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21 **UNITED STATES DISTRICT COURT**
22 **DISTRICT OF NEVADA**

23	CENTER FOR BIOLOGICAL DIVERSITY,)	Case No. 2:14-cv-226-APG-VCF
24)	
25	Plaintiff,)	Consolidated with 2:14-cv-228-APG-VCF
26)	
27	v.)	
28)	DEFENDANTS' MOTION FOR
29	UNITED STATES BUREAU OF LAND)	SUMMARY JUDGMENT ON THE
30	MANAGEMENT, <i>et al.</i> ,)	CLAIMS BROUGHT BY PLAINTIFFS
31)	CENTER FOR BIOLOGICAL
32	Defendants,)	DIVERSITY AND WHITE PINE
33)	COUNTY ET AL.
34	and)	
35)	
36	SOUTHERN NEVADA WATER AUTHORITY,)	
37)	
38	Defendant-Intervenor.)	

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WHITE PINE COUNTY, *et al.*,)
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Plaintiff,)
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v.)
)
UNITED STATES BUREAU OF LAND)
MANAGEMENT, *et al.*,)
)
Defendants,)
)
and)
)
SOUTHERN NEVADA WATER AUTHORITY,)
)
Defendant-Intervenor.)

1 Defendants U.S. Bureau of Land Management (“BLM”) *et al.*, hereby respectfully move
2 for summary judgment on all of the claims brought by Plaintiffs Center for Biological Diversity
3 and White Pine County *et al.* The Center for Biological Diversity brought seven claims for
4 relief:

5 (1) FIRST CLAIM: The BLM Violated NEPA in Failing and Refusing to Prepare a
6 Supplemental EIS for the Groundwater Project;

7 (2) SECOND CLAIM: The BLM Violated NEPA in Preparing the EIS and Authorizing
8 the Groundwater Project;

9 (3) THIRD CLAIM: The BLM Violated NEPA by Failing to Consider the Combined
10 Impacts of the Proposed Action and Climate Change in the EIS;

11 (4) FOURTH CLAIM: The BLM Violated NEPA in Authorizing the Groundwater
12 Project by Failing to Consider and Disclose Compliance with the Clean Water Act Section
13 404(b) Guidelines and Compensatory Mitigation Rule;

14 (5) FIFTH CLAIM: BLM Violated FLPMA by Authorizing A Permanent Right-of-Way
15 In White Pine County;

16 (6) SIXTH CLAIM: The Groundwater Project in White Pine County Violates FLPMA’s
17 Mandate to Manage the Public Lands Under Principles of Multiple Use and Sustained Yield; and

18 (7) SEVENTH CLAIM: The BLM Failed to Demonstrate Compliance with the Ely
19 District Resource Management Plan for the Groundwater Project in White Pine County, in
20 Violation of FLPMA. *See* Center for Biological Diversity’s Am. Compl. at 22-32.

21 White Pine County *et al.* brought fourteen claims for relief:

22 (1) FIRST CLAIM FOR RELIEF: Violation of NEPA (Defendants Failed to Adequately
23 Evaluate the Purpose and Need for the Clark, Lincoln, and
24 White Pine Counties Groundwater Development Project);

25 (2) SECOND CLAIM FOR RELIEF: Violation of NEPA (Defendants Failed to Consider
26 a Reasonable Range of Alternatives to the Clark, Lincoln, and
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1 White Pine Counties Groundwater Development Project);

2 (3) THIRD CLAIM FOR RELIEF: Violation of NEPA (Defendants' Decision to Tier
3 Site Specific Impacts Analyses Violates NEPA);

4 (4) FOURTH CLAIM FOR RELIEF: Violation of NEPA (Defendants Failed To Take A
5 Hard Look At Impacts To The Environment);

6 (5) FIFTH CLAIM FOR RELIEF: Violation of NEPA (The Public Participation Process
7 for Comment Was Inadequate);

8 (6) SIXTH CLAIM FOR RELIEF: Violation of NEPA (Defendants Failed To Prepare
9 Supplemental NEPA Analyses);

10 (7) SEVENTH CLAIM FOR RELIEF: Violation of FLPMA (Defendants Failed To
11 Prevent Unnecessary and Undue Degradation and Damage to the;
12 Environment)

13 (8) EIGHTH CLAIM FOR RELIEF: Violation of FLPMA (Failure to Ensure
14 Consistency of GWD Project, as Approved Under the ROD and Final EIS, with Ely District
15 RMP);

16 (9) NINTH CLAIM FOR RELIEF: Violation of FLPMA (Failure To Ensure Compliance
17 with Applicable Air Quality Standards);

18 (10) TENTH CLAIM FOR RELIEF: Violation of Binding Federal Policy (Defendants
19 Violated Binding Federal Policy that Requires an Applicant to Demonstrate the
20 Financial Capability to Construct, Operate, Maintain, and Terminate Its Project);

21 (11) ELEVENTH CLAIM FOR RELIEF: Violation of BLM's Trust Responsibility to
22 Indian Tribes in Carrying out its Statutory Duties under FLPMA, NEPA, and the NHPA
23 (Defendants Failed to Carry Out their Trust Responsibilities to Indian Tribes in Fulfilling their
24 Enhanced Statutory Duties Under Federal Law);

25 (12) TWELFTH CLAIM FOR RELIEF: Violation of NHPA (Defendants Failed to Fulfill
26 Section 106 Tribal Consultation Requirements);

1 (13) THIRTEENTH CLAIM FOR RELIEF: Violation of Reserved Water Rights
2 (Defendants Failed to Fulfill Their Duties to Protect Tribal Federally Reserved Water Rights by
3 Analyzing Impacts to Those Rights Under Federal Law); and

4 (14) FOURTEENTH CLAIM FOR RELIEF: Violation of Right to Freedom of Religion
5 by Tribes and Tribal Members (Defendants Failed to Adequately Evaluate and Mitigate Impacts
6 to Tribal Ceremonial and Religious Practices, Including Sacred Sites, as Required under Federal
7 law). *See White Pine County et al.*'s Compl. at 47-74.

8 The Court dismissed *White Pine County et al.*'s Eleventh Claim for Relief. *See Order*
9 *Reinstating Motion to Dismiss, and Partially Granting and Partially Denying that Motion* at 4
10 (ECF No. 62). Defendants move for summary judgment on all remaining claims for the reasons
11 set forth in the attached memorandum in support.

12 Respectfully submitted this 26th day of February, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND MEMORANDUM IN SUPPORT** with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

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Dated this 26th day of February, 2016.

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