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14 **UNITED STATES DISTRICT COURT**  
 15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 CENTER FOR BIOLOGICAL  
 17 DIVERSITY, SIERRA CLUB, COUNTY  
 18 OF SANTA CRUZ, and COUNTY OF  
 19 MONTEREY

18 Plaintiffs,

19 v.

20 U.S. BUREAU OF LAND  
 21 MANAGEMENT; DAVID BERNHARDT,  
 22 in his capacity as Secretary of the  
 23 Department of the Interior;

23 Defendants.

Civ. No. 3:19-cv-07155-JSC

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

Judge: Honorable Jacqueline Scott Corley  
 Courtroom: E

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## INTRODUCTION

1  
2 1.Plaintiffs Center for Biological Diversity, Sierra Club, County of Santa Cruz, California  
3 and County of Monterey, California (collectively “Plaintiffs”) challenge defendants’ approval of a  
4 resource management plan amendment affecting California’s Bay Area and Central Coast. The plan  
5 amendment makes 725,500 acres of federal public lands and mineral estate available for oil and gas  
6 leasing, though defendants failed to consider meaningful alternatives to the plan amendment, failed  
7 to analyze and disclose the environmental impacts, and denied the public the opportunity to  
8 comment on its environmental analyses as the law requires. Plaintiffs ask this Court to set aside that  
9 approval because it violates the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321  
10 *et seq.* and Federal Land Management and Policy Act (“FLPMA”), 42 U.S.C. §§ 1701 *et seq.* and to  
11 ensure that federal management of oil and gas leasing and development occurs, if at all, only with  
12 federal defendants’ compliance with the law.

13 2.Plaintiffs bring this civil action for declaratory and injunctive relief against the decision of  
14 the United States Bureau of Land Management (“BLM”) and David Bernhardt, Secretary of the  
15 Interior (collectively “Defendants”), to approve, through a Record of Decision on October 4, 2019,  
16 the Central Coast Field Office’s Resource Management Plan Amendment (“RMP Amendment”)  
17 and Final Environmental Impact Statement (“Final EIS”). This action arises under, and alleges  
18 violation of, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706; NEPA; the FLPMA;  
19 and the statutes’ implementing regulations.

20 3.As set forth below, the RMP Amendment and Final EIS opens hundreds of thousands of  
21 acres of federal public lands and mineral estate within the jurisdiction of BLM’s Central Coast  
22 Planning Area, which covers the Bay Area and Central Coast regions of California, to fossil fuel  
23 extraction, including especially dangerous and polluting techniques like steam injection and  
24 hydraulic fracturing (“fracking”).

25 4. Plaintiffs bring this case to overturn Defendants’ unlawful and unwise action and to  
26 ensure that California’s precious air and water are properly protected, the risks of earthquakes  
27 induced by oil and gas activities are properly considered, and any oil and gas leases and subsequent

1 development be allowed to occur, if at all, following a thorough environmental review that properly  
2 informs the public and decision-makers of the full impacts of Defendants' action and provides for  
3 the requisite opportunity for public comment.

4 5.Plaintiffs therefore seek a declaration that the RMP Amendment and Final EIS is contrary  
5 to law, an order setting aside the plan and requiring BLM to prepare a supplemental EIS, and an  
6 injunction prohibiting BLM from carrying out any oil and gas leasing in the Central Coast Planning  
7 Area pending BLM's compliance with NEPA.

#### 8 **JURISDICTION AND VENUE**

9 6.This action arises under 42 U.S.C. § 4331 et. seq and 5 U.S.C. §§ 702, 704, 706.  
10 Jurisdiction is conferred on this Court by 28 U.S.C. § 1331. The relief requested is authorized by 28  
11 U.S.C. §§ 2201-2202 and Rule 57 of the Federal Rules of Civil Procedure.

12 7.Defendants have not remedied their violations of NEPA and are in violation of these  
13 statutes under the standards of review provided by the APA. Plaintiffs have exhausted all available  
14 administrative remedies to the degree such exhaustion is required.

15 8.Pursuant to 28 U.S.C. § 2201, Plaintiffs seek a declaration of rights under the laws of the  
16 United States. There exists now between the parties an actual, justiciable controversy between the  
17 parties.

18 9.Venue is proper pursuant to 28 U.S.C § 1391 because plaintiff Sierra Club resides in this  
19 district and a substantial part of the federal land and mineral estate the subject of this action lies in  
20 this district.

#### 21 **INTRADISTRICT ASSIGNMENT**

22 10. Assignment to the San Francisco Division or Oakland Division is proper pursuant to  
23 Civil Local Rule 3-2(c) because federal land and mineral estate the subject of this action is located in  
24 Alameda, Contra Costa and San Mateo counties and plaintiff Sierra Club resides in Oakland, in  
25 Alameda county.

#### 26 **PARTIES**

27 11. Plaintiff Center for Biological Diversity ("the Center") is a nonprofit organization  
28

1 with offices through the United States, including in Oakland and Los Angeles, California. The  
2 Center works through science, law, and policy to secure a future for all species, great or small,  
3 hovering on the brink of extinction. The Center has and continues to advocate for increased  
4 protections for California species and their habitats, a livable climate and healthy communities by  
5 engaging at every step of federal fossil fuel planning, leasing and development. The Center brings  
6 this action on its own behalf and on behalf of its adversely affected members. The Center has over  
7 67,000 members throughout the United States and the world, including those living in California  
8 and who have visited the public lands affected by the RMP Amendment for recreational, scientific,  
9 educational and other pursuits and intend to do so in future, and are particularly interested in  
10 protecting the many native, threatened and endangered, or sensitive species and their habitats that  
11 oil and gas leasing and development may harm.

12 12. The Sierra Club is a national nonprofit organization with 67 chapters and more than  
13 825,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to  
14 practicing and promoting the responsible use of the earth's ecosystems and resources; to educating  
15 and enlisting humanity to protect and restore the quality of the natural and human environment; and  
16 to using all lawful means to carry out these objectives. There are four Sierra Club chapters in the  
17 Central Coast Planning Area. The San Francisco Bay Chapter of the Sierra Club has approximately  
18 33,436 members. The Tehipite, Loma Prieta, and Ventana chapters have 2,126, 17,417, and 6,229  
19 members, respectively. Sierra Club members use the public lands in California, including the lands  
20 and waters affected by the RMP Amendment, for quiet recreation, aesthetic pursuits, and spiritual  
21 renewal. (Plaintiffs Center for Biological Diversity and Sierra Club hereafter collectively referred to  
22 as "Environmental Plaintiffs").

23 13. Environmental Plaintiffs have individual members and staff who use and enjoy the  
24 public and other lands in the Central Coast Planning Area. Environmental Plaintiffs' members and  
25 staff live, work and recreate in the Central Coast Planning Area, including on and in the vicinity of  
26 mineral estate open for oil and gas leasing and development, and derive recreational, aesthetic,  
27 vocational, scientific and spiritual benefit from their activities. Environmental Plaintiffs' members

1 and staff intend to continue to use and enjoy the surface lands overlying federal mineral estate that  
2 is subject to the RMP Amendment and Final EIS and other land in the Central Coast Planning Area  
3 frequently and on an ongoing basis in the future.

4 14. Additionally, Environmental Plaintiffs' members and staff have an interest in  
5 ensuring that Defendants comply with all applicable laws, including the substantive, procedural,  
6 and informational provisions of NEPA and FLPMA. Plaintiffs participated in Defendants' decision-  
7 making around the Central Coast Plan by commenting on the draft EIS and submitting an  
8 administrative protest against the final EIS.

9 15. Plaintiff County of Santa Cruz ("Santa Cruz County") is a political subdivision of  
10 the State of California within BLM's Central Coast Planning Area. Santa Cruz County contains a  
11 total of 282,240 acres between the San Francisco Bay Area and Monterey Peninsula and is home to  
12 over 275,000 residents. Santa Cruz County has statutory authority to adopt a comprehensive general  
13 plan to protect its environmental interests. The intent of Santa Cruz County's general plan is to  
14 guide future growth and development in a manner that protects natural and agricultural resources,  
15 preserves sensitive habitat and animal species, and provides a healthy quality of life for its residents  
16 while maintaining a vibrant economy and rural character. Santa Cruz County's general plan also  
17 specifically prohibits the development, construction, installation, or use of any facility necessary for  
18 or intended to support oil or gas exploration or development from any surface location within the  
19 unincorporated area of the County. The RMP Amendment and Final EIS targets over 300 acres of  
20 an unincorporated area of the County, where Santa Cruz County's natural and agricultural  
21 resources, sensitive habitats, and residents are threatened and will suffer imminent harm from  
22 BLM's proposed activities.

23 16. Like Environmental Plaintiffs, Santa Cruz County has an interest in ensuring  
24 Defendants' compliance with all applicable laws, including the substantive, procedural, and  
25 informational provisions of NEPA and the FLPMA. Further, Santa Cruz County has an interest in  
26 enforcing its land use and health regulations and a proprietary interest in protecting its natural  
27 resources from harm. Santa Cruz County also commented on the draft EIS and submitted an

1 administrative protest against the final EIS.

2 17. Plaintiff County of Monterey (“Monterey County”) is a political subdivision of the  
3 State of California within BLM’s Central Coast Planning Area. Monterey County contains a total of  
4 2,413,440 acres bordered by Santa Cruz County on the North, San Luis Obispo County to the  
5 South, San Benito, Fresno, and Kings Counties on the East, and the Pacific Ocean on the West. It is  
6 home to 437,907 residents (as of 2017). Monterey County is supportive of its oil industry and the  
7 many individuals employed in the industry. Monterey County nonetheless has serious concerns  
8 about the adverse impacts that the RMP Amendment and Final EIS may have on traffic, road and  
9 dam infrastructure, water quality, water availability, aesthetics, hazardous materials exposure,  
10 seismic hazards, housing, and protecting the Pacific Ocean from pollutants. Additionally, the RMP  
11 Amendment is inconsistent with Measure Z, approved by Monterey County voters in 2016.  
12 Although Measure Z was challenged in court and not all of its provisions are in effect, certain well-  
13 stimulation techniques, such as hydraulic fracturing, clearly would be inconsistent with operative  
14 provisions of Measure Z.

15 18. As do the Environmental Plaintiffs and Santa Cruz County, Monterey County has an  
16 interest in ensuring Defendants’ compliance with all applicable laws, including the substantive,  
17 procedural, and informational provisions of NEPA and the FLPMA. Monterey County likewise has  
18 an interest in enforcing its land use and health regulations to the extent they are impacted by the  
19 RMP Amendment, and a proprietary interest in protecting its natural resources, particularly its  
20 water supply, and its infrastructure from harm. Like the other Plaintiffs, Monterey County  
21 submitted an administrative protest against the final EIS and RMP Amendment.

22 19. This suit is brought by Plaintiffs and their adversely affected, residents, members  
23 and staff. Defendants’ determination to open the federal lands and mineral estate subject to this case  
24 to fossil fuel exploration and production will harm Plaintiffs’ and Environmental Plaintiffs’  
25 members’ present and future interests in and use of those areas. For example, new oil and gas leases  
26 will allow increased oil and gas development, resulting in noise, visual blight, increased traffic,  
27 seismic risks, habitat fragmentation and degradation, harm to wildlife including threatened and

1 endangered species, air pollution including increased emission of pollutants responsible for climate  
2 change, increased water pollution and increased water consumption. All of these harms will  
3 diminish Plaintiffs’ residents’, members’ and staff’s ability to enjoy the recreational, spiritual,  
4 professional, aesthetic, educational, and other activities in and around the lands the subject of the  
5 RMP Amendment.

6 20. Plaintiffs have no adequate remedy at law and have exhausted all required  
7 administrative remedies.

8 21. Plaintiffs’ injuries will be redressed by the relief sought herein.

9 22. Defendant Bureau of Land Management is an agency within the United States  
10 Department of the Interior and is responsible for managing federal lands and subsurface mineral  
11 estates underlying federal, state, and private lands across the United States, including the land and  
12 mineral estate that is subject of the Central Coast Plan.

13 23. Defendant David Bernhardt is the Secretary of the United States Department of the  
14 Interior and is sued in his official capacity. Mr. Bernhardt is the official ultimately responsible  
15 under federal law for ensuring that the actions and management decisions of the Bureau of Land  
16 Management comply with applicable laws and regulations.

17 **LEGAL BACKGROUND**

18 **A. The Federal Land Policy and Management Act**

19 24. The Federal Land Policy Management Act of 1976 (“FLPMA”) governs the  
20 management, protection, development and enhancement of federal property under the jurisdiction of  
21 BLM. The FLPMA provides that land managed by BLM “be managed in a manner that will protect  
22 the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water  
23 resource, and archeological values.” 43 U.S.C. § 1701(a)(8).

24 25. At its core, the FLPMA requires BLM to prepare, with public involvement, a  
25 “resource management plan” for the public lands in its jurisdiction. 43 U.S.C. § 1712(a). Such plans  
26 are expected to provide policy, guidance, and standards for all “site-specific” activities that occur on  
27



1 land in question, effectively outlining BLM’s approach to future management decisions over the  
2 next 15 to 20 years.

3 26. In developing a resource management plan, BLM must, among other things,  
4 “consider present and potential uses of the public lands . . . consider the relative scarcity of the  
5 values involved . . . weigh long-term benefits to the public against short-term benefits; [and] provide  
6 for compliance with applicable pollution control laws.” *Id.* § 1712(c). “All future resource  
7 management authorizations and actions” by BLM, as well as “subsequent more detailed or specific  
8 planning” must conform to approved resource management plans. 43 C.F.R. § 1610.5-3(a).

9 27. In addition to public involvement, BLM is required under the FLPMA to coordinate  
10 planning efforts with local governments like the Counties when developing or revising resource  
11 management plans. 43 C.F.R. § 1610.3-1. The objectives of this coordination are to keep apprised of  
12 local land management plans, assure that BLM considers those plans, assist in resolving  
13 inconsistencies with those plans, provide for meaningful involvement of local government officials,  
14 and collaborate with local governments where possible and appropriate. *Id.* § 1610.3-1(a).

15 28. The FLPMA also requires BLM State Directors and Field Managers to invite local  
16 governments to participate as cooperating agencies when developing or revising resource  
17 management plans. 43 C.F.R. § 1610.3-1(b).

18 29. It is a responsibility of BLM, through development of an RMP, to balance the use of  
19 public lands and minerals to avoid the infliction of permanent damage, to prevent unnecessary and  
20 undue degradation, and to minimize adverse impacts on natural, environmental, scientific, cultural,  
21 and other resources and values.

22 30. BLM has determined that preparation of a resource management plan “is considered a  
23 major federal action significantly affecting the quality of the human environment,” and therefore  
24 requires the preparation of an environmental impact statement under NEPA. 43 C.F.R. § 1601.0-6.

25 **B. The National Environmental Policy Act**

26 31. NEPA is “our basic national charter for protection of the environment.” 40 C.F.R. §  
27 1500.1(a). Its twin aims are to ensure that federal agencies consider the environmental impacts of

1 their proposed actions and to ensure that agencies inform the public that environmental concerns  
2 have been considered. It is NEPA’s purpose, in part, “to promote efforts which will prevent or  
3 eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”  
4 42 U.S.C. § 4321. Recognizing that “each person should enjoy a healthful environment,” NEPA  
5 directs that the federal government use all practicable means to “assure for all Americans safe,  
6 healthful, productive, and esthetically and culturally pleasing surroundings,” and to “attain the  
7 widest range of beneficial uses of the environment without degradation, risk to health or safety, or  
8 other undesirable and unintended consequences.” 42 U.S.C. § 4331(b).

9 32. To accomplish NEPA’s purpose, NEPA requires “responsible [federal] officials” to  
10 prepare an environmental impact statement (“EIS”) to consider the effects of each “major Federal  
11 action[ ] significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C)(i).

12 33. This EIS must, among other things, describe the “environmental impact of the  
13 proposed action,” and evaluate “alternatives to the proposal.” *Id.* § 4332(2)(C)(ii), (iii). The agency  
14 must analyze not only the direct impacts of a proposed action, but also the indirect and cumulative  
15 impacts. 40 C.F.R. §§ 1508.7, 1508.8.

16 34. The agency must include in its EIS a discussion of “[p]ossible conflicts between the  
17 proposed action and the objectives of . . . local . . . land use plans, policies and controls for the area  
18 concerned.” 40 C.F.R. § 1502.16(c). The EIS must also “discuss any inconsistency of a proposed  
19 action with any approved State or local plan and laws (whether or not federally sanctioned). Where  
20 an inconsistency exists, the statement should describe the extent to which the agency would  
21 reconcile its proposed action with the plan or law.” 40 C.F.R. § 1506.2(d).

22 35. In its analysis, the agency must disclose if information is incomplete or unavailable  
23 and explain “the relevance of the incomplete or unavailable information to evaluating reasonably  
24 foreseeable significant adverse impacts.” *Id.* § 1502.22(b)(1). The agency must also directly and  
25 explicitly respond to dissenting scientific opinion. *Id.* § 1502.9(b). Further, NEPA’s implementing  
26 regulations require that the agency “shall identify any methodologies used and shall make explicit  
27 reference by footnote to the scientific and other sources relied upon for conclusions,” and shall

1 ensure the scientific accuracy and integrity of environmental analysis. *Id.* § 1502.24.

2 36. NEPA regulations also direct that BLM to the fullest extent possible “encourage and  
3 facilitate public involvement” in the NEPA process. *Id.* § 1500.2(d).

4 37. Both the FLPMA and NEPA require meaningful participation of and consultation  
5 with local governments, and, to the extent possible, consistency of federal actions with local land  
6 use plans. *See* 43 U.S.C. § 1712(a) and (c)(9); 42 U.S.C. §§ 4331(a), 4332(2)(C)(v), 40 C.F.R. §§  
7 1502.9(b), 1502.16(c), 1506.2(d); *Yount v. Salazar*, 2013 U.S. Dist. LEXIS 2673, \*47, 2013 WL  
8 93372 (D. Ariz. January 8, 2013).

9 **C. The Administrative Procedure Act**

10 38. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, provides for  
11 judicial review of administrative actions, and waives the sovereign immunity of the United States,  
12 its agencies, officers, and employees, 5 U.S.C. § 702. Actions that are reviewable under the APA  
13 include final agency actions “for which there is no other adequate remedy in a court.” *Id.*

14 39. The APA provides that a reviewing court shall “hold unlawful and set aside agency  
15 action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or  
16 otherwise not in accordance with law.” 5 U.S.C. § 706(2). Agency actions may also be set aside in  
17 other circumstances, such as where the action is “without observance of procedure required by  
18 law.” *Id.* § 706(2)(B)-(F).

19 40. The APA also provides that a reviewing court shall “compel agency action  
20 unlawfully withheld or unreasonably delayed.”

21 **FACTUAL AND PROCEDURAL BACKGROUND**

22 **A. The Central Coast Field Office Planning Area**

23 41. The Central Coast Planning Area is an administrative geographic subdivision of  
24 federal land and mineral estate managed by BLM. The Central Coast Planning Area covers all or  
25 part of 12 counties in California’s Bay Area and Central Coast: Alameda, Contra Costa, Fresno,  
26 Merced, Monterey, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz  
27 and Stanislaus. There are BLM-managed federal lands or mineral estate in all of these counties but

1 San Francisco.

2 42. The Central Coast Planning Area includes beautiful and diverse landscapes.  
3 Vegetation across the Planning Area ranges from the desert scrublands of the San Joaquin Desert, to  
4 the mixed conifer forests of the Santa Cruz mountains. This diversity of habitat means the Central  
5 Coast Planning Area is home to a variety of rare, threatened or endangered species, including the  
6 California jewelflower, the San Joaquin woollythread, the San Joaquin kit fox, the blunt-nosed  
7 leopard lizard, the California red-legged frog, the Giant kangaroo rat and the steelhead trout.

8 43. The Planning Area includes the Panoche-Coalinga Area of Critical Environmental  
9 Concern, an area that stretches from Panoche Hills in Fresno county, southward to Coalinga,  
10 connecting a vast landscape of desert-like habitats of extraordinary scenic beauty and recreational  
11 value. The Panoche-Coalinga Area of Critical Environmental Concern was established to protect its  
12 significant habitat for rare, threatened, and endangered plants and wildlife, and to protect its  
13 paleontological resources.

14 44. While the Central Coast Planning Area encompasses extraordinary landscapes and  
15 biodiversity, water scarcity is an ever-present concern. Groundwater is essential to agriculture and  
16 other sectors of the economy, as well as providing about 75 percent of California's population with  
17 at least some drinking water. In the southern and central portions of the Central Coast Planning  
18 Area, groundwater supplies more than 80 percent of the demand for water.

19 45. Groundwater quality and quantity in the area is affected by drought-related  
20 decreased precipitation, reduced snowpack and consequential increased reliance on groundwater  
21 pumping. Of the 20 groundwater basins in the Planning Area that contain federal mineral estate,  
22 four are in critical overdraft.

23 46. Like most of California, the Central Coast Planning Area is seismically active. A  
24 number of faults, including the San Andreas fault, run through the Planning Area. Because faults  
25 can either trap crude oil, or act as a conduit, oil and gas fields are frequently located in the vicinity  
26 faults.



1 as heavy metals, naturally occurring radioactive materials and other carcinogens. Waste fluid is  
2 produced from oil or gas wells for the life of the well, and must be separated and disposed.

3 54. The disposal of this waste fluid through injection into underground aquifers, as well  
4 as fracking operations and the fluid extraction that results from oil and gas production activities, may  
5 increase the risk of earthquake activity and larger quakes. Higher volumes and pressures of fluid  
6 injection can increase the risk of earthquakes.

7 55. Oil and gas production also results in the release of air pollutants including nitrogen  
8 oxides, sulfur dioxide, particulate matter and volatile organic compounds. Oil and gas production  
9 also produces greenhouse gases, such as carbon dioxide and methane, that cause global warming and  
10 climate change. Oilfields in the Central Coast Planning Area produce some of the most carbon-  
11 intensive, or climate-damaging, crude oil in California.

12 56. Oil and gas production on public lands can also result in the destruction and  
13 fragmentation of habitat for rare, threatened and endangered species; and contamination of soils,  
14 surface water and groundwater.

15 **C. BLM's Resource Management Plan Amendment**

16 57. The Central Coast RMP establishes a framework for the U.S. Bureau of Land  
17 Management to manage the 792,430 acres of federal mineral estate within the Central Coast  
18 Planning Area. The RMP Amendment at issue here determines which BLM-managed lands and  
19 federal mineral estate is open or closed to oil and gas leasing, and which stipulations or restrictions  
20 will be applied to future leases to protect environmental resources.

21 58. On January 6, 2017, BLM notified the public of the availability of a draft Resource  
22 Management Plan Amendment and Environmental Impact Statement for oil and gas leasing and  
23 development ("Draft EIS").

24 59. The Draft EIS considered five alternatives, "A" through "E," each of which  
25 proposed opening different acreages for oil and gas leasing and development.

26 60. In an effort to estimate the environmental impacts associated with oil and gas  
27 development and extraction under RMP Amendment, the Draft EIS relied on a "reasonably

1 foreseeable development scenario” that projected anticipated future oil and gas production in the  
2 area. For every alternative but Alternative B, BLM assumed up to 37 wells will be drilled on federal  
3 mineral estate in the next 15 to 20 years. BLM assumed Alternative B would result in up to 32 wells  
4 being drilled.

5 61. The Draft EIS identified as BLM’s preferred alternative “Alternative C,” which  
6 would open a total of 398,600 acres of federal mineral estate for oil and gas development. Under  
7 Alternative C, federal mineral estate underlying giant kangaroo rat core population habitat areas and  
8 in California’s coastal zone would be closed to oil and gas development, and no surface occupancy  
9 would be allowed on land designated by U.S. Fish and Wildlife Services as designated critical  
10 habitat for threatened or endangered species. All federal mineral estate in Alameda, Contra Costa,  
11 Santa Clara, Santa Cruz and San Mateo counties would be closed to oil and gas leasing and  
12 development.

13 62. During the public comment period, Santa Cruz County submitted comments on the  
14 Draft EIS on March 28, 2017, and Environmental Plaintiffs submitted comments on April 6, 2017.  
15 Plaintiff Center for Biological Diversity submitted supplemental comments on June 1, 2017,  
16 November 20, 2018 and December 14, 2018. All Plaintiffs’ comments were focused on, and  
17 exclusively addressed, the impacts of BLM’s preferred alternative, Alternative C.

18 63. On May 10, 2019, BLM published a notice of availability for the final Resource  
19 Management Plan Amendment and Environmental Impact Statement (“Final EIS”). The Final EIS  
20 identified as BLM’s preferred alternative “Alternative F”—a wholly new alternative that was not  
21 included or analyzed in the Draft EIS. Alternative F opens for oil and gas development a total of  
22 725,500 acres of federal mineral estate, more than 91 percent of all land and mineral estate in the  
23 Planning Area under BLM’s control, and nearly double the mineral estate open under the previous  
24 preferred alternative.

25 64. Unlike Alternative C, Alternative F opens federal mineral estate in Alameda, Contra  
26 Costa, Santa Cruz, Santa Clara and San Mateo counties for oil and gas development.

27 65. Alternative F also opens for oil and gas development, including surface occupancy,  
28



1 mineral estate underlying designated critical habitat for threatened and endangered species, and  
2 within California's coastal zone.

3 66. Alternative F opens for oil and gas development mineral estate overlying portions of  
4 all 20 groundwater basins in the Planning Area.

5 67. Alternative F also opens for oil and gas leasing, including surface occupancy, federal  
6 lands within portions of Panoche-Coalinga Area of Critical Environmental Concern; and federal  
7 lands subject to Recreation & Public Purpose leases. There are Recreation & Public Purpose lease  
8 lands in Mt. Diablo State Park and Henry W. Coe State Park that are now open for oil and gas  
9 leasing with surface occupancy.

10 68. The Final EIS fails to analyze many of the impacts associated with and flowing from  
11 its decision to open the Central Coast Planning Area to oil and gas development.

12 69. The Final EIS also did not contain any stipulations or other limitations to prevent the  
13 use of fracking or enhanced oil recovery techniques on oil and gas development leases.

14 70. Monterey County timely filed a protest on June 4, 2019, Santa Cruz County timely  
15 filed a protest on June 6, 2019, and Environmental Plaintiffs timely filed a protest on June 7, 2019.  
16 The bases for Plaintiffs' protests included that the Final EIS failed to consider an adequate range of  
17 alternatives; that BLM should have considered the County Plaintiffs' general plans, incorporated  
18 the County Plaintiffs' land use policies, and discussed any conflicts and inconsistencies between the  
19 Final EIS and the County Plaintiffs' general plans and land use policies, as well as the specific  
20 topics addressed in each County Plaintiffs' comments and protest letters; that BLM should have  
21 prepared a supplemental EIS to give the public the opportunity to comment on the newly-developed  
22 Alternative F; and that the final EIS failed to take a hard look at the impacts of opening the Central  
23 Coast Planning Area for oil and gas development, as NEPA requires.

24 71. On October 4, 2019, BLM dismissed the Plaintiffs' protests and published its Record  
25 of Decision adopting Alternative F of the RMP Amendment and Final EIS, and opening 725,500  
26 acres of federal public land and mineral estate in the Bay Area and Central Coast for oil and gas  
27 exploration and development.



**FIRST CLAIM FOR RELIEF**

**[Violation of NEPA and APA: Failure to Identify Alternatives]**

1  
2 72. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
3 preceding paragraphs.

4 73. NEPA requires that all agencies of the federal government prepare a detailed EIS  
5 that discusses the environmental effects of, and reasonable alternatives to, all “major federal actions  
6 significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C).

7 74. The RMP Amendment is a major federal action significantly affecting the quality of  
8 the human environment. *See* 43 C.F.R. § 1601.0-6.

9 75. NEPA and its implementing regulations require that an EIS “rigorously explore and  
10 objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14. An EIS  
11 must devote “substantial treatment” to each alternative considered in detail, “so that reviewers may  
12 evaluate their comparative merits.” *Id.* Moreover, agencies must ensure that “the proposal which is  
13 the subject of an environmental impact statement is properly defined.” *Id.* § 1502.4(a).

14 76. The “alternatives” considered in the Final EIS are not genuine alternatives as  
15 required by NEPA, because all but one are premised on the same reasonably foreseeable  
16 development scenario. The remaining alternative presents nothing more than a nominally different  
17 development scenario resulting in no meaningful difference in impacts. Because the Final EIS uses  
18 essentially the same reasonably foreseeable development scenario to estimate the impacts  
19 associated with every alternative described in the Final EIS, no alternative considers an oil and gas  
20 development scenario that is meaningfully more restrictive than the preferred alternative scenario  
21 and therefore results in meaningfully different environmental impacts.

22 77. The Final EIS for the RMP Amendment therefore fails to set forth and analyze, in  
23 accordance with NEPA, a range of alternatives to the adopted alternative.

24 78. BLM’s failure to analyze a range of alternatives, including alternatives that  
25 meaningfully restrict oil and gas development, deprives the public and agency decision makers of  
26 the information needed to make a fully informed decision and precludes analysis of all of the  
27 environmental effects of the proposed action as required by NEPA.

1 79. BLM’s failure to identify and analyze the requisite range of alternatives is contrary  
2 to NEPA and its implementing regulations and is arbitrary, capricious, and contrary to the  
3 procedures required by law.

4 **SECOND CLAIM FOR RELIEF**

5 **[Violation of NEPA and APA; Failure to Analyze Environmental Impacts]**

6 80. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
7 preceding paragraphs.

8 81. NEPA and its implementing regulations require that an EIS “provide full and fair  
9 discussion of significant environmental impacts.” 40 C.F.R. § 1502.1. An EIS must analyze the  
10 environmental impacts of the proposed action and alternatives, including direct effects, indirect  
11 effects, and cumulative effects. *Id.* §§ 1502.16, 1508.7, 1508.8; 42 U.S.C. § 4332(C). To comply  
12 with NEPA, agencies must take a “hard look” at the potential environmental consequences of the  
13 proposed action. *Oregon Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1132 (9th Cir. 2007).

14 82. The Final EIS failed to provide the requisite “full and fair discussion” of the impacts  
15 of oil and gas development, including the use of fracking and enhanced oil recovery techniques. As  
16 a result, the Final EIS fails to disclose and analyze adequately significant environmental effects of  
17 adopting the Resource Management Plan Amendment, including the effects of oil and gas  
18 development on:

- 19 A. air quality;
- 20 B. greenhouse gas emissions and the climate;
- 21 C. groundwater quality and availability;
- 22 D. surface water quality and availability;
- 23 E. seismicity; and
- 24 F. wildlife and plant species, including threatened and endangered species.

25 83. BLM’s failure to disclose and analyze adequately the effects of the Central Coast  
26 Resource Management Plan Amendment is arbitrary, capricious, an abuse of discretion and  
27 contrary to NEPA and its implementing regulations and the APA.

**THIRD CLAIM FOR RELIEF**

**[Violation of NEPA and APA; Failure to Prepare a Supplemental EIS]**

84. Plaintiffs reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

85. Pursuant to NEPA, Defendants must prepare a supplemental EIS if “[t]he agency makes substantial changes in the proposed action that are relevant to environmental concerns;” or where “[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9(c).

86. Introduction in a final EIS of a new alternative that is outside “the range of alternatives the public could have reasonably anticipated,” and to which the “public’s comments on the draft EIS alternatives” do not “also apply to the chosen alternative and inform [the agency] meaningfully of the public’s attitudes toward the chosen alternative” is sufficient to require a supplemental EIS. *California v. Block*, 690 F.2d 753, 772 (9th Cir. 1982).

87. BLM’s Record of Decision adopted an alternative presented for the first time in the Final EIS.

88. The adopted Alternative, Alternative F, was outside the range of the alternatives the public could reasonably have anticipated that BLM was considering.

89. Comments from the public, including from Plaintiffs, other environmental groups, government agencies and elected officials, were therefore insufficient to inform BLM of the public’s view of the chosen alternative and its impacts. *Id.*, 772.

90. BLM’s failure to prepare and circulate for public comment a supplemental EIS describing Alternative F and identifying it as BLM’s preferred alternative is therefore arbitrary, capricious, and not in accordance with law as required by NEPA, its implementing regulations, and the APA, and is subject to judicial review under the APA. 5 U.S.C. §§701-706, 706(2). The failure to prepare a supplemental EIS also constitutes agency action that has been unreasonably delayed and unlawfully withheld. *Id.* § 706(1).

**FOURTH CLAIM FOR RELIEF**

**[Violation of NEPA and APA; Failure to Discuss Conflicts and Inconsistencies]**

91. Plaintiffs reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

92. Regulations implementing NEPA mandate that every EIS shall discuss possible conflicts between the proposed action and the objectives of local land use plans, policies and controls for the area concerned. 40 C.F.R. § 1502.16(c).

93. Every EIS must also discuss any inconsistencies between the proposed action and an approved local plan or law. 40 C.F.R. § 1506.2(d). If an inconsistency exists between the proposed action and a local plan, the agency is required to describe the extent to which it would reconcile the inconsistency. *Id.*

94. These procedural requirements of NEPA were designed to protect the Counties' interest in enforcing its land use and health regulations and its proprietary interest in protecting natural resources from harm. *Yount*, 2013 U.S. Dist. LEXIS 2673, [WL] at \*47. It is reasonably probable that BLM's proposed actions will threaten these interests. *See City of Sausalito v. O'Neill*, 386 F.3d 1186, 1197 (9th Cir. 2004).

95. BLM's failure to discuss or even acknowledge the County's general plan and any possible conflicts or inconsistencies with the EIS is arbitrary, capricious, and not in accordance with law as required by NEPA, its implementing regulations, and the APA, and is subject to judicial review under the APA.

**FIFTH CLAIM FOR RELIEF**

**[Violation of FLPMA; Failure to Coordinate]**

96. Plaintiffs reallege and incorporate by reference the allegations set forth in the preceding paragraphs.

97. The FLPMA requires federal agencies to coordinate planning efforts with local governments when developing or revising resource management plans. 43 C.F.R. § 1610.3-1.

98. Similar to NEPA, "the procedural requirements of the FLPMA are designed to

1 protect the interests of local governments whenever federal agencies develop or implement federal  
2 land-use plans.” *Yount*, 2013 U.S. Dist. LEXIS 2673, [WL] at \*48.

3 99. BLM’s failure to coordinate with the County, and BLM’s failure to invite the  
4 County to participate in developing Alternative F of the RMP amendment as a cooperating agency  
5 are violations under the FLPMA. 43 C.F.R. § 1610.3-1(a), (b).

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs respectfully request that this Court:

8 A. Declare that BLM’s adoption of the Resource Management Plan Amendment and  
9 Final EIS violated the FLPMA, NEPA and the regulations promulgated thereunder;

10 B. Vacate and set aside BLM’s actions taken in reliance on the Resource Management Plan  
11 Amendment and Final EIS;

12 C. Enjoin BLM and its agents, employees, officers and representatives from approving the  
13 leasing or development of oil and gas resources in the Central Coast Planning Area pursuant to the  
14 Resource Management Plan Amendment and Final EIS until BLM has demonstrated compliance  
15 with NEPA.

16 D. Retain continuing jurisdiction of this matter until BLM fully remedies the violations of  
17 law complained of herein;

18 E. Award Plaintiffs their fees, costs and other expenses of this action, including reasonable  
19 attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

20 F. Grant such other relief as the Court deems just and proper.

21 DATED: February 4, 2020

Respectfully submitted,

22 /s/ Clare Lakewood  
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**PROOF OF SERVICE**

I, Susan Larsen, declare as follows:

My business address is 1212 Broadway, Suite 800, Oakland, CA 94612. I am employed in the county of Alameda. I am over the age of eighteen and am not a party to the within action.

On February 4, 2020, the following documents described as:

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

were served electronically via ECF pursuant to Local Rule 5-1(h)(1), on the following person(s):

Leilani E. Doctor  
United States Department of Justice  
Environment & Natural Resources Division  
150 M Street NE  
Washington, D.C. 20002  
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I declare under penalty of perjury that the foregoing is true and correct.

Executed February 4, 2020, at Oakland, California.

/s/ Susan Larsen  
Susan Larsen

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[\(List of counsel continued on next page\)](#)

14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 CENTER FOR BIOLOGICAL  
17 DIVERSITY, ~~and~~ SIERRA CLUB,  
18 COUNTY OF SANTA CRUZ, and  
19 COUNTY OF MONTEREY

Plaintiffs,

19 v.

20 U.S. BUREAU OF LAND  
21 MANAGEMENT; DAVID BERNHARDT,  
22 in his capacity as Secretary of the  
23 Department of the Interior;  
24 Defendants.

Civ. No. 3:19-cv-07155-JSC

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

Judge: Honorable Jacqueline Scott Corley  
Courtroom: E



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1 **INTRODUCTION**

2 1.Plaintiffs Center for Biological Diversity, Sierra Club, [County of Santa Cruz, California](#)  
3 [and County of Monterey, California](#) (collectively “Plaintiffs”) challenge defendants’ approval of a  
4 resource management plan amendment affecting California’s Bay Area and Central Coast. The plan  
5 amendment makes 725,500 acres of federal public lands and mineral estate available for oil and gas  
6 leasing, though defendants failed to consider meaningful alternatives to the plan amendment, failed  
7 to analyze and disclose the environmental impacts, and denied the public the opportunity to  
8 comment on its environmental analyses as the law requires. Plaintiffs ask this Court to set aside that  
9 approval because it violates the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321  
10 *et seq.* and Federal Land Management and Policy Act (“FLPMA”), 42 U.S.C. §§ 1701 *et seq.* and to  
11 ensure that federal management of oil and gas leasing and development occurs, if at all, only with  
12 federal defendants’ compliance with the law.

13 2.Plaintiffs bring this civil action for declaratory and injunctive relief against the decision of  
14 the United States Bureau of Land Management ([“BLM”](#)) and David Bernhardt, Secretary of the  
15 Interior (collectively “Defendants”), to approve, through a Record of Decision on October 4, 2019,  
16 the Central Coast Field Office’s Resource Management Plan Amendment (“RMP Amendment”)  
17 and Final Environmental Impact Statement (“Final EIS”). This action arises under, and alleges  
18 violation of, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706; NEPA; [the FLPMA](#);  
19 and the statutes’ implementing regulations.

20 3.As set forth below, the RMP Amendment and Final EIS opens hundreds of thousands of  
21 acres of federal public lands and mineral estate within the jurisdiction of BLM’s Central Coast  
22 Planning Area, which covers the Bay Area and Central Coast regions of California, to fossil fuel  
23 extraction, including especially dangerous and polluting techniques like steam injection and  
24 hydraulic fracturing (“fracking”).

25 4. Plaintiffs bring this case to overturn Defendants’ unlawful and unwise action and to  
26 ensure that California’s precious air and water are properly protected, the risks of earthquakes  
27 induced by oil and gas activities are properly considered, and any oil and gas leases and subsequent

1 development be allowed to occur, if at all, following a thorough environmental review that properly  
2 informs the public and decision-makers of the full impacts of Defendants' action and provides for  
3 the requisite opportunity for public comment.

4 5.Plaintiffs therefore seek a declaration that the RMP Amendment and Final EIS is contrary  
5 to law, an order setting aside the plan and requiring BLM to prepare a supplemental EIS, and an  
6 injunction prohibiting BLM from carrying out any oil and gas leasing in the Central Coast Planning  
7 Area pending BLM's compliance with NEPA.

### 8 JURISDICTION AND VENUE

9 6.This action arises under 42 U.S.C. § 4331 et. seq and 5 U.S.C. §§ 702, 704, 706.  
10 Jurisdiction is conferred on this Court by 28 U.S.C. § 1331. The relief requested is authorized by 28  
11 U.S.C. §§ 2201-2202 and Rule 57 of the Federal Rules of Civil Procedure.

12 7.Defendants have not remedied their violations of NEPA and are in violation of these  
13 statutes under the standards of review provided by the APA. Plaintiffs have exhausted all available  
14 administrative remedies to the degree such exhaustion is required.

15 8.Pursuant to 28 U.S.C. § 2201, Plaintiffs seek a declaration of rights under the laws of the  
16 United States. There exists now between the parties an actual, justiciable controversy between the  
17 parties.

18 9.Venue is proper pursuant to 28 U.S.C § 1391 because plaintiff Sierra Club resides in this  
19 district and a substantial part of the federal land and mineral estate the subject of this action lies in  
20 this district.

### 21 INTRADISTRICT ASSIGNMENT

22 10. Assignment to the San Francisco Division or Oakland Division is proper pursuant to  
23 Civil Local Rule 3-2(c) because federal land and mineral estate the subject of this action is located in  
24 Alameda, Contra Costa and San Mateo counties and plaintiff Sierra Club resides in Oakland, in  
25 Alameda county.

### 26 PARTIES

27 11. Plaintiff Center for Biological Diversity ("the Center") is a non-profit organization  
28

1 with offices through the United States, including in Oakland and Los Angeles, California. The  
2 Center works through science, law, and policy to secure a future for all species, great or small,  
3 hovering on the brink of extinction. The Center has and continues to advocate for increased  
4 protections for California species and their habitats, a livable climate and healthy communities by  
5 engaging at every step of federal fossil fuel planning, leasing and development. The Center brings  
6 this action on its own behalf and on behalf of its adversely affected members. The Center has over  
7 67,000 members throughout the United States and the world, including those living in California  
8 and who have visited the public lands affected by the RMP Amendment for recreational, scientific,  
9 educational and other pursuits and intend to do so in future, and are particularly interested in  
10 protecting the many native, threatened and endangered, or sensitive species and their habitats that  
11 oil and gas leasing and development may harm.

12 12. The Sierra Club is a national nonprofit organization with 67 chapters and more than  
13 825,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to  
14 practicing and promoting the responsible use of the earth's ecosystems and resources; to educating  
15 and enlisting humanity to protect and restore the quality of the natural and human environment; and  
16 to using all lawful means to carry out these objectives. There are four Sierra Club chapters in the  
17 Central Coast Planning Area. The San Francisco Bay Chapter of the Sierra Club has approximately  
18 33,436 members. The Tehipite, Loma Prieta, and Ventana chapters have 2,126, 17,417, and 6,229  
19 members, respectively. Sierra Club members use the public lands in California, including the lands  
20 and waters affected by the RMP Amendment, for quiet recreation, aesthetic pursuits, and spiritual  
21 renewal. (Plaintiffs Center for Biological Diversity and Sierra Club hereafter collectively referred to  
22 as "Environmental Plaintiffs").

23 13. Environmental Plaintiffs have individual members and staff who use and enjoy the  
24 public and other lands in the Central Coast Planning Area. Environmental Plaintiffs' members and  
25 staff live, work and recreate in the Central Coast Planning Area, including on and in the vicinity of  
26 mineral estate open for oil and gas leasing and development, and derive recreational, aesthetic,  
27 vocational, scientific and spiritual benefit from their activities. Environmental Plaintiffs' members  
28

1 and staff intend to continue to use and enjoy the surface lands overlying federal mineral estate that  
2 is subject to the RMP Amendment and Final EIS and other land in the Central Coast Planning Area  
3 frequently and on an ongoing basis in the future.

4 14. Additionally, Environmental Plaintiffs' members and staff have an interest in  
5 ensuring that Defendants<sup>2</sup> complyies with all applicable laws, including the substantive, procedural,  
6 and informational provisions of NEPA and FLPMA. Plaintiffs participated in Defendants' decision-  
7 making around the Central Coast Plan by commenting on the draft EIS, and submitting an  
8 administrative protest against the final EIS.

9 15. Plaintiff County of Santa Cruz ("Santa Cruz County") is a political subdivision of  
10 the State of California within BLM's Central Coast Planning Area. Santa Cruz County contains a  
11 total of 282,240 acres between the San Francisco Bay Area and Monterey Peninsula and is home to  
12 over 275,000 residents. Santa Cruz County has statutory authority to adopt a comprehensive general  
13 plan to protect its environmental interests. The intent of Santa Cruz County's general plan is to  
14 guide future growth and development in a manner that protects natural and agricultural resources,  
15 preserves sensitive habitat and animal species, and provides a healthy quality of life for its residents  
16 while maintaining a vibrant economy and rural character. Santa Cruz County's general plan also  
17 specifically prohibits the development, construction, installation, or use of any facility necessary for  
18 or intended to support oil or gas exploration or development from any surface location within the  
19 unincorporated area of the County. The RMP Amendment and Final EIS targets over 300 acres of  
20 an unincorporated area of the County, where Santa Cruz County's natural and agricultural  
21 resources, sensitive habitats, and residents are threatened and will suffer imminent harm from  
22 BLM's proposed activities.

23 16. Like Environmental Plaintiffs, Santa Cruz County has an interest in ensuring  
24 Defendants' compliance with all applicable laws, including the substantive, procedural, and  
25 informational provisions of NEPA and the FLPMA. Further, Santa Cruz County has an interest in  
26 enforcing its land use and health regulations and a proprietary interest in protecting its natural  
27 resources from harm. Santa Cruz County also commented on the draft EIS and submitted an

1 administrative protest against the final EIS.

2 17. Plaintiff County of Monterey (“Monterey County”) is a political subdivision of the  
3 State of California within BLM’s Central Coast Planning Area. Monterey County contains a total of  
4 2,413,440 acres bordered by Santa Cruz County on the North, San Luis Obispo County to the  
5 South, San Benito, Fresno, and Kings Counties on the East, and the Pacific Ocean on the West. It is  
6 home to 437,907 residents (as of 2017). Monterey County is supportive of its oil industry and the  
7 many individuals employed in the industry. Monterey County nonetheless has serious concerns  
8 about the adverse impacts that the RMP Amendment and Final EIS may have on traffic, road and  
9 dam infrastructure, water quality, water availability, aesthetics, hazardous materials exposure,  
10 seismic hazards, housing, and protecting the Pacific Ocean from pollutants. Additionally, the RMP  
11 Amendment is inconsistent with Measure Z, approved by Monterey County voters in 2016.  
12 Although Measure Z was challenged in court and not all of its provisions are in effect, certain well-  
13 stimulation techniques, such as hydraulic fracturing, clearly would be inconsistent with operative  
14 provisions of Measure Z.

15 14.18. As do the Environmental Plaintiffs and Santa Cruz County, Monterey County has an  
16 interest in ensuring Defendants’ compliance with all applicable laws, including the substantive,  
17 procedural, and informational provisions of NEPA and the FLPMA. Monterey County likewise has  
18 an interest in enforcing its land use and health regulations to the extent they are impacted by the  
19 RMP Amendment, and a proprietary interest in protecting its natural resources, particularly its  
20 water supply, and its infrastructure from harm. Like the other Plaintiffs, Monterey County  
21 submitted an administrative protest against the final EIS and RMP Amendment.

22 15.19. This suit is brought by Plaintiffs and their adversely affected, residents, members  
23 and staff. Defendants’ determination to open the federal lands and mineral estate subject to this case  
24 to fossil fuel exploration and production will harm Plaintiffs’ and Environmental Plaintiffs’  
25 members’ present and future interests in and use of those areas. For example, new oil and gas leases  
26 will allow increased oil and gas development, resulting in noise, visual blight, increased traffic,  
27 seismic risks, habitat fragmentation and degradation, harm to wildlife including threatened and

1 endangered species, air pollution including increased emission of pollutants responsible for climate  
2 change, increased water pollution and increased water consumption. All of these harms will  
3 diminish Plaintiffs' residents', members' and staff's ability to enjoy the recreational, spiritual,  
4 professional, aesthetic, educational, and other activities in and around the lands the subject of the  
5 RMP Amendment.

6 ~~16.20.~~ Plaintiffs have no adequate remedy at law, and have exhausted all required  
7 administrative remedies.

8 ~~17.21.~~ Plaintiffs' injuries will be redressed by the relief sought herein.

9 ~~18.22.~~ Defendant Bureau of Land Management is an agency within the United States  
10 Department of the Interior and is responsible for managing federal lands and subsurface mineral  
11 estates underlying federal, state, and private lands across the United States, including the land and  
12 mineral estate that is subject of the Central Coast Plan.

13 ~~19.23.~~ Defendant David Bernhardt is the Secretary of the United States Department of the  
14 Interior, and is sued in his official capacity. Mr. Bernhardt is the official ultimately responsible  
15 under federal law for ensuring that the actions and management decisions of the Bureau of Land  
16 Management comply with applicable laws and regulations.

## 17 LEGAL BACKGROUND

### 18 A. The Federal Land Policy and Management Act

19 ~~20.24.~~ The Federal Land Policy Management Act of 1976 ("FLPMA") governs the  
20 management, protection, development and enhancement of federal property under the jurisdiction of  
21 BLM. The FLPMA provides that land managed by BLM "be managed in a manner that will protect  
22 the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water  
23 resource, and archeological values." 43 U.S.C. § 1701(a)(8).

24 ~~21.25.~~ At its core, the FLPMA requires BLM to prepare, with public involvement, a  
25 "resource management plan" for the public lands in its jurisdiction. 43 U.S.C. § 1712(a). Such plans  
26 are expected to provide policy, guidance, and standards for all "site-specific" activities that occur on  
27

1 land in question, effectively outlining BLM’s approach to future management decisions over the  
2 next 15 to 20 years.

3 26. In developing a resource management plan, BLM must, among other things,  
4 “consider present and potential uses of the public lands . . . consider the relative scarcity of the  
5 values involved . . . weigh long-term benefits to the public against short-term benefits; [and] provide  
6 for compliance with applicable pollution control laws.” *Id.* § 1712(c). “All future resource  
7 management authorizations and actions” by BLM, as well as “subsequent more detailed or specific  
8 planning” must conform to approved resource management plans. 43 C.F.R. § 1610.5-3(a).

9 27. In addition to public involvement, BLM is required under the FLPMA to coordinate  
10 planning efforts with local governments like the Counties when developing or revising resource  
11 management plans. 43 C.F.R. § 1610.3-1. The objectives of this coordination are to keep apprised of  
12 local land management plans, assure that BLM considers those plans, assist in resolving  
13 inconsistencies with those plans, provide for meaningful involvement of local government officials,  
14 and collaborate with local governments where possible and appropriate. *Id.* § 1610.3-1(a).

15 22-28. The FLPMA also requires BLM State Directors and Field Managers to invite local  
16 governments to participate as cooperating agencies when developing or revising resource  
17 management plans. 43 C.F.R. § 1610.3-1(b).

18 23-29. It is a responsibility of BLM, through development of an RMP, to balance the use of  
19 public lands and minerals to avoid the infliction of permanent damage, to prevent unnecessary and  
20 undue degradation, and to minimize adverse impacts on natural, environmental, scientific, cultural,  
21 and other resources and values.

22 24-30. BLM has determined that preparation of a resource management plan “is considered a  
23 major federal action significantly affecting the quality of the human environment,” and therefore  
24 requires the preparation of an environmental impact statement under NEPA. 43 C.F.R. § 1601.0-6.

25 **B. The National Environmental Policy Act**

26 25-31. NEPA is “our basic national charter for protection of the environment.” 40 C.F.R. §  
27 1500.1(a). Its twin aims are to ensure that federal agencies consider the environmental impacts of



1 their proposed actions and to ensure that agencies inform the public that environmental concerns  
2 have been considered. It is NEPA’s purpose, in part, “to promote efforts which will prevent or  
3 eliminate damage to the environment and biosphere and stimulate the health and welfare of man.”  
4 42 U.S.C. § 4321. Recognizing that “each person should enjoy a healthful environment,” NEPA  
5 directs that the federal government use all practicable means to “assure for all Americans safe,  
6 healthful, productive, and esthetically and culturally pleasing surroundings,” and to “attain the  
7 widest range of beneficial uses of the environment without degradation, risk to health or safety, or  
8 other undesirable and unintended consequences.” 42 U.S.C. § 4331(b).

9 26-32. To accomplish NEPA’s purpose, NEPA requires “responsible [federal] officials” to  
10 prepare an environmental impact statement (“EIS”) to consider the effects of each “major Federal  
11 action[ ] significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C)(i).

12 33. This environmental impact statement-EIS must, among other things, describe the  
13 “environmental impact of the proposed action,” and evaluate “alternatives to the proposal.” *Id.* §  
14 4332(2)(C)(ii), (iii). The agency must analyze not only the direct impacts of a proposed action, but  
15 also the indirect and cumulative impacts. 40 C.F.R. §§ 1508.7, 1508.8.

16 27-34. The agency must include in its EIS a discussion of “[p]ossible conflicts between the  
17 proposed action and the objectives of . . . local . . . land use plans, policies and controls for the area  
18 concerned.” 40 C.F.R. § 1502.16(c). The EIS must also “discuss any inconsistency of a proposed  
19 action with any approved State or local plan and laws (whether or not federally sanctioned). Where  
20 an inconsistency exists, the statement should describe the extent to which the agency would  
21 reconcile its proposed action with the plan or law.” 40 C.F.R. § 1506.2(d).

22 28-35. In its analysis, the agency must disclose if information is incomplete or unavailable  
23 and explain “the relevance of the incomplete or unavailable information to evaluating reasonably  
24 foreseeable significant adverse impacts.” *Id.* § 1502.22(b)(1). The agency must also directly and  
25 explicitly respond to dissenting scientific opinion. *Id.* § 1502.9(b). Further, NEPA’s implementing  
26 regulations require that the agency “shall identify any methodologies used and shall make explicit  
27 reference by footnote to the scientific and other sources relied upon for conclusions,” and shall

1 ensure the scientific accuracy and integrity of environmental analysis. *Id.* § 1502.24.

2 36. NEPA regulations also direct that BLM to the fullest extent possible “encourage and  
3 facilitate public involvement” in the NEPA process. *Id.* § 1500.2(d).

4 29-37. Both the FLPMA and NEPA require meaningful participation of and consultation  
5 with local governments, and, to the extent possible, consistency of federal actions with local land  
6 use plans. See 43 U.S.C. § 1712(a) and (c)(9); 42 U.S.C. §§ 4331(a), 4332(2)(C)(v), 40 C.F.R. §§  
7 1502.9(b), 1502.16(c), 1506.2(d); Yount v. Salazar, 2013 U.S. Dist. LEXIS 2673, \*47, 2013 WL  
8 93372 (D. Ariz. January 8, 2013).

9 **C. The Administrative Procedure Act**

10 30-38. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, provides for  
11 judicial review of administrative actions, and waives the sovereign immunity of the United States,  
12 its agencies, officers, and employees, 5 U.S.C. § 702. Actions that are reviewable under the APA  
13 include final agency actions “for which there is no other adequate remedy in a court.” *Id.*

14 31-39. The APA provides that a reviewing court shall “hold unlawful and set aside agency  
15 action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or  
16 otherwise not in accordance with law.” 5 U.S.C. § 706(2). Agency actions may also be set aside in  
17 other circumstances, such as where the action is “without observance of procedure required by  
18 law.” *Id.* § 706(2)(B)-(F).

19 32-40. The APA also provides that a reviewing court shall “compel agency action  
20 unlawfully withheld or unreasonably delayed.”

21 **FACTUAL AND PROCEDURAL BACKGROUND**

22 **A. The Central Coast Field Office Planning Area**

23 33-41. The Central Coast Planning Area is an administrative geographic subdivision of  
24 federal land and mineral estate managed by BLM. The Central Coast Planning Area covers all or  
25 part of 12 counties in California’s Bay Area and Central Coast: Alameda, Contra Costa, Fresno,  
26 Merced, Monterey, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz  
27 and Stanislaus. There are BLM-managed federal lands or mineral estate in all of these counties but

1 San Francisco.

2 [34.42.](#) The Central Coast Planning Area includes beautiful and diverse landscapes.  
3 Vegetation across the Planning Area ranges from the desert scrublands of the San Joaquin Desert, to  
4 the mixed conifer forests of the Santa Cruz mountains. This diversity of habitat means the Central  
5 Coast Planning Area is home to a variety of rare, threatened or endangered species, including the  
6 California jewelflower, the San Joaquin woollythread, the San Joaquin kit fox, the blunt-nosed  
7 leopard lizard, the California red-legged frog, the Giant kangaroo rat and the steelhead trout.

8 [35.43.](#) The Planning Area includes the Panoche-Coalinga Area of Critical Environmental  
9 Concern, an area that stretches from Panoche Hills in Fresno county, southward to Coalinga,  
10 connecting a vast landscape of desert-like habitats of extraordinary scenic beauty and recreational  
11 value. The Panoche-Coalinga Area of Critical Environmental Concern was established to protect its  
12 significant habitat for rare, threatened, and endangered plants and wildlife, and to protect its  
13 paleontological resources.

14 [36.44.](#) While the Central Coast Planning Area encompasses extraordinary landscapes and  
15 biodiversity, water scarcity is an ever-present concern. Groundwater is essential to agriculture and  
16 other sectors of the economy, as well as providing about 75 percent of California's population with  
17 at least some drinking water. In the southern and central portions of the Central Coast Planning  
18 Area, groundwater supplies more than 80 percent of the demand for water.

19 [37.45.](#) Groundwater quality and quantity in the area is affected by drought-related  
20 decreased precipitation, reduced snowpack and consequential increased reliance on groundwater  
21 pumping. Of the 20 groundwater basins in the Planning Area that contain federal mineral estate,  
22 four are in critical overdraft.

23 [38.46.](#) Like most of California, the Central Coast Planning Area is seismically active. A  
24 number of faults, including the San Andreas fault, run through the Planning Area. Because faults  
25 can either trap crude oil, or act as a conduit, oil and gas fields are frequently located in the vicinity  
26 faults.

1 **B. The Impacts of Oil and Gas Production**

2 [39.47.](#) The Central Coast Planning Area contains 35 active oil fields and gas fields and a  
3 total of 4,292 producing and service wells. As well as conventional oil and gas extraction methods,  
4 operators in the Planning Area use particularly hazardous methods such as hydraulic “fracking” and  
5 enhanced oil recovery techniques to extract oil and gas. Enhanced oil recovery techniques, including  
6 steam injection and water flood, are used in all the most productive oil and gas fields in the Planning  
7 Area, including Coalinga and San Ardo oil and gas fields, and result in more than three quarters of  
8 oil production.

9 [40.48.](#) Steam injection is an enhanced oil recovery technique by which pressurized steam is  
10 forced underground, to heat the thick crude oil, allowing it to flow to production wells. Cyclic steam  
11 injection is a form of steam injection where steam is injected intermittently into the production well.  
12 Steam flooding involves continually injecting steam underground from injection wells that  
13 intersperse an area with oil production wells.

14 [41.49.](#) Water flooding is an enhanced oil recovery technique by which water is injected  
15 underground, usually to increase the pressure of the reservoir to stimulate production, but also to  
16 wash oil out of the reservoir and into a production well.

17 [42.50.](#) Fracking, also referred to as “well stimulation,” is a technique by which fluid,  
18 chemicals and a proppant are injected underground at a pressure high enough to break up the  
19 underlying rock formation, freeing oil to flow to the surface.

20 [43.51.](#) Steam injection, water flooding and fracking all require large volumes of water. In the  
21 Central Coast Planning Area, that water is assumed to be sourced from groundwater.

22 [44.52.](#) Two of the most productive fields in the Planning Area, Coalinga oil and gas field  
23 and San Ardo oil and gas field, are within critically overdrafted groundwater basins.

24 [53.](#) Conventional oil and gas production, enhanced oil recovery techniques and fracking  
25 can all involve the use of dangerous chemicals, including chemicals that harm human respiratory and  
26 reproductive systems and cause cancer. Waste fluid from oil and gas wells can contain chemicals  
27 added to the well, as well as harmful constituents that naturally occur in oil and gas formations, such

1 as heavy metals, naturally occurring radioactive materials and other carcinogens. Waste fluid is  
2 produced from oil or gas wells for the life of the well, and must be separated and disposed.

3 45.54. The disposal of this waste fluid through injection into underground aquifers, as well  
4 as fracking operations and the fluid extraction that results from oil and gas production activities, may  
5 increase the risk of earthquake activity and larger quakes. Higher volumes and pressures of fluid  
6 injection can increase the risk of earthquakes.

7 46.55. Oil and gas production also results in the release of air pollutants including nitrogen  
8 oxides, sulfur dioxide, particulate matter and volatile organic compounds. Oil and gas production  
9 also produces greenhouse gases, such as carbon dioxide and methane, that cause global warming and  
10 climate change. Oilfields in the Central Coast Planning Area produce some of the most carbon-  
11 intensive, or climate-damaging, crude oil in California.

12 47.56. Oil and gas production on public lands can also result in the destruction and  
13 fragmentation of habitat for rare, threatened and endangered species; ~~induced seismicity~~; and  
14 contamination of soils, surface water and groundwater.

15 **C. BLM's Resource Management Plan Amendment**

16 48.57. The Central Coast RMP establishes a framework for the U.S. Bureau of Land  
17 Management to manage the 792,430 acres of federal mineral estate within the Central Coast  
18 Planning Area. The RMP Amendment at issue here determines which BLM-managed lands and  
19 federal mineral estate is open or closed to oil and gas leasing, and which stipulations or restrictions  
20 will be applied to future leases to protect environmental resources.

21 49.58. On January 6, 2017, BLM notified the public of the availability of a draft Resource  
22 Management Plan Amendment and Environmental Impact Statement for oil and gas leasing and  
23 development ("Draft EIS").

24 50.59. The Draft EIS considered five alternatives, "A" through "E," each of which  
25 proposed opening different acreages for oil and gas leasing and development.

26 51.60. In an effort to estimate the environmental impacts associated with oil and gas  
27 development and extraction under RMP Amendment, the Draft EIS relied on a "reasonably

1 foreseeable development scenario” that projected anticipated future oil and gas production in the  
2 area. For every alternative but Alternative B, BLM assumed up to 37 wells will be drilled on federal  
3 mineral estate in the next 15 to 20 years. BLM assumed Alternative B would result in up to 32 wells  
4 being drilled.

5 [52.61.](#) The Draft EIS identified as BLM’s preferred alternative “Alternative C,” which  
6 would open a total of 398,600 acres of federal mineral estate for oil and gas development. Under  
7 Alternative C, federal mineral estate underlying giant kangaroo rat core population habitat areas and  
8 in California’s coastal zone would be closed to oil and gas development, and no surface occupancy  
9 would be allowed on land designated by U.S. Fish and Wildlife Services as designated critical  
10 habitat for threatened or endangered species. All federal mineral estate in Alameda, Contra Costa,  
11 Santa Clara, Santa Cruz and San Mateo counties would be closed to oil and gas leasing and  
12 development.

13 [53.62.](#) During the public comment period, [Santa Cruz County submitted comments on the](#)  
14 [Draft EIS on March 28, 2017, and Environmental](#) Plaintiffs submitted comments ~~on the Draft EIS~~  
15 on April 6, 2017. Plaintiff Center for Biological Diversity submitted supplemental comments on  
16 June 1, 2017, November 20, 2018 and December 14, 2018. All Plaintiffs’ comments were focused  
17 on, and exclusively addressed, the impacts of BLM’s preferred alternative, Alternative C.

18 [54.63.](#) On May 10, 2019, BLM published a notice of availability for the final Resource  
19 Management Plan Amendment and Environmental Impact Statement (“Final EIS”). The Final EIS  
20 identified as BLM’s preferred alternative “Alternative F”—a wholly new alternative that was not  
21 included or analyzed in the Draft EIS. Alternative F opens for oil and gas development a total of  
22 725,500 acres of federal mineral estate, more than 91 percent of all land and mineral estate in the  
23 Planning Area under BLM’s control, and nearly double the mineral estate open under the previous  
24 preferred alternative.

25 [55.64.](#) Unlike Alternative C, Alternative F opens federal mineral estate in Alameda, Contra  
26 Costa, Santa Cruz, Santa Clara and San Mateo counties for oil and gas development.

27 [56.65.](#) Alternative F also opens for oil and gas development, including surface occupancy,  
28

1 mineral estate underlying designated critical habitat for threatened and endangered species, and  
2 within California's coastal zone.

3 [57-66.](#) Alternative F opens for oil and gas development mineral estate overlying portions of  
4 all 20 groundwater basins in the Planning Area.

5 [58-67.](#) Alternative F also opens for oil and gas leasing, including surface occupancy, federal  
6 lands within portions of Panoche-Coalinga Area of Critical Environmental Concern; and federal  
7 lands subject to Recreation & Public Purpose leases. There are Recreation & Public Purpose lease  
8 lands in Mt. Diablo State Park and Henry W. Coe State Park that are now open for oil and gas  
9 leasing with surface occupancy.

10 [59-68.](#) The Final EIS fails to analyze many of the impacts associated with and flowing from  
11 its decision to open the Central Coast Planning Area to oil and gas development.

12 [60-69.](#) The Final EIS also did not contain any stipulations or other limitations to prevent the  
13 use of fracking or enhanced oil recovery techniques on oil and gas development leases.

14 [61-70.](#) Monterey County timely filed a protest on June 4, 2019, Santa Cruz County timely  
15 filed a protest on June 6, 2019, and Environmental Plaintiffs timely filed a protest on June 7, 2019.  
16 The bases for Plaintiffs' protests included that the Final EIS failed to consider an adequate range of  
17 alternatives; that BLM should have considered the County Plaintiffs' general plans, incorporated  
18 the County Plaintiffs' land use policies, and discussed any conflicts and inconsistencies between the  
19 Final EIS and the County Plaintiffs' general plans and land use policies, as well as the specific  
20 topics addressed in each County Plaintiffs' comments and protest letters; that BLM should have  
21 prepared a supplemental EIS to give the public the opportunity to comment on the newly-developed  
22 Alternative F; and that the final EIS failed to take a hard look at the impacts of opening the Central  
23 Coast Planning Area for oil and gas development, as NEPA requires.

24 [62-71.](#) On October 4, 2019, BLM dismissed the Plaintiffs' protests and published its Record  
25 of Decision adopting Alternative F of the RMP Amendment and Final EIS, and opening 725,500  
26 acres of federal public land and mineral estate in the Bay Area and Central Coast for oil and gas  
27 exploration and development.



**FIRST CLAIM FOR RELIEF**

**[Violation of NEPA and APA: Failure to Identify Alternatives]**

1  
2 63-72. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
3 preceding paragraphs.

4 64-73. NEPA requires that all agencies of the federal government prepare a detailed EIS  
5 that discusses the environmental effects of, and reasonable alternatives to, all “major federal actions  
6 significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C).

7 65-74. The RMP Amendment is a major federal action significantly affecting the quality of  
8 the human environment. *See* 43 C.F.R. § 1601.0-6.

9 66-75. NEPA and its implementing regulations require that an EIS “rigorously explore and  
10 objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14. An EIS  
11 must devote “substantial treatment” to each alternative considered in detail, “so that reviewers may  
12 evaluate their comparative merits.” *Id.* Moreover, agencies must ensure that “the proposal which is  
13 the subject of an environmental impact statement is properly defined.” *Id.* § 1502.4(a).

14 67-76. The “alternatives” considered in the Final EIS are not genuine alternatives as  
15 required by NEPA, because all but one are premised on the same reasonably foreseeable  
16 development scenario. The remaining alternative presents nothing more than a nominally different  
17 development scenario resulting in no meaningful difference in impacts. Because the Final EIS uses  
18 essentially the same reasonably foreseeable development scenario to estimate the impacts  
19 associated with every alternative described in the Final EIS, no alternative considers an oil and gas  
20 development scenario that is meaningfully more restrictive than the preferred alternative scenario  
21 and therefore results in meaningfully different environmental impacts.

22 68-77. The Final EIS for the RMP Amendment therefore fails to set forth and analyze, in  
23 accordance with NEPA, a range of alternatives to the adopted alternative.

24 69-78. BLM’s failure to analyze a range of alternatives, including alternatives that  
25 meaningfully restrict oil and gas development, deprives the public and agency decision makers of  
26 the information needed to make a fully informed decision and precludes analysis of all of the  
27 environmental effects of the proposed action as required by NEPA.



1 ~~70.79.~~ BLM’s failure to identify and analyze the requisite range of alternatives is contrary  
2 to NEPA and its implementing regulations and is arbitrary, capricious, and contrary to the  
3 procedures required by law.

4 **SECOND CLAIM FOR RELIEF**

5 **[Violation of NEPA and APA; Failure to Analyze Environmental Impacts]**

6 ~~71.80.~~ Plaintiffs reallege and incorporate by reference the allegations set forth in the  
7 preceding paragraphs.

8 ~~72.81.~~ NEPA and its implementing regulations require that an EIS “provide full and fair  
9 discussion of significant environmental impacts.” 40 C.F.R. § 1502.1. An EIS must analyze the  
10 environmental impacts of the proposed action and alternatives, including direct effects, indirect  
11 effects, and cumulative effects. *Id.* §§ 1502.16, 1508.7, 1508.8; 42 U.S.C. § 4332(C). To comply  
12 with NEPA, agencies must take a “hard look” at the potential environmental consequences of the  
13 proposed action. *Oregon Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1132 (9th Cir. 2007).

14 ~~73.82.~~ The Final EIS failed to provide the requisite “full and fair discussion” of the impacts  
15 of oil and gas development, including the use of fracking and enhanced oil recovery techniques. As  
16 a result, the Final EIS fails to disclose and analyze adequately significant environmental effects of  
17 adopting the Resource Management Plan Amendment, including the effects of oil and gas  
18 development on:

- 19 A. air quality;
- 20 B. greenhouse gas emissions and the climate;
- 21 C. groundwater quality and availability;
- 22 D. surface water quality and availability;
- 23 E. seismicity; and
- 24 F. wildlife and plant species, including threatened and endangered species.

25 ~~74.83.~~ BLM’s failure to disclose and analyze adequately the effects of the Central Coast  
26 Resource Management Plan Amendment is arbitrary, capricious, an abuse of discretion and  
27 contrary to NEPA and its implementing regulations and the APA.

**THIRD CLAIM FOR RELIEF**

**[Violation of NEPA and APA; Failure to Prepare a Supplemental EIS]**

1  
2  
3 75-84. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
4 preceding paragraphs.

5 76-85. Pursuant to NEPA, Defendants must prepare a supplemental EIS if “[t]he agency  
6 makes substantial changes in the proposed action that are relevant to environmental concerns;” or  
7 where “[t]here are significant new circumstances or information relevant to environmental concerns  
8 and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9(c).

9 77-86. Introduction in a final EIS of a new alternative that is outside “the range of  
10 alternatives the public could have reasonably anticipated,” and to which the “public’s comments on  
11 the draft EIS alternatives” do not “also apply to the chosen alternative and inform [the agency]  
12 meaningfully of the public’s attitudes toward the chosen alternative” is sufficient to require a  
13 supplemental EIS. *California v. Block*, 690 F.2d 753, 772 (9th Cir. 1982).

14 78-87. BLM’s Record of Decision adopted an alternative presented for the first time in the  
15 Final EIS.

16 79-88. The adopted Alternative, Alternative F, was outside the range of the alternatives the  
17 public could reasonably have anticipated that BLM was considering.

18 80-89. Comments from the public, including from Plaintiffs, other environmental groups,  
19 government agencies and elected officials, were therefore insufficient to inform BLM of the  
20 public’s view of the chosen alternative and its impacts. *Id.*, 772.

21 90. BLM’s failure to prepare and circulate for public comment a supplemental EIS  
22 describing Alternative F and identifying it as BLM’s preferred alternative is therefore arbitrary,  
23 capricious, and not in accordance with law as required by NEPA, its implementing regulations, and  
24 the APA, and is subject to judicial review under the APA. 5 U.S.C. §§701-706, 706(2). The failure  
25 to prepare a supplemental EIS also constitutes agency action that has been unreasonably delayed  
26 and unlawfully withheld. *Id.* § 706(1).

**FOURTH CLAIM FOR RELIEF**

1 **[Violation of NEPA and APA; Failure to Discuss Conflicts and Inconsistencies]**

2 91. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
3 preceding paragraphs.

4 92. Regulations implementing NEPA mandate that every EIS shall discuss possible  
5 conflicts between the proposed action and the objectives of local land use plans, policies and  
6 controls for the area concerned. 40 C.F.R. § 1502.16(c).

7 93. Every EIS must also discuss any inconsistencies between the proposed action and an  
8 approved local plan or law. 40 C.F.R. § 1506.2(d). If an inconsistency exists between the proposed  
9 action and a local plan, the agency is required to describe the extent to which it would reconcile the  
10 inconsistency. *Id.*

11 94. These procedural requirements of NEPA were designed to protect the Counties’  
12 interest in enforcing its land use and health regulations and its proprietary interest in protecting  
13 natural resources from harm. *Yount*, 2013 U.S. Dist. LEXIS 2673, [WL] at \*47. It is reasonably  
14 probable that BLM’s proposed actions will threaten these interests. *See City of Sausalito v. O’Neill*,  
15 386 F.3d 1186, 1197 (9th Cir. 2004).

16 95. BLM’s failure to discuss or even acknowledge the County’s general plan and any  
17 possible conflicts or inconsistencies with the EIS is arbitrary, capricious, and not in accordance  
18 with law as required by NEPA, its implementing regulations, and the APA, and is subject to judicial  
19 review under the APA.

20 **FIFTH CLAIM FOR RELIEF**

21 **[Violation of FLPMA; Failure to Coordinate]**

22 96. Plaintiffs reallege and incorporate by reference the allegations set forth in the  
23 preceding paragraphs.

24 97. The FLPMA requires federal agencies to coordinate planning efforts with local  
25 governments when developing or revising resource management plans. 43 C.F.R. § 1610.3-1.

26 98. Similar to NEPA, “the procedural requirements of the FLPMA are designed to  
27 protect the interests of local governments whenever federal agencies develop or implement federal

1 [land-use plans.” Yount, 2013 U.S. Dist. LEXIS 2673, \[WL\] at \\*48.](#)

2 [99. BLM’s failure to coordinate with the County, and BLM’s failure to invite the](#)  
3 [County to participate in developing Alternative F of the RMP amendment as a cooperating agency](#)  
4 [are violations under the FLPMA. 43 C.F.R. § 1610.3-1\(a\), \(b\).](#)

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs respectfully request that this Court:

7 A. Declare that BLM’s adoption of the Resource Management Plan Amendment and  
8 Final EIS violated [the FLPMA](#), NEPA and the regulations promulgated thereunder;

9 B. Vacate and set aside BLM’s actions taken in reliance on the Resource Management Plan  
10 Amendment and Final EIS;

11 C. Enjoin BLM and its agents, employees, officers and representatives from approving the  
12 leasing or development of oil and gas resources in the Central Coast Planning Area pursuant to the  
13 Resource Management Plan Amendment and Final EIS until BLM has demonstrated compliance  
14 with NEPA.

15 D. Retain continuing jurisdiction of this matter until BLM fully remedies the violations of  
16 law complained of herein;

17 E. Award Plaintiffs their fees, costs and other expenses of this action, including reasonable  
18 attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and

19 F. Grant such other relief as the Court deems just and proper.

20  
21 DATED: ~~October 30, 2019~~ [February 4, 2020](#) Respectfully submitted,

22 [/s/ Clare Lakewood](#)  
23 [Attorneys for Plaintiffs](#)

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**PROOF OF SERVICE**

I, Susan Larsen, declare as follows:

My business address is 1212 Broadway, Suite 800, Oakland, CA 94612. I am employed in the county of Alameda. I am over the age of eighteen and am not a party to the within action.

On February 4, 2020, the following documents described as:

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

were served electronically via ECF pursuant to Local Rule 5-1(h)(1), on the following person(s):

Leilani E. Doctor  
United States Department of Justice  
Environment & Natural Resources Division  
150 M Street NE  
Washington, D.C. 20002  
leilani.doktor@usdoj.gov

I declare under penalty of perjury that the foregoing is true and correct.

Executed February 4, 2020, at Oakland, California.

/s/ Susan Larsen  
Susan Larsen