

1 finding of no significant impact (FONSI). BLM's notice stated that it would accept protests of the lease
2 sale for thirty days after the posting of the sale notice. In a letter to BLM dated July 15, 2011, Plaintiffs
3 protested all four parcels included in the lease sale, arguing that the agency had not complied with the
4 National Environmental Policy Act (NEPA), and requesting that BLM cancel the sale and prepare an
5 environmental impact statement (EIS). BLM considered Plaintiffs' protest timely and accepted it. On
6 September 9, 2011, BLM dismissed the protest and moved forward with the lease sale. At the
7 September 14, 2011, lease sale, BLM successfully auctioned a 2,343 acre parcel in Monterey County,
8 and a 200 acre parcel and a 40 acre parcel in Fresno County. BLM sold the remaining acres after the
9 initial sale.

10 3. Legal Issues

11 Plaintiffs allege that: First, BLM improperly ignored or downplayed potential environmental
12 impacts in its NEPA analyses and failed to analyze the nature, intensity, and extent of the lease sale's
13 foreseeable effects. Thus, Plaintiffs argue that BLM has not taken the requisite hard look at the lease
14 sale's environmental impacts, and its adoption of the EA and FONSI is arbitrary, capricious, and not in
15 accordance with NEPA or the Administrative Procedures Act (APA). Second, BLM violated NEPA by
16 approving the lease sale without preparing an EIS, in violation of NEPA and the APA. Third, BLM
17 violated the Mineral Leasing Act (MLA) and APA by allowing lessees to release large amounts of
18 methane in violation of the MLA's requirement that they protect natural resource and environmental
19 quality, minimize waste, and minimize the adverse effect on the ultimate recovery of mineral resources.

20 Defendants maintain that BLM complied with all its obligations under NEPA, the MLA and
21 APA in developing, analyzing and carrying the lease sale. Defendants further assert that Plaintiffs'
22 claim under the MLA fails, among other reasons, because Plaintiffs lack prudential standing and Article
23 III standing to bring the claim and because the claim fails as a matter of law.

24 4. Motions

25 The parties anticipate that the case will be resolved on cross-motions for summary judgment.
26 The parties anticipate that no other motions will likely need to be filed. However, as described below, if
27 the parties are unable to agree on the content and/or adequacy of the administrative record prepared by
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1 Defendants, a motion to supplement and/or complete the record may be filed by Plaintiffs.

2 Additionally, while the parties presently believe this case can be resolved on a timeframe obviating any
3 need for Plaintiffs to seek preliminary injunctive relief, should circumstances change, the parties would
4 attempt to reach agreement on a proposed schedule for any such motion if Plaintiffs believed such a
5 motion had become necessary.

6 5. Amendments of Pleadings

7 The parties do not anticipate any further amendments to the pleadings at this time.

8 6. Evidence Preservation

9 The BLM will prepare the administrative record in accord with its duty to do so under the APA,
10 and there is no need for an evidentiary preservation order.

11 7. Disclosures

12 This action is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26
13 because it is an action for review on an administrative record. *See* Fed. R. Civ. P. 26(a)(1)(B)(i).

14 8. Discovery

15 The parties do not anticipate any discovery because this case is an action for review on an
16 administrative record.

17 9. Class Actions

18 Not applicable.

19 10. Related Cases

20 The parties are not aware of any related cases.

21 11. Relief

22 Plaintiffs seek a declaratory judgment that BLM has violated NEPA, the MLA and the APA and
23 request that the court vacate and remand BLM's lease. Defendants maintain that Plaintiffs are not
24 entitled to this relief. There are no counterclaims.

25 12. Settlement and ADR

26 The parties do not believe that settlement is likely or that ADR proceedings would assist the
27 deposition of the case. The parties filed a Notice of Need for ADR Phone Conference which is
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1 scheduled to take place on March 9, 2012.

2 13. Consent to Magistrate Judge for All Purposes

3 The Parties have consented to the determination of this case by Magistrate Judge Grewal.

4 14. Other References

5 The parties do not believe at this time that this case is suitable for additional references.

6 15. Narrowing of Issues

7 The parties believe that this case is best resolved on cross-motions for summary judgment.

8 16. Expedited Schedule

9 The parties do not believe an expedited schedule is appropriate.

10 17. Scheduling

11 Due to the size of the administrative record, the parties propose the following page limits and
12 schedule for resolution of this case on cross-motions for summary judgment:

13 April 24, 2012: Defendants shall submit the Administrative Record to the
14 Court. Due to the size of the record, Defendants shall
15 submit it on a compact disc or discs.

16 July 9, 2012: Plaintiffs' Motion for Summary Judgment (limited to 45
17 pages of text)

18 September 7, 2012: Defendants' Cross-Motion for Summary Judgment and
19 Opposition to Plaintiffs' Motion (limited to 45 pages of
20 text)

21 October 8, 2012: Plaintiffs' Reply in Support of Motion for Summary
22 Judgment and Opposition to Defendants' Cross-Motion
23 (limited to 25 pages of text)

24 November 7, 2012: Defendants' Reply in Support of Motion for Summary
25 Judgment (limited to 25 pages of text)

26 Plaintiffs request a hearing on the cross-motions for summary judgment. The Parties request
27 that, if the Court elects to set a hearing, the hearing be set on November 30, 2012, or at some date
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1 convenient to the Court that is as near as possible to the close of briefing.

2 In the event the parties are unable to resolve any disputes regarding the adequacy of the
3 Administrative Record, the schedule above would likely need to be amended to allow for resolution of
4 any such dispute. The parties propose that any motion regarding the record be filed according to the
5 following schedule:

6 June 4, 2012: Deadline for any motion regarding the record.

7 June 18, 2012: Deadline for Opposition

8 June 25, 2012: Deadline for Reply

9 Before filing any motion, the prospective moving party shall confer with the other party in order
10 to attempt resolution without judicial intervention. The parties believe that any record dispute can likely
11 be resolved by the Court without the need for a hearing. In the event a motion regarding the record is
12 filed, the parties will confer following the Court's ruling on the motion and propose to the Court a
13 revised schedule for resolution of the merits of the case.

14 18. Trial

15 The parties anticipate that this case will be resolved on cross-motions for summary judgment,
16 and that as a result, a trial will not be necessary.

17 19. Disclosure of Non-party Interested Entities or Persons

18 Plaintiffs have no interest that must be disclosed pursuant to Civil Local Rule 3-16, and
19 submitted the necessary certification stating that there is no such interest to the Clerk on December 8,
20 2011. Civil Local Rule 3-16 does not apply to Defendants. *See* Civil L.R. 3-16(a).

21 20. Other Matters

22 The parties respectfully request that they be permitted to participate in the initial Case
23 Management Conference set for March 13th by teleconference.

24
25 Dated: March 6, 2012

Respectfully submitted,

26 /s/ David R. Hobstetter_____
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1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
3 **SAN JOSE DIVISION**

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5 CENTER FOR BIOLOGICAL
6 DIVERSITY and SIERRA CLUB,

7 Plaintiffs,

8 v.

9 THE BUREAU OF LAND
10 MANAGEMENT and KEN SALAZAR,
11 Secretary of the Department of the Interior,
12 Defendants.

Case No. CV-11-06174-PSG

**ATTESTATION FOR JOINT CASE
MANAGEMENT STATEMENT**

12 Pursuant to General Order 45X, I attest that Romney S. Philpott has concurred in the filing of
13 this document.

14 Dated: March 6, 2012

Respectfully submitted,

15 /s/ David R. Hobstetter
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