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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

_____)
CENTER FOR BIOLOGICAL) Case No. 1:21-cv-00475-DAD-SAB
DIVERSITY, et al.,)
)
Plaintiffs,) **STIPULATION OF DISMISSAL**
) **PURSUANT TO SETTLEMENT**
v.) **AGREEMENT [FRCP 41(a)]**
) **AND PROPOSED ORDER OF**
) **DISMISSAL**
)
)
)
U.S. BUREAU OF LAND)
MANAGEMENT, et al.,)
)
)
Defendants.)
)
_____)

23 Plaintiffs Center for Biological Diversity, Friends of the Earth, and Sierra Club, and
24 Federal Defendants, the United States Bureau of Land Management (“BLM”), Debra Haaland
25 in her official capacity as Secretary of the Interior, and Karen Mouritsen in her official capacity
26 as BLM California State Director, hereby stipulate under Federal Rule of Civil Procedure
27 41(a)(1)(A)(ii) that this action be dismissed with prejudice, pursuant to the terms of the
28 attached Stipulated Settlement Agreement (Attachment 1). The Parties also stipulate that each

1 party shall bear its own attorneys' fees and costs. Upon dismissal of this action, the Parties
2 agree that this Court shall retain jurisdiction solely for the purposes of enforcing the Settlement
3 Agreement, subject to the limitations described in Paragraphs 12 and 13 of the Settlement
4 Agreement. *See Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375 (1994).

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6 DATED: July 29, 2022

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9 TODD KIM
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ATTESTATION OF CONCURRENCE

I hereby attest that all counsel whose signature is listed, and on whose behalf this e-filed document is submitted, concur in the filing's content and have authorized the filing.

/s/ Leilani Doktor
Leilani Doktor

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Plaintiffs,) **STIPULATED SETTLEMENT**
) **AGREEMENT**
v.))
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U.S. BUREAU OF LAND))
MANAGEMENT, et al.,))
))
Defendants.))
_____)

23 Plaintiffs Center for Biological Diversity, Friends of the Earth, and Sierra Club, and
24 Federal Defendants, the United States Bureau of Land Management (“BLM”), Debra Haaland
25 in her official capacity as Secretary of the Interior, and Karen Mouritsen in her official capacity
26 as BLM California State Director (collectively “the Parties”), hereby enter into this Settlement
27 Agreement for the purpose of resolving this lawsuit without further judicial proceedings. The
28 Parties hereby state as follows:

1 WHEREAS, on December 8, 2020, BLM’s Bakersfield Field Office issued a decision
2 record (“2020 DR”) offering for sale seven oil and gas leases encompassing 4,134 acres of
3 public land in Kern County, California, and adopting an accompanying Environmental
4 Assessment (“2020 Lease Sale EA”) and Finding of No Significant Impact

5 WHEREAS, on December 10, 2020, BLM leased seven parcels of public land

6 WHEREAS, on March 22, 2021, Plaintiffs filed a complaint for declaratory and
7 injunctive relief against the Federal Defendants challenging the 2020 DR and alleging that the
8 2020 Lease Sale EA did not take a hard look at the direct, indirect, and cumulative impacts of
9 the lease sale on groundwater, air quality, greenhouse gas emissions and the climate, imperiled
10 species, human health, and environmental justice communities did not consider a reasonable
11 range of alternatives and did not appropriately tier its analysis to the 2014 Bakersfield
12 Resource Management Plan and Environment Impact Statement (“2014 RMP & EIS”) and
13 2019 Supplemental Environmental Impact Statement (“2019 SEIS”), all in violation of the
14 National Environmental Policy Act (“NEPA”)

15 WHEREAS, on May 21, 2021, the Parties filed a stipulation to stay the case to facilitate
16 settlement negotiations (ECF No. 7), conserve the Parties’ and judicial resources, and resolve
17 this lawsuit without further litigation and

18 WHEREAS, the Parties, through their authorized representatives, and without any
19 admission or adjudication of the issues of fact or law, have reached a settlement resolving the
20 claims in this case

21 THEREFORE, the Parties enter this Settlement Agreement (“Agreement”) and stipulate
22 as follows:

- 23 1. The Parties agree to BLM’s voluntary remand without vacatur of the 2020 DR
24 offering seven parcels in the Bakersfield Field Office planning area for sale and
25 approving the 2020 Lease Sale EA for the sale.
- 26 2. During remand, Federal Defendants agree to prepare a supplement to the 2020
27 Lease Sale EA pursuant to NEPA. Federal Defendants reserve the right to
28 combine the supplemental analysis for the 2020 Lease Sale EA with the

1 supplemental analysis completed for the 2019 SEIS pursuant to the stipulated
2 settlement agreement in *Center for Biological Diversity v. U.S. Bureau of Land*
3 *Management*, No. 2:20-CV-00371 DSF (C.D. Cal., filed Jan. 14, 2020).

4 Following issuance of the supplemental NEPA analysis for the 2020 Lease Sale
5 EA, Federal Defendants agree to issue a new decision document. The new
6 decision document will amend or supersede the 2020 DR to the extent
7 determined necessary or appropriate by Federal Defendants.

8 3. Federal Defendants agree that the supplement to the 2020 Lease Sale EA may
9 tier to existing NEPA documents for the Bakersfield Field Office, or any new
10 analysis completed pursuant to the stipulated settlement agreement for *Center*
11 *for Biological Diversity*, No. 2:20-cv-00371-DSF, to the extent BLM deems
12 appropriate.

13 4. Federal Defendants agree to apply the 1978 Council on Environmental
14 quality regulations implementing NEPA to the supplement to the 2020
15 Lease Sale EA, to the extent consistent with law.

16 5. Pending issuance of the new decision contemplated in Paragraph 2, Federal
17 Defendants agree to defer approval of any applications for permits to drill
18 (“APDs”) on the seven leases challenged in this case.

19 6. In the preparation of the supplement to the 2020 Lease Sale EA, Federal
20 Defendants agree to comply with all relevant requirements of NEPA,
21 including requirements for public notice and comment. As part of the public
22 notice and comment process, Federal Defendants agree to:

23 a) hold at least one live meeting for members of the public to provide
24 input on the supplement to the 2020 Lease Sale EA¹

25 b) provide a Spanish translator at any live meeting if specifically
26 requested of the BLM project manager at least 30 days before the

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28 ¹ A “live meeting” may be in person and/or virtual.

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meeting by or on behalf of an individual needing translation services

- c) provide, for any live meeting, a transcription of the meeting in Spanish within a reasonable time after the meeting concludes if specifically requested of the BLM project manager in a timely manner by or on behalf of an individual needing translation services
- d) prepare in Spanish certain documents notifying the public of opportunities to engage in BLM’s decisionmaking, including press releases, public PowerPoints, and other written communication materials announcing to the public meeting(s) related to the preparation of the supplement to the 2020 Lease Sale EA, as well as any project description portion of the supplement
- e) post in the Bakersfield Field Office public room, within a reasonable time, any notices or notice of the availability of documents translated into Spanish pursuant to Paragraph 6
- f) make copies of any notices or documents translated into Spanish pursuant to Paragraph 6 available to individuals who request translated versions.

7. Federal Defendants further agree to translate the new decision (without attachments) to Spanish within a reasonable amount of time after the notice of availability of the English version is published in the Federal Register. Notwithstanding the commitments made in Paragraphs 6 and 7, the Parties agree that the English versions of translated documents are the governing versions of the documents and any error in translation may not be appealed or otherwise challenged in any venue.

1 8. The Parties agree that Federal Defendants are under no obligation to provide
2 Spanish translation of any document or notice not identified in Paragraphs 6
3 and 7.

4 9. Pending issuance of the new decision for the supplement to the 2020 Lease
5 Sale EA, Federal Defendants agree to file semiannual status reports
6 regarding the status of proceedings on remand beginning one year after the
7 dismissal of the case.

8
9 **D a C a a d A d d a T r**

10 10. The Parties agree to submit to the Court the accompanying stipulation of
11 dismissal and proposed order dismissing this lawsuit with prejudice pursuant
12 to Fed. R. Civ. P. 41(a)(1)(A)(ii), provided that the Court shall retain
13 jurisdiction solely for the purposes of enforcing this Agreement, subject to
14 the limitations in Paragraphs 12 and 13. If the Court does not dismiss the
15 case, this Agreement is voidable by any Party.

16 11. The terms of this Agreement shall become effective upon dismissal of this
17 lawsuit by the Court.

18 12. The Parties agree that they will notify the Court within 14 days after BLM's
19 issuance of the new decision document for the supplement to the 2020 Lease
20 Sale EA. This Agreement, and the Court's jurisdiction over this case, shall
21 terminate upon receipt of that notification.

22 13. Any challenge to the adequacy of the supplement and new decision
23 contemplated in Paragraph 2 must take the form of a new civil action under
24 the judicial review provisions of the Administrative Procedure Act ("APA"),
25 and may not be asserted as a claim for violation of this Agreement or in a
26 motion to enforce the terms of this Agreement. The Parties acknowledge
27 that nothing in this Agreement limits Plaintiffs' right to challenge the new
28 NEPA analysis and decision in a separate administrative or judicial action

1 under the judicial review provisions of the APA, 5 U.S.C. 701-706, and
2 that nothing in this Agreement limits Federal Defendants' rights to assert
3 any applicable defenses.

4 14. In the event of a dispute arising out of or relating to this Agreement, or if
5 any of the Parties believes another Party has breached its obligations under
6 this Agreement, the Party raising the dispute or alleging breach shall provide
7 the other Parties written notice and a reasonable opportunity to resolve the
8 dispute or cure the alleged breach. The Parties agree that they will meet and
9 confer (either telephonically or in person) within 30 days of being notified
10 of a dispute in a good faith effort to resolve any disputes or alleged
11 breaches. If the Parties are unable to resolve the dispute themselves, then the
12 Parties may seek enforcement from the Court, subject to the limitations in
13 Paragraphs 12 and 13. The Parties agree that they will not seek contempt of
14 court or money damages as an available remedy for any alleged violation of
15 this Agreement.

16 15. Nothing in this Agreement shall be construed or offered as evidence by any
17 Party in any proceeding as an admission to any wrongdoing, liability, or any
18 issue of fact or law concerning the claims settled under this Agreement or
19 any similar claims brought in the future by any other party. Except as
20 expressly provided in this Agreement, none of the Parties waives or
21 relinquishes any legal rights, claims, or defenses it may have.

22 16. Nothing in this Agreement shall have precedential value in any litigation or
23 in representations before any court or forum or in any public setting. This
24 Agreement is executed for the purpose of settling Plaintiffs' complaint, and
25 it is based on and limited solely to the facts involved in this case.

26 17. Each Party will bear its own attorneys' fees, costs, and other expenses
27 incurred during the entirety of this case, including those related to
28 negotiation of this Agreement and prior attempts to reach settlement. By this

1 Agreement, Federal Defendants do not waive any right to contest fees and
2 costs claimed by Plaintiffs or Plaintiffs' counsel in any future litigation or
3 continuation of the present action.

4 18. Plaintiffs and their counsel, assigns, executors, and administrators agree to
5 forever release, abandon, waive, and discharge the United States and Federal
6 Defendants from any and all claims, demands, damages, causes of action, or
7 suits at law or equity to recover fees, costs, or expenses with respect to any
8 aspect of this litigation.

9 19. No provision of this Agreement shall be interpreted as, or constitute, a
10 commitment or requirement that Federal Defendants take action in
11 contravention of the APA, the Anti-Deficiency Act, 31 U.S.C. 1341, or
12 any other law or regulation.

13 20. The Parties agree that this Agreement was negotiated in good faith and that
14 it constitutes a settlement of claims that were disputed by the Parties. This
15 Agreement contains all the terms of agreement between the Parties
16 concerning the complaint, and is intended to be the final and sole agreement
17 between the Parties with respect thereto. The Parties agree that any prior or
18 contemporaneous representations or understandings not explicitly contained
19 in this written Agreement, whether written or oral, are of no further legal or
20 equitable force or effect.

21 21. The undersigned representatives of each Party certify that they are fully
22 authorized by the Party or Parties they represent to agree to the terms and
23 conditions of this Agreement and do hereby agree to the terms herein.
24 Further, each Party, by and through its undersigned representative,
25 represents and warrants that it has the legal power and authority to enter into
26 this Agreement and bind itself to the terms and conditions contained in this
27 Agreement.
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1 DATED: July 29, 2022
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4 TODD KIM
5 Assistant Attorney General
6 Environment & Natural Resources Division

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