



***Bureau of Land Management
Director's Summary Protest Resolution
Report***

**Central Coast Field Office
Proposed Resource
Management Plan Amendment
and Final Environmental
Impact Statement for Oil and
Gas Leasing and Development
(PRMPA/FEIS)**

October 4, 2019

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Acronyms

APD	Application for Permit to Drill
AQRVs	Air Quality Related Values
ACECs	Areas of Critical Environmental Concern
BMPs	Best Management Practices
BA	Biological Assessment
BO	Biological Opinion
CAA	Clean Air Act
CCC	California Coastal Commissions
CCFO	Central Coast Field Office
CZMA	Coastal Zone Management Act
CFR	Code of Federal Regulations
COAs	Conditions of Approval
CEQ	Council on Environmental Quality's
DOGGR	Division of Oil, Gas, and Geothermal Resources
DPS	Distinct Population Segment
ESA	Endangered Species Act
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
EOR	Enhanced Oil Recovery
ESU	Evolutionarily Significant Unit
FLM	Federal Land Manager
FLPMA	Federal Land Policy and Management Act
FEIS	Final Environmental Impact Statement
GWP	Global Warming Potential
GHG	Greenhouse Gasses
MOU	Memorandum of Understanding
MLA	Mineral Leasing Act
NAAQS	National Ambient Air Quality Standards
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NDCs	Nationally determined contributions
NSO	No Surface Occupancy
PRMPA	Proposed Resource Management Plan Amendment
RFD	Reasonably Foreseeable Development
ROD	Record of Decision
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
ROG	Reactive Organic Gas
SIP	State Implementation Plan
U.S.C.	United States Code
USFWS	United States Fish and Wildlife Service
VOC	Volatile Organic Compounds
WOUS	Waters of the United States
WST	Well Stimulation Technology
WMO	World Meteorological Organization

Protesting Party Index – Issues / Issues and Comments / Comments Only

Protester	Organization	Determination
Mark Delaplaine	California Coastal Commission	Denied – Issues
Diana Dascalu-Joffe Nathan Matthews	Sierra Club / Center for Biological Diversity	Denied – Issues and Comments
Ann Alexander	Natural Resources Defense Council	Denied – Issues and Comments
Clare Lakewood	Center for Biological Diversity	Denied – Issues and Comments
Name withheld as confidential	North Coast Rivers Alliance	Denied – Issues and Comments
Name withheld as confidential	Santa Cruz County Planning Department	Denied – Issues and Comments
Brent Heberlee	Monterey County	Denied – Issues and Comments
Jimmy Panetta	US Congress	Dismissed – Comments Only
Joel Isaacson	N/A	Dismissed – Comments Only
Nicholson Martina	N/A	Dismissed – Comments Only
Peter Hain	N/A	Dismissed – Comments Only
Brett Garrett	N/A	Dismissed – Comments Only
Shane Carter	N/A	Dismissed – Comments Only
Sandra Schachter	N/A	Dismissed – Comments Only
John Brennan	N/A	Dismissed – Comments Only
Deborah Cunningham	N/A	Dismissed – Comments Only

Note: Eight individuals with standing submitted comments only and requested their names be withheld as confidential. These individuals are not listed in the Protesting Party Index.

ESA Consultation

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM must consult with the National Marine Fisheries Service (“NMFS”) regarding impacts to steelhead trout (*Oncorhynchus mykiss*) and coho salmon (*Oncorhynchus kisutch*) in the Planning Area, as the ESA requires, including the South-Central Coast DPS of steelhead, the Central Coast DPS of steelhead, and the Central California Coast ESU of coho salmon. BLM has not made a “no effect” determination with respect to this species. In initiating formal consultation with FWS, BLM has clearly concluded that the PRMPA “may affect” listed species in the Planning Area. As discussed further, below, the FEIS itself describes potential adverse effects that the PRMPA may have on listed fish species, including coho salmon and steelhead. Yet nothing in the record indicates that BLM has initiated, let alone completed, the required consultation.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM cannot rely, as it purports to, on future consultation with NMFS to fulfil its obligations under the ESA. The regulations governing section 7 consultation compliance require federal agencies to review their actions at the “earliest possible time” to determine whether they may affect listed species or critical habitat. This is because section 7(d) of the ESA is clear that “after initiation of consultation” an agency “shall not make any irreversible or irretrievable commitment of resources” that would foreclose “the formulation or implementation of any reasonable and prudent alternative measures...”. It is without doubt that a resource management plan amendment meets the criteria for an ESA agency action. BLM’s initiation of consultation with FWS evidences the agency’s own conclusion that the PRMPA is an action for which consultation must be undertaken. Therefore, consultation must be undertaken and completed before any decision is made on the FEIS.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: It is unclear the extent to which BLM plans to rely on the Biological Opinion issued in 2007 with respect to the 2007 Hollister RMP/EIS (“2007 BO”) to satisfy its ESA obligations. To the extent BLM seeks to rely on the 2007 BO, it cannot reasonably do so, because it did not anticipate the levels of oil and gas development and fracking that BLM now projects for the Planning Area, let alone the levels of oil and gas development that may actually occur. The 2007 BO also failed to take into account the impacts of fracking and EOR on listed species in the area. The ESA requires BLM to consult now, at the RMP Amendment stage, to avoid the piecemeal destruction of species and their habitats by individual projects. Before approving any amendment to the RMP, the Service and BLM must (1) complete formal consultation regarding the effect new oil and gas development on federal lands may have on listed species; and (2) formally consult with NMFS over the impacts on the listed fish species that may be affected by the PRMPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The PRMPA triggers BLM’s duty to consult with FWS and NMFS under the ESA. It is without doubt that a decision on a PRMPA is an “agency action” within the meaning of the ESA, as it is a discretionary decision whereby BLM designated which public lands and mineral estate are available for oil and gas leasing and development, and imposed conditions on such uses. The PRMPA is an action that “may affect” listed species: it is the required first decision that establishes exactly where and how oil federal mineral estate may be developed. BLM’s own FEIS, which concludes that there will be impacts to species, shows that the PRMPA easily meets the ESA’s low

threshold for consultation. BLM cannot make a decision unless and until it completes consultation with FWS.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: Stipulations purporting to protect threatened and endangered species cannot be substituted for a comprehensive biological opinion. BLM must not make a decision about the PRMPA until it has the opportunity to consider, in light of a completed Biological Opinion, whether a supplemental NEPA analysis is necessary and what proposed amendments to the Resource Management Plan are necessary to protect listed species.

Summary:

The BLM has improperly delayed consultation with the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) regarding threatened and endangered species, including coho salmon and steelhead trout, and will make a decision without a completed Biological Opinion (BO).

Response:

Section 7(a)(2) of the Endangered Species Act (ESA) requires Federal agencies to ensure that their proposed actions will not be “likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification of the critical habitat of such species” (16 United States Code [U.S.C.] 1336(a)(2)). If an agency determines through a finding in a biological assessment (BA) that a proposed action is likely to adversely affect listed species or designated critical habitat, formal consultation is required under 50 Code of Federal Regulations (CFR) 402.14(a).

Section 6.2.5.1 indicates that the BLM initiated formal consultation with the USFWS on May 31, 2018, because the BLM determined that the Proposed Resource Management Plan Amendment (PRMPA)/Final Environmental Impact Statement (FEIS) was likely to adversely affect listed species or critical habitat for a selection of listed species. The BLM documented this determination in a BA, which the BLM provided to USFWS for their review and comment on February 20, 2019. The BLM used the same information and biological data to prepare the BA and analyze the environmental impacts on affected species in the PRMPA/FEIS.

The BO is the formal opinion of the USFWS/NMFS as to whether or not a federal action is likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of critical habitat. On May 31, 2018, the BLM CCFO formally initiated consultation with the USFWS on this RMPA/EIS. The USFWS issued the Programmatic Biological Opinion on Oil and Gas Leasing and Development on Bureau of Land Management Lands in the Central Coast Field Office (Fresno, Monterey and San Benito Counties) on August 29, 2019 (ref. 08ES1YIF00-2019-F-2048).

On May 10, 2019, the BLM also initiated informal consultation with the National Oceanic and Atmospheric Administration (NOAA), NMFS) on potential impacts to federally listed salmonid species. This consultation will also be concluded prior to the BLM approval of the ROD and approved RMP Amendment. The BLM received a letter of concurrence (signed July 3, 2019) from the NOAA/NMFS supporting the BLM’s determination that the Proposed Resource Management Plan Amendment (RMPA) and FEIS for Oil and Gas Leasing and Development is not likely to adversely affect federally listed salmonid species.

In developing the Central Coast Field Office PRMPA/FEIS, the BLM has fully complied with Section 7(a)(2) of the ESA.

FLPMA – ACECs

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: every RMPA alternative allows oil and gas leasing in two of the Areas of Critical Environmental Concern (“ACECs”) in the CCFO Planning Area, and thus fails to “give priority to the ... protection of areas of critical environmental concern.” 43 U.S.C. § 1712(c)(3).

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: Pursuant to FLPMA, Areas of Critical Environmental Concern (“ACECs”) are areas where special management attention is required to protect and prevent irreparable damage to resources, including fish and wildlife resource and other natural systems. In its Preferred Alternative, BLM proposes to place NSO stipulations on certain ACECs, namely Joaquin Rocks ACEC and ACECs within the Ciervo-Panoche Natural Area. But no such stipulations are applied to the Panoche-Coalinga ACEC, although mineral estate within this ACEC is designated as open for leasing. The Panoche-Coalinga ACEC was “established to protect its significant habitat for rare, threatened, and endangered plants and wildlife,” including the San Joaquin kit fox and the Giant kangaroo rat. BLM acknowledges that biological resources in ACECs may be degraded if oil and gas development occurs in the area. The impacts on listed species and their habitats are well described in protestors’ previous comments. But the FEIS and PRMPA provide no reason why BLM refuses to impose No Surface Occupancy stipulations on all ACECs, including the Panoche-Coalinga ACEC. Prohibiting surface occupancy in ACECs is a reasonable means of protecting areas requiring special management attention. BLM’s refusal to impose NSO stipulations on lands it proposes to open for lease in the Panoche-Coalinga ACEC will cause unnecessary and undue degradation of that area.

Summary:

The BLM has failed to apply stipulations consistently to Areas of Critical Environmental Concern (ACECs), and therefore is not properly protecting the values the BLM designated the ACECs to protect.

Response:

While the Federal Land Policy and Management Act (FLPMA) requires the BLM to give priority to the designation and protection of ACECs, the requirement to prioritize does not mean that BLM must designate all areas identified for possible protection or provide for the protection of particular resource values across all land use plan alternatives. BLM policy does not require that an ACEC’s relevant and important values be protected to the same level or degree of protection in all plan alternatives: “[t]he management prescription for a potential ACEC may vary across alternatives from no special management attention to intensive special management attention” (BLM Manual Section 1613.22.B). Elaborating further, the Manual states “[s]ituations in which no special management attention would be prescribed (and therefore no designation) include...those in which the alternative would necessitate the sacrifice of the potential ACEC values to achieve other purposes” (BLM Manual Section 1613.22.B.1). Thus, BLM policy allows for one or more resource management plan alternatives to be analyzed that would potentially impact relevant and important values in order to allow management for other prescribed purposes.

The Central Coast PRMPA/FEIS analyzed a range of alternatives for the management of existing ACECs, including special management attention that would fully protect relevant and important values of each ACEC in at least one alternative.

The BLM adequately considered the protection of relevant and important values in the Central Coast PRMPA/FEIS.

FLPMA – Coastal Zone Management Act Consistency

California Coastal Commission

Mark Delaplaine

Issue Excerpt Text: Under the currently published FEIS and Proposed RMP, a number of coastal zone areas would be eligible for leasing, oil and gas development, and surface occupancy. This change from the 2017 draft RMP we commented on constitutes a change in the RMP that triggers the need for BLM to submit a consistency determination to the Coastal Commission, because those activities would affect the California coastal zone. We therefore believe that any decision by the Director to adopt this leasing program and/or to issue a Record of Decision under NEPA would be premature, in the absence of such submittal to the Coastal Commission and ensuing Coastal Commission response under the provisions of the CZMA.

Summary:

The BLM needs to submit a consistency determination to the Coastal Commission because the Central Coast PRMPA/FEIS proposes opening a number of coastal zone areas to leasing, development, and surface occupancy.

Response:

As noted by the Commission and by BLM in Appendix I, *Comments and Response to Comments* (page I-33), the Draft Resource Management Plan Amendment (RMPA)/Draft Environmental Impact Statement (EIS) did not present new oil and gas leasing and development activities for public lands or Federal mineral estate within the coastal zone, and development stemming from the RMPA was unlikely to result in effects to coastal resources; therefore, federal consistency review of the Draft RMPA was not required.

Changes to the PRMPA/FEIS do not increase the potential for new leasing or development to affect the coastal zone and coastal resources because all the reasonably foreseeable development is likely to be concentrated in existing oil fields in Fresno, San Benito, and, to a lesser extent, southern Monterey County. Therefore, the BLM submitted a negative determination to the California Coastal Commission on Jun 20, 2019, that provides the rationale for the BLM’s determination that the PRMPA/FEIS will not affect the coastal zone, and therefore does not require a consistency determination under the Federal Coastal Zone Management Act (CZMA) of 1972 as amended, Section 307(c)(1).

On June 26, 2019, BLM received a letter of concurrence from the California Coastal Commission regarding ND-0018-19 BLM, Negative Determination, Proposed RMPA and FEIS for Oil and Gas Leasing and Development, Central Coast Counties.

FLPMA – Consistency with State and Local Plans

Santa Cruz County Planning Department

Name Withheld as Confidential

Issue Excerpt Text: Final RMPA/EIS is inconsistent with an officially adopted local plan, and therefore is not in compliance with 43 CFR 1610.3-1, 3-2 and 3-3, “Coordination of planning efforts”

and “Consistency requirements”, which state, among many relevant statements, that “resource management plans shall be consistent with officially approved and adopted plans of other Federal agencies, State and local governments and Indian tribes...”, that BLM shall “give consideration to those plans that are germane in the development of resource management plans.”, and the State Director shall notify the local government with which there is inconsistency of actions that can resolve the inconsistency

Santa Cruz County Planning Department

Name Withheld as Confidential

Issue Excerpt Text: Failure to acknowledge that, the County’s local ban on oil and gas activity notwithstanding, any such activity would be subject to local permitting processes including but not limited to environmental review under the California Environmental Quality Act, compliance with permit requirements such as grading, development, sensitive habitat and/or coastal zone permits and conformance to the General Plan, the outcome of which may not be approval of permits

Santa Cruz County Planning Department

Name Withheld as Confidential

Issue Excerpt Text: Final RMPA/EIS has not shown how the inconsistencies between the local ban and the RMPA were addressed and no attempt to resolve the inconsistency has been documented, which is not in compliance with 43 CFR 1610.3-1 and 3-3

Santa Cruz County Planning Department

Name Withheld as Confidential

Issue Excerpt Text: The decision in the Final RMPA/EIS is wrong because, in selecting a preferred alternative that would allow oil and gas leasing in Santa Cruz County it does not respect the authority of the Board of Supervisors, the elected representatives of the people of Santa Cruz County, as the land use authority in the County under the State Constitution and a feasible, effective action that might resolve the inconsistency between the RMPA and the local General Plan has not been pursued. At the very least, Alternative F should be modified to close areas in Santa Cruz County for the following reasons: 1) The Santa Cruz County General Plan prohibits oil and gas exploration and development, 2) There are no lands in Santa Cruz County within existing oil and gas fields, 3) There are no areas in Santa Cruz County with high oil and gas occurrence potential, and 4) There would be no significant effect on BLM’s all-of-the-above energy plan. In addition, the RMPA approval process should fully and robustly comply with the letter and intent of the consistency requirements in the Code of Federal Regulations.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The FEIS fails to analyze the inconsistency between the PRMPA and the local ordinances, in favor of a vague platitude that provides no certainty as to whether or how BLM will respect and comply with the local ordinances. BLM must withdraw the PRMPA, prepare a supplemental EIS that adequately addresses the consistency of BLM’s proposed plan with local regulation addressing oil and gas production, and prepare a Resource Management Plan amendment that removes mineral estate in Santa Cruz county from the areas that are open for oil and gas leasing; and that imposes stipulations or lease notices to ensure compliance with local laws in counties that prohibit fracking or EOR.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM asserts that these “local ordinances were reviewed during the process of drafting the RMPA/EIS and would be implemented to the extent they are consistent with FLPMA and other federal law and regulations,” but that these local planning ordinances did not warrant

amendment of the FEIS or RMPA to address the bans. This vague assertion provides no certainty about whether or how BLM will respect local ordinances, or whether BLM’s PRMPA is consistent with those ordinances, and thereby falls short of the consistency analysis required by NEPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The new preferred alternative, presented for the first time in the FEIS and PRMPA, proposes opening for lease parcels along the shoreline, and close to the shoreline, in Monterey county. BLM does not include in the FEIS an analysis of the extent of lands it proposes to lease that fall within the coastal zone, but it is clear from the mapping files that BLM made available with the FEIS and PRMPA that the PRMPA includes extensive acreage for lease that falls inside the coastal zone (see Map 3). In any event consistency review is not limited only to activities that occur inside the coastal zone. Activities that occur outside a coastal zone that have an effect on resources in a state coastal zone must also be considered for consistency with a state’s program. It is self-evident that oil and gas activities, which can have impacts to resources, including impacts to air quality, climate, biological resources and ground and surface waters described (inadequately) in the FEIS, and in greater detail in comments that BLM received with respect to the draft EIS, may affect resources in the coastal zone when BLM proposes opening parcels close to, and within, the coastal zone. Accordingly, the California Coastal Commission has requested that BLM undertake a consistency review before it makes any decision about the PRMPA. BLM must not make a decision about the PRMPA unless and until it undertakes the consistency review required by the Coastal Zone Management Act, and make such amendments as are necessary to ensure compliance with California’s coastal management program.

Summary:

The BLM has not adequately considered state and local planning requirements, including a CCC consistency determination, and therefore has not complied with 43 CFR 1610.3-1, 3-2 and 3-3.

Response:

Regarding the California Coastal Commissions (CCC) consistency review, please see the response above in *FLPMA – Coastal Zone Management Act Consistency*.

Regarding BLM’s compliance with 43 CFR 1610.3-1 to 1610.3-3, Section 202 (c)(9) of FLPMA requires that “land use plans of the Secretary under this section shall be consistent with state and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.” BLM land use plans may be inconsistent with state, local, and tribal plans where it is necessary to meet the purposes, policies, and programs associated with implementing FLPMA and other Federal laws and regulations applicable to public lands (43 CFR 1610.3-2(a)).

In accordance with the FLPMA Section 202(c)(9) requirement, the BLM has considered the state, local, and tribal plans that are germane to the development of the Central Coast PRMPA/FEIS. The BLM has worked closely with state, local, and tribal governments during preparation of the Central Coast PRMPA/FEIS. Sections 6.2.5, *Regulatory Required Consultation*, and 6.2.6, *Other Outreach and Consultation*, describe the BLM’s coordination with these governments throughout the development of the Central Coast PRMPA/FEIS.

BLM considered local bans on well stimulation treatments and oil and gas development in San Benito County, Monterey County, Santa Cruz County, and Alameda County; see pages I-22 to I-23 in Appendix I, *Comments and Response to Comments*. As noted on page I-23, “...Alternative B, which is analyzed in the PRMPA/FEIS, would meet the intent of some local measures that restrict oil and

gas development (to the extent feasible), because there would be no reasonably foreseeable development under this alternative in Monterey, Santa Cruz, or Alameda Counties.” The BLM will discuss why any remaining inconsistencies between the Central Coast PRMPA and relevant local, state, and tribal plans cannot be resolved in the ROD.

FLPMA – Prevention of Unnecessary or Undue Degradation

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: Furthermore, the Best Management Practices (BMPs) and Standard Operating Procedures (SOPs) in the RMP include species-specific measures only for a small subset of the federally listed species in the Planning Area that will be harmed by the proposed oil and gas development activities. In imposing such BMPs and SOPs, BLM clearly acknowledges the harmful impacts that oil and gas development may have on listed species, and the need for specially-adapted measures to minimize harm so far as it may be. Federally listed and other special status species each require an area-wide impacts analysis that evaluates the species-specific harms from the proposed oil and gas activities and, importantly, species-specific protections, including closures and/or NSO stipulations that protect critical habitat, core population areas, and important movement areas from leasing. In failing to provide species-specific BMPs and SOPs for all listed species in the Planning Area, BLM has failed to avoid unnecessary and undue degradation.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The FEIS and PRMPA fail to apply reasonable and appropriate mitigation measures that could reduce the impacts to listed species in the Planning Area, resulting in unnecessary and undue degradation to listed species. BLM principally relies on lease stipulations and BMPs to avoid unnecessary and undue degradation to resources. As the FEIS describes, BLM will impose BMPs as conditions of approval on Applications for Permits to Drill, to “reduce impacts associated with new energy development to wildlife habitat, scenic quality, water quality, recreation opportunities, and other resources.” Lease stipulations are applied to “protect [] identified resource value(s).” But BLM has failed or refused to apply BMPs or stipulations which would avoid excessive and unwarranted harms to listed species in the Planning Area

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: For instance, the blunt-nosed leopard lizard is also a federally endangered species that has been under endangered species act protection for over 40 years. The PRMPA allows oil and gas activity in blunt-nosed leopard lizard habitat. To avoid impacts, BLM imposes as a BMP the requirement that lessees “survey for burrows that may be used by blunt-nosed leopard lizards in the area to be disturbed by the project,” BLM asserts without explanation that “BMPs for avoidance and mitigation of impacts [to the lizard] serve to avoid or mitigate the potential impacts.” But while blunt-nosed leopard lizards use burrows constructed by ground squirrels and kangaroo rats, in the absence of such burrows, they all construct shallow, simple tunnels in earth berms or under rocks. Accordingly, to avoid unnecessary and undue impacts to blunt-nosed leopard lizards, the BMPs should require surveys for the lizards themselves, not just burrows. Likewise, the BMPs should require operators to protect all escape areas for blunt-nosed leopard lizards, rather than merely requiring operators to “[a]void burrows that may be used by blunt-nosed leopard lizards, to the greatest extent practicable.” The FEIS fails to address why BLM refuses to impose these reasonable mitigation measures to avoid harms to the blunt-nosed leopard lizard.

Sierra Club***Diana Dascalu-Joffe***

Issue Excerpt Text: The PRMPA allows oil and gas activity in San Joaquin kit fox habitat. To avoid impacts to the kit fox, BLM requires that operators “[s]urvey for natal, known, occupied, and potential dens in the project area and a 200-foot buffer.” But this assumes that dens are the only habitat feature important to the kit fox. The absence of a den does not indicate that the area is not used for foraging and other activities crucial to maintain the population. Accordingly, the BMP should require that surveys be conducted both for dens, and evidence of kit fox presence or activity. The FEIS fails to address why BLM refuses to impose this reasonable mitigation measure to avoid harms to the San Joaquin kit fox.

County of Monterey, CA***Brent Heberlee***

Issue Excerpt Text: Mitigation measures under the referenced section (4.3.6) include GE0-2 (Prepare an Earthquake Response Plan) and GE0-3 (Prepare a Geotechnical/Geologic Report), GE0-2 and GE0-3 are limiting in that these measures only require the preparation of response plans and geotechnical/geological reports with respect to the proposed drill site, Missing is any requirement for a specific geotechnical/geological evaluation of the potential impact to Nacimiento and San Antonio Dams and Reservoirs, or the need to develop an earthquake response plan for these facilities.

Summary:

In the past, the BLM has inadequately applied mitigation measures for the protection of all listed species and their habitats, resulting in unnecessary and undue degradation to some listed species. In addition, in this planning effort, the BLM has inappropriately limited the mitigation measures considered for seismicity by failing to include a requirement for specific evaluation of potential impacts to Nacimiento and San Antonio dams and reservoirs.

Response:

Section 302(b) of FLPMA requires that “in managing the public lands the Secretary [of the Interior] shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands”.

The Central Coast PRMPA/FEIS provides for the balanced management of the public lands in the planning area. In developing the Central Coast PRMPA/FEIS, the BLM fully complied with its planning regulations (43 CFR 1610), the requirements of the National Environmental Policy Act (NEPA), and other statutes, regulations, and Executive Orders related to environmental quality. The Central Coast PRMPA/FEIS identifies appropriate allowable uses, management actions, and other mitigation measures that prevent the unnecessary or undue degradation of public lands. It does not authorize any use of the public lands, much less any that would result in unnecessary or undue degradation.

In compliance with NEPA (40 CFR 1502.14(f), 40 CFR 1502.16(h)), the BLM included a discussion of measures that may mitigate adverse environmental impacts. Potential forms of mitigation included: (1) avoiding the impact altogether by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; or (5) compensating for the impact by replacing or providing substitute resources or environments (40 CFR 1508.20).

The Central Coast PRMPA/FEIS analyzed and included mitigation measures that avoid potential future impacts altogether by closing public lands to certain uses and minimizes other potential future impacts by restricting certain uses on the public lands. Based on the analysis, the BLM outlined and defined the stipulations and mitigation measures that would be applied to Federal mineral leases in order to protect natural and cultural resources in Appendix C of the PRMPA/FEIS. Appendix K also describes other regulations that apply to oil and gas operations to meet the requirements of the National Environmental Policy Act, the Federal Land Management Policy Act, and the Minerals Management Act, as amended.

The appropriate allowable uses, management actions, and other mitigation measures identified in the Central Coast PRMPA/FEIS support the prevention of unnecessary or undue degradation of public lands.

Because the Central Coast PRMPA/FEIS would not authorize any uses of the public lands, and the alternatives evaluated in the final EIS comply with all applicable statutes, regulations, and policy, the RMPA will not result in “unnecessary or undue degradation of the lands” under Section 302(b) of FLPMA, and the Central Coast PRMPA/FEIS complied with NEPA by including a discussion of measures that may mitigate adverse environmental impacts to the extent appropriate for a resource management plan.

FLPMA – Multiple Use

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: the RMPA as proposed is inconsistent with FLPMA. BLM claims that it could not consider halting oil and gas leasing or banning well stimulating technologies because “these alternatives would be contrary to BLM’s mission and policies, which dictate management of public lands for multiple-uses and encourage energy development.” FEIS Appendix I, I-24; See also FEIS 2-24 to 2-25. However, it is exactly this multi-use mandate that requires BLM to consider alternatives to opening lands to oil and gas leasing or alternatives to well stimulating technology consistent with FLPMA’s requirements and the applicable resource management plans. See 43 U.S.C. § 1712; 43 C.F.R. § 1610.6-3(a); Bob Marshall Alliance, 852 F.2d at 1230 (under the Mineral Leasing Act, the “Secretary [of the Interior] has discretion to refuse to issue any lease at all on a given tract.”)

Summary:

The BLM is inappropriately applying the FLPMA multiple use mandate by not considering an alternative that limits oil and gas leasing.

Response:

Section 102(a)(7) of FLPMA declares that it is the policy of the United States that management of the public lands be on the basis of “multiple use” and “sustained yield”. Section 103(c) of FLPMA defines “multiple use” as the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.

FLPMA’s multiple use mandate does not require that all uses be allowed on all areas of the public lands. Through the land use planning process, the BLM evaluates and chooses an appropriate balance of resource uses which involves tradeoffs between competing uses. BLM has wide latitude to allocate the public lands to particular uses and to employ the mechanism of land use allocation to protect for

certain resource values, or, conversely, develop some resource values to the detriment of others, short of unnecessary and undue degradation.

All alternatives considered in the Central Coast PRMPA/FEIS, as described in Chapter 2, *Alternatives*, of the Central Coast PRMPA/FEIS, provide an appropriate balance of uses on the public lands. All alternatives allow some level of all uses present in the planning area, in a manner that is consistent with applicable statutes, regulations, and BLM policy. BLM considered an alternative that limited oil and gas development, which by default would limit potential well stimulation treatment, in Monterey County, Santa Cruz County, and Alameda County; see pages I-22 to I-23 in Appendix I, *Comments and Response to Comments*. As noted on page I-24, “...Alternative B, which is analyzed in the PRMPA/FEIS, would meet the intent of some local measures that restrict oil and gas development (to the extent feasible), because there would be no reasonably foreseeable development under this alternative in Monterey, Santa Cruz, or Alameda Counties.” Additionally, Section 2.13.3, *Ban Well Stimulation Technologies*, of the Central Coast PRMPA/FEIS considered an alternative where the use of well stimulation treatments would not be allowed on Federal mineral estate lands open to oil and gas leasing and development. As described in the Draft RMPA/EIS, this alternative would be contrary to BLM’s mission and policies, which encourage energy development.

A land use planning-level decision is broad in scope. The Central Coast PRMP/FEIS addresses land use plan-level decisions, such as which lands are available to lease and develop, and the management goals and objectives for that land use. The Central Coast PRMPA/FEIS addressed well stimulation technologies in its alternatives, deciding ultimately that a well stimulation technology (WST) ban did not further the policies of the Department or meet the FLPMA multiple use mandate for these areas of public land.

The Central Coast PRMPA/FEIS satisfies the FLPMA multiple use mandate.

NEPA – Best Available Science

Sierra Club Diana

Dascalu-Joffe

Issue Excerpt Text: In addition to ignoring nationally focused research, the FEIS fails to disclose California-specific studies that establish the importance of halting new fossil fuel production in California to prevent devastating harms to the climate, health, and environmental justice, and to allow the state to meet its climate targets. The FEIS failed to evaluate a 2018 analysis published in the prominent journal *Nature Climate Change* that concluded “by ceasing the issuance of permits for new oil wells, California could reduce global CO₂ emissions substantially and also enhance environmental justice in the state.” The FEIS similarly ignored a comprehensive 2018 study that quantified the climate, health, and environmental justice benefits of ceasing the issuance of permits for new oil and gas extraction wells in California, including implementing a 2,500-foot health buffer zone around homes, schools, and hospitals; developing a plan for the managed decline of California’s entire fossil fuel sector to maximize the effectiveness of the state’s climate policies; and developing a just transition plan for the communities and workers most affected. LeQuéré, Corinne et al., *Global carbon budget 2018*, *10 Earth Syst. Sci. Data* 2141 (2018); World Meteorological Organization, *WMO Greenhouse Gas Bulletin*, No. 13, Oct. 30, 2017 at 5. Intergovernmental Panel on Climate Change, *Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (2014) at 4, 44; World Meteorological Organization, *WMO Greenhouse Gas Bulletin*, No. 13, Oct. 30, 2017 at 1, 4. 210 World Meteorological Organization, *WMO Greenhouse Gas Bulletin*, No. 13, Oct. 30, 2017 at 2. U.S. Global Change Research Program, *Climate Science Special Report: Fourth National Climate Assessment, Volume I* (2017), <https://science2017.globalchange.gov/> at 31, 133, 134, and 152 (e.g.

“The observed increase in global carbon emissions over the past 15-20 years has been consistent with higher scenarios (e.g., RCP8.5) (very high confidence)” at 31.) Intergovernmental Panel on Climate Change, Climate Change 2014: Synthesis Report. Contribution of Working Groups I, II and III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (2014) at Figure 2.1. FEIS, 3.6-1. Erickson, Peter et al., Limiting fossil fuel production as the next big step in climate policy, 8 Nature Climate Change 1037 (2018). BLM’s failure to disclose and discuss these highly relevant areas of information, which establish the significant harms that would result from this project and provide the basis for a no- leasing alternative, renders the FEIS inadequate in failing to take a hard look at climate change and greenhouse gas impacts.

Summary:

The BLM has failed to use the best available information, including 2018 analyses that address the cumulative effects of the project on climate change and greenhouse gasses (GHG).

Response:

The Council on Environmental Quality’s (CEQ) regulations implementing NEPA require that agencies use “high quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” (40 CFR 1502.24).

The BLM NEPA Handbook also directs the BLM to “use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed” (BLM Handbook H-1790-1, p. 55). Under the BLM’s guidelines for implementing the Information Quality Act, the BLM applies the principle of using the “best available” data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

The Central Coast PRMPA/FEIS considers nationally focused research, including studies from the Intergovernmental Panel on Climate Change and the U.S. Global Change Research Program, as well as California-specific climate change studies, including California’s 2017 Climate Change Scoping Plan, the 2018 Statewide Summary Report of California’s Climate Change Assessment, and reports from the California Environmental Protection Agency (EPA), Council on Science and Technology, and Climate Action Team. The Central Coast PRMPA/FEIS includes a bibliography (see Chapter 7 of the FEIS), which lists information considered by the BLM in preparation of the Central Coast PRMPA/FEIS.

The BLM relied on high quality information and the best available data in preparation of the Central Coast PRMPA/FEIS.

NEPA – Cumulative Effects

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: the FEIS improperly assumes that, for purposes of its cumulative impacts analysis, all soil impacts will occur “within a 0.5-mile of existing oil and gas fields.” FEIS 5-14. As with its other assumptions, unless BLM affirmatively limits soil disturbing activity to the extent actually considered in the FEIS, it has failed to take a hard look at the impacts of the RMPA on the environment.

Sierra Club**Diana Dascalu-Joffe**

Issue Excerpt Text: Finally, the DEIS’s cumulative effects analysis for geologic hazards is fundamentally flawed because it (1) failed to analyze the potential cumulative impacts of new oil and gas development in increasing induced earthquake risks and hazards, and (2) incorrectly limited the geographic scope of analysis. BLM must address the cumulative effects that new oil and gas development could have in contributing to the increased risk of earthquakes, for example, through increased fluid injection from fracking and wastewater disposal. BLM concludes that “DOGGR’s existing requirements for injection of wastewater and flowback protect against the potential for induced seismicity to occur.” But it is highly likely that new oil and gas development, and increased fracking and wastewater injection associated with new development, would cumulatively increase the risk of increased earthquake activity, and larger quakes. Higher volumes and pressures of fluid injection can increase the risks of induced seismicity,²⁹² and multiple fracking operations that are close in time and space can also increase seismic risks.

Summary:

The BLM has failed to properly assess cumulative effects on soils and geologic hazards, including the increase of seismic activity from disposal of hydraulic fracturing materials and wastewater.

Response:

The BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an environmental impact statement (BLM Handbook H-1790-1, Section 6.8.3). The CEQ regulations define cumulative effects as “...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions” (40 CFR 1508.7).

The BLM prepared a cumulative impact analysis based on the broad nature and scope of the proposed management options under consideration at the land use planning level. The cumulative impact analysis considered the effects of the planning effort when added to other past, present, and reasonably foreseeable (not highly speculative) Federal and non-Federal actions. The cumulative impacts section (page 5-3, Section 5.2, *Past, Present, and Reasonably Foreseeable Future Actions*) identifies all actions that the BLM considered in the cumulative impacts analysis and provides a basis for the cumulative impacts analysis for each affected resource. The cumulative impact analysis area for soils (within 0.5 miles of existing oil and gas fields) is a reasonable assumption because, as noted on page 5-14 of the PRMPA/FEIS, impacts resulting from erosion are localized in nature and are unlikely to extend beyond actual project boundaries. Similarly, the geographic area considered in the analysis of cumulative impacts associated with hydraulic fracturing, the injection of wastewater in disposal wells, and induced seismicity contained in Section 5.3.2, *Geology*, is appropriate because impacts associated with these activities are unlikely to extend beyond the oil and gas occurrence boundaries. Page 5-14 of the PRMP/FEIS adequately analyzes potential cumulative effects from new oil and gas development by incorporating results of the reasonably foreseeable development (RFD) scenario and by considering development trends in the area.

The BLM relied on technical information to support its analysis. The analysis took into account the relationship between the proposed action and these reasonably foreseeable actions. This served as the determining factor as to the level of analysis performed and presented. The information presented in the Central Coast PRMPA/FEIS enables the decision-maker to make a reasoned choice among alternatives.

The BLM adequately analyzed cumulative effects in the Central Coast PRMPA/FEIS.

NEPA – Impacts Analysis – Air Quality & Climate Change

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: The FEIS’s analysis of the Project’s cumulative climate change impacts is likewise insufficient. FEIS 5-11 to 5-12. Because any project alternative will produce only a fraction of the total global MTCO₂E each year, BLM’s proposal to consider all emissions as only a minor contribution allows this Project’s cumulative contribution to escape scrutiny. The emissions from the Project must be considered as cumulatively considerable, even if they are only “slight” when compared to other actions, because the cumulative climate change impacts of increased use of fossil fuels are both well documented and severe.

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: BLM disclaims any ability “to quantify GHG emissions from the range of alternatives because the timing, intensity, and/or location of future leasing and development activities is not available or attainable.” FEIS 4.6-1. For this reason, BLM instead relies upon its RFD Scenario, “current resource conditions” and “theoretical approaches or research methods” to evaluate the climate change impacts of the Project alternatives. *Id.* This does not suffice. The FEIS fails to present any clear distinction in the potential climate change impacts between the alternatives it studies.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: As discussed above, the estimated indirect end use GHG emissions in the draft EIS appear to woefully underestimate the GHG emissions from the Planning Area. BLM assumes that most oil will be produced from four existing oilfields in the area. Field-specific emissions factors are readily available for two of these fields, and they demonstrate that BLM has seriously underestimated the likely indirect emissions from oil production in CCFO Planning Area. BLM must withdraw the PRMPA, prepare a further supplemental EIS that adequately analyzes the impacts of EOR on the Planning Area, and prepare a new Resource Management Plan amendment in light of the further supplemental EIS.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: In response to this interagency MOU, BLM implemented internal regulations in 2012 establishing a 10-step process for conducting a general conformity determination in compliance with the Clean Air Act section 176(c).⁴³ The erroneous and unsubstantiated analysis at issue in the draft Central Coast RMP/EIS hinges on BLM’s application of IM 2013-025 steps 4-6 which require BLM to: 4. Conduct an Air Quality impact analysis. This section should contain estimates of emissions that are caused by the project and located in the nonattainment or maintenance area. According to the EPA rules, the emissions estimates should include all reasonably foreseeable direct and indirect emissions from the proposed action. 5. Compare results to applicable SIP provisions and rules. Under this section, the project with its emission estimates and mitigations needs to be compared to the SIP to see if it complies with the provisions of the SIP, including the application of control measures required in the SIP and acquisition of all necessary air permits... 6. Write a Conclusion Statement. At this point, a statement needs to be made as to whether the project is in conformity (if not, the project cannot proceed), whether the emissions exceed the de minimus levels (40 CFR 93.153) and a formal determination is necessary, or it is below de minimus levels and no further analysis would be necessary. This statement should also include the mechanism through which any

required mitigation will be established and enforced (i.e., in the Record of Decision, the Conditions of Approval (COAs) on an Application for Permit to Drill (APDD), etc.).

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: This research further establishes that the United States must halt new fossil fuel projects and close existing fields and mines before their reserves are fully extracted to achieve the Paris climate targets and avoid the worst damages from climate change. In sum, not only has BLM failed to analyze the PRMPA’s consistency with national plans, policies and goals, as a question of fact this plan cannot comply with U.S. obligations under the Paris Agreement, as expressed in the NDC. BLM must comply with NEPA by preparing a further supplemental EIS that considers whether the alternatives comply with the Paris Agreement, withdraw the PRMPA, and prepare a new Resource Management Plan amendment in light of the further supplemental EIS which properly complies with NEPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: Protestors submitted detailed comments on the Central Coast RMP/DEIS on April 6, 2017 (Attachment A), which highlighted numerous deficiencies, including the failure of the RMP/DEIS to provide the basis and sources for its air quality emissions estimates reported in Tables 4.5-1 and 4.5-2. As noted in those comments, it is BLM’s duty under NEPA to provide clear, consistent, and accurate estimates for levels of air pollutants and greenhouse gases generated by potential oil and gas development authorized by this PRMPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: EPA requested that BLM consider adopting the most protective mitigation measures from AQ 1 and 2 as Conditions of Approval for all operators. EPA sought “greater assurance that the most protective measures would be consistently required.”⁴¹⁴ BLM refuses to do so, asserting it will consider whether these measures need to be applied at a later stage of the oil and gas development process.⁴¹⁵ In failing to ensure at the RMP stage that the most protective measures will be consistently applied, BLM fails to avoid unnecessary and undue degradation of air quality.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: the FEIS identifies only a single mitigation measure to avoid emissions methane, a powerful and potent GHG. The failure to avoid unnecessary and undue harm from emissions of methane is of particular significance given BLM’s rescission of the Waste Prevention Rule,⁴¹⁶ revoking protections designed to limit waste of natural gas by oil and gas companies on federal lands from venting, flaring and equipment leaks.⁴¹⁷ The FEIS vaguely asserts that “BLM Best Management Practices/Standard Operating Procedures for Air Quality (Appendix D) could reduce emissions of GHG during oil and gas production by implementing techniques to control vapors, leaks, fugitives, and other emissions that contain CO₂ and methane.”⁴¹⁸ In the response to comments, BLM states that “more-protective mitigation measures” for reducing GHG emissions “would occur during review of project proposals at the leasing or APD phase.”⁴¹⁹ BLM has failed to offer any justification as to why it will not impose those more protective measures as a BMP in the PRMPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The PRMPA is not consistent with the MLA, which requires BLM to ensure that “[a]ll leases of lands containing oil or gas . . . shall be subject to the condition that the lessee will,

in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land . . .” Specifically, BLM has failed to ensure that oil leases issued under the PRMPA prevent the venting or leakage of methane gas, a powerful greenhouse gas, when operations are carried out pursuant to any such leases.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: In the draft Central Coast RMP/EIS, the NO_x emissions estimate of 8.4 tons per year falls just below the de minimis threshold of 10 tons per year established by the California Air Resources Board for the San Joaquin Valley Air Basin which is currently classified as “extreme” non-attainment for ozone.⁴⁶ More importantly, BLM estimates ROG/VOC emissions at 9.62 tons per year which is dangerously close to exceeding the de minimis threshold for a conformity analysis.⁴⁷ NO_x and ROGs/VOCs are pre-cursors that form ground-level ozone, therefore the agency must demonstrate that additional emissions of either NO_x or VOCs meet the NAAQS. BLM fails to cite any authority or resource in calculating these potential emissions, even in the Air Quality Technical Support Appendix K, thereby failing its affirmative duty to demonstrate to the public that health-protective air quality standards will be met with approval of increased oil and gas development in the planning area. The need for BLM to ensure conformity is underscored by the fact that California is failing to bring the San Joaquin Valley ozone “extreme” nonattainment area into attainment with the 2008 0.075 ppm ozone NAAQS. Given the inability of the current San Joaquin ozone air quality plan to ensure attainment with the ozone NAAQS, as required by the Clean Air Act, it appears clear that the BLM’s decision will not only cause or contribute to violations of the NAAQS, but increase their severity and frequency; not to speak of the more stringent 0.070 ppm ozone standard adopted by EPA in 2015. The San Joaquin Air Resources Control Board acknowledges that meeting the new more stringent ozone NAAQS means “NO_x emissions reductions in the Valley must be reduced by an additional 90% in order to attain the latest federal ozone and PM_{2.5} standards that now encroach on natural background levels. This air quality challenge is unmatched by any other region in the nation.”⁴⁸ A conformity determination is especially necessary in this case. BLM must prove to the public that their estimated emission calculations are accurate, justified and enforceable. BLM fails to provide any information to support their air emissions estimates in this RMP, which also puts them in direct conflict with requirements under NEPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: In addition, the FEIS fails to adequately disclose and justify its GHG estimates for production phase emissions. The FEIS in response to comments vaguely states that “the production phase GHG emissions are estimated as 500 MT per well per year, as substantiated by the typical per well emission rate across the Monterey Bay air district jurisdiction, from the ARB [Appraisal Review Board] survey results,” but provides no information to track down the specific sources or understand how the 500 MT per well estimate was calculated. The FEIS also uses the incorrect global warming potential (GWP) for methane which substantially underestimates its climate impact. The FEIS states that methane has GWP of 28 according to the IPCC Fifth Assessment Report. However the 2013 IPCC Fifth Assessment Report clearly establishes a GWP of 36 for fossil fuel sources of methane over a 100-year time period. Importantly, the GWP of methane over a 20-year period is 87,223 meaning that methane is 87 times stronger in trapping heat than CO₂ over a 20 year period, which is a particularly relevant time frame for meeting California’s GHG goals and avoiding crossing dangerous climate tipping points. BLM’s quantitative assessment should use the 20-year GWP for methane from the IPCC Fifth Assessment Report for its calculations to ensure that potentially significant impacts are not underestimated or ignored. BLM has significantly underestimated the near-term benefits of keeping methane emissions out of the atmosphere.

Sierra Club***Diana Dascalu-Joffe***

Issue Excerpt Text: BLM provides no emissions inventory or analysis of potential direct and indirect emissions based on oil and gas industry standards for development, operations and ongoing maintenance. Again, BLM fails to document or provide sources for their potential emissions tables, in violation of CAA general conformity requirements.

Sierra Club***Diana Dascalu-Joffe***

Issue Excerpt Text: The FEIS does not consider whether or how new, carbon-intensive fossil fuels extracted as a result of the PRMPA will comply with California’s emissions reduction goals and Cap-and-Trade Program. BLM must prepare a supplemental EIS analyzing whether the alternatives described in the FEIS are consistent with California’s emissions reduction goals and Cap-and-Trade program.

County of Monterey, CA***Brent Heberlee***

Issue Excerpt Text: Further, the RMPA/Final EIS acknowledges that climate change will continue to affect water supply and that “water usage for well stimulation would exacerbate the impacts of climate change on groundwater quantity and water supply within the (Central Coast Field Office) Planning Area” but fails to analyze or incorporate any climate change modeling into any Reasonable Foreseeable Development Scenarios

Summary:

The BLM uses incorrect and poorly substantiated GHG emissions estimates and fails to analyze and disclose the cumulative effects of GHGs produced by production phase emissions and impacts to groundwater and surface water related to the Scenarios. Additionally, the FEIS should include an analysis of the alternatives’ consistency with the California emissions reduction goals and cap-and-trade program, as well as local goals and ordinances.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Central Coast PRMPA/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

The BLM analyzed the potential impacts to air quality from reasonably foreseeable actions under the PRMPA/FEIS, which relied on an Air Emissions Inventory for the two air basins in the Central Coast Field Office (CCFO) planning area (Central Coast PRMPA/FEIS Appendix K). The emission

comparison approach provides a sound basis for comparing current air quality emissions with those expected to be produced from the Central Coast PRMPA/FEIS. This approach was selected because of uncertainties about the number, nature, and specific location of future sources and activities. Based on this analysis, the BLM does not expect emissions related to future Federal actions anticipated under the Central Coast PRMPA/FEIS to prevent attainment or maintenance of any state or federal ambient air quality standard.

BLM is unable to quantify impacts to air quality and atmospheric conditions, or to ground or surface water, from the range of alternatives because the exact timing and/or location of future leasing and development activities is not available or attainable. Therefore, the BLM has conducted a qualitative evaluation of such impacts based on the RFD scenario and current resource conditions discussed in Section 3.5. The PRMPA is a planning document, and indirect and cumulative effects of leasing and development inform the planning decision. A qualitative analysis for these impacts, as opposed to a quantitative analysis, is appropriate because it provides a reasonable forecast of effects, but does not speculate on the direct effects to air quality and atmospheric conditions, groundwater, or surface water from the range of alternatives presented in the PRMPA (Central Coast PRMPA/FEIS at 4.5-2, 4.7-2, and 4.8-2).

Regarding consistency with the Mineral Leasing Act (MLA) of 1920 30 U.S.C. § 181 et seq., Case No. C 11-06174 (937 F.Supp.2d 1140; *Center for Biological Diversity and Sierra Club v. the BLM*) determined that “Although these technologies [state-of-the-art rod-packing technology, replacing wet seals, etc.] may certainly prevent waste and may be economically viable, as Plaintiffs suggest, the MLA cannot be read to impose a mandate for BLM to require lessees to employ certain technologies. The plain language of the MLA requires that ‘all leases’ shall be ‘subject to the condition’ outlined in the lease language. The MLA requires that the leases contain the language requiring the lessee to use reasonable precautions to avoid waste. Nothing in the language suggests that courts may affirmatively compel BLM to require lessees to employ certain technologies, however reasonable or economically viable”...“the law grants the agency significant discretion in choosing the means to carry out the statute.”...“The MLA merely provides that a certain lease provision must be included. As long as BLM has satisfied that obligation, the court may not intrude on BLM’s discretion by otherwise dictating what terms must be included in the lease.”

Additionally, in following the process outlined in the Air Quality Memorandum of Understanding (MOU) for determining whether air quality analysis is required, the BLM determined that air dispersion modeling was not required for the Central Coast PRMPA/FEIS. In short, the air quality analysis was not necessary or warranted based on the low anticipated level of development and the uncertainty in where subsequent development would occur. Since there would be additional environmental review completed for oil and gas activities, BLM would provide notification to Federal Land Manager’s (FLM’s) to address potential issues and/or concerns.

The following recommendations from the Air Quality Technical Working Group would be implemented, as appropriate, under the auspices of the interagency MOU:

- BLM would confer with the National Park Service and/or US Forest Service to determine the appropriate level of analysis for oil and gas leasing or development activities that may adversely affect Class I areas (and air quality related values [AQRVs]). FLM’s may also consult with EPA regarding emission offsets when further site-specific NEPA analysis begins and/or the APD phase commences.
- As feasible, FLM’s would tier from existing near-field analyses in order to disclose potential impacts from well drilling, completion, and operation. Analyses would take into account emission reduction strategies that are currently committed to and identify mitigation strategies that may be necessary, including, but not limited to, buffers from occupied structures or sensitive receptors.
- If necessary, BLM would require near-field dispersion modeling at the leasing or APD phase for

oil and gas development activities that may adversely affect Class I areas [and AQRVs].

The FEIS identifies California’s far-reaching climate change programs and identifies many of the primary regulations, policies, and programs that are being implemented across California’s entire economy to bring about GHG reductions (see Section 3.6.2, *Regulatory Framework*). The BLM provided a programmatic level analysis of climate change/GHG emissions in section 4.6, *Climate Change/Greenhouse Gas Emissions*, which included discussion of the impacts in the context of current California Cap-and-Trade Program (see *Assumptions*, page 4.6-2). Oil and gas activities in California, including those within Federal jurisdiction, are subject to GHG reporting, direct controls, and the Cap-and-Trade Program. The estimates of GHG emissions are described in Section 4.6.2, *Impacts Common to All Alternatives*, and in the context of the California Cap-and-Trade Program on page 4.6-5. The regulatory framework of the program allows the ongoing production of fossil fuel resources and plans for the eventual decline of these activities, in a manner that is designed to achieve California’s targets.

As noted above, in the *FLPMA – Consistency with State and Local Plans* response, the BLM considered an alternative that included local bans on oil and gas development in San Benito County, Monterey County, Santa Cruz County, and Alameda County; see pages I-22 to I-23 in Appendix I, *Comments and Response to Comments*.

The BLM complied with NEPA’s requirement to analyze the environmental consequences on air quality and climate change in the Central Coast PRMPA/FEIS.

NEPA – Impacts Analysis – Geologic Hazards

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: BLM has failed to appropriately examine whether the proximity of major faults to areas that could see increased well stimulation or wastewater injection under the RMPA could induce seismicity. FEIS 4.3-1 to 4.3-4. BLM also improperly relies upon future compliance with best management practices for geologic hazards as a panacea to avoid harm as further leasing decisions are made. FEIS 4.3-2. But by avoiding an analysis of the aggregate impacts of its approvals, BLM fails to examine whether each leasing decision could pose individually minor impacts that, when taken as a whole, could be collectively significant. FEIS 4.3-2, 5.8 to 5.9.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: As well as mischaracterizing the studies it does rely on, the FEIS fails to acknowledge the large and growing body of published scientific research documenting that wastewater injection and enhanced oil recovery have induced earthquakes across many regions of the United States, even though this body of research was summarized and provided by protestors. Instead, BLM cites to earlier research that says more detailed assessment are “required to explain the lack of large-scale injection induced earthquake activity in California hydrocarbon basins.” This misleadingly implies that there is little or no evidence of injection-induced earthquake activity in California.

Summary:

BLM failed to analyze injection-induced seismicity that could result from increased well stimulation and wastewater injection under the CCR Marine Protected Areas (MPA).

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Central Coast PRMPA/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the land use planning actions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. The Central Coast PRMPA/FEIS analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse. According to the Land Use Planning Handbook (H-160-1), Section 3B(1)(c) “an issue is not germane to the planning process if it is beyond the scope of a particular planning effort, or if it involves a matter normally addressed in plan implementation.” Issues that are not germane to the planning process are not considered as protest issues, but treated as comments.

The FEIS discussed induced seismicity in Section 4.3.2, *Impacts Common to All Alternatives*, specifically page 4.3-2. As noted here, “The potential for induced seismicity due to hydraulic fracturing or fluid disposal in Class II injection wells as they are currently carried out is considered to be low (CCST 2014). Stimulation activities applied at the scale presently employed in other regions of the U.S. currently requires the disposal of much larger volumes of both flowback water from the stimulations themselves and produced water resulting from increased and expanded production, which could increase the hazard (CCST 2014)...The regulations under SB 4 (California State Bill 4, Oil and Gas: Well Stimulation) would be implemented on BLM-administered land in California and would reduce potential effects of induced seismicity.”

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts from geologic hazards including induced seismicity from in the Central Coast PRMPA/FEIS.

NEPA – Impacts Analysis - Groundwater

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: four groundwater basins or subbasins with Federal mineral estate in the CCFO Planning Area that are included on the California Department of Water Resources’ List of Critically Overdrafted Groundwater Basins. “[A]ny increase in groundwater use in a basin/subbasin in overdraft would contribute to overdraft conditions, a process considered to be a substantial impact if not mitigated.” FEIS 3.7-7 to 3.7-8, 4.7-5. The amount of water needed for each individual alternative could vary greatly given the vast deviation between the size of each alternative. That difference in water use must be analyzed under NEPA in order to provide a “full and fair discussion” of those impacts. 40 C.F.R. § 1502.1.

North Coast Rivers Alliance
Name Withheld as Confidential

Issue Excerpt Text: application of the RDF Scenario to every alternative permeates the entire FEIS and thwarts analysis of each alternative’s individual impacts. Because each alternative would open up largely different areas to oil and gas leasing, the number of wells that could be constructed under each alternative - and how those wells could impact groundwater quality - must be considered in the FEIS. This analysis is especially important because once contaminated, aquifers cannot be uncontaminated. The potentially permanent impacts of the RMPA cannot go unanalyzed at this stage. Bob Marshall Alliance, 852 F.2d at 1228.

Summary:

BLM failed to provide an analysis of impacts from the Central Coast PRMPA to:

- Quantity of groundwater and critically overdrafted groundwater basins; and,
- Groundwater quality.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)).

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse. As noted on page 4.7-1 of the Central Coast PRMPA/FEIS, the approach for analyzing impacts on groundwater quantity includes a review of published information of water use for oil and gas drilling and well stimulation. The total amount of water needed for the 2015 RFD Scenario is tabulated and compared to groundwater resources in the CCFO Planning Area. The approach to the impacts analysis for groundwater quality focuses on the pathways by which flowback and/or formation fluids could reach protected groundwater. BLM is unable to quantify impacts to groundwater resources from the range of alternatives because the exact timing and/or location of future leasing and development activities is not available or attainable. Therefore, the evaluation of such impacts is described qualitatively based on the RFD scenario and current resource conditions discussed in Section 3.7 of the Central Coast PRMPA/FEIS. The BLM included an analysis of the alternatives on groundwater resources in Section 4.7, specifically on pages 4.7-2 through 4.7-15. Groundwater quantity is discussed on pages 4.7-2 through 4.7-5; groundwater quality is analyzed on pages 4.7-5 through 4.7-6; specific analysis for each alternative discusses potential for overdrafting sub-basins on pages 4.7-9 through 4.7-15.

The BLM complied with NEPA’s requirement to analyze the environmental consequences to groundwater quantity and quality in the PRMPA/FEIS.

NEPA – Impacts Analysis – Hazardous Materials

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: BLM fails to address areas where hazardous conditions could be created that conflict with recreational or other public uses of these federal lands. FEIS 4.4-1 to 4.4-24. Instead, as with other impacts discussed in the FEIS, BLM relies improperly on the RFD Scenario to downplay and avoid scrutiny of the full extent of the impacts of the RMPA. Id; see also FEIS 5-9 to 5-10 (cumulative impacts similarly flawed).

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM’s explanation for refusing to analyze the risks to public health and safety posed by chemical additives used in fracking and other oil and gas operations, that it will assess the impacts of oil and gas development and fracking on public safety in future NEPA analyses, is unavailing. It is well established that agencies must engaged meaningful assessment of foreseeable impacts to affected resources “at the ‘earliest possible time’ to allow for proper consideration of environmental values...” “Reasonable forecasting and speculation” is implicit in NEPA, and efforts to shirk an agency’s responsibilities by labeling discussion of future environmental effects as a “crystal ball inquiry” must be rejected. Deferred analysis of impacts will not provide BLM with more site-specific information. Nothing in the leasing or Application for a Permit to Drill (“APD”) stage will provide BLM with any more information about chemicals that may or will be used than it has before it at the RMP stage. Nothing in BLM’s leasing or APD assessment processes, or the mitigation measures and BMPs for the PRMPA, require operators to disclose the chemicals they intend to use in their operations at the APD stage. Further, in light of Internal Memorandum 2018-0034, which provides that if BLM makes a determination of NEPA adequacy no further public comment period is necessary, there is no guarantee that the public will have the opportunity to comment or provide information to BLM on the health impacts of chemicals to be used at a later date. This RMP SEIS may be the public’s only opportunity to provide input on the impacts to public safety of fracking. Given the ready availability of material to aid in disclosure and analysis of the health impacts of chemicals associated with fracking in the Planning Area, BLM has no justification for refusing to analyze impacts to health in the FEIS. It must withdraw the PRMPA, prepare a further supplemental EIS, and prepare a new Resource Management Plan amendment in light of the further supplemental EIS.

Summary:

BLM fails to analyze the impacts from hazardous materials used in oil and gas development on public health.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Central Coast PRMPA/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all

conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The BLM described the general types and locations for hazard materials in the affected environment section 3.4.3, *Regional Setting*. Here, BLM listed naturally occurring hazards, as well as typical hazards found in oil and gas fields (see pages 3.4-2 through 3.4-3). Further, the FEIS provided a description of the types of impacts on pages 4.4-3 through 4.4-4 and an analysis of the impacts on public health and from hazardous materials on pages 4.4-6 through 4.4-24. BLM notes that for the programmatic level of analysis in the FEIS, "...hazards and hazardous materials associated with oil well drilling and well stimulation treatment are analyzed and discussed, independent of location. It is assumed that new well drilling and well stimulation treatment methodology and chemicals used would be similar across the CCFO Planning Area and similar to standard petroleum exploration and development practices in California" (p. 4.4-6 to 4.4-7). The organization of the impacts analysis is such that effects from well stimulations are noted in each type of hazard discussed; for example, potential health impacts from the sand and gravel used in fracking proppant are discussed on page 4.4-10 under "Airborne Hazards" and under "Surface Water Contamination" on page 4.4-12. BLM analyzed the potential effects from well stimulation techniques to the extent necessary at the land use planning stage of the oil and gas process.

The BLM complied with NEPA's requirement to analyze the environmental consequences/impacts to human health from hazardous conditions in the Central Coast PRMPA/FEIS.

NEPA – Impacts Analysis – Socioeconomics

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: BLM fails to take the requisite "hard look" that NEPA requires regarding the RMPA's impacts on low-income and minority communities. While admitting that affected communities are considered "minority areas of concern" and "low-income areas of concern" with respect to environmental justice, BLM erroneously dismisses the issue because these communities already contain existing oil and gas fields. FEIS 4.17-6. But that conclusion ignores the cumulative impact that allowing new oil and gas leases will have on these already struggling communities. The FEIS' failure to address the disproportionate increase in cumulative impacts on low-income and minority communities violates NEPA.

Summary:

BLM fails to take a "hard look" as required by NEPA regarding the RMPA's impact on low-income and minority communities.

Response:

The information in FEIS section 4.17.2, *Impacts Common to All Alternatives – Oil and Gas Environmental Justice Effects* (pages 4.17-6 through 4.17-7) is consistent with Executive Order 12898, which requires federal agencies to “identify and address the disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” According to the Council on Environmental Quality’s Environmental Justice Guidance Under the National Environmental Policy Act (Council on Environmental Quality 1997a), “minority populations should be identified where either: (a) the minority population of the affected region exceeds 50 percent or (b) the minority population percentage of the affected region is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis.” Consistent with these orders and guidance, pages 4.17-6 through 4.17-7 in the FEIS identify locations of census tracts with considerations of minority and low-income populations of environmental justice concern (provided from Section 3.17).

FEIS Section 5.3.16, *Social and Economic Conditions* (page 5-21), provides an analysis of cumulative impacts with respect to environmental justice: “the communities of King City, San Ardo, and San Lucas contain exceptionally high concentrations of minority population, with San Lucas also containing a very high percentage of low-income population. However, when reviewing the locations of cumulative projects identified in Tables 5-1 and 5-1, these areas do not show a disproportionate amount of cumulative projects occurring. Because some of the cumulative projects listed in Table 5-1 would be located in the same local areas containing a disproportionate amount of minority and low-income populations, these projects could contribute toward impacts disproportionately borne by minority or low-income populations. However, as discussed in Section 4.17, given the small number of new wells (up to 37) and land disturbed (up to 206 acres), the 2015 RFD Scenario would have a negligible contribution toward cumulative disproportionate adverse environmental impacts within the communities of King City, San Ardo, and San Lucas.”

The BLM satisfies the NEPA “hard look” requirement by appropriately identifying minority and low-income populations of environmental justice concern and by consistency with Executive Order 12898 and Council on Environmental Quality’s Environmental Justice Guidance Under the National Environmental Policy Act (Council on Environmental Quality 1997a).

NEPA – Impacts Analysis – Special Status Species

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: By deferring any analysis of the potential impacts of oil and gas leasing on coho and steelhead to each individual leasing decision, the FEIS fails to fairly disclose the impacts of the RMPA itself, including its cumulative effects.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: In the FEIS, BLM also fails to adequately address the impacts to special status species from the enormous increase in leasing area under the newly constructed Alternative F, as compared to the prior preferred Alternative C, including a doubling of leasable acres, opening the Panoche-Coalinga ACEC to leasing which has core habitat for endangered species, and opening critical habitat for endangered species to leasing, which was previously under an NSO stipulation under Alternative C. While BLM acknowledges that new surface disturbance in occupied habitat “could have major effects to special status species” under Alternative F, BLM claims that “lease

stipulations (and mitigation measures at the project level) are designed to avoid or minimize potential effects.” However, project-level mitigation is inadequate for avoiding the cumulative harms to special status species. The RMP is the only place to consider cumulative impacts, or area-wide impacts. Furthermore, in light of a new internal memorandum governing leasing processes, BLM cannot rely on conducting analysis of impacts at the leasing stage. IM 2018-034 restricts the timeframe for parcel review for a specific lease sale to no longer than six months. This timeframe is inadequate for surveying for special status species, since it may not overlap with the correct time period for conducting surveys. It explicitly allows an officer to determine that lease- or parcel-specific analysis is unnecessary. If the officer makes such a determination, no further public comment period is required, denying the public the opportunity to provide input on whether such a determination is appropriate. The memorandum does not require that BLM allow public participation in the NEPA process, but rather states that BLM “may” provide for public participation. It restricts the protest period for lease sales to a mere 10 days, from the previously-applicable 30 days.

Summary:

BLM cannot defer analysis of effects from oil and gas development on coho and steelhead to a later NEPA analysis and fails to adequately address the impacts to special status species from the expanded leasing area under Alternative F.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the land use planning decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse. Field surveys to assess conditions of wildlife habitat and identify conditions of approval are completed at the project level and would be required to provide more detailed information.

There is no coho salmon critical habitat overlapping Federal minerals within the reasonably foreseeable development area. Regarding potential effects of contamination to steelhead trout critical habitat, Section 4.12 addresses this and other special status species, notes that potential impacts to special status species would be similar to those discussed in Sections 4.10 and 4.11. Section 4.11, *Wildlife Habitat*, in turn, describes the potential adverse effects of surface water or groundwater contamination on plants, fish, and wildlife, as well as mitigation for those effects, in some detail. This analysis and mitigation is applicable to potential contamination to steelhead habitat. BLM also considered the cumulative effects on special status species on pages 5–16.

On May 10, 2019, the BLM initiated informal consultation with the NOAA/NMFS on potential impacts to federally listed salmonid species. This consultation will also be concluded prior to the BLM approval of the ROD and approved RMPA. The BLM received a letter of concurrence (signed July 3, 2019) from the NOAA/NMFS supporting the BLM’s determination that the Central Coast PRMPA/FEIS for Oil and Gas Leasing and Development is not likely to adversely affect federally listed salmonid species.

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts to Special Status Species in the Central Coast PRMPA/FEIS.

NEPA – Impacts Analysis – Surface Water

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: Because the FEIS did not provide relevant information about “the reach and extent of Waters of the U.S.” and because it relies on an improper RFD Scenario assessment throughout all of the impact analyses, the FEIS fails to provide specific quantification and analysis of each alternative’s impacts to surface waters.

Summary:

The FEIS fails to analyze the alternatives’ impacts on surface waters and Waters of the United States (WOUS).

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Central Coast PRMPA/FEIS. The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground actions, the scope of the analysis was conducted at a regional, programmatic level. BLM is unable to quantify impacts to surface water resources from the range of alternatives because the exact timing and/or location of future leasing and development activities is not available or attainable. Therefore, the evaluation of such impacts is described qualitatively based on the RFD scenario and current resource conditions discussed in Section 3.8. As noted on page 4.8-2 of the Central Coast PRMPA/FEIS, a qualitative analysis for these impacts, as opposed to a quantitative analysis, is appropriate because it provides a reasonable forecast of effects, but does not speculate on the direct effects to surface water resources from the range of alternatives presented in the RMPA. Other incomplete or unavailable information includes the type(s) of development(s) and site-specific

resource conditions because it is impossible for BLM to know how, where, or when leases would be developed.

An assessment of the reach and extent of WOUS for the entire planning area is beyond the scope of this analysis and would not necessarily provide useful information for the impact analysis under NEPA, because specific well locations under the RFD Scenario are not known at this time. WOUS will be determined at the project level. As stated in Section 2.4.4 of the PRMPA/FEIS, the effect of any particular well or field development would depend on the impact posed by site-specific engineering and operations within specific geology and upon the area's other characteristics (such as nearby wellbores). The BLM will analyze these site-specific impacts during the NEPA review for a lease or an individual well (FEIS pp. 2–5).

The impacts to surface water quality, sedimentation and erosion, the potential for flooding and flooding effects, water use and supply, and aquatic intactness are described on pages 4.8-3 through 4.8-16.

The BLM appropriately analyzed impacts to surface water in the Central Coast PRMPA/FEIS as is appropriate for a planning-level analysis.

NEPA – Impacts Analysis – Water Quality

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: The FEIS also fails to analyze the impacts of disposal of oil and gas waste fluids through unlined pits. California is one of only a handful of states that allow oil operators to dump wastewater from oil and gas production into dangerous, open, unlined pits.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM's failure to analyze contamination from spills not associated with fracking is particularly concerning because there is substantial overlap between the chemicals used in well stimulation (fracking and matrix acidizing treatments) and those used in routine oil and gas development activities in California.

Summary:

The BLM failed to analyze the effects of unlined pits and contamination from non-hydraulic fracking spills.

Response:

NEPA directs that data and analyses in an EIS must be commensurate with the importance of the impact (40 CFR 1502.15) and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a "hard look" at potential environmental impacts of adopting the Central Coast PRMPA/FEIS.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provides the necessary basis to make informed land use plan-level decisions.

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a regional, programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The potential effects associated with surface spills and leaks are analyzed Section 4.7.2, pages 4.7-6 through 4.7-9. The Central Coast PRMPA/FEIS acknowledges unlined pits as a potential surface release pathway to groundwater impacts (page 4.7-6). Section 4.8.2, pages 4.8-3 through 4.8-10, provides an analyses of potential surface water quality impacts resulting from the release of construction-related pollutants, hydraulic fracturing fluid, and produced water. The Central Coast PRMPA/FEIS also discusses impacts of spills on biological resources in Section 4.10, *Vegetation* (p. 4.10-5), Section 4.11, *Wildlife* (p. 4.11-4), and Section 4.12, *Special Status Species* (p. 4.12-4).

The BLM appropriately analyzed the potential effects of surface spills, leaks, unlined pits, and associated potential water quality impacts in the Central Coast PRMPA/FEIS.

NEPA – Public Participation

Santa Cruz County Planning Department Name Withheld as Confidential

Issue Excerpt Text: the Final RMPA/EIS does not adequately address the comments that were made by the Board during the public review of the Draft RMPA/EIS, including the fact that the County General Plan prohibits exploration and development of onshore oil and gas resources (Appendix I, General Response GR-1). Further, the Preferred Alternative, Alternative F, which includes limited area in Santa Cruz County in the areas open to leasing and development, was not analyzed in the draft document and therefore there was no opportunity to comment upon that alternative, which has different potential environmental impacts than the various elements of the alternative would have when considered separately. The BLM previously selected Alternative C as the Preferred Alternative in the Draft RMPA/EIS, an alternative that would close areas in Santa Cruz County to oil and gas leasing. No justification is provided for the revised choice of Alternative F, which greatly increases the potential for adverse impacts in Santa Cruz County without contributing significantly to project goals and objectives.

Summary:

The Final Central Coast PRMPA/FEIS does not adequately address comments made during the public review of the Draft Central Coast RMPA/EIS, including comments regarding the prohibition of oil and gas exploration and development under the Santa Cruz County General Plan. Further, the public did not have an opportunity to comment on the change in the preferred alternative between the draft and final RMPA/EIS.

Response:

The BLM is required to assess, consider, and respond to all substantive comments received (40 CFR 1503.4). Substantive comments are those that reveal new information, missing information, or flawed analysis that would substantially change conclusions (BLM Handbook H-1601-1, pp. 23–24).

In compliance with NEPA, the BLM considered all public comments submitted on the Draft Central Coast RMPA/EIS. The BLM complied with 40 CFR 1503.4 by performing a detailed comment analysis that assessed and considered all substantive comments received. Appendix I, *Comments and Responses to Comments*, of the Central Coast PRMPA/FEIS presents the BLM’s responses to all substantive comments. Specifically, the BLM responded to Santa Cruz County’s comments on its local oil and gas development prohibition on pages I-402 and I-24.

Though Alternative F is the new preferred alternative in the PRMPA/FEIS, it is composed of components of alternatives analyzed in the draft RMPA/EIS. In developing Alternative F from components of other alternatives analyzed in the draft, the new preferred alternative does not dramatically differ from the alternatives addressed in the draft EIS as to preclude “meaningful consideration” by the public. BLM made no substantial changes with Alternative F inasmuch as the alternative includes components of the alternatives analyzed in the DEIS and present a suite of management decisions that were analyzed and subject to public review in Alternative A of the DEIS. No change in the range of alternatives is relevant to environmental concerns in the PRMPA/FEIS. The BLM determined that there are no new significant circumstances or information relevant to environmental concerns bearing on the proposed plan or its impacts. The BLM documented its reason for this determination on pages 1-9 to 1-10 of the PRMPA/FEIS (excerpted below):

As a result of public comments, updated information, changes in policies or priorities, and internal review, the following revisions have been made in this Proposed RMPA/Final EIS since publication of the Draft RMPA/EIS in January 2017:

- Addition of Alternative F throughout the Proposed RMPA/Final EIS, including associated figures in Appendix A
- Identification of Alternative F as the Preferred Alternative in the Proposed RMPA/Final EIS

The NEPA requires agencies to prepare a supplement to the Draft RMPA/EIS if: (1) the agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (2) if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. A supplement is not necessary if a newly formulated alternative is a minor variation of one of the alternatives and is qualitatively within the spectrum of alternatives analyzed in the Draft RMPA/EIS.

Incorporation of Alternative F into the Proposed RMPA includes components of the alternatives analyzed in the Draft RMPA/EIS. Taken together, these components present a suite of management decisions already analyzed namely in Alternative A of the Draft RMPA/EIS and are qualitatively within the spectrum of alternatives analyzed. Specifically, Alternatives A and Alternative F would designate the same lands as open and closed to oil and gas leasing and development. Alternatives A and D apply NSO stipulations to ACECs, which would include the ACECs specified under Alternative F, and Alternative C applies NSO stipulations to critical habitat for federally-listed species, including the giant kangaroo rat.

Therefore, the BLM has determined that the Proposed RMPA is a minor variation of identified alternatives and that its impacts would not affect the human environment in a substantial manner or to a significant extent not already considered in the EIS. The impacts disclosed in the Proposed RMPA/Final EIS are similar or identical to those described in the Draft RMPA/EIS.

BLM does not treat public comments as if they were a vote for a particular action. The comment response process ensures that every comment, including the comments submitted by Santa Cruz County, is considered at some point when preparing the Central Coast PRMPA/FEIS.

The BLM adequately responded to public comments on the DRMP/DEIS.

NEPA – Reasonably Foreseeable Development

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: But this RFD Scenario does not “pay greater attention to the current and future use of well stimulation technologies” than the approach taken in Hollister I. Like that approach, which the court found to be inadequate, the RFD Scenario “fails to take into account all ‘reasonably foreseeable’ possibilities as required by NEPA.”...Nothing in the RMPA would prevent BLM from issuing leases that allow additional wells or ground disturbance beyond the RFD Scenario, so long as the leases occurred in the areas designated as open under the alternative adopted. While the 2015 RFD Scenario examines the trend of oil and gas development and projects that trend forward, that projection assumes that neither changes in global crude prices nor advances in technology will alter the rate of new development in the Central Coast Field Office Area...Because the FEIS relies on this improper RFD Scenario to evaluate all of the alternatives, it fails to provide sufficient detail regarding the potential impacts of each alternative on each impact area. By analyzing each alternative under the same RFD Scenario, the impacts of the alternatives are rendered nearly identical. The FEIS therefore fails to “present the environmental impacts of the proposal and the alternatives in comparative form, “thus depriving the public of a clear basis for choice among options by the decision-maker and the public.” 40 C.F.R. § 1502.14. BLM’s reliance on the RFD Scenario makes comparison of alternatives a meaningless exercise, driving an arrow through “the heart of the environmental impact statement.” Id.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM arbitrarily assumed for the purposes of the FEIS that each alternative would result in no more than 37 exploratory and development wells on new Federal oil and gas leases, and no more than 206 acres of associated disturbance from well pads, roads, and other facilities over the 15- to 20-year period of analysis. BLM provided no explanation for these unreasonably low estimates, other than the conclusory statement that: Given the limited extent of area of federal mineral estate within the entire planning area, it is unlikely that more than a total of 37 exploratory and development wells will be drilled on federal oil and gas leases. Well stimulation technologies and enhanced oil recovery techniques are assumed to be used on any or all of these wells. However, the “limited extent of area of federal mineral estate within the entire planning area” amounts to 793,000 acres, 368,800 acres of which are deemed to be “high oil and gas occurrence potential areas.” BLM’s Reasonably Foreseeable Development Scenario (“RFDS”) for the Central Coast Planning Area relies on unsupported assumptions to conclude that future oil and gas development will continue at levels consistent with historic development trends, and fails to take into account new relevant scientific information. As a result, BLM’s projection of 37 new wells and 206 acres of land disturbance drastically underestimates potential future oil and gas development in the area.

Summary:

The BLM’s RFD Scenario relies on unsupported assumptions, does not consider all reasonably foreseeable possibilities, and underestimates the potential future oil and gas development in the planning area.

Response:

The RFD is based on a review of geological factors that control the potential for oil and gas resource occurrence and past and present technological factors that control the type and level of oil and gas

activity. The RFD also considers petroleum engineering principles and practices and economics associated with discovering and producing oil and gas.

The fundamental purpose of the RFD is to make a reasonable estimation of the overall level of development anticipated (i.e., number of wells) over a specified time horizon (e.g., 20 years), as opposed to predicting the actual number of wells in a given future year, since the overall level of development is the basis for comparing relative impacts across the alternatives. The RFD for the Central Coast PRMPA/FEIS projected a baseline scenario of activity assuming all potentially productive areas are open to leasing under standard terms and conditions, except for those areas closing to leasing by law. The RFD is not intended to define the specific numbers and locations of wells and pads needed to develop oil and gas resources. Therefore, the RFD Scenario is a reasonable, technical, and scientific estimate of anticipated oil and gas activity based on current information and data available.

As such, the RFD provides a baseline study to understand the impacts resulting from differing management actions and levels of constraints on oil and gas development across alternatives. Sections 2.3 and 2.4 describe the RFD Scenario, as well as management goals, objectives, and actions common to all alternatives. The BLM has specifically identified the potential use of enhanced production and well stimulation techniques in the 2015 RFD Scenario for the Central Coast PRMPA. The 2015 RFD Scenario considers oil and gas technologies, including well stimulation, enhanced oil recovery techniques, and recent oil and gas development trends in California. The alternatives described in Chapter 2 represent a range of management options to address the scoping issues (presented in Section 1.3) and to achieve resource management goals in light of the updated oil and gas RFD Scenario in the CCFO Planning Area.

Appendix B includes the complete 2015 RFD Scenario. As stated on page 2-2, the 2015 RFD Scenario is a planning tool to help the BLM project the reasonably foreseeable impacts of oil and gas development within the planning area, since that development has not yet occurred. It is an educated forecast of possible future development and does not, in and of itself, represent a decision to authorize oil and gas development, nor is it a goal or target for oil and gas development in the planning area. Therefore, it establishes a common basis upon which BLM will analyze the impacts of all alternatives, including the No Action Alternative.

An RFD is used to project management activities and actions which are likely to occur in the planning area over the life of the plan, assuming all potentially productive areas are open under standard lease terms and conditions. (BLM Handbook, H-1624-1 Planning for Fluid Mineral Resources, Chp. III.; Instruction Memorandum No. 2004-089 “Policy for Reasonable Foreseeable Development (RFD) Scenario for Oil and Gas,” January 16, 2004.) Existing fluid minerals practices, including well stimulation techniques and enhanced recovery methods, and information on existing leases and related exploration and development activities, as well as the potential for development in the planning area, provide the basis for projecting the RFD. As described on page 2-14, Alternative A (Figure 2-1 in Appendix A) would utilize the 2015 RFD Scenario and would continue current management under the existing 2007 HFO RMP (BLM, 2007). The updated RFD Scenario would be utilized so that this No Action alternative would remain the baseline for comparison of impacts for the five action alternatives which also utilize the 2015 RFD Scenario. Furthermore, page 4.1-1 says impacts to resources in the planning area are analyzed by determining the effects on a given resource from oil and gas leasing and development management actions that would occur for each alternative under the 2015 RFD Scenario (see Appendix B). The evaluation of such impacts is described qualitatively based on the RFD scenario and current resource conditions discussed in Section 3.2. However, there are numerous sections in Chapter 4 [e.g., pp. 4.2-3, 4.3-1] that indicate “the full buildout of the RFD scenario (i.e., 37 exploratory and development wells and 206 acres of surface disturbance) is assumed for each alternative herein, except Alternative B, which assumes up to 32

new development wells (179 acres of surface disturbance).” Another basic assumption stated in the FEIS (p. 4.3-1) is that all surface-disturbing activities related to the 2015 RFD Scenario would likely occur on BLM-administered lands in Fresno, Monterey, and San Benito Counties within the area of high oil and gas occurrence potential (shown in Figure 5-1).

If the impacts from future oil and gas development were to exceed the impacts analyzed in the PRMP/FEIS, then, at the development stage, additional NEPA analysis for the development may be appropriate.

It is BLM’s policy to perform a review of planning decisions when new circumstances or information arise (BLM Handbook H-1601-1, pp. 37–44). The BLM typically performs these reviews as new information is available or on a 5-year evaluation schedule, whichever comes first. Should an amendment or revision of the resource management plan be necessary, BLM will follow all applicable laws and policies.

The RFD for the Central Coast PRMPA/FEIS estimates oil and gas activity at an appropriate level of detail.

NEPA – Supplemental EIS

Natural Resources Defense Council

Ann Alexander

Issue Excerpt Text: Adoption and implementation of the RMPA on the current record would violate the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. Specifically, the introduction and selection of the new Alternative F, which significantly differs from any action alternative proposed in the Draft Environmental Impact Statement (DEIS), required issuance of a Supplemental Environmental Impact Statement (SEIS) to ensure meaningful public participation.

Natural Resources Defense Council

Ann Alexander

Issue Excerpt Text: FEIS, 2-2. Executive Order 13783 and Secretarial Order 3349 directed BLM to adopt policies that increase domestic energy production. *Id.* at 1. These policy mandates directly impacted the agency’s analysis of alternatives, and underpinned the creation and selection of Alternative F. *Id.* at 2-2. Because these orders were issued after the comment period closed, the public has not had an opportunity to comment on the environmental impacts of Alternative F in the context of this new policy landscape. The public could not have anticipated that such a policy shift would result in BLM’s decision create and select Alternative F. Accordingly, Alternative F is beyond the scope of what the public could have “reasonably anticipated,” and underscores the need for an SEIS. Block, 690 F.2d at 772. Thus, the addition of Alternative F to the FEIS without opportunity for comment violates NEPA because BLM has not been able to ascertain the public’s perspective on the proposed alternative grounded in the energy development mandate.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM has completely failed to analyze the impacts to biological resources, air quality, visual resources, social and economic conditions, and hazards and hazardous materials presented by the sudden introduction of Alternative F, which would allow oil and gas development in areas leased or sold for recreation and other public purposes, including leases containing critical habitat for listed species. Not only has BLM completely failed to analyze the impacts, it denied the public the opportunity to comment on the potential impacts also. BLM cannot avoid the need to prepare and circulate a supplemental EIS on the basis that it has, or will, internally analyze in the new and different impacts of the new Preferred Alternative. “[P]ost-EIS analysis-conducted without any

input from the public-cannot cure deficiencies in an EIS.” BLM must prepare a further supplemental EIS, including circulating a draft for public comment, analyzing the impact of removing NSO stipulations from Recreation & Public Purpose leases and ACECs.

Natural Resources Defense Council

Ann Alexander

Issue Excerpt Text: Here, BLM’s new preferred alternative, Alternative F, falls outside “the range of alternatives the public could have reasonably anticipated” because it combines criteria for making land open to gas leasing in a way that was not considered in the DEIS. See *California v. Block*, 690 F.2d 753, 772 (9th Cir. 1982). As in *Block*, where the court found that new combinations of decisional criteria triggered an SEIS requirement, here, BLM proposes a new combination of criteria for opening land for oil and gas leasing. *Id.*; FEIS at 2-19 (2019).

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: As noted, “any proposed federal action involving unresolved conflicts as to the proper use of resources triggers NEPA’s consideration of alternatives requirement” regardless whether an EIS is also required. *Bob Marshall Alliance*, 852 F.2d at 1229. Here, the RMPA “cannot be divorced from post-leasing exploration, development, and production,” and therefore “involves unresolved conflicts concerning alternative uses of available resources.” *Id.* at 1229. Where, as here, an EIS is also required, the duty to consider a reasonable range of alternatives is all the greater. 42 U.S.C. § 4332(2)(C)(iii); *Bob Marshall Alliance*, 852 F.2d at 1228-1230. “NEPA therefore requires that alternatives - including the no-leasing option - be given full and meaningful consideration.” *Id.* at 1229.

Summary:

The issuance of Executive Order 13783 and Secretarial Order 3349 constitute “new circumstances or information” that require a Supplemental EIS. Additionally, BLM’s introduction of the new Alternative F falls outside the range of alternatives the public could have reasonably anticipated and therefore requires preparation of a Supplemental EIS.

Response:

NEPA requires agencies to prepare supplements to either a draft or final EIS if the agency makes substantial changes to the proposed action that are relevant to environmental concerns or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)). “Substantial changes” in the proposed action relevant to environmental concerns are changes that would result in significant effects outside the range of effects analyzed in the draft or final EIS (BLM Handbook H-1790-1, p. 29). A supplemental environmental impact statement may also be required when a new alternative is added that is outside the spectrum of alternatives already analyzed and not a variation of an alternative, or a combination of alternatives already analyzed (BLM Handbook H-1790-1, p. 29).

Executive Order 13783, Promoting Energy Independence and Economic Growth (signed March 28, 2017) and Secretarial Order 3349, American Energy Independence (signed March 29, 2017) do not constitute “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts” (40 CFR 1502.9(c)). The Orders reiterate the BLM’s mission and policies, including the FLPMA of 1976, the MMP Act of 1970, and the BLM Land Use Planning Handbook 1601-1, for the responsible development of the nation’s oil and gas resources.

The BLM has made no substantial changes to the proposed plan that are relevant to environmental concerns in the Central Coast PRMP/FEIS for Oil and Gas Leasing and Development. The BLM has determined that there are no new significant circumstances or information relevant to environmental concerns bearing on the proposed plan or its impacts:

Incorporation of Alternative F into the Central Coast PRMPA/FEIS includes components of the alternatives analyzed in the Draft RMPA/EIS. Taken together, these components present a suite of management decisions already analyzed namely in Alternative A of the Draft RMPA/EIS and are qualitatively within the spectrum of alternatives analyzed. Therefore, the BLM has determined that the Central Coast PRMPA/FEIS Alternative F is a minor variation of identified alternatives and that its impacts would not affect the human environment in a substantial manner or to a significant extent not already considered in the EIS. The impacts disclosed in the Central Coast PRMPA/FEIS are similar or identical to those described in the Draft RMPA/EIS (PRMPA/FEIS, Section 1.7, pp. 1–10).

The BLM is not required to prepare a supplemental EIS.

Range of Alternatives – No Leasing Alternative

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: Because the purpose and need statement leaves open the possibility of a no-lease alternative, and that alternative is required for analysis under NEPA, the FEIS’ failure to analyze a no-lease alternative in detail violates NEPA.

North Coast Rivers Alliance

Name Withheld as Confidential

Issue Excerpt Text: Because BLM must consider a reasonable range of alternatives that consider not just the RMPA’s proposed commitment of public resources to private oil and gas development, but also full protection of the affected environment, the FEIS’ failure to analyze both a no-lease alternative and an alternative that considers limitations on well stimulation violates NEPA. 40 C.F.R. § 1502.14. Contrary to the FEIS’ claim that it need not consider these alternatives, as noted FLPMA and the Minerals and Mining Policy Act of 1970 require that these alternatives be considered. FEIS 2-24 to 2-25; FEIS Appendix I, I-24; 43 U.S.C. §§ 1701, 1702; 30 U.S.C. §21(a). Without such consideration, BLM fails to meet the mandates set forth in these laws for consideration of all reasonable uses consistent with the governing laws, including environmental preservation.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM’s refusal to analyze an alternative that would restrict well stimulation on federal mineral estate is unreasonable, and thereby a violation of NEPA.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM’s alternatives analysis was inadequate in that it refused to consider any alternative that would meaningfully reduce the environmental impacts of oil and gas production. It refused to consider closing acreage that would meaningfully reduce environmental impacts, and refused to analyze alternatives that would prevent the most dangerous and harmful oil and gas extraction methods being used to extract federal mineral estate. No alternative in the FEIS meaningfully deviates from continued business-as-usual oil and gas drilling levels presented by the “no action” alternative. Although the alternatives purport to open different percentages of federal land and mineral estate to drilling, altering these percentages does not appreciably change oil and gas development scenarios. In all alternatives but Alternative B, BLM relied on the same RFDS.65 In Alternative B, which opens only 5.37% of the acreage open under Alternative A (the “no action”

alternative) and Alternative F (the Preferred Alternative), BLM predicts a reduction in development of five fewer wells,⁶⁶ as compared to Alternative A or Alternative F. Accordingly, the Bureau’s oil and gas alternatives are substantively identical to one another, insofar as they all result in essentially the same level of future oil and gas activities within the decision area. None of the alternatives identified result in any meaningful difference in environmental impact. This undermines the very purpose of the alternatives analysis, to “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed action in comparative form, so as to provide a “clear basis for choice among the options” open to the agency.

Sierra Club

Diana Dascalu-Joffe

Issue Excerpt Text: BLM has provided no basis in law or fact to dismiss outright all no-leasing or reduced-leasing alternatives. In addition to refusing to consider an no-leasing alternative, or alternatives that would meaningfully reduce the acreage of public land and mineral estate available for lease, BLM further unlawfully refused to analyze in detail any such alternatives that would ban the use of well stimulation technologies on federal mineral estate or ban the use of enhanced oil recovery methods (“EOR”) methods on federal mineral estate, including the 14 leases subject to the settlement agreement. BLM’s justification for refusing to analyze a prohibition on well stimulation was again that it would not satisfy the BLM’s multiple-use responsibilities under FLPMA.⁸¹ But as explained above, BLM’s obligation to manage lands for multiple use does not mean that development must be allowed on a particular piece of public lands.⁸² Oil and gas development is but one possible use, which BLM must weigh against other possible uses- including conservation to protect environmental values-which are best assessed through the NEPA process.⁸³ BLM also asserts that it does not have authority to deny all future well stimulation technology because that would not be the “least restrictive constraint to meet the resource protection objective.”⁸⁴ Imposition of the least restrictive constraint to meet a resource protection objective is a policy,⁸⁵ not a law, and does not deprive BLM of any authority to prohibit extraction methods, such as well stimulation or EOR, that are demonstrably harmful to air, climate, water, biological resources and human health. BLM cannot abdicate its legal obligation to analyze a reasonable range of alternatives.

Summary:

BLM should have considered a no leasing or reduced leasing alternative, or at least an alternative that bans the use of enhanced recovery/well stimulation technologies.

Response:

An alternative may be eliminated from detailed study if it is determined not to meet the proposed action’s purpose and need; determined to be unreasonable given the BLM mandates, policies, and programs; is substantially similar in design to an alternative that is analyzed; its implementation is speculative or remote; or it is technically or economically infeasible (BLM Handbook H-1790-1, Section 6.6.3). The agency must also briefly discuss the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14).

The BLM considered the noted alternatives and documented the reason for dismissing them from detailed study in Section 2.13, and specifically Sections 2.13.3, 2.13.4, and 2.13.5 of the Central Coast PRMP/FEIS for Oil and Gas Leasing and Development.

As noted in Sections 2.13.4 and 2.13.5, the BLM considered two alternatives related to closing all lands to oil and gas leasing, one that would close all lands except for existing leases and one that would close all lands throughout the planning area. These alternatives would be contrary to BLM’s mission and policies, including the FLPMA of 1976, the MMP Act of 1970, and the BLM Land Use

Planning Handbook 1601-1, which dictate management of public lands for multiple uses and encourage energy development. The PRMPA/FEIS brought forward alternatives that considered closing areas to leasing within the CCFO Planning Area in order to protect sensitive resources, but it is not necessary to close all lands to leasing or closing all lands except existing leases.

Section 2.13.3 describes BLM's consideration of an alternative that would ban the use of WSTs and provides the rationale for its dismissal. "This alternative was eliminated from further consideration because while BLM has the authority to deny individual permits, it does not have authority to deny all future WSTs. Rather, BLM has a responsibility under the FLPMA to act as a steward for the development, conservation, and protection of Federal lands, by implementing multiple use principles, and recognizing, among other values, the Nation's need for domestic sources of minerals from the public lands. A ban or moratorium would not satisfy the BLM's multiple-use responsibilities under the FLPMA." Additionally, the BLM Land Use Planning Handbook H-1601-1 states that, for oil and gas decisions, "[w]hen applying leasing restrictions, the least restrictive constraint to meet the resource protection objective should be used" (BLM, 2005, Appendix C, pg. 24). An alternative banning well stimulation technologies in the Plan Area would be inconsistent with the basic policy objectives for management of oil and gas resources in BLM" (pp. 2–14).

The BLM properly considered all alternatives submitted by the public and complied with NEPA and BLM policy when dismissing certain alternatives from detailed analysis.

Protesting Party Index – No Standing

Note: Two hundred seventy-two individuals without standing requested their names be withheld as confidential. These individuals are not listed in the Protesting Party Index – No Standing.

Protester	Organization	Determination
Sara Clarenback	N/A	Dismissed – No Standing
David McNussen	N/A	Dismissed – No Standing
Lynn McNussen	N/A	Dismissed – No Standing
Wendy King	N/A	Dismissed – No Standing
Nancy Harby	N/A	Dismissed – No Standing
Gillian Pasillo	N/A	Dismissed – No Standing
Kathleen Caldwell	N/A	Dismissed – No Standing
Susan Cameron	N/A	Dismissed – No Standing
Pamela Bordisso	N/A	Dismissed – No Standing
Terry Ross	N/A	Dismissed – No Standing
Kate Schmidt	N/A	Dismissed – No Standing
Justine Schneider	N/A	Dismissed – No Standing
Marla Wilson	N/A	Dismissed – No Standing
Christine Hanson	N/A	Dismissed – No Standing
Jenine Davison	N/A	Dismissed – No Standing
Karen Yapp	N/A	Dismissed – No Standing
<i>Name Withheld</i>	Ordina Progressive Action Alliance	Dismissed – No Standing
Shawn McMurdo	N/A	Dismissed – No Standing
Vrinda Manglik	N/A	Dismissed – No Standing
Jennifer Balboni	N/A	Dismissed – No Standing
Brian Robinson	N/A	Dismissed – No Standing
Ingrid Hogle	N/A	Dismissed – No Standing
Alan Phillips	N/A	Dismissed – No Standing
Carolyn Knoll	N/A	Dismissed – No Standing
Nancy Hu	N/A	Dismissed – No Standing
Jennifer Thuman	N/A	Dismissed – No Standing
Paula Israel	N/A	Dismissed – No Standing
John Garcia	N/A	Dismissed – No Standing
Judy Cassada	N/A	Dismissed – No Standing
<i>Withheld Name</i>	Santa Cruz Climate Action Network	Dismissed – No Standing
Edward Weingold	N/A	Dismissed – No Standing
Robert Genco	N/A	Dismissed – No Standing
Karen Kroslowitz	N/A	Dismissed – No Standing
Colette Rabin	N/A	Dismissed – No Standing
Christine Saling	N/A	Dismissed – No Standing
Jeffrey Smedberg	N/A	Dismissed – No Standing
Paul Martin	N/A	Dismissed – No Standing
Emily Chorba	N/A	Dismissed – No Standing
Megan Morais	N/A	Dismissed – No Standing
Patricia Varela	N/A	Dismissed – No Standing
David Allen	N/A	Dismissed – No Standing
Denise Forant	N/A	Dismissed – No Standing

Protester	Organization	Determination
Karin Fisher-Golton	N/A	Dismissed – No Standing
Sylvia Patience	N/A	Dismissed – No Standing
Michael Don Carlos	N/A	Dismissed – No Standing
Anne Sopira	N/A	Dismissed – No Standing
Doug Wright	N/A	Dismissed – No Standing
Stephanie Caronna	N/A	Dismissed – No Standing
Kristina Wolf	N/A	Dismissed – No Standing
James Kleck	N/A	Dismissed – No Standing
Louis Arbanas	N/A	Dismissed – No Standing
John Pawloski	N/A	Dismissed – No Standing
Pamela Gleitsman	N/A	Dismissed – No Standing
Nancy Runyon	N/A	Dismissed – No Standing
Aleta Schnaitter	N/A	Dismissed – No Standing
Claire Pockell-Wilson	N/A	Dismissed – No Standing
Barbara Dallas	N/A	Dismissed – No Standing
Linda Flower	N/A	Dismissed – No Standing
Brian Robinson	N/A	Dismissed – No Standing
Bruce McConnell	N/A	Dismissed – No Standing
Nathaniel English	N/A	Dismissed – No Standing
Kellie Collier	N/A	Dismissed – No Standing
Patricia Holbert	N/A	Dismissed – No Standing
Alicia Steinhardt	N/A	Dismissed – No Standing
Paula Mack	N/A	Dismissed – No Standing
<i>Name Withheld</i>	Womens International League for Peace and Freedom, Santa Cruz Branch	Dismissed – No Standing
Chris House	N/A	Dismissed – No Standing
Alan Marling	N/A	Dismissed – No Standing
Katharine Travers	N/A	Dismissed – No Standing
Stephen Pappas	N/A	Dismissed – No Standing
Louise Bouchard	N/A	Dismissed – No Standing
Ligaya MacGregor	N/A	Dismissed – No Standing
Ann Hanham	N/A	Dismissed – No Standing
Michael Fligner	N/A	Dismissed – No Standing
Michael Kelly	N/A	Dismissed – No Standing
Lesley Noble	N/A	Dismissed – No Standing
Douglas Hull	N/A	Dismissed – No Standing
Anna Ippolito	N/A	Dismissed – No Standing
Cecilia Minalga	N/A	Dismissed – No Standing
Sandra Novales	N/A	Dismissed – No Standing
Terence Pershall	N/A	Dismissed – No Standing
Cindy Oliver	N/A	Dismissed – No Standing
Pegi Rios	N/A	Dismissed – No Standing
Kevin Zamzow-Pollock	N/A	Dismissed – No Standing
Robert Davis	N/A	Dismissed – No Standing
Susan Becker	N/A	Dismissed – No Standing
Jason Gordon	N/A	Dismissed – No Standing

Protester	Organization	Determination
Angela Castellano	N/A	Dismissed – No Standing
Alicia Ocegüera	N/A	Dismissed – No Standing
John Citrino	N/A	Dismissed – No Standing
Robin Spring	N/A	Dismissed – No Standing
Ryan Van Lenning	N/A	Dismissed – No Standing
Taavi Kuusik	N/A	Dismissed – No Standing
Susan King	N/A	Dismissed – No Standing
Charis Arlett	N/A	Dismissed – No Standing
Carol Edgerton	N/A	Dismissed – No Standing
Anita John	N/A	Dismissed – No Standing
Ilene Feinman	N/A	Dismissed – No Standing
Thomas Haxton	N/A	Dismissed – No Standing
Meghan Hanebutt	N/A	Dismissed – No Standing
Ralph Wehunt	N/A	Dismissed – No Standing
Bathsheba Birman	N/A	Dismissed – No Standing
Donna Yee	N/A	Dismissed – No Standing
Bruce Ohlson	N/A	Dismissed – No Standing
Derrick McCray	N/A	Dismissed – No Standing
Kenji Yamada	Concord Communities Alliance	Dismissed – No Standing
Kathryn Hardy	N/A	Dismissed – No Standing
Nancy Evans	N/A	Dismissed – No Standing
Donna Yee	N/A	Dismissed – No Standing
Gretchen Hillard	N/A	Dismissed – No Standing
Lauren Babb	N/A	Dismissed – No Standing
Kelly Doughty	N/A	Dismissed – No Standing
Robert McFarland	N/A	Dismissed – No Standing
Tamyra Rice	N/A	Dismissed – No Standing
Alexander Tolkach	N/A	Dismissed – No Standing
Erica Jones	N/A	Dismissed – No Standing
Greg Brown	N/A	Dismissed – No Standing
Vijaya Krishna Koppolu	N/A	Dismissed – No Standing
John Romankiewicz	N/A	Dismissed – No Standing
Emily Leoni	N/A	Dismissed – No Standing
John Schultz	N/A	Dismissed – No Standing
Teresa Derdarian	N/A	Dismissed – No Standing
Louise Gee	N/A	Dismissed – No Standing
Diana Haslam	N/A	Dismissed – No Standing
Shirley Shelangoski	N/A	Dismissed – No Standing
Betsy Blakeslee	N/A	Dismissed – No Standing
<i>Name Withheld</i>	Save Palo Alto's Groundwater	Dismissed – No Standing
Linda Riebel	N/A	Dismissed – No Standing
Ben Rice	N/A	Dismissed – No Standing
Ben Rice	N/A	Dismissed – No Standing
Neerav Mehta	N/A	Dismissed – No Standing
Karolina Park	N/A	Dismissed – No Standing
John Porcella	N/A	Dismissed – No Standing
Susan Harvey	N/A	Dismissed – No Standing

Protester	Organization	Determination
Graham Huey	N/A	Dismissed – No Standing
Edward Hillard	N/A	Dismissed – No Standing
<i>Name Withheld</i>	Santa Cruz Friends In Unity With Nature Committee	Dismissed – No Standing
Gary Whitten	N/A	Dismissed – No Standing
Laurie Emery	N/A	Dismissed – No Standing
Quentin Freeman	N/A	Dismissed – No Standing