ordered by Judge Ann L. Aiken. (ck) (Entered: 10/24/2018)
11/02/2018	<u>405</u>	Request for <i>Immediate Status Conference</i> . Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment Order by the United States Supreme Court in Case No. 18A410) (Gregory, Philip) (Entered: 11/02/2018)
11/02/2018	<u>406</u>	Response to Request for Judicial Notice of <i>Congressional Hearing Reports</i> <u>375</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>407</u>	Response in Opposition to Motion in limine to <i>Strike the Improper Rebuttal Report and Exclude the Testimony of Dr. Akilah Jefferson; Memorandum of Points and Authorities</i> <u>372</u> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>408</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Response in Opposition to Defendants Motion in Limine to Strike the Rebuttal Report and Exclude the Testimony of Dr. Akilah Jefferson</i> . (DOCUMENT RESTRICTED ACCORDING TO PROTECTIVE ORDER) Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion, <u>407</u> .) (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>409</u>	Response in Opposition to Motion in limine to <i>Exclude Certain Testimony of Six Experts; Memorandum of Points and Authorities</i> <u>371</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>410</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Response in Opposition to Defendants Motion in Limine to Exclude Certain Testimony of Six Experts</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>409</u> .) (Olson, Julia) (Entered: 11/02/2018)

11/02/2018	<u>411</u>	Response in Opposition to Motion to Strike Proposed Pretrial Order – Individual <u>394</u> <u>395</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>412</u>	Declaration of Philip L. Gregory <i>IN SUPPORT OF PLAINTIFFS RESPONSE TO DEFENDANTS MOTION TO STRIKE PLAINTIFFS PROPOSED PRETRIAL ORDER</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>411</u> .) (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>413</u>	Response in Opposition to Motion to Strike <i>Plaintiffs' Trial Exhibit List, or, in the Alternative, Objections to Plaintiffs' Trial Exhibit List</i> <u>397</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>414</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Response in Opposition to Defendants Motion to Strike Plaintiffs Trial Exhibit List</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>413</u> .) (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>415</u>	Motion for Reconsideration of Order on motion in limine <u>368</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/02/2018)
11/02/2018	<u>416</u>	ORDER from the United States Supreme Court, USCA # 18A410: The application for stay, presented to The Chief Justice and by him referred to the Court, is denied without prejudice. The order heretofore entered by The Chief Justice is vacated. (eo) (Entered: 11/05/2018)
11/05/2018	417	Scheduling Order by Judge Ann L. Aiken. Telephonic Status Conference is set for 11/8/2018 at 03:30PM in Eugene by telephone before Judge Ann L. Aiken. The parties shall call in to the conference. Conference call information will be provided by the Court in a separate entry. Ordered by Judge Ann L. Aiken. (ck) (Entered: 11/05/2018)
11/05/2018	<u>418</u>	Motion for Reconsideration of <i>Denial of Requests to Certify Order for Interlocutory Review</i> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 11/05/2018)
11/05/2018	<u>419</u>	Motion for Stay of <i>Litigation</i> . Expedited Hearing requested. Filed by All Defendants. (Duffy, Sean) (Entered: 11/05/2018)
11/05/2018	<u>420</u>	Notice of Filing <i>Petition for Writ of Mandamus</i> Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 11/05/2018)
11/06/2018	<u>421</u>	Response in Opposition to Motion in limine to <i>Exclude the Expert Testimony of Professor Catherine Smith</i> <u>379</u> . Filed by All Plaintiffs. (Olson, Julia) (Entered: 11/06/2018)
11/06/2018	<u>422</u>	Declaration of Julia A. Olson <i>in Support of Plaintiffs Response in Opposition to Defendants Motion in Limine to Exclude Expert Opinion Testimony of Professor Catherine Smith</i> . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>421</u> .) (Olson, Julia) (Entered: 11/06/2018)
11/07/2018	<u>423</u>	Supplemental Objection to Trial Exhibit . Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 11/07/2018)
11/07/2018	<u>424</u>	Declaration of Andrea K. Rodgers <i>in Support of Plaintiffs' Supplemental Objections to Defendants' Exhibits</i> . Filed by All Plaintiffs. (Related document(s): Objection to Trial Exhibit <u>423</u> .) (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B) (Rodgers, Andrea) (Entered: 11/07/2018)
11/08/2018	425	MINUTES of Proceedings: Telephonic Status Conference held before Judge Ann L. Aiken. The current status of the case was discussed as stated on the record. Plaintiffs will file their responses to the Motion for Reconsideration <u>418</u> and Motion for Stay of Litigation <u>419</u> by 11/9/2018. Julia Olson, Andrea Rodgers, Philip Gregory present as counsel for plaintiffs. Clare Boronow, Erika Norman, Frank Singer, Sean Duffy, Marissa Piropato present as counsel for defendants. Court Reporter: Sara Wilson. (ck) (Entered: 11/09/2018)
11/09/2018	<u>426</u>	Notice re Motion to Strike <u>397</u> of <i>Errata</i> Filed by All Defendants. (Related document(s): Motion to Strike <u>397</u> .) (Attachments: # <u>1</u> Exhibit Corrected Motion to Strike) (Norman, Erika) (Entered: 11/09/2018)

11/09/2018	<u>427</u>	OFFICIAL COURT TRANSCRIPT OF PROCEEDINGS FILED Hearing held on 11/8/2018 before Judge Ann Aiken, Court Reporter Sara Fahey Wilson, telephone number 541-485-0111. Transcript may be viewed at Court's public terminal or purchased from the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. Afterwards it may be obtained through PACER—See Policy at ord.uscourts.gov. Notice of Intent to Redact Transcript is due by 11/16/2018. Redaction Request due 11/30/2018. Redacted Transcript Deadline set for 12/10/2018. Release of Transcript Restriction set for 2/7/2019. (Anderson, Kristi) (Entered: 11/09/2018)
11/09/2018	<u>428</u>	Response in Opposition to Motion for Reconsideration of <i>Denial of Requests to Certify Order for Interlocutory Review</i> <u>418</u> . Filed by All Plaintiffs. (Gregory, Philip) (Entered: 11/09/2018)
11/09/2018	<u>429</u>	Response in Opposition to Motion for Stay of <i>Litigation</i> <u>419</u> . Filed by All Plaintiffs. (Gregory, Philip) (Entered: 11/09/2018)
11/09/2018	<u>430</u>	Declaration of Julia A. Olson . Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>429</u> .) (Gregory, Philip) (Entered: 11/09/2018)
11/13/2018	<u>431</u>	Response to Third Motion in limine <i>Seeking Judicial Notice of Publicly Available Documents</i> <u>380</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Boronow, Clare) (Entered: 11/13/2018)
11/14/2018	<u>432</u>	Reply to Motion for Reconsideration of <i>Denial of Requests to Certify Order for Interlocutory Review</i> <u>418</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit) (Duffy, Sean) (Entered: 11/14/2018)
11/15/2018	<u>433</u>	Response in Opposition to Motion to Compel <i>Responses to Interrogatories</i> <u>388</u> . Filed by All Defendants. (Attachments: # <u>1</u> Attachment Declaration of Erika Norman w/ Exhibits) (Norman, Erika) (Entered: 11/15/2018)
11/15/2018	<u>434</u>	Motion for Extension of Time to File a Response/Reply to Motion in limine <i>to Exclude Certain Testimony of Six Experts; Memorandum of Points and Authorities</i> <u>371</u> . Expedited Hearing requested. Filed by All Defendants. (Norman, Erika) (Entered: 11/15/2018)
11/16/2018	<u>435</u>	Reply to Motion to Strike <i>Plaintiffs' Trial Exhibit List, or, in the Alternative, Objections to Plaintiffs' Trial Exhibit List</i> <u>397</u> . Filed by All Defendants. (Norman, Erika) (Entered: 11/16/2018)
11/16/2018	<u>436</u>	Reply to Motion in limine <i>to Strike the Improper Rebuttal Report and Exclude the Testimony of Dr. Akilah Jefferson; Memorandum of Points and Authorities</i> <u>372</u> . Filed by All Defendants. (Norman, Erika) (Entered: 11/16/2018)
11/16/2018	<u>437</u>	Response to Motion for Reconsideration of Order on motion in limine <u>368</u> <u>415</u> . Filed by All Defendants. (Boronow, Clare) (Entered: 11/16/2018)
11/16/2018	<u>438</u>	Reply to Motion to Strike Proposed Pretrial Order – Individual <u>394</u> <u>395</u> . Filed by All Defendants. (Boronow, Clare) (Entered: 11/16/2018)
11/19/2018	<u>439</u>	Notice <i>OF FILING ANSWER OF REAL PARTIES IN INTEREST TO PETITION FOR A WRIT OF MANDAMUS AND EMERGENCY MOTION UNDER CIRCUIT RULE 27-3</i> Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment) (Olson, Julia) (Entered: 11/19/2018)
11/20/2018	<u>440</u>	Motion <i>TO EXCLUDE WITNESSES FROM PLAINTIFFS WITNESS LIST OR, IN THE ALTERNATIVE, TO COMPEL DEPOSITIONS</i> . Filed by All Defendants. (Piropato, Marissa) (Entered: 11/20/2018)
11/20/2018	<u>441</u>	Notice <i>OF FILING BRIEF FOR RESPONDENTS IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS IN THE UNITED STATES SUPREME COURT, No. 18-505</i> Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment) (Olson, Julia) (Entered: 11/20/2018)
11/20/2018	<u>442</u>	Reply to Motion in limine <i>to Exclude the Expert Testimony of Professor Catherine Smith</i> <u>379</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit Cited excerpts of deposition transcript) (Boronow, Clare) (Entered: 11/20/2018)

11/21/2018	<u>443</u>	Notice re Response in Opposition to Motion <u>429</u> of <i>Supplemental Authority</i> Filed by All Plaintiffs. (Related document(s): Response in Opposition to Motion <u>429</u> .) (Olson, Julia) (Entered: 11/21/2018)
11/21/2018	<u>444</u>	ORDER: At this time, the Court finds sufficient cause to revisit the question of interlocutory appeal as to its previous orders, and upon reconsideration, the Court finds that each of the factors outlined in 28 U.S.C. § 1292(b) have been met regarding those orders. This Court exercises its discretion and immediately certifies this case for interlocutory appeal. Accordingly, this case is STAYED pending a decision by the Ninth Circuit Court of Appeals. Signed on 11/21/2018 by Judge Ann L. Aiken. Notice of Electronic Filing of this Order has been generated to the Ninth Circuit Court of Appeals. (ck) (Entered: 11/21/2018)
11/21/2018	<u>445</u>	ORDER: Pursuant to the Court's Order <u>444</u> certifying this case for interlocutory appeal, consideration of pending motions in this case is STAYED. Further, federal defendants' Motion for Reconsideration <u>418</u> and Motion for Stay <u>419</u> are DENIED as moot. Ordered by Judge Ann L. Aiken. (ck) (Entered: 11/21/2018)
12/05/2018	<u>446</u>	Motion for Reconsideration of <i>November 21, 2018 Court Ordered Stay of Proceedings</i> of Order,, <u>444</u> . Oral Argument requested.Expedited Hearing requested. Filed by All Plaintiffs. (Olson, Julia) (Entered: 12/05/2018)
12/05/2018	<u>447</u>	Declaration of Julia A. Olson in <i>Support of Plaintiffs' Motion for Reconsideration of November 21, 2018 Court Ordered Stay of Proceedings</i> . Filed by All Plaintiffs. (Related document(s): Motion for Reconsideration <u>446</u> .) (Olson, Julia) (Entered: 12/05/2018)
12/11/2018	<u>448</u>	Motion to Appear as Amicus Curiae by Movant David Andrew Christenson. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Proposed Document – Amicus Brief) (kf) (Entered: 12/11/2018)
12/17/2018	<u>449</u>	Response in Opposition to Motion for Reconsideration of <i>November 21, 2018 Court Ordered Stay of Proceedings</i> of Order,, <u>444</u> <u>446</u> . Filed by All Defendants. (Attachments: # <u>1</u> Exhibit A) (Boronow, Clare) (Entered: 12/17/2018)
12/18/2018	<u>450</u>	ORDER: Mr. Christenson's Motion to Appear as Amicus Curiae <u>448</u> is DENIED. The Clerk of Court is directed to return any further submissions from Mr. Christenson without entering those materials into the record in this case. Signed on 12/18/2018 by Judge Ann L. Aiken. A copy of this Order was mailed to David Andrew Christenson. (ck) (Entered: 12/19/2018)
12/27/2018	<u>451</u>	Reply to Motion for Reconsideration of <i>November 21, 2018 Court Ordered Stay of Proceedings</i> of Order,, <u>444</u> <u>446</u> Oral Argument requested. Filed by All Plaintiffs. (Attachments: # <u>1</u> Attachment 1, # <u>2</u> Attachment 2) (Olson, Julia) (Entered: 12/27/2018)
01/07/2019	<u>452</u>	Notice of <i>Ninth Circuit Order Granting in Part Expedited Briefing Schedule for Interlocutory Appeal</i> Filed by All Plaintiffs. (Attachments: # <u>1</u> Appendix A) (Rodgers, Andrea) (Entered: 01/07/2019)
01/08/2019	<u>453</u>	ORDER: This Court previously certified "this case" for interlocutory appeal. <i>Juliana v. United States</i> , 2018 WL 6303774 at *3 (D. Or. Nov. 21, 2018) On December 26, 2018, the Ninth Circuit Court of Appeal issued an order granting Federal Defendants' petition for permission to appeal pursuant to 28 U.S.C. § 1292(b), holding that this Court properly exercised its discretion in certifying this case for interlocutory appeal. Plaintiffs have requested clarification regarding the status of the proceedings before this Court. District courts have discretion to enter a stay of an action, pending resolution of independent proceedings which bear upon the case. <i>Mediterranean Enterprises, Inc. v. Ssangyong Corp.</i> , 708 F.2d 1458, 1465 (9th Cir. 1983.) Given the nature of the present appeal, the Court finds that staying the case would promote economy of time and effort for itself and for litigants, as well as avoiding duplicative or inconsistent rulings with those from reviewing courts. Thus, the Court reaffirms that these proceedings are STAYED pending the final disposition of the appeal before the Ninth Circuit at Case Number 18–36082. Plaintiffs' Motion for Reconsideration <u>446</u> is DENIED. Any further motions should be directed to the Ninth Circuit Court of Appeal. The parties shall notify this Court upon the issuance of a final order from the Ninth Circuit Court of Appeal. Ordered by Judge Ann L. Aiken. (ck) Modified Ninth Circuit case number on 1/9/2019 (ck). (Entered: 01/08/2019)

01/09/2019	454	Order for Administrative Correction of the Record pursuant to Fed. R. Civ. P. 60(a) regarding Order on motion for reconsideration, ECF no. 453. A Clerical error has been discovered in the case record. The Clerk is directed to make the following administrative corrections to the record and, if necessary, regenerate the Notice of Electronic Filing to all parties: Correct the Ninth Circuit case number from 18-3602 to 18-36082. (ck) (Entered: 01/09/2019)
01/10/2019	<u>455</u>	Notice <i>Defendants' Transcripts Notice</i> Filed by All Defendants. (Duffy, Sean) (Entered: 01/10/2019)