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**VIA ELECTRONIC SUBMISSION**

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**RE: Comments on Draft Bakersfield Field Office Oil and Gas Leasing and Development Supplemental Environmental Impact Statement, Docket No. DOI-BLM-CA-C060-2025-0053-EIS**

Dear Ms. Matthews:

We are writing on behalf of Center for Biological Diversity, Central California Environmental Justice Network, Los Padres ForestWatch, National Parks Conservation Association, Sierra Club, The Wilderness Society, CalWild, Environmental Defense Center, Friends of the Earth, and Natural Resources Defense Council to comment on the U.S. Bureau of Land Management's (BLM's) Draft Bakersfield Field Office Oil and Gas Leasing and Development Supplemental Environmental Impact Statement, dated December 10, 2025 (Draft 2025 SEIS).

As discussed below, the Draft 2025 SEIS and BLM's decision therein to affirm the underlying 2014 Bakersfield Resource Management Plan (2014 RMP) without amendment and to carry forward the 2019 Record of Decision (2019 ROD) without adequate reconsideration violates the requirements of the Clean Air Act (CAA), Clean Water Act (CWA), Endangered Species Act (ESA), Federal Land Policy and Management Act (FLPMA), Mineral Leasing Act (MLA), and National Environmental Policy Act (NEPA).

The 2014 RMP stems from a March 2008 notice of intent and rests largely on environmental review conducted between 2008 and 2012, with narrow (and inadequate) supplementation in 2019 on the issue of hydraulic fracturing (fracking). In other words, the bulk of the analysis underlying the 2014 RMP is at least 15 years old, well-surpassing its 10-year anticipated lifespan.<sup>1</sup>

The 2014 RMP encompasses 400,000 acres of federal land and 1.2 million acres of federal mineral estate across eight counties in California's southern Central Coast and Central

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<sup>1</sup> U.S. Bureau of Land Mgmt. (BLM), Bakersfield Field Office Draft Supplemental Environmental Impact Statement (Dec. 10, 2025) at 2 ("The [Reasonably Foreseeable Development Scenario] projected the exploration, drilling, and production activity that would likely occur in the next 10 years, the anticipated life of the 2014 RMP.") (hereafter "Draft 2025 SEIS").

Valley region, opening over 1 million acres of this surface land and mineral estate to extensive oil and gas leasing and development, including through use of dangerous and polluting fracking technologies. The idea that all key aspects of the 2014 RMP have remained static for 15 years is untenable.

For the reasons discussed herein, numerous aspects of the 2014 RMP are stale and warrant both an amendment to the RMP and a much broader SEIS. For example, over the past 15 years, a growing body of research has confirmed that communities living on the frontlines of oil and gas production are undergoing a public health crisis due to pollution exposure, particularly in the Bakersfield Planning Area. Based on this research, including preliminary findings<sup>2</sup> in 2021 by a blue-ribbon panel of public health experts convened by the California Department of Conservation’s Geologic Energy Management Division (CalGEM), California enacted Senate Bill 1137 (SB 1137) in 2022, precluding most new oil and gas development within 3,200 feet of sensitive receptors like homes, schools, and hospitals, including on federal lands. CalGEM’s Scientific Advisory Panel confirmed and elaborated on its preliminary findings in a detailed report released in June 2024, concluding “with a high level of certainty . . . that there is a causal relationship between close residential proximity to upstream oil and gas development and adverse perinatal and respiratory outcomes” “at distances of 1 km (3,281 ft) and beyond,” and that a “health-protective minimum surface setback. . . between upstream oil and gas operations and human receptors” of at least 3,281 feet “is critical to protect public health.”<sup>3</sup>

These significant public health and environmental justice developments postdate the 2014 RMP and all prior environmental analyses (e.g., the 2012 Final Environmental Impact Statement (2012 FEIS) and the 2019 Supplemental Environmental Impact Statement (2019 SEIS)). BLM must evaluate the updated science and align the RMP with California law to make clear, at a minimum, that areas within 3,200 feet of SB 1137 sensitive receptors are subject to that law’s general prohibitions on new drilling and rework permits. BLM must consider amending the RMP based on the scientific evidence independent of SB 1137 to consider closing areas within 3,200 feet of sensitive receptors to new leasing entirely.

Next, while the Draft 2025 SEIS gives lip service to the existence of California’s ban on fracking, the document goes on to analyze fracking in California as if it will continue to occur on federal lands, thereby improperly limiting the analysis and underestimating potential impacts from other oil and gas development. BLM must amend the 2014 RMP to make clear that operators must comply with state fracking laws, including the ban that is currently in effect.

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<sup>2</sup> Letter from Cal. Oil & Gas Public Health Rulemaking Scientific Advisory Panel, Response to CalGEM Questions (Oct. 1, 2021), [https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses\\_FINAL%20ADA.pdf](https://www.conservation.ca.gov/calgem/Documents/public-health/Public%20Health%20Panel%20Responses_FINAL%20ADA.pdf).

<sup>3</sup> Cal. Oil & Gas Public Health Rulemaking Scientific Advisory Panel, Public Health Dimensions of Upstream Oil and Gas Development in California: Scientific Analysis and Synthesis to Inform Science-Policy Decision Making (June 21, 2024) at ES-8 to ES-9, [https://www.conservation.ca.gov/calgem/Documents/Public%20Health%20Panel%20Final%20Report\\_20240621.pdf](https://www.conservation.ca.gov/calgem/Documents/Public%20Health%20Panel%20Final%20Report_20240621.pdf) (hereafter “CalGEM Scientific Advisory Panel Report”).

Additionally, while FLPMA and the CAA require all federal activity to conform to state implementation plans (SIPs) “to prevent the air quality impacts of federal actions from causing or contributing to a violation of the [National Ambient Air Quality Standards (NAAQS)] or interfering with the purpose of the [SIP],” newer data concerning the acceleration of the climate crisis throughout the state and deteriorating air quality in the San Joaquin Valley, in particular, underscores that the 2014 RMP will lead to the opposite result, especially with regard to particulate matter and ozone.

The Draft 2025 SEIS also contains only a narrow and limited discussion of biodiversity without including a number of newly listed or candidate species found throughout the Bakersfield Planning Area and likewise does not address new information reflecting greater-than-anticipated impacts to species previously discussed in the 2014 RMP.

Moreover, while the 2014 RMP, prior environmental analyses, and Draft 2025 SEIS defer significant environmental review to the application-for-permit-to-drill stage in BLM’s decisionmaking process, more recent litigation and policy changes have illustrated the need for complete and robust environmental analysis at the *current* planning stage, especially related to air pollution, public health, and environmental justice impacts in this overburdened region.

These examples represent just a handful of the significant changes discussed in these comments, which illustrate the need for BLM to amend the 2014 RMP and issue an updated SEIS that is broad enough to fully address the scope of the necessary amendments.

But even if it is proper for BLM to limit the Draft 2025 SEIS to fracking, which it is not, the fracking analysis is patently deficient in multiple respects, including its discussion of biological resources, air and atmospheric values, surface and groundwater resources, and soil resources; its decision that updated analysis of issues such as recreation and environmental justice is unwarranted; its attempt to defer environmental review; and its limited analysis of impacts on the parcels at issue in the 2020 lease sale in Bakersfield (2020 Lease Sale).

Given the pervasive legal deficiencies in BLM’s analysis, we urge the agency to halt this process greenlighting new and harmful oil and gas development in the Bakersfield region pending its compliance with federal and state law. As part of its revised environmental review, we likewise urge BLM to consider closing unleased federal surface and mineral acres in the Bakersfield Planning Area to oil and gas leasing and halting any planned expansion.

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**I. BLM’s environmental review for the 2014 RMP has failed to adequately analyze the environmental and public health impacts of the significant oil and gas development it authorizes in the Bakersfield Planning Area.**

BLM’s Bakersfield Field Office administers federal land and mineral estate within the Bakersfield Field Office’s “Planning Area”—an administrative geographic region of approximately 17 million acres of land stretching from the coastal islands in the Pacific Ocean across the Central Valley to the crest of the Sierra Nevada Range.<sup>4</sup> Within this Planning Area, the Bakersfield Field Office is directly responsible for the management of approximately 400,000 acres of public land and 1.2 million acres of subsurface mineral estate (the decision area).<sup>5</sup> The Planning Area ranges in character from coastal urban areas near Los Padres National Forest, to dry expanses in the San Joaquin Valley, to rugged hills in the Sierra bioregion.<sup>6</sup> BLM acknowledges the area offers rich public and private recreation sites for outdoor enthusiasts who enjoy the natural habitats and “extraordinary biodiversity.”<sup>7</sup> The area also includes numerous national parks and monuments, including Yosemite, Sequoia, and Kings Canyon National Parks; Sierra, Sequoia, and Los Padres National Forests; Giant Sequoia and Carrizo Plain National Monuments; and numerous popular wilderness and recreation areas.<sup>8</sup>

In December 2014, BLM issued its record of decision adopting its RMP for the Bakersfield Field Office decision area.<sup>9</sup> The 2014 RMP opened up 1,011,470 acres of land to oil and gas leasing and development, encompassing nearly eighty-five percent of the decision area.<sup>10</sup> This region is already the epicenter of oil and gas drilling in California.<sup>11</sup> Kern County alone is the source of 71 percent of the state’s oil and 78 percent of its natural gas.<sup>12</sup> Several of the largest oil fields in the country are also located in Kern County.<sup>13</sup> Residents in this region suffer from serious air and water pollution and water scarcity problems, and live on the frontlines of climate

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<sup>4</sup> BLM, Bakersfield Field Office Record of Decision & Approved Resource Management Plan (Dec. 2014) at I (hereafter “2014 RMP”).

<sup>5</sup> *Id.* at 1.

<sup>6</sup> BLM, Proposed Resource Management Plan & Final Environmental Impact Statement for the Bakersfield Field Office, Vol. 1 (Aug. 2012) at 217 (hereafter “2012 FEIS”).

<sup>7</sup> 2014 RMP at 2, 96–97; 2012 FEIS at 1, 217.

<sup>8</sup> 2012 FEIS at 235, 327, 590.

<sup>9</sup> 2014 RMP at pdf p. 7.

<sup>10</sup> *Id.* at 75.

<sup>11</sup> 2012 FEIS at 381.

<sup>12</sup> Kern Economic Development Foundation, The Economic Contribution of the Oil and Gas Industry in Kern County (Jan. 2021) at 1, [https://kernedc.com/wp-content/uploads/2021/04/KEDF-Economic-Contribution-of-the-Oil-and-Gas-Industry-in-Kern-County\\_-2021.pdf](https://kernedc.com/wp-content/uploads/2021/04/KEDF-Economic-Contribution-of-the-Oil-and-Gas-Industry-in-Kern-County_-2021.pdf).

<sup>13</sup> 2012 FEIS at 318.

change.<sup>14</sup> To make matters worse, many counties in the region have significant minority and low-income populations that are disproportionately impacted by pollution from industrial agriculture, heavy diesel truck traffic, and intensive oil and gas development.<sup>15</sup> BLM is therefore proposing additional oil and gas development in one of the most overburdened areas in the country.

In June 2015, two of the organizations on this letter, Center for Biological Diversity and Los Padres ForestWatch, challenged BLM’s decision for numerous legal deficiencies, including failing to analyze the environmental impacts of fracking authorized by the 2014 RMP.<sup>16</sup> In September 2016, the Central District of California agreed and held that BLM failed to adequately analyze the impacts of fracking, ordering the agency to prepare a SEIS “to examine the cumulative environmental impacts” of fracking “in a comprehensive manner[.]”<sup>17</sup> In May 2017, the court approved a settlement agreement in which the parties agreed to partial remand without vacatur of the record of decision adopting the 2014 RMP.<sup>18</sup> BLM agreed that pending its issuance of the new environmental review document considering the impacts of fracking, it would not hold any oil or gas lease sales within the decision area.<sup>19</sup>

But rather than comprehensively analyzing the impacts of the 2014 RMP, BLM issued an SEIS in 2019 that ignored thousands of public comments from community members and expert government agencies, drastically undercounted the number of wells likely to be fracked, ignored the health risks of fracking to the surrounding communities, and failed to grapple with evidence

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<sup>14</sup> See U.S. Env’t Prot. Agency (EPA), California Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants (current as of Feb. 28, 2026), [https://www3.epa.gov/airquality/greenbook/anayo\\_ca.html](https://www3.epa.gov/airquality/greenbook/anayo_ca.html); Am. Lung Ass’n, “State of the Air Report Card: Kern County” (2025), <https://www.lung.org/research/sota/city-rankings/states/california/kern>; Cal. Dep’t of Just. (Cal. DOJ), Comments on the December 2020 Oil and Gas Lease Sale Environmental Assessment of BLM’s Bakersfield Field Office (Sept. 25, 2020) at 13; State Water Res. Control Board (SWRCB), Report to the Legislature: Communities that Rely on a Contaminated Groundwater Source for Drinking Water (Jan. 2013), <https://www.waterboards.ca.gov/gama/ab2222/docs/ab2222.pdf>; 2012 FEIS at 291; Ctr. for Biological Diversity, Oil Stain: How Dirty Crude Undercuts California’s Climate Progress (Nov. 2017) at 1, [https://www.biologicaldiversity.org/programs/climate\\_law\\_institute/energy\\_and\\_global\\_warming/pdfs/Oil\\_Stain.pdf](https://www.biologicaldiversity.org/programs/climate_law_institute/energy_and_global_warming/pdfs/Oil_Stain.pdf).

<sup>15</sup> See 2012 FEIS at 388; Sierra Club, The \$23 Billion Question: What Created California’s Orphan and Idle Well Crisis (Dec. 2023) at 10–11, <https://www.sierraclub.org/sites/default/files/2023-12/Idle%20Wells%20Report.pdf>; see generally L. Zeise & J. Blumenfeld, CalEnviroScreen 4.0 (Oct. 2021).

<sup>16</sup> *Center for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 2:15-cv-04378-MWF/JEM (C.D. Cal., filed June 10, 2015).

<sup>17</sup> *ForestWatch v. U.S. Bureau of Land Management*, No. CV-15-4378-MWF, 2016 WL 5172009, at \*7 (C.D. Cal. Sept. 6, 2016).

<sup>18</sup> Order of Dismissal, *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 2:15-cv-04378-MWF/JEM (C.D. Cal. May 3, 2017).

<sup>19</sup> Settlement Agreement, *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 2:15-cv-04378-MWF/JEM (C.D. Cal. May 3, 2017).

that fracking can further pollute already scarce groundwater resources in the area. A diverse coalition of environmental justice, conservation, and business groups, including some of the organizations on this letter, once again brought suit against the 2019 SEIS in the Central District of California in *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 2:20-CV-00371 DSF (C.D. Cal., filed Jan. 14, 2020).

In December 2020, before the Central District could resolve the challenge to the 2019 SEIS, the agency barreled ahead with a lease sale in Kern County. This was the first lease sale in California in at least eight years, selling 4,133 acres of public land near Bakersfield.<sup>20</sup> Because BLM’s analysis of the sale’s impacts relied on the deficient analysis in the 2019 SEIS, without supplementing the analysis or correcting those deficiencies, several of the groups on this letter also challenged the lease sale in *Center for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:21-cv-00475-DAD-SAB (E.D. Cal., filed March 22, 2021).

BLM opened settlement discussions in both the challenge to the 2019 SEIS and the challenge to the 2020 Lease Sale and finalized agreements in July 2022 with a variety of commitments from the agency, including: new supplemental analyses for the 2014 RMP and 2020 Lease Sale, remand “to allow Federal Defendants to reconsider the 2019 ROD” and to “consider whether to amend the 2014 RMP,” improved public participation requirements that include Spanish translation and interpreters, and no new lease sales or permits to drill on the leases it sold until the new analyses are complete.<sup>21</sup> In response to the settlement, BLM released a scoping notice in June 2025, announcing its intention to prepare a new SEIS and potential RMP amendment,<sup>22</sup> and a number of the groups on this comment letter submitted scoping comments, as discussed further below.<sup>23</sup>

Our organizations have raised numerous legal deficiencies that have characterized each step of BLM’s planning process for the Bakersfield region and are deeply concerned that these issues continue to go unresolved, including now in the Draft 2025 SEIS.<sup>24</sup> We oppose any efforts by BLM to shirk proper analysis of drilling impacts at this critical stage of its oil and gas management process for the region. The agency must remedy the serious shortcomings in its

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<sup>20</sup> See BLM, “Oil & Gas Lease Sale” (Dec. 10, 2020), <https://eplanning.blm.gov/Project-Home/?id=1a4668bc-a7f2-f011-8407-001dd803dca7>.

<sup>21</sup> Stipulated Settlement Agreement, *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 2:20-cv-00371-DSF (C.D. Cal. July 31, 2022).

<sup>22</sup> 90 Fed. Reg. 26605 (June 23, 2025).

<sup>23</sup> Ctr. for Biological Diversity, Scoping Comments for Draft 2025 SEIS (July 23, 2025) (hereafter “Center Scoping Comments”); CalWild et al., Scoping Comments for Draft 2025 SEIS (July 23, 2025) (hereafter “CalWild et al. Scoping Comments”).

<sup>24</sup> See Ctr. for Biological Diversity et al., Comments on Applications for Permit to Drill in the Bakersfield Field Office, submitted to BLM (Dec. 18, 2025); Ctr. for Biological Diversity, Los Padres Forest Watch, and Sierra Club, Comments on Notice of Availability of the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental Environmental Impact Statement, California (June 10, 2019); Ctr. for Biological Diversity, Comments on 2014 RMP (Apr. 8, 2015).

2014 RMP and Draft 2025 SEIS in compliance with its statutory obligations under federal and state law.

## **II. BLM’s decisionmaking process for the Draft 2025 SEIS violates public participation requirements.**

Section 309(e) of FLPMA requires BLM to “give . . . the public adequate notice and an opportunity to comment upon . . . and to participate in . . . the management of[] the public lands.”<sup>25</sup> In addition, NEPA’s purpose is to ensure that an agency, “in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision.”<sup>26</sup> The Ninth Circuit recently held that NEPA requires BLM to provide public participation periods that are “sufficiently long to permit members of the public to weigh in on the decision in an informed manner” and “for participants to obtain and absorb the environmental information provided by the agency and then prepare their own analyses and critiques, including consultation with experts where appropriate.”<sup>27</sup>

BLM’s planning regulations similarly require transparency and rigorous public engagement by providing the public with opportunities to “meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities.”<sup>28</sup> These requirements include, but are not limited to, public notice of BLM planning actions, publication of relevant documents for review, and opportunity to provide written comments.<sup>29</sup>

Yet BLM’s decisionmaking process for the Draft 2025 SEIS has involved numerous delays, technical problems, and other failures that have limited opportunities for the public to review and comment on the document, contrary to FLPMA, NEPA, and other federal requirements as detailed below.

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<sup>25</sup> 43 U.S.C. § 1739(e); *see also* *Mont. Wildlife Fed’n v. Haaland*, 127 F.4th 1, 41 (9th Cir. 2025) (“That requirement applies even when dispensing with or constricting such participation would be more efficient.”).

<sup>26</sup> *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989).

<sup>27</sup> *Mont. Wildlife Fed’n*, 127 F.4th at 38, 40 (concluding BLM violated NEPA “when it eliminated in some instances and severely shortened in others the various public participation periods” for environmental documents like its EAs for certain oil and gas lease sales in the Western U.S.).

<sup>28</sup> 43 C.F.R. § 1610.2.

<sup>29</sup> *Id.*

**A. BLM’s sole public meeting and use of an undisclosed contractor for the Draft 2025 SEIS impeded public comment.**

On January 12, 2026, BLM provided notice of its intent to hold a public meeting at an unnamed date to be announced on BLM’s website for California.<sup>30</sup> Nevertheless, its initial registration link contained an erroneous date, calendaring the meeting as occurring in two days’ time, on January 14, 2026. Multiple people registered for the meeting during this initial time frame, including answering a required question during the registration process by indicating whether or not they intended to provide public comment. When BLM fixed the calendaring error, and re-calendared the meeting for February 3, 2026, the agency should have continued to treat anyone who had already registered and signaled their intent to give comment as registered and signed up to give comment at the corrected, February 3, 2026, meeting. Even so, when the actual meeting date arrived, multiple commenters who registered immediately following the meeting’s initial notice, when the date was calendared incorrectly, found that they had to amend their registrations before they could enter the meeting.

During the meeting, BLM only allowed those who, they claim, registered to speak prior to the meeting’s official 5:00 p.m. start time to give public comment. In doing so, those who registered early but amended their registrations as prompted prior to entering the meeting found themselves placed at the very back of the comment line, and BLM refused to allow those who were some of the first to register, yet found themselves joining the meeting a few minutes past 5:00 p.m., to speak. When called to BLM’s attention through the chat feature during the meeting, the agency claimed to have no knowledge of either its initial error in noticing the meeting or the fact that its registration system required re-registration and bumped early registrants from making comment.

The registration-related errors and BLM’s claimed lack of knowledge were likely compounded by the agency’s delegation of its notice and comment responsibilities to a third-party contractor—AECOM—whose use it only disclosed during the meeting itself,<sup>31</sup> contrary to BLM’s policy requiring EIS documents to disclose a contractor’s involvement through a conflict of interest disclaimer.<sup>32</sup> Here, the Draft 2025 SEIS contains no mention of AECOM or the involvement of any other contractor.

Moreover, the use, objectivity, and credibility of AECOM is questionable due to its embroilment in multiple financial scandals, such as a lawsuit alleging “that it violated the False Claims Act [] by knowingly submitting false claims to the Federal Emergency Management Agency [] for the replacement of certain educational facilities located in Louisiana that were

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<sup>30</sup> BLM, “Notice of Availability of the Draft Bakersfield Field Office Oil and Gas Leasing and Development Supplemental Environmental Impact Statement, California” (Jan. 12, 2026).

<sup>31</sup> See BLM, Bakersfield Field Office Supporting Text Draft Supplemental Environmental Impact Statement for Oil & Gas Development. Virtual Public Meeting Slides at 5 (Feb. 2026).

<sup>32</sup> BLM, National Environmental Policy Act Handbook H-1790-1 (Jan. 2008) at 124, [https://www.blm.gov/sites/blm.gov/files/uploads/Media\\_Library\\_BLM\\_Policy\\_Handbook\\_h1790-1.pdf](https://www.blm.gov/sites/blm.gov/files/uploads/Media_Library_BLM_Policy_Handbook_h1790-1.pdf).

damaged by Hurricane Katrina,” leading to an \$11.8 million settlement,<sup>33</sup> and a lawsuit alleging overbilling in connection with construction of a nuclear waste treatment plant to clean up the Hanford Nuclear Reservation, which led to a \$58 million settlement involving AECOM and another entity.<sup>34</sup>

These issues also fly in the face of recommendations by the U.S. Environmental Protection Agency (EPA) for BLM to “[p]rovid[e] ample notice of meetings and commenting opportunities so that community members have sufficient time to prepare and participate,” ensure any meetings are at an “accessible” time and location, and “[a]ddress[] technology barriers that may prohibit participation from affected communities.”<sup>35</sup>

**B. BLM should have provided 90 days for public comment and must reopen the comment period per regulatory requirements.**

On January 23, 2026, the Center for Biological Diversity and other organizations submitted a letter requesting that BLM extend the comment period for this matter from 45 to 90 days in accordance with 43 C.F.R. § 1610.2(e). Per that regulation, BLM must provide 90 days for public comment on RMP draft EISs. The 90-day period begins when EPA publishes a notice of the filing of the draft EIS in the Federal Register. The regulations do not provide that the comment period may be lessened when BLM considers, but then declines, to offer an RMP amendment. Instead, the 90 days is triggered by preparation of a draft EIS in relationship to an RMP.<sup>36</sup>

BLM declined the request for a 90-day comment period without commenting on its merits.<sup>37</sup> BLM must adhere to its regulations and reopen the public comment period for the required length of time.

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<sup>33</sup> U.S. Dept. of Just., “AECOM to Pay \$11.8 Million to Resolve False Claims Act Allegations in Connection with Hurricane Disaster Relief” (Oct. 24, 2023), <https://www.justice.gov/archives/opa/pr/aecom-pay-118-million-resolve-false-claims-act-allegations-connection-hurricane-disaster>.

<sup>34</sup> Nicholas K. Geranios, Or. Pub. Broad., “Hanford Contractors Agree to Pay \$58 Million Fine for Fraud” (Sept. 23, 2020), <https://www.opb.org/article/2020/09/23/bc-us-nuclear-site-corruption/>.

<sup>35</sup> EPA, Scoping Comments for Draft 2025 SEIS (July 23, 2025) at 10.

<sup>36</sup> See 43 C.F.R. § 1610.2(e) (“Ninety days shall be provided for review of the draft plan and draft environmental impact statement.”).

<sup>37</sup> Email from BLM\_CA\_BKFO\_OIL\_GAS\_SEIS@blm.gov re: [EXTERNAL] Extension request: BKFO and CCFO oil and gas comment periods (Jan. 27, 2026) (“The Bureau of Land Management (BLM) has received your request to extend the comment periods for the Central Coast and Bakersfield NEPA Draft Supplemental Environmental Impact Statements from 45 days to 90 days. The BLM will add 7 additional days to account for access interruptions caused by routine maintenance on our online NEPA register. The comment period will now close on March 13, 2026.”) (on file with recipient).

### **C. Poor design and malfunctioning of BLM’s National NEPA Register further interfere with public comment.**

We note that BLM’s recent redesign of its National NEPA Register (also known as ePlanning) has served to impede rather than foster public engagement. Prior to the redesign, members of the public could browse through all the documents associated with a particular docket by clicking through one at a time, viewing those documents in their Internet browsers, and choosing which content, if any, to download. They could likewise save a direct link to particular documents for ease of future reference. By contrast, the redesigned ePlanning platform forces users to automatically download every single document they click on and removes the option of copying and saving individual document-specific hyperlinks. Moreover, multiple commenters have reported periods of time during the instant public comment period when the link for submitting comments through the ePlanning platform was not working. Thus, while BLM touts the redesign as “making it easier than ever for the public and stakeholders to access planning documents and participate in land management decisions,” the opposite has proven to be true and BLM has failed to “[a]ddress[] technology barriers that may prohibit participation from affected communities” as EPA urged it to do.<sup>38</sup>

We urge BLM again to consider extending the comment period to account for these delays that are entirely due to problems on the agency’s end.

### **D. BLM must prioritize consultation with Tribal Nations and incorporate Indigenous knowledge into the planning process.**

Under FLPMA, BLM is required to involve Tribal Nations in land use planning “on a government-to-government basis” and ensure that Tribal concerns are given appropriate weight in public land decisions.<sup>39</sup> NEPA mandates that agencies take a hard look at the reasonably foreseeable environmental impacts on a wide range of resources, including cultural and historical resources, when evaluating federal actions.<sup>40</sup> Executive Order 13175 requires that agencies meaningfully consult and collaborate with Tribal officials in decisions that may impact their resources.<sup>41</sup> The agency has separate and important duties to protect certain values and engage with Tribal Nations under the National Historic Preservation Act, as well.<sup>42</sup> Consultation under these statutes is not fulfilled merely by documenting that communication occurred; rather, it must result in meaningful dialogue and the integration of Tribal input into project planning, analysis, and outcomes, beginning early in, and throughout, the planning process.

BLM’s Conservation and Landscape Health Rule (Public Lands Rule) clarifies and provides further details on BLM’s obligations to meaningfully consult with Tribal Nations under

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<sup>38</sup> BLM, “BLM unveils redesigned NEPA Register for easier public access” (Jan. 20, 2026), <https://www.blm.gov/blog/2026-01-20/blm-unveils-redesigned-nepa-register-easier-public-access>; EPA, Scoping Comments for Draft 2025 SEIS at 10.

<sup>39</sup> Exec. Order No. 13175, 65 Fed. Reg. 67249 (Nov. 6, 2000).

<sup>40</sup> 42 U.S.C. §§ 4331–32.

<sup>41</sup> Exec. Order No. 13175, 65 Fed. Reg. 67249 (Nov. 6, 2000).

<sup>42</sup> 54 U.S.C. §§ 300101–321.

FLPMA. The Public Lands Rule explicitly directs BLM to “[i]mprove engagement and co-stewardship of public lands with tribal entities and promote the use of Indigenous Knowledge in decision-making[.]”<sup>43</sup> In developing the Draft 2025 SEIS, the Public Lands Rule mandates that BLM respect and incorporate Indigenous Knowledge, which is recognized as a high-quality source of information, and identify opportunities for co-stewardship, particularly when managing for ecosystem resilience and intact landscapes and planning restoration actions.<sup>44</sup>

Departmental policy and regulations require consultation to occur on any actions that may have a substantial impact on any Tribes, such as reconsideration and potential amendment to the 2014 RMP, which involves Tribal homelands for multiple Tribes.<sup>45</sup> Meaningful consultation under these standards demands more than notice; BLM must engage in collaborative dialogue, protect sensitive information, and incorporate Tribal input into the alternatives and analyses.<sup>46</sup> The U.S. Department of the Interior (DOI) Manual chapter titled *American Indian and Alaska Native Programs* reinforces that bureaus must consult with Tribal Nations early in the planning process and give them ample time to participate on a government-to-government basis whenever a plan has Tribal implications.<sup>47</sup>

BLM must ensure the planning process is inclusive of any Tribal Nation that has or had at any time in the past historical or cultural ties to the extensive Planning Area, including the Yokut, Kawaiisu, Kitanemuk, Chumash, Salinan, Miwok, Mono, Tubatulabal, Tatataviam, Ohlone, Paiute, and Tongva peoples, as well as non-federally recognized Tribes that have inherent sovereignty of their ancestral homelands, and any Tribes who may not be captured in this list but whose ancestral homelands could be impacted by BLM’s proposal. Indigenous peoples have been the original caretakers of the lands and waters for millennia and continue to practice reciprocal relationships as part of their inherent right to Tribal sovereignty and relationships with nature. The expansion of fracking and any new oil and gas drilling will disrupt the stewardship that Tribal Nations in California practice to restore the damage caused by past and ongoing extractive systems. The current 45-day comment period is not an adequate amount of time for Tribal Nations to share their concerns, especially due to limited capacity.

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<sup>43</sup> 43 C.F.R. § 6101.2(i); *see also* U.S. Dep’t of the Interior (DOI), Departmental Responsibilities for Consideration and Inclusion of Indigenous Knowledge in Departmental Actions and Scientific Research, DOI Manual 301 DM 7 (Dec. 5, 2023) at 8 (directing all bureaus to include Indigenous Knowledge into RMPs and resource management actions), <https://www.doi.gov/document-library/departmental-manual/301-dm-7-departmental-responsibilities-consideration-and>.

<sup>44</sup> 43 C.F.R. §§ 6101.2(i), 6102.2(c)(3), 6102.3(d)(6), 6102.5(b)(6).

<sup>45</sup> 43 C.F.R. § 6102.5(b)(4).

<sup>46</sup> DOI, Procedures for Consultation with Indian Tribes, DOI Manual 512 DM 5 (Nov. 30, 2022) at 3 (“Providing notification (the distribution of information from one or more Departmental offices) to one or more Tribes of a Departmental action as a stand-alone effort is not consultation.”), <https://www.doi.gov/document-library/departmental-manual/512-dm-5-procedures-consultation-indian-tribes>.

<sup>47</sup> *Id.* at 1.

Beyond a short section stating BLM sent notification letters about the scoping period for the Draft 2025 SEIS to thirteen Tribes, the agency appears to have engaged in none of the meaningful consultation and collaboration required.<sup>48</sup> This is also the exact opposite of the guidance provided by EPA for BLM to complete:

1) a summary of the results of Tribal consultation that identifies the main concerns expressed by Tribes (if any), and how those concerns were addressed; 2) a description of how consultation influenced the decision making process, including the selected alternative and mitigation to avoid, minimize, or compensate for impacts to Tribes; and 3) a discussion of how the BLM would avoid or minimize or mitigate adverse effects on the physical integrity, accessibility, or use of cultural resources or archaeological sites, including traditional cultural properties, throughout the planning area.<sup>49</sup>

There is a long history of oil and gas drilling bringing devastating impacts to Native communities, including harm to potential sacred sites, air and water quality, public health, and the health of cultural keystone species Tribes rely on to practice and continue their culture. In light of these long-term negative consequences to Native health and sovereignty, BLM must do more to meaningfully engage Tribal Nations and incorporate their expertise and decisionmaking in this process.

### **III. BLM attempts to use the Draft 2025 SEIS to satisfy three different environmental review requirements, but its ambiguous and convoluted approach ultimately satisfies none of them.**

Beginning with the June 2025 scoping notice and continuing throughout the Draft 2025 SEIS, BLM has used inconsistent language and created confusion regarding the intended purpose and scope of its environmental review, impeding the public's ability to understand and comment on the Draft 2025 SEIS and reflecting a legally improper slapdash approach. BLM variously characterizes the Draft 2025 SEIS as (A) a hydraulic fracturing supplement to the 2012 FEIS, (B) a supplement to the Environmental Assessment for the 2020 Lease Sale (2020 Lease Sale EA), and (C) a reconsideration of the 2014 RMP's fluid minerals decisions and evaluation of a potential RMP amendment. Even so, BLM's Frankenstein method of combining discrete analyses in the Draft 2025 SEIS has produced a document that is inadequate in all three respects.

In particular, and as discussed further below, the Draft 2025 SEIS (A) focuses on fracking but does not grapple with key fracking-related developments in California, (B) sprinkles in halfhearted references to the 2020 Lease Sale while declining to update its analysis with regard to many lease sale-related issues, and (C) does not amount to meaningful reconsideration of the 2019 ROD or evaluation of the proper range of new information and changed policies relevant to BLM's decision on whether to amend the 2014 RMP.

The June 2025 scoping notice set up BLM's intent to prepare "a potential resource management plan (RMP) amendment . . . [to] analyze the impacts of oil and gas leasing and

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<sup>48</sup> Draft 2025 SEIS at 66–67.

<sup>49</sup> EPA, Scoping Comments for Draft 2025 SEIS at 11.

development on BLM-managed public land and mineral estate in the Bakersfield Field Office planning area[,]” and specifically invited broad “comments on all preliminary alternatives [from the 2014 RMP] as well as suggestions for additional alternatives[,]” stating that “[t]he issues may include but are not limited to air quality; water quality; special status species; archaeology; fluid mineral resources (oil and gas); and social and economic conditions.”<sup>50</sup> Accordingly, BLM set the expectation that it would consider all scoping comments relevant to a potential amendment to the 2014 RMP, as opposed to only considering scoping comments specific to fracking and the 2020 Lease Sale.

Consistent with the expectations BLM established in the June 2025 scoping notice, commenters, including a number of the undersigned organizations, offered a broad suite of reasons illustrating the need for reconsidering and amending the 2014 RMP and conducting broader NEPA review, including proffering new scientific information related to the impacts of: climate change; health harms from oil and gas drilling; air pollution in California, especially in the Central Valley; biological resources; and seismic impacts, along with information about relevant policy changes such as SB 1137 and Assembly Bill 342, and new federal policies designed to accelerate fossil fuel development. The undersigned organizations attach these comment letters and incorporate them by reference herein.

The Draft 2025 SEIS initially suggests a breadth of analysis consistent with the scoping notice by defining its purpose, in part, as to “determine whether changes are needed to the fluid minerals decisions in the 2014 RMP based on new information or changes in circumstance.”<sup>51</sup> Even so, the Draft 2025 SEIS later professes to bring forward non-fracking aspects of the 2014 RMP, 2012 FEIS, and 2019 SEIS.<sup>52</sup> In particular, while BLM purports to “consider[] new data from internal and external scoping addressing air quality, biological resources, soil, and water resources,”<sup>53</sup> it does so only in the context of fracking and not in the broader context of the 2014 RMP’s fluid minerals decisions. The Draft 2025 SEIS ignores the scoping comments discussed above, to the extent they advocate for reconsideration of the 2014 RMP and to the extent they offer new scientific information and policy changes in favor of an RMP amendment.

Despite the focus on fracking throughout most of the Draft 2025 SEIS, and BLM’s decision to ignore relevant scoping comments, BLM doubles down on suggesting that it has conducted a broader review. For example, while the Draft 2025 SEIS analyzes just a small subset of emissions from oil and gas development related to potential fracking, the Draft 2025 SEIS asserts more broadly “that emissions from oil and gas development are minor and are not expected to significantly affect regional air quality or public health.”<sup>54</sup>

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<sup>50</sup> 90 Fed. Reg. 26605, 26605 (June 23, 2025).

<sup>51</sup> Draft 2025 SEIS at ES-1 (reflecting BLM’s acknowledgement that a settlement agreement required it to “reconsider the 2014 Resource Management Plan’s (RMP) fluid minerals decisions”).

<sup>52</sup> *Id.* at 10–13, 15.

<sup>53</sup> *Id.* at ES-1.

<sup>54</sup> *Id.* at ES-2.

Likewise, the Draft 2025 SEIS concludes more broadly that its analysis “did not show [a] notable increase in total impacts” such that “an amendment to the 2014 RMP has been determined to be unnecessary,” and asserts that “this Draft Supplemental EIS documents that decision”—i.e., BLM’s decision not to amend the 2014 RMP.<sup>55</sup>

BLM further states that its final SEIS will lead to “a new decision document” that “will amend or supersede the 2019 Record of Decision (ROD) to the extent determined necessary or appropriate by Federal Defendants.”<sup>56</sup>

In other words, BLM appears to be trying to use a fracking-focused analysis to make a broad conclusion about the need for amendment, or lack thereof, to the 2014 RMP’s fluid minerals decisions, which were based on a multitude of issues and not just fracking. And BLM appears to be doing so while ignoring new scientific and policy information proffered by commenters that its regulations require it to consider in connection with RMP amendments.

For these reasons, the Draft 2025 SEIS fails to accomplish BLM’s stated purpose of reconsidering the 2014 RMP’s fluid minerals decisions and evaluating a potential amendment to the 2014 RMP.<sup>57</sup> There can be no true reconsideration of the 2014 RMP without a proper reopening of the underlying record on the full scope of issues raised by commenters,<sup>58</sup> which BLM must do based on its invitation in the scoping notice and the assertions in the Draft 2025 SEIS signaling the agency’s intent to reconsider the 2019 ROD.

Moreover, as discussed in the following section, the decision about whether to amend the 2014 RMP must be made based on a proper examination of new information and circumstances relevant to the Planning Area, viewed in connection with FLPMA’s “multiple use and sustained yield” and “unnecessary and undue degradation” requirements, and NEPA’s “hard look” mandate.

#### **IV. BLM must amend the 2014 RMP and issue a new SEIS that goes beyond fracking and fully accounts for new information and changed circumstances.**

FLPMA governs BLM’s management of public lands and sets forth requirements for RMPs and amendments thereto, in tandem with NEPA’s environmental review requirements. Consistent with FLPMA and NEPA, BLM must amend the 2014 RMP to address new information and changed circumstances and prepare a correspondingly thorough revision to the

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<sup>55</sup> *Id.* at ES-2, 13.

<sup>56</sup> *Id.* at 14.

<sup>57</sup> *Id.* at ES-1.

<sup>58</sup> *See, e.g., Edison Elec. Inst. v. U.S. EPA*, 996 F.2d 326, 332 (D.C. Cir. 1993) (holding that both an existing regulation and amendments to that regulation could be challenged where EPA solicited comments on both); *Env’t Prot. Info. Ctr. v. Pac. Lumber Co.*, 266 F. Supp. 2d 1101, 1123 (N.D. Cal. 2003) (treating underlying water pollution control regulation as reopened where EPA solicited comment on its intent impose new discharge limits related to that regulation); *SLPR, LLC v. U.S. Army Corps of Eng’rs*, No. 06 CV 1327 MMA (POR), 2011 WL 1648732, at \*4–6 (S.D. Cal. May 2, 2011) (treating a subsequent SEIS as reopening an earlier FEIS).

SEIS. The Draft 2025 SEIS improperly ignored scoping comments addressing such information and changes, and improperly defers a substantial portion of environmental review to later stages of the planning process.

In particular, a revised SEIS must address, and amendments to the 2014 RMP must reflect, new information and changed circumstances concerning the following topics: the 2025 Budget Reconciliation Act; an outdated reasonably foreseeable development scenario (RFDS); the growing public health crisis facing local communities in the Bakersfield Planning Area; air quality, including consistency review; climate change and greenhouse gas emissions; surface and groundwater resources; geologic and seismicity risks; impacts to sensitive species, and the ESA's consultation requirements; energy supply and demand; Wilderness, Areas of Critical Environmental Concern (ACECs), recreation and visual resources, and cultural resources; the growing idle and orphan well crisis; and consistency with management plans for adjacent field offices.

#### **A. BLM must comply with FLPMA in its management of public lands in the Bakersfield Planning Area.**

BLM has a fundamental statutory duty under FLPMA to manage the public lands “in a manner that that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values” and that “will preserve and protect certain public lands in their natural condition[.]”<sup>59</sup>

FLPMA requires BLM to conduct its operations and actions in a manner that balances protection of environmental and cultural resources with commercial uses, rather than simply prioritizing economic return. Indeed, FLPMA recognizes the importance of “the long-term needs of future generations[.]” including “the use of some land for less than all of the resources[.]” and “harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment[.]”<sup>60</sup> In other words, FLPMA’s plain language establishes that the protection of ecological and environmental values is a core management mandate, not a discretionary consideration.

BLM’s Public Lands Rule reaffirms and clarifies BLM’s obligations under FLPMA to conserve intact landscapes, maintain ecosystem resilience, and account for landscape-scale connectivity in land use planning.<sup>61</sup> The Rule recognizes that conservation is a “use” of the public lands on par with other uses.<sup>62</sup>

To effectuate FLPMA’s overarching policy of multiple use and sustained yield, including conservation and protection, BLM must develop and maintain RMPs that guide all subsequent implementation-level decisions on public lands.<sup>63</sup> In doing so, BLM must involve the public,

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<sup>59</sup> 43 U.S.C. § 1701(a)(8).

<sup>60</sup> 43 U.S.C. § 1702(c).

<sup>61</sup> 43 C.F.R. § 6102.1.

<sup>62</sup> 43 U.S.C. § 1702(c).

<sup>63</sup> 43 U.S.C. § 1702(c), § 1712(c)(1); 43 C.F.R. pt. 1610.

coordinate with Tribal Nations, and state and local governments, and ensure consistency with resource-related plans of other governmental jurisdictions.<sup>64</sup>

Additionally, in all planning and project-level decisions, BLM must prevent unnecessary or undue degradation of public lands.<sup>65</sup> This nondiscretionary duty applies on all public lands, not only those with special designations.

BLM likewise must follow specific criteria in the development and revision of RMPs, including applying an interdisciplinary scientific approach, giving priority to the designation and protection of ACECs, weighing long-term benefits to the public against short-term benefits, inventorying the public lands and their resources and values, and complying with pollution control laws, among others.<sup>66</sup>

The objective of resource management planning is “to maximize resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management[.]”<sup>67</sup> RMPs, and amendments and revisions, once adopted, project both the present and future uses of the land for decades, identifying which areas will be open to commercial leasing and development, and which areas will be protected.<sup>68</sup> FLPMA prohibits BLM from taking subsequent actions inconsistent with the provisions of final and approved RMPs.<sup>69</sup>

In sum, BLM must demonstrate that its approach to RMPs and amendments thereto is consistent with FLPMA’s purposes, engages the public and others in the process, gives full consideration to conservation values consistent with the Public Lands Rule, and ensures the alternative selected does not result in unnecessary or undue degradation of public lands.

#### **B. FLPMA requires BLM to consider amending the 2014 RMP based on new information and relevant policy changes.**

As noted above, BLM based its conclusion that “an amendment to the 2014 RMP has been determined to be unnecessary” on a narrow analysis limited to whether there were any “conflicts . . . between the estimated impacts of hydraulic fracturing and the resource or program management goals and objectives stated in the 2012 Proposed RMP.”<sup>70</sup> But this is not the right analysis for determining when an RMP amendment is necessary. Under FLPMA, BLM cannot

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<sup>64</sup> 43 U.S.C. 1712(a)–(b); 43 C.F.R. § 1610.3-1; *see also* 43 U.S.C. § 1712(c)(9).

<sup>65</sup> 43 U.S.C. § 1732(b).

<sup>66</sup> 43 U.S.C. § 1712(c).

<sup>67</sup> 43 C.F.R. § 1601.0-2.

<sup>68</sup> *See* 43 C.F.R. § 1601.0-5(n) (stating that RMPs establish “[l]and areas for limited, restricted or exclusive use[.]” “[a]llowable resource uses . . . and related levels of production or use to be maintained[.]” “[r]esource condition goals and objectives to be attained[.]” and “[p]rogram constraints and general management practices”).

<sup>69</sup> *See* 43 U.S.C. § 1732(a); 43 C.F.R. § 1610.5-3(a) (“All future resource management authorizations and actions . . . shall conform to the approved plan.”).

<sup>70</sup> Draft 2025 SEIS at ES-2.

zero in on one issue—fracking—as a reason for not amending, and avoid looking to see whether new data, policy, and circumstances relevant to other issues in the RMP support an amendment. Likewise, BLM’s analysis must be memorialized in a NEPA-compliant SEIS that addresses new information and changed circumstances.

First, “whenever resource management plans are changed in any meaningful way, the changes must be made via amendment (i.e., supported by scientific environmental analysis and public disclosure).”<sup>71</sup> BLM has an affirmative duty under FLPMA to “monitor[] and evaluat[e] the plan . . . as appropriate to determine whether there is sufficient cause to warrant amendment . . . of the plan.”<sup>72</sup> The regulations governing RMP amendments are “consistent with FLPMA’s requirement that BLM ensure the ‘views of the general public’ and ‘third-party participation’ are adequately incorporated into the land planning process.”<sup>73</sup>

Under FLPMA, “[a]n amendment *shall* be initiated by the need to consider monitoring and evaluation findings, new data, new or revised policy, a change in circumstances or a proposed action that may result in a change in the scope of resource uses or a change in the terms, conditions and decisions of the approved plan.”<sup>74</sup> In particular, “BLM *must* amend a management plan when an action is proposed that changes either ‘the scope of resource uses’ or the ‘terms, conditions and decisions’ of the plan.”<sup>75</sup> Likewise, BLM’s regulations “*require*[] plan amendments whenever there is a ‘need to consider monitoring and evaluation findings, new data, new or revised policy, [or] a change in circumstances.’”<sup>76</sup> Indeed, the regulations “clearly require[] a formal plan amendment anytime a proposed action changes a ‘term, condition, or decision’ of a resource management plan.”<sup>77</sup>

It is important to note that, even where an existing ROD contemplates certain type of changes, “it does not necessarily follow that” similar changes fall outside of the requirements for amending an RMP—otherwise, “BLM could circumvent the mandates of § 1610.5–5 (i.e., requiring environmental assessments and impact statements, public disclosure, etc.) by merely designing a management plan that ‘contemplates’ a wide swath of future changes.”<sup>78</sup>

Second, NEPA requires federal agencies to prepare an EIS for all “major Federal actions significantly affecting the quality of the human environment[.]”<sup>79</sup> The EIS must, among other things, describe the “environmental effects of the proposed agency action[.]” and evaluate “alternatives to the proposed agency action[.]”<sup>80</sup>

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<sup>71</sup> *Klamath Siskiyou Wildlands Ctr. v. Boody*, 468 F.3d 549, 557 (9th Cir. 2006).

<sup>72</sup> 43 C.F.R. § 1610.4-9.

<sup>73</sup> *Klamath*, 468 F.3d at 557 (citing 43 U.S.C. § 1701(a)(5); 43 C.F.R. § 1610.2).

<sup>74</sup> 43 C.F.R. § 1610.5-5 (emphasis added).

<sup>75</sup> *Klamath*, 468 F.3d at 556 (quoting 43 C.F.R. § 1610.5-5).

<sup>76</sup> *Id.* at 557 (second alteration in original) (emphasis added).

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> 42 U.S.C. § 4332(C).

<sup>80</sup> 42 U.S.C. § 4332(C)(i), (iii).

NEPA's goals are to (1) "prevent or eliminate damage to the environment and biosphere[.]" (2) "stimulate the health and welfare of" all people, and (3) "encourage productive and enjoyable harmony between [hu]man[kind] and [the] environment[.]"<sup>81</sup> NEPA recognizes that "each person should enjoy a healthful environment" and requires that the federal government uses all practicable means to "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings[.]" and to "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences[.]"<sup>82</sup>

To fulfill these purposes, NEPA requires that: (1) agencies take a "hard look" at the environmental impacts of their actions before the actions occur, thereby ensuring "that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts[.]" and (2) "the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision."<sup>83</sup> "General statements about 'possible' effects and 'some risk' do not constitute a 'hard look' absent a justification regarding why more definitive information could not be provided."<sup>84</sup>

While NEPA itself does not explicitly address supplementation of a federal agency's environmental impact analysis, it is well settled from case law that supplementation "is at times necessary to satisfy the Act's 'action-forcing' purpose[.]" including to "ensure[] that the agency will not act on incomplete information, only to regret its decision after it is too late to correct," as long as there is major federal action left to occur.<sup>85</sup> An RMP and SEIS are supposed to work together—BLM acknowledges that the Draft 2025 SEIS is supposed to help it "consider whether to amend the fluid minerals decisions" in the 2014 RMP.<sup>86</sup> BLM recognizes that the Draft 2025 SEIS will lead to "a new decision document, which will amend or supersede the 2019 ROD to the extent determined necessary or appropriate by BLM."<sup>87</sup> Indeed, amending an RMP is considered a "major federal action" under NEPA and, thus, requires a properly broad SEIS.<sup>88</sup>

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<sup>81</sup> 42 U.S.C. § 4321.

<sup>82</sup> *Id.* § 4331(b)–(c).

<sup>83</sup> *Methow Valley Citizens Council*, 490 U.S. at 349–50 (citation and internal quotation marks omitted).

<sup>84</sup> *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F.3d 1372, 1380 (9th Cir. 1998).

<sup>85</sup> *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371, 374 (1989) (footnote omitted) ("It would be incongruous with this approach to environmental protection, and with the Act's manifest concern with preventing uninformed action, for the blinders to adverse environmental effects, once unequivocally removed, to be restored prior to the completion of agency action simply because the relevant proposal has received initial approval.").

<sup>86</sup> Draft 2025 SEIS at 1.

<sup>87</sup> *Id.*

<sup>88</sup> *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 689 (10th Cir. 2009) ("Amending a resource management plan is a 'major federal action' whose potential environmental impacts must be assessed under NEPA.") (citing 42 U.S.C. § 4332(C)).

Here, consistent with the above principles, the 2014 RMP states that it “may be changed, should conditions warrant, through a plan amendment or plan revision process,” and acknowledges that “[a] plan amendment may become necessary if major changes are needed or to consider a proposal or action that is not in conformance with the plan or for other reasons.”<sup>89</sup> In particular, the 2014 RMP states that “[t]he results of monitoring, evaluation of new data, or policy changes and changing public needs might [] provide the impetus for an amendment” at an “issue-specific” level.<sup>90</sup> BLM recognizes that plan amendments require “public input and the appropriate level of environmental analysis.”<sup>91</sup>

### **C. New information and changed circumstances illustrate the need for an amendment to the 2014 RMP and broader supplemental environmental review.**

A proper review of new information and relevant policy changes illustrates that various aspects of the 2014 RMP are no longer consistent with FLPMA’s overarching mandate for BLM to manage public lands “on the basis of multiple use and sustained yield . . . in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values” while providing for “outdoor recreation and human occupancy and use[.]”<sup>92</sup>

To understand the need for an amendment to the 2014 RMP, it is important to understand the scope of that document. The 2012 FEIS describes the 2014 RMP as a revision to the 1997 Caliente RMP and 1984 Hollister RMP.<sup>93</sup> The purpose and need of the 2014 RMP is addressing “major changes” involving various transfers or acquisitions of public lands and managerial responsibilities, along with the establishment of the California Coastal National Monument and the Carrizo Plain National Monument.<sup>94</sup> In particular, the 2012 FEIS stated the following:

Like California as a whole, the Planning Area has undergone many changes . . . resulting in a tremendous increase in the demand for, and the use of, public lands. The driving forces have been the rapid increase in California’s population and the critical need for domestic energy production . . . . The national focus on increased domestic oil and gas production and the development of renewable energy has placed additional requests for use of public lands.<sup>95</sup>

The 2012 FEIS also recognized the importance of “address[ing] emerging issues concerning public lands.”<sup>96</sup>

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<sup>89</sup> 2014 RMP at 170.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* at 171.

<sup>92</sup> 43 U.S.C. § 1701(a)(7), (8).

<sup>93</sup> 2012 FEIS at 1.

<sup>94</sup> *Id.* at 1–2.

<sup>95</sup> *Id.* at 2.

<sup>96</sup> *Id.* at IV.

The 2014 RMP has never been amended, and the only supplementation to the 2012 FEIS was the fracking-focused 2019 SEIS whose inadequacies led to litigation and a settlement resulting in the Draft 2025 SEIS at issue. Accordingly, BLM should treat anything that post-dates the 2012 FEIS and relates to issues other than fracking as new information and circumstances relevant to the issue of amending the 2014 RMP and revising the Draft 2025 SEIS to be broader in scope. At a minimum, studies that postdate the 2019 SEIS are indisputably “new.”

In the years since BLM finalized the 2012 FEIS, there has been a shift away from domestic oil and gas production and a much larger emphasis on the development of renewable energy, due in part to emerging issues concerning the magnitude of the climate crisis and a new understanding of the public health harms from proximity to oil and gas production at distances of 3,200 feet and beyond. Additional changes throughout the Bakersfield Planning Area are discussed herein. Indeed, EPA also stressed in its scoping comments that it is critical for BLM to “[v]erify that older data and the underlying assumptions and analysis in referenced documents are representative of current conditions.”<sup>97</sup>

BLM has previously recognized the need for RMP amendments in similar circumstances. For example, BLM has initiated an RMP amendment to address new species listings under the ESA.<sup>98</sup> BLM likewise amended a land use plan to withdraw a large tract of public land from coal leasing, recognizing that “the mining of coal in the planning area would continue to contribute to [greenhouse gas (GHG)] emissions, which in turn adds to ongoing impacts from climate change on human health and disease in numerous ways[,]” and would “not [be] in alignment with the Nation’s interest in addressing climate-related public health concerns.”<sup>99</sup>

With regard to the withdrawal from coal leasing, BLM further stated as follows:

Moreover, additional coal leasing in the planning area would not support the Nation’s long term climate strategy (November 2021) of limiting global temperature rise and putting the U.S. on a pathway to net-zero GHG emissions by 2050. Coal production is in decline, both nationally and in the Wyoming Powder River Basin, where coal production has been declining since the late 2000’s. As such, the Nation’s energy market is moving away from coal towards natural gas and renewable energy, which are more aligned with

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<sup>97</sup> EPA, Scoping Comments for Draft 2025 SEIS at 2.

<sup>98</sup> *See Bd. of Cnty. Comm’rs of Cnty. of San Miguel v. U.S. Bureau of Land Mgmt.*, 584 F. Supp. 3d 949, 968 (D. Colo. 2022) (holding that the species-related “circumstances necessitating” a pending RMP amendment illustrated the existence of “additional foreseeable impacts” that BLM needed to consider prior to holding a lease sale); *see also Klamath*, 468 F.3d at 556 (treating actions to downgrade species protections as de facto amendments to a forest management plan that “resulted from the need to consider new information regarding the red tree vole”).

<sup>99</sup> 89 Fed. Reg. 106557, 106558 (Dec. 30, 2024).

the Nation’s long term climate strategy, and continued coal leasing in the planning area would not support the national interest.<sup>100</sup>

Accordingly, BLM emphasized that FLPMA’s principle of multiple use and sustained yield “does not require that all uses be allowed on all areas of the public lands[,]” and found that FLPMA supported the amendment and the leasing withdrawal where “the economic benefits from coal leasing no longer balance with the adverse effects to other public land resources, including but not limited to, air quality and environmental justice, as well as social and economic considerations.”<sup>101</sup>

**1. BLM improperly ignored a wealth of studies submitted during the scoping period that demonstrated new information relevant to amending the 2014 RMP and expanding the scope of the Draft 2025 SEIS.**

The scoping comments incorporated herein attached numerous new studies and information and explicitly labeled relevant sections containing “recent studies” issued since 2019 for ease of reference.<sup>102</sup> BLM says it prepared the Draft 2025 SEIS to “analyze the environmental effects of hydraulic fracturing technology for oil and gas leasing and development of new leases within the Planning Area, and to determine whether changes are needed to the fluid minerals decisions in the 2014 RMP based on new information or changes in circumstance.”<sup>103</sup> The studies submitted during the scoping period directly relate to these categories. Even so, the Draft 2025 SEIS lists only one of these recent studies in its list of studies considered.<sup>104</sup>

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<sup>100</sup> *Id.*; see also 89 Fed. Reg. 43432, 43433 (May 17, 2024) (SEIS “that considers no-leasing and limited coal leasing alternatives; [and] discloses the public health impacts, both climate and non-climate, of burning fossil fuels (coal, oil, and gas)”; 88 Fed. Reg. 26272, 26272 (Apr. 28, 2023) (plan amendment related to recreational shooting “in a manner that addresses public health and safety concerns[,]” including to “prohibit recreational shooting” on certain land “designated as unsuitable for recreational shooting”); 78 Fed. Reg. 57880, 57880 (Sept. 20, 2013) (RMP amendment that addressed “a proposed nomination for an Area of Critical Environmental Concern (ACEC) . . . and a Visual Resource Management change within the project boundary from Class III to Class IV”).

<sup>101</sup> 89 Fed. Reg. 106557, 106558 (Dec. 30, 2024); see also *Mount Royal Joint Venture v. Kempthorne*, 477 F.3d 745, 758 (D.C. Cir. 2007) (upholding a withdrawal of land from mineral leasing due to “strong public opposition” to mining in or around ACECs based on “new information concerning the importance of the resource values, particularly cultural and hydrologic”).

<sup>102</sup> Center Scoping Comments. Here, we are using the terms “recent” and “new” to mean the information that arose since BLM completed its 2019 SEIS.

<sup>103</sup> Draft 2025 SEIS at 4.

<sup>104</sup> See, e.g., *id.* at 19 (stating that “BLM resource specialists reviewed the following information,” followed by a bullet-point list of studies). The single study BLM referenced is Hwang et al.’s review of fracking’s environmental implications. *Id.* at 60.

BLM's failure to consider and respond to the significant new scientific evidence presented to the agency since the original RMP was adopted is inconsistent with the purpose of this SEIS;<sup>105</sup> violates FLPMA, NEPA, and the Administrative Procedure Act (APA);<sup>106</sup> and renders BLM's analysis and decision not to amend the 2014 RMP arbitrary and capricious. For example, NEPA mandates that an EIS include a detailed statement on the "reasonably foreseeable environmental effects of the proposed agency action[.]"<sup>107</sup> and what is "reasonably foreseeable" is necessarily informed by the current state of scientific knowledge, not the state of knowledge at the time of a prior, now-superseded analysis. Congress further directed that agencies "ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document[.]" and "make use of reliable data and resources" in carrying out NEPA.<sup>108</sup> These provisions, taken together, impose an obligation on BLM to incorporate new scientific studies into its analysis, which it has failed to do here.

The studies BLM ignored span every major resource area analyzed in the Draft 2025 SEIS and relevant to the question of whether BLM must amend the 2014 RM, including: climate change and the need to phase out fossil fuel production, methane emissions and flaring; air pollution and public health impacts from oil and gas production; seismicity and well integrity; wildlife and ecological impacts; and species-specific impacts to the San Joaquin kit fox, blunt-nosed leopard lizard, and giant kangaroo rat. These studies are reattached and incorporated into this comment letter.

BLM's decision to cite only one of the many submitted studies, without any explanation for why it declined to consider the others, is arbitrary and capricious. This is not a situation where BLM considered the submitted studies and, after reasoned analysis, determined them to be inapplicable or unreliable. Rather, BLM appears to have simply ignored them. Federal law requires more.<sup>109</sup> An agency must, at minimum, acknowledge and respond to the significant

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<sup>105</sup> DOI, Handbook of National Environmental Policy Act Implementing Procedures, No. 516 DM 1, § 3.7(a) (Feb. 2026) ("The bureau should make use of reliable existing data and resources.").

<sup>106</sup> The APA provides that agency action can be set aside when it is deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

<sup>107</sup> 42 U.S.C. § 4332(C)(i).

<sup>108</sup> *Id.* § 4332(D)–(E).

<sup>109</sup> *See Nevada v. Dep't of Energy*, 457 F.3d 78, 87–88 (D.C. Cir. 2006) (stating that under the APA and NEPA, courts must confirm "that the agency has adequately considered and disclosed the environmental impact of its actions and that its decision is not arbitrary or capricious"); *Earth Island Inst. v. U.S. Forest Serv.*, 442 F.3d 1147, 1160 (9th Cir. 2006) (stating that an agency acts arbitrarily and capriciously where it fails to make a reasoned decision based on its evaluation of the evidence).

scientific information placed before it during the NEPA process.<sup>110</sup> BLM's failure to do so here renders its analysis legally deficient.

Moreover, BLM failed to include the complete scoping comment submissions in the administrative record. While commenters attached and submitted the cited sources in 12 batches,<sup>111</sup> only four of these batches (numbers 7, 8, 10, and 11) appear in the "BKFO Scoping Comment Attachments" folder on the Bakersfield Field Office ePlanning page. The remaining batches are absent from the ePlanning site.

BLM must consider and address the complete set of new studies substantively in any revised or final SEIS and related decision document concerning amendment to the 2014 RMP and 2019 ROD, and must ensure that all such materials are part of the administrative record.

## **2. BLM cannot continue illegally deferring environmental review that never materializes at later stages of its planning process.**

Under the MLA and FLPMA, BLM manages oil and gas drilling on public lands using a three-stage process. At each stage, BLM is required to comply with multiple federal and state laws in order to fully evaluate the impacts of its decisionmaking. For the Bakersfield region, however, BLM has a long and documented history of operating an elaborate shell game wherein it punts proper consideration of impacts to later stages where the promised analysis ultimately fails to materialize. BLM can no longer shirk its duties under the law and must now finally fix its RMP-level analysis for the region without further delay.

In the first stage of the process, BLM prepares, with public involvement, an RMP for each unit of public land within its jurisdiction.<sup>112</sup> An RMP operates like a zoning plan, defining the allowable uses of public lands within the plan area. At the RMP stage, BLM generally determines what areas to make available for oil and gas leasing and under what conditions.<sup>113</sup> An RMP does not require leasing any specific lands.

In the second stage, oil and gas operators submit an "expression of interest" to nominate specific sites within the plan area for oil and gas leasing.<sup>114</sup> BLM then decides whether those lands are eligible and, if so, makes them available through a competitive leasing process, subject

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<sup>110</sup> See *Bark v. United States Forest Serv.*, 958 F.3d 865, 871 (9th Cir. 2020) (faulting an agency for failing to address "substantial body of research" cited in public comments and merely reiterating its "general conclusions" in response, and that when "new, contrary scientific information becomes available, the agency must explain its reasons for disagreeing with it").

<sup>111</sup> Comment Submission Receipt, Center for Biological Diversity, BLM Nat'l NEPA Register, Submission ID BKSEISSCP-1-500769736 (July 23, 2025) (submitting scoping comments and cited sources for Draft 2025 SEIS).

<sup>112</sup> 43 U.S.C. § 1712(a).

<sup>113</sup> *New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 689 n.1 (10th Cir. 2009) (describing process).

<sup>114</sup> 43 C.F.R. § 3120.1-1(e).

to the requirements of the RMP.<sup>115</sup> Prior to sale, BLM typically prepares an environmental review evaluating the environmental impacts of the lease sale. BLM may also subject leases to terms and conditions to protect the environment.

In the third and final stage, which occurs after BLM holds the lease sale and issues the leases, lessees submit applications for permits to drill (APDs) for individual oil and gas wells to BLM.<sup>116</sup>

The RMP stage represents a critical first step in the process because it opens specific areas to oil and gas development and identifies where possible leasing and drilling may occur. “All future resource management authorizations and actions” undertaken by BLM, as well as “subsequent more detailed or specific planning” during the leasing and drilling stages, must conform to the relevant plan.<sup>117</sup> RMPs like the 2014 RMP thus establish best management practices, standard operating procedures, and implementation guidelines for all “site-specific” activities that occur on the land in question, effectively outlining BLM’s approach to future management decisions over the next ten to fifteen years.<sup>118</sup> Once a plan is approved, these practices, procedures, and guidelines apply to all new wells authorized on both new and existing leases in the plan area.<sup>119</sup>

Contrary to BLM’s promises over the years, the agency has refused to address gaps in its RMP-level analysis at any stage of its oil and gas decisionmaking process for the Bakersfield region. For example, both the 2012 FEIS and 2014 RMP failed to provide a cumulative air impacts and public health analysis of the oil and gas drilling BLM authorized for the region overall under laws like the CAA, NEPA, or FLPMA, and these impacts were not adequately analyzed at the following lease sale stage.<sup>120</sup>

Such serious gaps continue at the final APD stage, which is BLM’s last opportunity to address them. The agency routinely approves APDs in the Bakersfield region that still lack a proper analysis of these drilling impacts, and without providing affected communities adequate opportunities to review and comment on the environmental documents prior to approval.<sup>121</sup> While BLM may tier environmental analysis between different project stages under NEPA by incorporating aspects of an earlier environmental impact statement into a subsequent narrower

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<sup>115</sup> 43 U.S.C. § 1712(e); 43 C.F.R. § 1610.5-3(a); 43 C.F.R. pt. 3120.1.

<sup>116</sup> 43 C.F.R. § 3162.3-11(c).

<sup>117</sup> 43 C.F.R. § 1610.5-3(a).

<sup>118</sup> 2014 RMP at 17, 221–42; 2012 FEIS at 985.

<sup>119</sup> 43 C.F.R. § 1610.5-3(a)–(b).

<sup>120</sup> *See generally* BLM, December 2020 Competitive Oil and Gas Lease Sale, Final Environmental Assessment (Dec. 2020) (hereafter “2020 Lease Sale EA”).

<sup>121</sup> *See, e.g.,* BLM, Environmental Assessment, Holmes Western Oil Corporation, Eleven Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2024-0084-EA (Dec. 18, 2024) at 38–39 (analyzing air emissions for individual ten-well package without considering additional permits approved for same operator in the same field on the same day, or ten-well package together with all other permit approvals in the region) (hereafter “2024 Holmes Western EA”).

statement of environmental analysis, BLM cannot point to prior analysis that never happened.<sup>122</sup> BLM here “leaves the issue[s] wholly unstudied and violative of NEPA’s fundamental purpose, and thus fails to satisfy the hard look required under NEPA.”<sup>123</sup>

Both U.S. EPA and California’s Department of Conservation also urged BLM to avoid punting analysis that is most appropriate for the current RMP planning stage. EPA recommends BLM to fully consider “the breadth and scale of the proposed development area,” “describe the decision that the analysis would support and whether it would serve to support project-level decisions” and “what would trigger the need for developing additional NEPA documentation, including site-specific Environmental Assessments (EAs) or EISs for individual permits to drill.”<sup>124</sup> This includes, for example, an “air basin level” emissions analysis for the Bakersfield region with “mitigation measures (including control measures and design features)” identified at this stage “to help ensure consistency for all future BLM-authorized activities.”<sup>125</sup> The Department of Conservation similarly cautions that the 2014 RMP “does not include mitigation measures, [Best Management Practices (BMPs)], or stipulations that are adequate to avoid potential impacts” to particular resources.<sup>126</sup> “BLM should include adequate mitigation measures, BMPs, and stipulations in the SEIS and any amendments to the RMP.”<sup>127</sup>

As a result of these persistent failures, a coalition of environmental and community groups, including some of the organizations on this letter, has repeatedly sued BLM for its deficient permitting review process for APDs in the Bakersfield region.<sup>128</sup> In the course of this litigation, BLM conceded it needed to reconsider whole swaths of its analysis underpinning its permitting decisions due to “substantial and legitimate” concerns, particularly with its cumulative effects and environmental justice analyses.<sup>129</sup> For example, BLM conceded certain

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<sup>122</sup> See, e.g., *Diné Citizens Against Ruining Our Env’t v. Bernhardt*, 923 F.3d 831, 851 (10th Cir. 2019) (“[I]f the ‘relevant analysis in the [prior EIS] is not sufficiently comprehensive or adequate . . . the [site-specific EA] must explain this and provide any necessary analysis.’”) (citation omitted); see also *Cal. Native Plant Soc’y v. EPA*, No. C06-03604 MJJ, 2007 WL 2021796, at \*17 (N.D. Cal. July 10, 2007) (holding that “EAs could not be saved by tiering to an EIS that likewise failed to analyze the specific impacts”).

<sup>123</sup> *California v. Bernhardt*, 472 F. Supp. 3d 573, 620 (N.D. Cal. 2020).

<sup>124</sup> EPA, Scoping Comments for Draft 2025 SEIS at 1.

<sup>125</sup> *Id.* at 3–4.

<sup>126</sup> Scoping Comments for the Draft 2025 SEIS, from the Cal. State Water Boards, Cal. Dept. of Conservation, Cal. Dept. of Fish & Wildlife, Cal. Coastal Commission, Cal. State Parks (July 23, 2025) at 12.

<sup>127</sup> *Id.*

<sup>128</sup> *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-cv-00938-JLT-CDB (E.D. Cal., filed June 22, 2023); Second Amended Complaint for Declaratory and Injunctive Relief, *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 1:23-CV-00938-JLT-CDB (E.D. Cal., filed April 4, 2025); *Center for Biological Diversity v. U.S. Bureau of Land Management*, No. 1:25-cv-00140-JLT-CDB (E.D. Cal., filed Feb. 4, 2025).

<sup>129</sup> Federal Defendants’ Motion for Voluntary Remand and Memorandum in Support at 7–8, *Center for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-CV-00938-JLT-CDB (E.D. Cal., filed Nov. 7, 2023), Dkt. Nos. 21-1, 21-2.

emissions calculations for one well package at issue in the litigation increased *by 12,730 percent* after BLM attempted to correct the calculations.<sup>130</sup> The agency also admitted the emissions methodology it uses for California wells is entirely inappropriate and must be scrapped for a new approach.<sup>131</sup> This litigation is still ongoing because BLM has yet to fix the flaws in its permitting process and continues to unlawfully issue permits for oil companies to drill new wells in the Bakersfield region.

None of this important context and history is considered or even acknowledged in the Draft 2025 SEIS and constitutes significant new information and changed circumstances necessitating amendment to the 2014 RMP along with a much broader SEIS that fills the gaps long missing in the RMP-level analysis for the Bakersfield region.

### **3. BLM must consider and mitigate the impacts of oil and gas leasing and drilling at the planning stage as a result of the 2025 Budget Reconciliation Act.**

The July 2025 Budget Reconciliation Act raises significant questions about BLM’s discretion in the context of federal oil and gas leasing and, as a result, potentially changes BLM’s legal obligations as it contemplates re-opening the Bakersfield Field Office region and conducting its NEPA analysis. Specifically, the Reconciliation Act amended the MLA to require, *inter alia*, that certain lands “*shall* be made available for leasing” once designated as open under an approved RMP.<sup>132</sup> These amendments impact the practical meaning of “open” designations in an RMP. BLM must evaluate these Reconciliation Act changes when assessing whether the 2014 RMP and Draft 2025 SEIS satisfy the agency’s duties under FLPMA, NEPA, and other statutes. Should BLM determine the 2014 RMP must be amended as a result, the agency should conduct a fresh analysis for this process in light of these changes.

For nearly a century, the MLA afforded the Interior Department broad discretion in choosing whether to offer public lands for oil and gas leasing.<sup>133</sup> The central provision of the

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<sup>130</sup> Compare BLM, Environmental Assessment California Resource Production Corporation Mount Poso; 6 Applications for Permit to Drill DOI-BLM-CA-C060-2022-0112-EA Programmatic Project #136 (May 31, 2023) at 30–31 *with* BLM, Environmental Assessment California Resource Production Corporation Mount Poso; 6 Applications for Permit to Drill DOI-BLM-CA-C060-2022-0112-EA Programmatic Project #136 (May 23, 2024) at 18–19.

<sup>131</sup> Federal Defendants’ Motion for Voluntary Remand and Memorandum in Support at 7–8, Decl. of Gabriel Garcia in Support of Federal Defendants’ Motion at 1–4, *Ctr. for Biological Diversity v. U.S. Bureau of Land Management*, No. 1:23-CV-00938-JLT-CDB (E.D. Cal., filed Nov. 7, 2023).

<sup>132</sup> 30 U.S.C. § 226(a)(1) (emphasis added), as amended by Pub. L. No. 119-21, § 50101(d)(1), 139 Stat. 72, 138 (2025).

<sup>133</sup> See, e.g., *McDonald v. Clark*, 771 F.2d 460, 463 (10th Cir. 1985).

MLA stated that public lands “*may* be leased” by BLM for oil and gas development.<sup>134</sup> Courts consistently recognized that the statute gave BLM broad discretion over leasing decisions.<sup>135</sup>

In July 2025, Congress amended the MLA as part of the Reconciliation Act, replacing the “may be leased” language in Section 226(a) with a requirement that lands:

shall be made available for leasing . . . by the Secretary of the Interior, not later than 18 months after the date of receipt by the Secretary of an expression of interest in leasing the applicable parcel of land available for disposition under this section, if the Secretary determines that the parcel of land is open to oil or gas leasing under the approved resource management plan applicable to the planning area in which the parcel of land is located that is in effect on the date on which the expression of interest was submitted to the Secretary[.]<sup>136</sup>

In addition, the Reconciliation Act provides that any oil and gas leases issued “may not require any stipulations or mitigation requirements not included in the approved resource management plan.”<sup>137</sup>

While, to our knowledge, BLM has not issued a formal interpretation of the Reconciliation Act’s impact on oil and gas leasing, some states have asserted that the Reconciliation Act strips BLM of discretion to determine which parcels should be offered for lease, and that it restricts BLM’s ability to impose protective mitigations or stipulations on leases beyond those identified in the RMP.<sup>138</sup>

To be clear, the organizations on this letter do not endorse these interpretations. However, these positions give rise to serious questions about BLM’s ability to balance oil and gas development against other public-land values and achieve its statutory obligations. BLM must address those questions and clarify its interpretation of the Reconciliation Act as it applies to oil and gas leasing. To the extent that BLM believes that the Reconciliation Act limits BLM’s discretion over whether to offer parcels to lease, which parcels to offer, and what mitigation and stipulations can be imposed *at the leasing or permitting stages*, the Reconciliation Act requires

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<sup>134</sup> 30 U.S.C. § 226(a) (emphasis added).

<sup>135</sup> *United States ex rel. McLennan v. Wilbur*, 283 U.S. 414, 419 (1931) (holding the MLA “goes no further than to empower the Secretary [of Interior] to execute leases”); *Udall v. Tallman*, 380 U.S. 1, 4 (1965) (finding the MLA gives BLM “discretion to refuse to issue any lease at all on a given tract”); *W. Energy All. v. Salazar*, 709 F.3d 1040, 1044 (10th Cir. 2013) (finding the Secretary has “considerable” discretion in leasing decisions); *Schraier v. Hickel*, 419 F.2d 663, 666 (D.C. Cir. 1969) (affirming BLM has “discretion to decline to lease” even if it published a notice that it would receive offers).

<sup>136</sup> 30 U.S.C. § 226(a), as amended by Pub. L. No. 119-21, § 50101(d)(1), 139 Stat. 72, 138–39 (2025).

<sup>137</sup> 30 U.S.C. § 226(a)(2)(A)(ii), as amended by Pub. L. No. 119-21, § 50101(d)(1), 139 Stat. 72, 139 (2025).

<sup>138</sup> See Int.-Def. State of Wy. Not. of Supp. Auth., *W. Watersheds Proj. v. Bernhardt*, 1:18-cv-00187 (D. Idaho Aug. 12, 2025), Dkt. No. 545 at 2–3.

BLM to weigh much more heavily the impacts of additional oil and gas leasing, as well as mitigation, minimization, and avoidance of impacts, *at the planning stage*. BLM must thoroughly analyze and consider this change in circumstances in an amended RMP and broader SEIS under NEPA in order to account for additional impacts on the environment, and on BLM's ability to meet its FLPMA mandate to manage for multiple uses and sustained yield and to avoid unnecessary or undue degradation.

Prior to the Reconciliation Act, BLM routinely relied on its broad leasing discretion to mitigate conflicts between oil and gas development and other public land uses. Even where lands were identified as "open" for leasing, BLM could choose not to hold lease sales or to withhold specific parcels based on environmental or other concerns. Other stakeholders, however, have argued that the Reconciliation Act removes this discretion. To the extent the agency adopts that interpretation, BLM must, during this planning process, revisit its designation of lands open for leasing in the Bakersfield region to ensure it can meet its FLPMA mandates if BLM agrees it lacks the discretion not to lease otherwise open lands.

Given arguments over the Reconciliation Act's potential restriction on the application of mitigations and stipulations at the leasing stage or permitting stages, it is critical that BLM consider and adopt detailed stipulations and mitigation measures for oil and gas activities at the planning stage now, so that the agency retains sufficient authority to impose conditions on any future leasing to protect human health and the environment.<sup>139</sup> Without these conditions, BLM may run afoul of the agency's obligations to avoid unnecessary or undue degradation of public lands and resources under FLPMA, as well as mandates of other statutes like the ESA, CWA, CAA, and the National Historic Preservation Act. We urge BLM to take the following actions as part of an amendment to the 2014 RMP, across all alternatives considered, in order to mitigate the adverse effects of additional drilling that may now occur:

- Identify existing and potential resource conflicts.
- Because the agency is interpreting recent changes to law as making certain parcels of land "available for leasing," close all lands with high ecological, historical, recreational, cultural or other values, especially ACECs and sensitive wildlife habitat, so that they may not be leased.
- At a minimum, require No Surface Occupancy (NSO) stipulations without exceptions, waivers or modifications in leases within ACECs and other special management areas.
- Provide for other mitigation measures, such as seasonal restrictions, and limited surface use that will avoid or mitigate conflicts.
- Require stipulations in any and all leases that reserve to BLM the discretion to deny drilling permits based on future conservation concerns, new information or cumulative impacts.
- Incorporate enforceable plan-level mitigation and adaptive management commitments to address unanticipated new information and changed conditions.
- Evaluate and require programmatic mitigation measures to avoid conflicts and harm at a later, site-specific stage.

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<sup>139</sup> See Pub. L. No. 119-21, § 50101(d)(1), 139 Stat. 72, 139 (2025).

- In light of the Reconciliation Act changes, consider closing additional sensitive areas to leasing to mitigate overall impacts. The lands identified as "high" mineral potential in the Bakersfield region could be a starting place for this consideration.

To the extent BLM adopts the interpretation of the Reconciliation Act proffered by others, the agency's new leasing mandate has changed the environmental baseline for the 2014 RMP and Draft 2025 SEIS, whether or not BLM amends the RMP, because lands currently designated as "open" for leasing now face a substantially higher probability of being leased and developed. Such a change warrants an RMP amendment and more comprehensive SEIS to account for and consider the reasonably foreseeable consequences of this increased leasing, including expanded surface disturbance, greater greenhouse gas emissions, and additional far-ranging cumulative impacts on habitat for plants and animals, water resources, air quality, and ACECs, among others.

For example, if the Reconciliation Act broadly limits BLM's discretion, the agency must now account for, analyze, and disclose to the public information pertaining to, at minimum, the following:

- The Reconciliation Act's reinstatement of non-competitive leasing, which may result in substantially more acreage being under lease, limiting other uses, such as recreation or wildlife conservation.<sup>140</sup>
- BLM's previous analysis assumed that not all available parcels would be leased. BLM must reassess that analysis and conclusion in an amended 2014 RMP and comprehensive SEIS in light of the Reconciliation Act's new requirements.<sup>141</sup>
- BLM's previous analysis assumed that the agency would be able to add stipulations and mitigation at the leasing and APD stages to ensure protection of resources and compliance with the agency's substantive FLPMA mandates. If that is not the case, BLM must account for this fact in the RMP amendment process.

The changes to leasing brought about by the Reconciliation Act underscore the need for BLM to reevaluate and expand the range of alternatives it considers as part of an amendment process. For example, BLM must consider reducing the acreage designated as open to leasing or apply broad NSO and other protective stipulations to ensure sensitive areas are not routinely made available for leasing and drilling. This is critical in order to ensure BLM meets its mandate of managing for multiple use, sustained yield, and prevention of unnecessary or undue degradation of sensitive resources present on BLM land.

#### **4. BLM's Reasonably Foreseeable Development Scenario is outdated and inaccurate.**

BLM cannot properly evaluate whether an amendment to the 2014 RMP is necessary under FLPMA without first considering a reasoned and up-to-date RFDS. The RFDS projects the number of new wells that will be drilled on federal mineral estate and is a "foundational

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<sup>140</sup> Pub. L. No. 119-21, § 50101(a)(2), 139 Stat. 72, 137 (2025).

<sup>141</sup> *See id.* § 50101(d)(1), 139 Stat. 72, 138–39 (2025).

document” for the 2014 RMP and key to the planning-level analysis, as the Draft 2025 SEIS acknowledges.<sup>142</sup> The RFDS underpins every aspect of BLM’s NEPA and FLPMA analyses by providing the underlying information by which the effects of BLM’s discretionary oil and gas management activities are analyzed under the various alternatives.

But rather than updating the RFDS to reflect new information and changed circumstances relevant to the 2014 RMP, the Draft 2025 SEIS relies on an outdated RFDS from the 2012 FEIS on the basis that, in the lawsuit that prompted preparation of this SEIS, “[t]he Court . . . found the Reasonably Foreseeable Development Scenario (RFDS) was acceptable.”<sup>143</sup> The RFDS was not at issue in that case, and the court made no such finding.<sup>144</sup> There is no rational basis for BLM to rely on an RFDS that is now 14 years old.

**a. New information and changed circumstances illustrate the likelihood that the RFDS undercounts impacts in the 2014 RMP, which must be amended based on an updated RFDS.**

Such new information and changes include, but are not limited to, California’s fracking ban, recent federal policies to accelerate fossil fuel development, and data from Kern County regarding the rate of new oil and gas development, particularly the use of dangerous enhanced oil recovery (EOR) techniques.

First, the Draft 2025 SEIS fails to provide a reasoned explanation for why the RFDS includes fracking when California banned this practice. As noted elsewhere, Governor Newsom directed CalGEM to initiate a rulemaking to halt the issuance of new fracking permits by 2024.<sup>145</sup> Fracking was phased out by CalGEM regulations effective October 1, 2024.<sup>146</sup> The Draft 2025 SEIS acknowledges this ban: “As of October 1, 2024, the state implemented a ban on the issuance of new hydraulic fracturing permits, effectively formalizing a de facto moratorium that had already been in place. In the three years preceding the ban, CalGEM did not approve any new hydraulic fracturing permits, reflecting a broader policy shift away from unconventional extraction methods.”<sup>147</sup> The Draft 2025 SEIS further acknowledges that “BLM does not have regulatory authority over hydraulic fracturing in California; that authority rests with [CalGEM], which oversees all well stimulation activities in the state.”<sup>148</sup> However, the Draft 2025 SEIS proceeds with an RFDS that includes fracking without providing an explanation for how BLM determined it would still occur in the Planning Area in light of current state policy.

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<sup>142</sup> Draft 2025 SEIS at 2.

<sup>143</sup> *Id.* at 1.

<sup>144</sup> *ForestWatch v. U.S. Bureau of Land Mgmt.*, No. CV-15-4378-MWF, 2016 WL 5172009 (C.D. Cal. Sept. 6, 2016).

<sup>145</sup> Gov. Gavin Newsom, “Governor Newsom Takes Action to Phase Out Oil Extraction in California” (2021), <https://www.gov.ca.gov/2021/04/23/governor-newsom-takes-action-to-phase-out-oil-extraction-in-california/>.

<sup>146</sup> Cal. Dept. of Conservation, Well Stimulation Treatment Permitting Phaseout regulations (2024).

<sup>147</sup> Draft 2025 SEIS at 18.

<sup>148</sup> *Id.*

Second, the Draft 2025 SEIS fails to account for new federal policies and changed circumstances to accelerate fossil fuel development and reliance,<sup>149</sup> and to incorporate how that will impact BLM’s projections of oil and gas development on California public lands and mineral estate in the Planning Area, as reflected in the 2014 RMP. At present the U.S. is the world’s largest producer of oil and gas, and the federal government continues to aggressively expand new fossil fuel production.<sup>150</sup> The U.S. alone accounts for over 90% of the net global increase in oil and gas extraction during 2015–2024, driving up its production more than five times as much as any other country.<sup>151</sup>

Third, Kern County’s projections of new oil and gas development and well stimulation in the County are much higher than BLM’s estimates. The 2025 revisions to the Kern County Oil and Gas Zoning Ordinance that currently governs permitting of oil and gas development in the County—excluding BLM lands—projects 2,697 new producing wells and 1,200 well stimulation events per year over 25 years.<sup>152</sup> In total, it projects an average of 2,697 new producing wells, 48 water disposal wells, 158 water flood injectors, 381 non-cycle idle wells, 56 observation wells, 304 steam flood injectors, five gas disposal wells, 1,645 cyclic wells, 1,200 well stimulations (“SB 4 activities”), and 2,221 plugged and abandoned wells per year.<sup>153</sup> If well stimulation events are applied to the new producing wells, Kern County predicts that 44% of new wells would have well stimulation each year. In addition, California Senate Bill 237 (SB 237) now fast tracks 2,000 new drilling permits per year in Kern County

The 2014 RMP proposes to open up more than one million acres of federal mineral estate to new leasing, and a large portion of the area open for leasing is in Kern County.<sup>154</sup> BLM’s projection of 100 to 400 new wells each year, with only 10 to 40 wells on new federal leases and only 0 to 4 of those wells fracked (0% to 10% fracked), does not square with the estimates for oil and gas development and the high percentage of well stimulation projected by Kern County

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<sup>149</sup> See, e.g., The White House, Executive Order, “Unleashing American Energy” (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>; see also CNBC, “Trump megabill gives the oil industry everything it wants and ends key support for solar and wind” (July 3, 2025), <https://www.cnbc.com/2025/07/03/trump-one-big-beautiful-bill-oil-gas-coal-solar-wind-ira-tax-incentive-repeal.html>.

<sup>150</sup> Stockholm Env’t Inst. (SEI), Climate Analytics, & Int’l Inst. for Sustainable Dev. (IISD), The Production Gap Report 2025 (Sep. 2025) at 51, <http://productiongap.org/2025report>.

<sup>151</sup> Oil Change Int’l, Planet Wreckers: The Global North Countries Fueling the Fire Since the Paris Agreement (Oct. 2025) at 3, <https://oilchange.org/wp-content/uploads/2025/10/Planet-Wreckers-October-2025.pdf>.

<sup>152</sup> Kern Cnty., Draft Second Supplemental Recirculated Environmental Impact Report (SSREIR) (March 2025) Revisions to Title 19-Kern County Zoning Ordinance Code – (2025 A), Focused on Oil and Gas Local Permitting (Mar. 2025) at 1-7 (“Over the next 25 years, this EIR conservatively assumes that an average of 2,697 new producing wells per year could be drilled in the Project Area as part of the potential future oil and gas development scenario included in the proposed Project.”), 1-19.

<sup>153</sup> *Id.* at 3-32.

<sup>154</sup> Draft 2025 SEIS at 5.

(only where California repeals its fracking ban or the law otherwise becomes invalid). BLM must explain this difference or adjust its estimates to align with recent estimates by the state's largest oil and gas producing county.

In addition, California's new Senate Bill 237 (SB 237) now fast tracks 2,000 new drilling permits per year in Kern County.<sup>155</sup> Indeed, in response, the state has already approved nearly 100 drilling permits in the County in January and February 2026 alone, indicating that the pace of drilling in this region will far outpace BLM's annual projections.<sup>156</sup> Most of these permits are for dangerous and polluting EOR techniques like cyclic steam injection, steam flooding, and waterflooding that BLM does not account for in either its RFDS or in its impacts analysis in any of the 2012 FEIS, 2019 SEIS, or now the Draft 2025 SEIS.<sup>157</sup>

**b. BLM has failed to address additional RFDS flaws identified in prior litigation, despite a settlement requiring BLM to do so.**

The RFDS is riddled with errors detailed in comments on the 2019 SEIS,<sup>158</sup> which led to litigation and the settlement agreement under which BLM agreed to prepare the Draft 2025 SEIS. Even so, BLM made no attempt to address or fix those errors in this updated environmental review, making these issues ripe for challenge.

In addition to the new information and changed circumstances detailed in the previous section that BLM ignored, the RFDS is further unreasoned in several key respects, including that: (i) the descriptions of the Planning Area and rates of permitting are inconsistent; (ii) there is no basis for how the well numbers in the RFDS were determined; (iii) the projection for the number of fracked wells is flawed; (iv) the Supplemental Hydraulic Fracturing Analysis Areas are arbitrarily and improperly constrained in size; and (v) the projections for the number of wells fracked per year improperly exclude wells on existing federal lease areas.

**i. The Draft 2025 SEIS provides inconsistent descriptions of the Planning Area and permitting rates.**

The Draft 2025 SEIS fails to provide a consistent description of the Bakersfield Planning Area and Proposed Plan. In the Draft 2025 SEIS, BLM states that the total estimated Planning Area is 1,172,480 acres<sup>159</sup> and that approximately 1.2 million acres of federal mineral estate will be open to fluid mineral leasing.<sup>160</sup> Yet the shapefile dataset provided to the public included only

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<sup>155</sup> 2025 Cal. Legis. Serv. 118 (S.B. 237).

<sup>156</sup> Cal. Dept. of Conservation, Notice of Intention (NOI) Submitted For Week #9 Ending Saturday, February 28th, 2026 (accessed Mar. 5, 2026) (summarizing permit totals in spreadsheet tab labeled "List – Permits Issued (YTD)").

<sup>157</sup> *Id.*

<sup>158</sup> Center for Biological Diversity, Los Padres Forest Watch, and Sierra Club, Comments on Notice of Availability of the Bakersfield Field Office Hydraulic Fracturing Draft Supplemental Environmental Impact Statement, California (June 10, 2019).

<sup>159</sup> Draft 2025 SEIS at 37.

<sup>160</sup> *Id.* at 2.

847,597 acres of federal mineral estate open to fluid mineral leasing. The public therefore has no way to know the full extent of the areas that BLM proposes to open for leasing. It cannot be certain, by looking at any map generated by the data BLM provided, that the full extent of areas open for leasing are disclosed.

BLM further states that “[a]t the time of preparation of this 2025 DSEIS, BLM’s Automated Fluid Minerals Support System (AFMSS2) records indicate over the last 10 years, BLM has approved an average 85 wells per year through APDs. No wells have been approved since 2019.”<sup>161</sup> However, this is not consistent with the data that BLM provides in its AFMSS2 database. The AFMSS2 database instead shows an average of 94 APDs approved per year by the Bakersfield Field Office in the Planning Area over the 10 year period from 2015-2024.<sup>162</sup> Contrary to BLM’s claims of no well approvals since 2019 in the Planning Area, the AFMSS2 database clearly shows that hundreds of wells have been approved (given “APD approvals”) since 2019, including ~463 wells approved between January 2020 and May 2025.<sup>163</sup>

It is the agency’s duty to provide clear, consistent and accurate information so that the public is fully informed of the scope of the agency action. BLM has failed to do this. The Draft 2025 SEIS must be amended and recirculated to provide clarity to the public about the true scope and impact of BLM’s proposed plan.

**ii. The Draft 2025 SEIS fails to provide a basis for how the well numbers in the RFDS were determined.**

BLM fails to provide a basis for the well projections in the RFDS or show how these well numbers were determined, even though they are fundamental to the environmental analysis. The RFDS projection is that 100 to 400 federal wells will be drilled on federal mineral estate each year, including 90 to 360 wells per year on existing leases and 10 to 40 wells per year on new leases issued subsequent to the 2014 RMP approval date.<sup>164</sup> However, BLM never explains or shows in the Draft 2025 SEIS, the 2019 SEIS, or the 2012 FEIS how the estimate of 100 to 400 wells was calculated, nor how it calculated the estimate of 90 to 360 wells drilled each year on existing leases and 10 to 40 wells drilled each year on new leases. BLM must amend the 2014 RMP and redo its SEIS to provide a clear basis for its RFDS calculations.

**iii. The Draft 2025 SEIS’s projection for the number of fracked wells is flawed.**

The Draft 2025 SEIS fails to provide a reasonable or transparent projection of the number of wells that will be fracked each year on federal leases, even though this estimate is critical to the environmental analysis. The document estimates that 0 to 4 new wells on new leases will be

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<sup>161</sup> *Id.*

<sup>162</sup> BLM, Automated Fluid Minerals Support System Reports (2026), <https://reports.blm.gov/reports/AFMSS>.

<sup>163</sup> *Id.*

<sup>164</sup> Draft 2025 SEIS at 2.

fracked each year, for a total of 0 to 40 over the 10-year period.<sup>165</sup> The calculations underlying this estimate are not described in this document, the 2019 SEIS, or the 2012 FEIS, but in a short memo by Prude (2018) based on compiled data in three spreadsheets cited by the memo.<sup>166</sup> There are numerous fatal flaws in the Prude (2018) analysis that were raised in the Center for Biological Diversity’s June 10, 2019 comment letter but that BLM failed to address or fix.

First, the methods and calculations used by Prude (2018) to estimate the incidence of fracking on new leases are riddled with math and logic errors. In Prude’s first method, Prude calculates the acres of federal mineral estate only in the 11 most highly fracked fields and within two miles of those fields.<sup>167</sup> In doing so, Prude omits 15 other oil fields where fracking has occurred, improperly narrowing the scope of analysis. Many of the oil fields that were omitted from analysis had a high fracking rate—for example, 20%, 50%, 100% of new wells since 2012 were fracked—even though they have a low overall number of new wells, and it is not reasonable to exclude these fields.<sup>168</sup> By narrowing the analysis to 11 fields, BLM also assumes that, of the 217 oil fields within the Bakersfield Field Office Planning Area, there will be no fracking anywhere except for in those 11 fields, without providing a basis for that assumption.

Second, Prude uses inaccurate data to calculate the percentage of mineral estate expected to be fracked. Prude calculates that 3% of unleased high potential mineral estate is within areas likely to be fracked (8,707/286,900 acres).<sup>169</sup> However, Prude uses the incorrect number of acres with high potential for oil and gas occurrence. He works from the assumption that there are 286,900 acres of high potential mineral estate, instead of the 158,500 acres repeatedly stated in the 2012 FEIS.<sup>170</sup> Using the correct acreage figures leads to an estimate that 5.5% of unleased high potential mineral estate is within areas likely to be fracked—an increase on the 3% that Prude assumes. Prude also uses the incorrect number of new wells on new leases, using 0 to 40 wells instead of the 10 to 40 well projection used elsewhere in the 2019 SEIS and Draft 2025 SEIS.<sup>171</sup>

Importantly, Prude’s assumption that the new wells will be evenly distributed over the acres open for leasing is completely invalid and contradicted by the Draft 2025 SEIS. BLM repeatedly states that the new leases and new wells are likely to be near existing leases and

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<sup>165</sup> *Id.* at 35.

<sup>166</sup> BLM, Bakersfield Field Office, Prude memo re “Method used to project number of wells that will be HF’ed in the SEIS,” prepared for 2019 SEIS (2018) (hereafter “Prude (2018) memo”); According to the Prude (2018) memo, the data on which the analyses are based are compiled in three spreadsheets titled “FracFocus.all wells since 1-2012 and a few in 2011.xlsx,” “WellsHF and Drilled 2012-2018 by field.xlsx,” and “11 focus fields plus buffer.xlsx.”

<sup>167</sup> Prude (2018) memo at 2.

<sup>168</sup> Prude (2018) memo, “WellsHF and Drilled 2012-2018 by field.xlsx.”

<sup>169</sup> Prude (2018) memo at 2.

<sup>170</sup> 2012 SEIS at 318, 514.

<sup>171</sup> *See, e.g.*, BLM, Bakersfield Field Office Hydraulic Fracturing Final Supplemental Environmental Impact Statement (Oct. 2019) at 3 (hereafter “2019 SEIS”) at IV, 2; Draft 2025 SEIS at 2.

existing wells,<sup>172</sup> and not evenly distributed. The Prude memo itself states that “[fracking] activity in the future is expected to occur in the same general areas as in the past.”<sup>173</sup> In short, these erroneous assumptions, logic errors, and math errors invalidate BLM’s fracking projection.

Without a realistic evaluation of future oil and gas development, the Draft 2025 SEIS improperly masks the extent of the impacts to air, climate, water, public health, biological resources, and other resources. Accordingly, the RFDS must be revised to reflect realistic future production growth from both conventional and unconventional oil and gas resources in order to ensure that potential environmental impacts are properly evaluated under NEPA.

**iv. The “Supplemental Hydraulic Fracturing Analysis Areas” are arbitrarily and improperly constrained in size.**

The Draft 2025 SEIS analysis hinges on the projected amount of fracking in four supplemental hydraulic fracturing (SHF) analysis areas, shown in the “Supplemental Analysis Areas” figure,<sup>174</sup> and defined as the “most likely places for locating new wells on new federal oil and gas leases that would be hydraulically fractured.”<sup>175</sup>

Putting aside that this approach disregards BLM’s obligation to also consider fracking of new wells on existing leases, the Draft 2025 SEIS, 2019 SEIS, and 2012 FEIS do not provide an explanation for how the boundaries of the SHF analysis areas were determined, or how the SHF areas relate to projection of the number of fracked wells estimated in the RFDS. Indeed, the only conclusion that can be drawn is that the boundaries of the SHF polygons are arbitrary and omit areas that should be analyzed. All the SHF polygons exclude numerous leasing areas with high or moderate resource potential that are near wells that have been fracked. For example, the boundary of the Sespe SHF analysis area illogically cuts through the middle of high resource potential lease parcels, excluding the portions of the lease parcels that are closest to fracked wells. However, these omitted areas—which have been fracked, have high potential for oil and gas development, and are available for leasing—should logically be included in the SFH analysis polygons as areas likely to undergo fracking. The unreasonable and unfounded SFH analysis corrupts the Draft 2025 SEIS analysis.

**v. BLM’s projections for the number of wells fracked per year improperly exclude wells on existing federal leases.**

The Draft 2025 SEIS estimates the number of new wells that will be fracked on new federal leases, but fails to estimate or address the number of wells that will be fracked on existing

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<sup>172</sup> *See id.* at 35 (“New hydraulically fractured wells would be located in the vicinity of previously hydraulically fractured wells. . . New wells on new federal mineral leases that would be hydraulically fractured would also likely be located near areas designated for high mineral potential.”).

<sup>173</sup> Prude (2018) memo at 2.

<sup>174</sup> Draft 2025 SEIS at 7.

<sup>175</sup> *Id.* at 6.

federal leases. BLM offers no justification for this arbitrary refusal to analyze the impacts of all future hydraulic fracturing on federal mineral estate in the Bakersfield Planning Area.

BLM acknowledges that “[n]ew wells on new leases that may be completed using hydraulic fracturing would be subject to all fluid mineral management decisions in the 2014 RMP,”<sup>176</sup> but the same is true of new wells on existing leases. Oil and gas development on federal land and mineral estate is a multi-stage process. BLM first prepares an RMP to guide which federal lands BLM will consider leasing.<sup>177</sup> In the second phase, BLM leases land for oil and gas development.<sup>178</sup> In the third phase, a lessee submits an application for a permit to drill an oil or gas well (APD).<sup>179</sup> As BLM acknowledges, “[n]o proposed drilling operations, including hydraulic fracturing and related surface disturbance activities, may be initiated without an approved APD.”<sup>180</sup> And it is at the APD stage that BLM identifies “design features, Conditions of Approval (COAs), BMPs, and stipulations from the 2014 RMP that would be applied to the project.”<sup>181</sup> That is, the design features, BMPs, and COAs from the 2014 RMP are applied to all new APDs, irrespective of when the underlying lease was issued. Accordingly, the analysis in the Draft 2025 SEIS, and any consequential amendments to the 2014 RMP, will affect *all* new wells, not just new wells on new leases. BMPs and COAs developed in the RMP and SEIS to mitigate the impacts of fracking—developed with an understanding of the impacts of *all* new fracking on federal lands—can mitigate the impacts of new fracked wells on existing leases, not just those on new leases. Accordingly, BLM must analyze the impacts of all new fracking on federal mineral estate, and must not arbitrarily constrain itself to a narrow subset of wells.

For the foregoing reasons, reliance on the outdated RFDS has led to an underestimation of impacts in a wide variety of categories relevant to the 2014 RMP, illustrating the need for an amendment thereto and a broader SEIS.

##### **5. BLM must address the growing public health crisis facing local communities in the Bakersfield Planning Area.**

Residents in the Bakersfield Field Office region are already disproportionately burdened by air and water pollution, and additional oil and gas development authorized by the Draft 2025 SEIS will only exacerbate already severe environmental and public health harms. BLM must consider the wealth of new and growing scientific literature confirming that communities living on the frontlines of oil and gas production are experiencing a public health crisis due to pollution exposure, necessitating an amendment to the 2014 RMP and comprehensive SEIS assessing the crisis and identifying appropriate stipulations and mitigation measures.

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<sup>176</sup> 2019 SEIS at 3.

<sup>177</sup> 43 U.S.C. § 1712(a); 43 C.F.R. § 1601.0-5(n); *see also Pennaco Energy v. U.S. Dep’t of Interior*, 377 F.3d 1147, 1151 (10th Cir. 2004).

<sup>178</sup> 43 U.S.C. § 1712(e); 43 C.F.R. § 1610.5-3(a); 43 C.F.R. pt. 3120.1.

<sup>179</sup> 43 C.F.R. § 3162.3-1(c).

<sup>180</sup> 2019 SEIS at 49.

<sup>181</sup> *Id.* at 3; *see also* 2012 FEIS at 970 (describing conditions of approval).

**a. NEPA requires BLM to take a hard look at impacts on California’s most vulnerable and overburdened communities.**

Under California law, “environmental justice” means “the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies.”<sup>182</sup>

Under NEPA, agencies conducting environmental review for a proposed project “must not only disclose . . . that certain communities and localities are at greater risk, but must also fully assess these risks.”<sup>183</sup> The lead agency must take a hard look at the localized public health impacts on vulnerable communities, “especially where increased harm on certain populations living near active oil and gas development on federal and tribal lands is acknowledged and the potential for alternative approaches exists.”<sup>184</sup> The hard look standard requires the agency to “adequately consider[] every significant aspect [of the project’s environmental impacts], and inform[] the public of its reasoning and conclusions.”<sup>185</sup> Indeed, protecting public health is fundamental to NEPA’s underlying purpose. NEPA was enacted in part to “stimulate the health and welfare of man[.]”<sup>186</sup> The law requires federal agencies “to use all practicable means, consistent with other essential considerations of national policy” to “assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings.”<sup>187</sup> In examining impacts, agencies must consider direct, indirect, and cumulative impacts on all potentially affected resources.<sup>188</sup>

BLM’s assessment of how any new development will exacerbate the cumulative existing burdens in the Bakersfield Planning Area is critical here given the documented and worsening pollution crisis facing communities. The U.S. Supreme Court has acknowledged that NEPA “may require a comprehensive impact statement in certain situations where several proposed actions are pending at the same time[.]” for example that “when several proposals for coal-related actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.”<sup>189</sup>

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<sup>182</sup> Cal. Pub. Res. Code § 30107.3(a); Cal. Gov’t Code § 65040.12(e)(1).

<sup>183</sup> *Bernhardt*, 472 F. Supp. 3d. at 620.

<sup>184</sup> *Id.* at 619; *see also Marsh*, 490 U.S. at 374 (stating that NEPA requires an agency to take a “hard look” at all environmental consequences of a proposed project) (internal quotation marks omitted).

<sup>185</sup> *Or. Wild v. Bureau of Land Mgmt.*, No. 6:14-CV-0110-AA, 2015 WL 1190131, at \*12 (D. Or. Mar. 14, 2015).

<sup>186</sup> 42 U.S.C § 4321.

<sup>187</sup> 42 U.S.C § 4331(b)(2).

<sup>188</sup> *Idaho Sporting Cong. Inc. v. Rittenhouse*, 305 F.3d 957, 973 (9th Cir. 2002).

<sup>189</sup> *Kleppe v. Sierra Club*, 427 U.S. 390, 409–10 (1976).

In order to satisfy NEPA’s hard look standard, BLM must therefore fully assess the public health impacts of its plan to open up the Bakersfield region to new and harmful oil and gas development. This legal obligation applies to BLM and allows it to “strictly adhere” to NEPA as the Draft 2025 SEIS claims it must do, notwithstanding recent Executive Orders (e.g. E.O. 14154) that attempt to prioritize energy development on public lands.<sup>190</sup>

**b. Oil and gas development is exacerbating disproportionate pollution burdens in the region, particularly for communities in close proximity to drilling activity.**

The Bakersfield Field Office region is home to many of the communities most significantly burdened by pollution in California. For example, BLM has noted that nearly 65% of the population are people of color.<sup>191</sup> In Kern County, which the Draft 2025 SEIS identifies as the likeliest place for new oil and gas development, 60% of residents are people of color,<sup>192</sup> 57% of residents are Hispanic or Latino,<sup>193</sup> and an estimated 41% of residents aged 18 and older speak English less than “very well.”<sup>194</sup> As of 2023, American Community Survey estimated that 19.2% of Kern County’s residents fall below the poverty level,<sup>195</sup> with 40.4% of residents falling below 200% of the poverty level.<sup>196</sup> BLM has also noted that 44% of the population qualifies as low income.<sup>197</sup>

Much of Kern County is in “serious” nonattainment for particulate matter air quality standards and “extreme” nonattainment for ozone air quality standards (“serious” is the highest nonattainment designation for particulate matter while “extreme” is the highest for ozone).<sup>198</sup> Indeed, recent analysis concludes that Bakersfield “has the most unhealthful air in the nation”

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<sup>190</sup> Draft 2025 SEIS at 12. BLM’s premise that a “national energy emergency” exists is fundamentally flawed and is in fact just a pretext for arbitrarily boosting favored energy sources like fossil fuels, while cutting renewable energy production. *See* Letter to Douglas Burgum, Secretary of the Interior, from coalition of environmental groups, “Department of the Interior Emergency NEPA Procedures” (May 16, 2025).

<sup>191</sup> 2024 Holmes Western EA, App. 2: Socioeconomic Profile (May 15, 2024) at 20.

<sup>192</sup> U.S. Census Bureau, “ACS Demographic and Housing Estimates” (2023), <https://data.census.gov/table/ACSDP1Y2023.DP05?q=Kern+County,+California>.

<sup>193</sup> *Id.*

<sup>194</sup> U.S. Census Bureau, “Language Spoken at Home” (2023), <https://data.census.gov/table/ACSST1Y2023.S1601?q=Kern+County,+California&t=Language+Spoken+at+Home>.

<sup>195</sup> U.S. Census Bureau, “Selected Characteristics of People at Specified Levels of Poverty in the Past 12 Months” (2023).

<sup>196</sup> U.S. Census Bureau, “Poverty Status in the Past 12 Months” (2023).

<sup>197</sup> 2024 Holmes Western EA, App. 2: Socioeconomic Profile at 18.

<sup>198</sup> EPA, “California Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants” (current as of Feb. 28, 2026), [https://www3.epa.gov/airquality/greenbook/anayo\\_ca.html](https://www3.epa.gov/airquality/greenbook/anayo_ca.html).

and is the “worst place[] to live” *in the nation* for air pollution.<sup>199</sup> Ventura County in the Planning Area has similarly poor air quality in nonattainment of particulate matter and ozone standards.<sup>200</sup> The region also experiences severe drinking water supply and contamination problems, and ground subsidence as more and more water is removed.<sup>201</sup> The County has the second highest number of community water systems in California that rely on contaminated groundwater.<sup>202</sup> Residents in Kern and nearby Kings counties are forced to rely on contaminated drinking water because the community water systems are small and lack the resources to properly treat the groundwater or use another uncontaminated water source.<sup>203</sup>

As a result of these pollution burdens, data from CalEPA’s CalEnviroScreen tool indicates that communities in this region, particularly the San Joaquin Valley, are statistically the “most affected by pollution” in the state, meaning they experience the most asthma emergency room visits, heart attacks, and low birth-weight infants.<sup>204</sup> The latest research shows that Kern County ranked second among California counties for highest heart-disease caused deaths based on 2019-2023 data.<sup>205</sup> Based on 2019–2021 data, Kern County had the highest instance of Hispanic infant mortality among California counties with reliable data.<sup>206</sup>

Pursuant to NEPA, the community characteristics and existing environmental burdens in this region warrant a “hard look” at the potential adverse environmental effects and the localized health impacts on vulnerable communities associated with authorizing new development.<sup>207</sup> Yet despite acknowledging in its 2012 EIS and 2019 SEIS for the Bakersfield Field Office Planning Area that the region “qualifies as an environmental justice population area,” BLM has seemingly ignored the potential environmental justice impacts in any prior environmental review for the oil

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<sup>199</sup> E. McCormick, “Revealed: The 10 Worst Places to Live in US for Air Pollution” (Mar. 8, 2023), <https://www.theguardian.com/us-news/2023/mar/08/10-most-air-polluted-places-to-live-us>.

<sup>200</sup> EPA, “California Nonattainment/Maintenance Status for Each County by Year for All Criteria Pollutants.”

<sup>201</sup> Cal. Council on Science & Technology (CCST), *An Independent Assessment of Well Stimulation in California*, Vol. 2, Potential Environmental Impacts of Hydraulic Fracturing and Acid Stimulations (Jul. 2015) at 65.

<sup>202</sup> Ctr. for Biological Diversity, Comments on 2020 Lease Sale EA at 73.

<sup>203</sup> Cal. DOJ., Comments on 2020 Lease Sale EA at 13-14; *see* SWRCB, Report to the Legislature: Communities That Rely on a Contaminated Groundwater Source for Drinking Water (Jan. 2013, revised Jun. 2020); *see also* OEHHA, Methodology for a Statewide Drinking Water Contaminant Indicator (Jan. 2017), <https://oehha.ca.gov/media/downloads/calenviroscreen/report/ces3dwm methodology.pdf>.

<sup>204</sup> OEHHA, CalEnviroScreen 4.0 Tool (Oct. 2021) at 154, 159, 164.

<sup>205</sup> In Kern County, the age-adjusted death rate for deaths caused by heart disease per 100,000 people is 207.1; in Kings County, it is 177.9; the state-wide rate is 143.6. Nat. Inst. on Minority Health & Health Disparities, Heart Disease Death Rates Table for California by County (2019-2023).

<sup>206</sup> Cal. Dept. of Public Health, County Health Status Profiles 2024 at 38, [https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CHSP\\_Profiles/CHSP-2024.pdf](https://www.cdph.ca.gov/Programs/CHSI/CDPH%20Document%20Library/CHSP_Profiles/CHSP-2024.pdf).

<sup>207</sup> *See Bernhardt*, 472 F. Supp. 3d at 620; *Marsh*, 490 U.S. at 374.

and gas extraction it authorizes on public land and cannot refuse to examine these impacts now.<sup>208</sup>

Over 107,000 people, or nearly 12 percent of Kern County residents alone, live within roughly a half-mile of oil and gas wells.<sup>209</sup> Over half these residents are people of color.<sup>210</sup> One-third of the County's wells are within the same distance of schools and hospitals.<sup>211</sup> Overall, approximately 25 percent of oil and gas wells in Kern County are located in low-income communities.<sup>212</sup> According to a new report from CalGEM's Scientific Advisory Panel, the scientific literature now indicates "that compared to non-Hispanic White and more socioeconomically advantaged populations, non-Hispanic Black, non-Hispanic Asian, and Hispanic populations and those of lower socioeconomic status were more likely to live near upstream oil and gas development activities where exposures to stressors are likely to be higher."<sup>213</sup>

A raft of new studies and data increasingly link proximity to oil and gas operations to higher rates of cancer, adverse birth outcomes,<sup>214</sup> respiratory illnesses,<sup>215</sup> cardiovascular

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<sup>208</sup> 2012 FEIS at 388.

<sup>209</sup> The Oil & Gas Threat Map, "Oil & Gas Threat Map 2.0, Kern County" (2026), <https://oilandgasthreatmap.com/threat-map/>; see also U.S. Census Bureau, "ACS Demographic and Housing Estimates" (2023), <https://data.census.gov/table/ACSDP1Y2023.DP05?q=Kern+County,+California> (estimating the 2023 total Kern County population to be 913,820).

<sup>210</sup> The Oil & Gas Threat Map, "Oil & Gas Threat Map 2.0, Kern County."

<sup>211</sup> K. Ferrar, "California Setback Analyses Summary," FracTracker Alliance (Apr. 2, 2020), <https://www.fractracker.org/2020/04/california-setback-analysis-summary/>.

<sup>212</sup> *Id.*

<sup>213</sup> CalGEM Scientific Advisory Panel Report at ES-6.

<sup>214</sup> See, e.g., D.J. Gonzalez et al., Oil and Gas Production and Spontaneous Preterm Birth in the San Joaquin Valley, CA: A Case-Control Study (Aug. 2020); K.V. Tran et al., Residential Proximity to Oil and Gas Development and Birth Outcomes in California: A Retrospective Cohort Study of 2006–2015 Births (June 3, 2020), <https://pmc.ncbi.nlm.nih.gov/articles/PMC7268907/pdf/ehp5842.pdf>.

<sup>215</sup> See, e.g., Am. Lung Assn, "State of the Air Report Card: Kern County" (2025); D.J. Gonzalez et al., *Upstream Oil and Gas Production and Ambient Air Pollution in California*, Science of The Total Environment, 806, 150298 (Feb. 1, 2022); J.E. Johnston et al., *Respiratory Health, Pulmonary Function and Local Engagement in Urban Communities Near Oil Development*. 197 Env't Rsch. 111088 (June 2021), <https://doi.org/10.1016/j.envres.2021.111088>; J.J. Buonocore, *Air Pollution and Health Impacts of Oil & Gas Production in the United States*. 1 Env't Rsch.: Health 021006 (May 8, 2023), <https://iopscience.iop.org/article/10.1088/2752-5309/acc886>; M. Pianko, "California Lagged in Capping Century-Old Oil Wells Leaking Under Homes of LA Residents Plagued by Illness and Odors" (Feb. 13, 2020), <https://www.desmogblog.com/2020/02/13/los-angeles-vista-hermosa-cap-orphan-oil-wells-leaking-doggr>.

problems,<sup>216</sup> and other negative health consequences.<sup>217</sup> Several scoping comments on BLM’s Draft 2025 SEIS also detail this research.<sup>218</sup> Most of these studies and data, including CalGEM’s Scientific Advisory Panel report, focus on California and the Bakersfield Field Office Planning Area in particular, and demonstrate the major threat to communities in this area from approving any new oil and gas development.<sup>219</sup>

BLM has failed to grapple with any of this new information and changed circumstances in the region.<sup>220</sup> Neither the 2012 FEIS nor the 2019 SEIS consider or analyze this updated information, and BLM has failed to conduct the appropriate analysis of public health impacts on Bakersfield communities in any subsequent environmental review document at later stages of its decisionmaking process, including the leasing and APD stages. To the extent BLM plans to rely on the 2014 RMP and accompanying SEIS for later leasing and permitting decisions in the region, this means the agency must grapple with these impacts now and amend the RMP accordingly.<sup>221</sup>

## **6. The 2014 RMP and the Draft 2025 SEIS conflict with SB 1137, California’s fracking ban, and other statewide laws and policies to phase out oil and gas production and protect vulnerable communities.**

California has enacted several statutes in recent years to protect its disadvantaged communities from air and water pollution that BLM has not considered in its planning documents for the Bakersfield region. Approving new oil and gas development on federal lands would have a significant adverse impact on the state’s ability to meet these goals.

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<sup>216</sup> See, e.g., J.E. Johnston et al., *Cardiovascular Health and Proximity to Urban Oil Drilling in Los Angeles, California* (Aug. 8, 2023), 34 *J. of Exposure Sci. & Env’t Epidemiology* 505 (2024), <https://doi.org/10.1038/s41370-023-00589-z>.

<sup>217</sup> See, e.g., K. Graham, “Unlined Waste Disposal Pits Endanger Groundwater in San Joaquin Valley” (Oct. 24, 2021), <https://www.digitaljournal.com/tech-science/unlined-waste-disposal-pits-endanger-groundwater-in-san-joaquin-valley/article>; L. Gross, “A California Water Board Assures the Public that Oil Wastewater is Safe for Irrigation, but Experts Say the Evidence is Scant,” *Inside Climate News* (2022), <https://insideclimatenews.org/news/06022022/a-california-water-board-assures-the-public-that-oil-wastewater-is-safe-for-irrigation-but-experts-say-the-evidence-is-scant/>.

<sup>218</sup> See, e.g., Center Scoping Comments at 18–30.

<sup>219</sup> See Earthjustice, *In the Shadow of Big Oil: Neighborhood Drilling in California* (June 11, 2021).

<sup>220</sup> *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1072, 1075 (9th Cir. 2011) (conclusions must be supported by reliable studies).

<sup>221</sup> *Bernhardt*, 472 F. Supp. 3d at 620 (failing to conduct the analysis “leaves the issue[s] wholly unstudied and violative of NEPA’s fundamental purpose, and thus fails to satisfy the hard look required under NEPA”).

BLM acknowledges that its management decisions must not violate any “relevant Federal, State, Tribal, and local laws protecting the environment” under NEPA.<sup>222</sup> The MLA also directs that “[n]one of such provisions” in federal leases “shall be in conflict with the laws of the State in which the leased property is situated.”<sup>223</sup> Congress further affirmed respect for state law in 30 U.S.C. § 189, which states “[n]othing in this [Act] shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have[.]” In addition, FLPMA specifies that federal land use plans must “provide for compliance with applicable pollution control laws, including State . . . air, water, noise, or other pollution standards or implementation plans[.]”<sup>224</sup>

Thus, BLM must amend the 2014 RMP to reconcile its analysis with new statewide laws and policies. For example, in 2022, SB 1137 established a 3,200-foot physical setback area statewide between new and reworked oil and gas wells and facilities and all homes, schools, and other sensitive locations, as well as a range of engineering controls for all wells to mitigate pollution in nearby communities.<sup>225</sup> In order to implement SB 1137, California’s oil and gas regulatory agency CalGEM adopted public health and safety regulations implementing the provisions in the law, which are now in effect.<sup>226</sup> California has also implemented a fracking ban for years that the Draft 2025 SEIS mentions in passing but otherwise fails to meaningfully address. While the 2014 RMP recognizes that “BLM requires operators on Federal minerals to acquire all necessary Federal, state, and local permits prior to developing a lease” and that if any state-level fracking-related requirements are “more stringent” than in the plan “they will serve as additional safeguards,”<sup>227</sup> the Draft 2025 SEIS largely proceeds as though fracking will occur in the Planning Area.

California’s Department of Conservation, CalGEM’s parent agency, has similarly urged BLM in scoping comments to comply with SB 1137 and the fracking ban in the Bakersfield region, reinforcing that its requirements apply “in California on all land administered by BLM whether that land is owned in total by the federal government or is a ‘split-estate.’”<sup>228</sup> EPA also commented that BLM should implement setbacks in line with “[a]ny current State of California established minimum setback distance from occupied structures” in order to “protect human health.”<sup>229</sup>

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<sup>222</sup> See, e.g., DOI, Finding of No Significant Impact: E&B Natural Resources Management Corporation Nine Applications for Permit to Drill in Kern Front DOI-BLM-CA-C060-2024-0053-EA (May 1, 2025) at 3, <https://eplanning.blm.gov/Documents/?id=70e5e4e6-a7f2-f011-8407-001dd80db62a&spid=272fa68b-a8f2-f011-8406-001dd802fdea>.

<sup>223</sup> 30 U.S.C. § 187.

<sup>224</sup> 43 U.S.C. § 1712(c)(8).

<sup>225</sup> 2022 Cal. Legis. Serv. 365 (S.B. 1137).

<sup>226</sup> SB 1137 First Emergency Implementation Regulations, Cal. Code Regs. tit. 14, §§ 1765–1765.10 (2024).

<sup>227</sup> 2014 RMP at XVI.

<sup>228</sup> Scoping Comments for the Draft 2025 SEIS, from the Cal. State Water Boards, Cal. Dept. of Conservation, Cal. Dept. of Fish & Wildlife, Cal. Coastal Commission, Cal. State Parks at 5–6.

<sup>229</sup> EPA, Scoping Comments for Draft 2025 SEIS at 3–4.

NEPA requires BLM to discuss project alternatives that include appropriate mitigation strategies to offset the impacts of approving new development in the Bakersfield region,<sup>230</sup> and these important state laws and policies provide many feasible measures to address public health impacts. For example, SB 1137 requires continuous on-site monitoring by oil and gas operators, which is sorely needed in overburdened regions like Bakersfield.<sup>231</sup> The law also requires measures for leak detection and response planning for methane and hydrogen sulfide, which are ubiquitous at well sites.<sup>232</sup> BLM should consider requiring similar leak detection systems and expand their scope to detect other toxic and hazardous air contaminants including particulate matter, carbon monoxide, nitrous oxide, ozone, and volatile organic compounds (VOCs) such as aromatic (cyclic and polycyclic) hydrocarbons like benzene. Recent reports confirm the availability of engineering emission controls and effective operational practices such as leak detection and repair programs.<sup>233</sup>

Similarly, in order to limit air pollution and prevent methane waste, BLM should also prohibit both venting and flaring. A 2021 study showed that flaring and venting during oil production were “the highest contributors to sector emissions [of methane], accounting for 32% and 24%, respectively.”<sup>234</sup> BLM could thus consider requiring a vapor venting prevention system like the measure required in SB 1137.<sup>235</sup> Operators would report vapor venting whenever it occurs, and BLM would then suspend operations until the source of vapor is identified and any leak is repaired, and permanently shut down wells and production facilities that repeatedly violate the prohibition. A related prohibition on flaring—which is an even bigger source of methane than venting and can cause increases in respiratory-related hospitalizations for people even 60 miles away—would further reduce public health risks in frontline communities and go a long way toward addressing the statewide impacts of flaring on air quality.<sup>236</sup>

SB 1137 includes a range of other engineering mitigation controls designed to address air pollution that BLM must consider and incorporate into its amended RMP. For example, new requirements for tank leak detection and shut down of leaking or out-of-compliance tanks<sup>237</sup>

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<sup>230</sup> 42 U.S.C. § 4332(C)(iii), (F); *Methow Valley Citizens Council*, 490 U.S. at 351.

<sup>231</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3283(a)(2)).

<sup>232</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3283(a)(1), (a)(2)).

<sup>233</sup> See, e.g., D.R. Michanowicz et al., *Methane and Health-Damaging Air Pollutants from the Oil and Gas Sector: Bridging 10 Years of Scientific Understanding* (Oct. 6, 2021), [https://www.psehealthyenergy.org/wp-content/uploads/2021/10/Full-Report\\_Bridging-10-Years-of-Scientific-Understanding.pdf](https://www.psehealthyenergy.org/wp-content/uploads/2021/10/Full-Report_Bridging-10-Years-of-Scientific-Understanding.pdf).

<sup>234</sup> *Id.* at 3–9.

<sup>235</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3282(f)).

<sup>236</sup> W. Blundell & A. Kokoza, *Natural Gas Flaring, Respiratory Health, and Distributional Effects*, 208 *J. of Pub. Econ.* 104601 (Apr. 2022), <https://doi.org/10.1016/j.jpubeco.2022.104601>.

<sup>237</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3283(a)(1), (a)(2)); S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3282(f)).

recognize the reality that upstream liquid storage tanks have emerged as the single largest fugitive emissions source of both methane and VOCs.<sup>238</sup>

Recognizing that oil and gas production invariably produces dust that threatens public health, SB 1137 also includes dust control measures like limiting vehicle speeds and covering drilling muds and stored sands.<sup>239</sup> BLM should consider stronger dust control measures that better mitigate particulate matter emissions by, for example, requiring measures that address emissions during each phase of production activity and for different source activities.<sup>240</sup>

In addition to air pollution, BLM must also require mitigation measures designed to prevent water pollution due to oil and gas drilling, which is a serious concern for frontline communities. SB 1137 includes baseline and post-drilling water testing to measure the impacts of drilling, and requires operators to provide notice to community members pre-drilling.<sup>241</sup> BLM should consider similar requirements and further expand the list of analytes for water testing to include key per- and polyfluoroalkyl substances (PFAS), also known as “forever” chemicals that are associated with drilling fluids and known to cause cancer and developmental toxicity.<sup>242</sup>

SB 1137 also includes sound controls, in recognition of the fact that oil and gas activities expose nearby residents to constant noise for a long duration of time.<sup>243</sup> The law similarly provides light controls that BLM should consider, including requirements for minimum intensity lighting at well sites during evening hours and hooded lighting that is not shined onto neighboring properties.<sup>244</sup>

## **7. BLM must demonstrate CAA Conformity at the RMP stage and cannot do so without amending the 2014 RMP.**

The Bakersfield Planning Area is home to our nation’s greatest air quality challenges. The San Joaquin Valley air basin, located in the Planning Area, maintains the worst designation for ozone pollution in the country and has yet to attain fine particulate matter (PM<sub>2.5</sub>) National

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<sup>238</sup> D.R. Michanowicz et al., Methane and Health-Damaging Air Pollutants from the Oil and Gas Sector: Bridging 10 Years of Scientific Understanding at 7.

<sup>239</sup> SB 1137 § 2 (enacting Cal. Pub. Res. Code § 3282(e)).

<sup>240</sup> See, e.g., S. Coast Air Quality Mgmt. Dist., “Fugitive Dust,”

<http://www.aqmd.gov/home/rules-compliance/ceqa/air-quality-analysis-handbook/mitigation-measures-and-control-efficiencies/fugitive-dust> (accessed Mar. 11, 2026).

<sup>241</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3284).

<sup>242</sup> H. Tabuchi., “E.P.A. Approved Toxic Chemicals for Fracking a Decade Ago, New Files Show” (July 13, 2021), <https://www.nytimes.com/2021/07/12/climate/epa-pfas-fracking-forever-chemicals.html>; OEHHA, “Safe Drinking Water and Toxic Enforcement Act of 1986 Chemicals Known to the State to Cause Cancer or Reproductive Toxicity” (Apr. 21, 2023) at 18.

<sup>243</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3282(b), (c)).

<sup>244</sup> S.B. 1137 § 2 (enacting Cal. Pub. Res. Code § 3282(d)).

Ambient Air Quality Standard (NAAQS).<sup>245</sup> On February 7, 2024, EPA strengthened the annual health-based NAAQS for PM<sub>2.5</sub> from a level of 12 micrograms per cubic meter to 9 micrograms per cubic meter.<sup>246</sup> The Valley is not expected to meet the new standard even by 2032,<sup>247</sup> heightening the importance of further restrictions on polluting projects and activities throughout the airshed,<sup>248</sup> including via an amendment to the 2014 RMP.

Despite growing concerns over the lasting impacts that air pollution will have on community members, vast portions of the Planning Area continue to produce the bulk of California's crude oil and main most of the state's active wells, which cause significant air pollution.<sup>249</sup> Despite the stark air pollution crisis in the region, BLM has never meaningfully considered the General Conformity Rule—the CAA provision that was enacted to prevent the federal government from worsening air quality in already polluted geographies—at any point in approving petroleum extraction in this region.

BLM has a responsibility to amend its 2014 RMP and produce a comprehensive SEIS that provides accurate air emissions estimates for all oil and gas development in the region, including details about the calculations and assumptions used to achieve those numbers, and to perform a conformity determination for the aggregated effects of all drilling activity. BLM's failure to provide this information and perform a conformity determination at the RMP level is arbitrary and capricious and violates the CAA.

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<sup>245</sup> San Joaquin Valley Air Pollution Control Dist., “Ambient Air Quality Standards & Attainment Status,” <https://ww2.valleyair.org/air-quality-information/ambient-air-quality-standards-valley-attainmnet-status/> (accessed Mar. 11, 2026).

<sup>246</sup> *See generally* EPA, Reconsideration of the National Ambient Air Quality Standards for Particulate Matter (prepublication version, signed Feb. 5, 2024); 89 Fed. Reg. 16202 (Mar. 6, 2024); *accord*, EPA, “EPA Finalizes Stronger Standards for Harmful Soot Pollution, Significantly Increasing Health and Clean Air Protections for Families, Workers, and Communities” (Feb. 7, 2024), <https://www.epa.gov/newsreleases/epa-finalizes-stronger-standards-harmful-soot-pollution-significantly-increasing>.

<sup>247</sup> EPA, Fine Particle Concentrations for Counties with Monitors Based on Air Quality Data from 2020 – 2022 (2024) at 1, [https://www.epa.gov/system/files/documents/2024-02/table\\_annual-pm25-county-design-values-2020-2022-for-web.pdf](https://www.epa.gov/system/files/documents/2024-02/table_annual-pm25-county-design-values-2020-2022-for-web.pdf); EPA, EPA Projects More than 99% of Counties Would Meet the Revised Fine Particle Pollution Standard (2024), <https://www.epa.gov/system/files/documents/2024-02/2024-pm-naaqs-final-2032-projections-map.pdf>.

<sup>248</sup> *See* A. Lazo, “California’s Pursuit of Clean Air Just Got Much Harder: New Soot Standards Set” (Feb. 7, 2024), <https://calmatters.org/environment/2024/02/california-new-soot-standards> (“Emissions from agriculture, energy production and goods transport are among the major sources.”).

<sup>249</sup> Western States Petroleum Association (WSPA), San Joaquin Valley: The Oil and Gas Industry’s Production Workhorse (2019), [https://www.wspsa.org/wp-content/uploads/LAEDC\\_regional\\_factsheet\\_SanJoaquin\\_v2.pdf](https://www.wspsa.org/wp-content/uploads/LAEDC_regional_factsheet_SanJoaquin_v2.pdf).

In addition, as a result of recent changes to federal law, to the extent BLM believes its discretion to impose mitigation or protective stipulations at the leasing and drilling stages may be limited, BLM must now analyze conformity at the planning stage. See Section IV.C.3 above.

#### a. CAA Conformity requirements

The purpose of the Clean Air Act<sup>250</sup> is “to protect and enhance” air quality in the United States.<sup>251</sup> To achieve this goal, states are required to submit a SIP to EPA that regulates the states’ fulfillment of the CAA and the enforcement of the NAAQS.<sup>252</sup> Functionally, NAAQS work by establishing upper limits for six common criteria pollutants in order to protect public health and welfare.<sup>253</sup> Namely, the six criteria pollutants are: ozone (O<sub>3</sub>), particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), lead (Pb), and carbon monoxide (CO).<sup>254</sup> When an area is unable to comply with one or more NAAQS, the EPA designates it as “nonattainment” and requires it to abide by stricter regulations that are intended to drive the area toward attainment.<sup>255</sup> One such requirement for areas designated as nonattainment is that they must comply with the General Conformity Rule pursuant to United States Code section 7506(c).

The EPA promulgated its final General Conformity Rule under the CAA in 1993.<sup>256</sup> Under this rule, the federal government is required to conform “to an implementation plan’s purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards[.]”<sup>257</sup> Specifically, the federal government may not cause new NAAQS violations, intensify the rate or severity of NAAQS violations, or interrupt the timely attainment of any NAAQS or interim milestones.<sup>258</sup> In other words, the federal government’s actions must be consistent with a state’s implementation plan and its goals for achieving attainment.

An action will trigger a formal conformity determination if it requires federal funding or approval, occurs in a nonattainment or maintenance area, exceeds federal *de minimis* levels, and is not otherwise exempt.<sup>259</sup> These threshold requirements constitute the applicability analysis—at

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<sup>250</sup> 42 U.S.C. § 7401.

<sup>251</sup> *Id.* § 7401(b)(1).

<sup>252</sup> *Id.* § 7410(a).

<sup>253</sup> EPA, “NAAQS Table” (Nov. 4, 2025), <https://www.epa.gov/criteria-air-pollutants/naaqs-table>.

<sup>254</sup> EPA, “Environments and Contaminants – Criteria Pollutants” (2025), <https://www.epa.gov/americaschildrenenvironment/environments-and-contaminants-criteria-air-pollutants#About%20the%20Criteria%20Air%20Pollutants%20Indicators>.

<sup>255</sup> 42 U.S.C. §§ 7407 (on area designation), 7502–7509(a) (on requirements for nonattainment areas).

<sup>256</sup> 58 Fed. Reg. 63247 (Nov. 30, 1993).

<sup>257</sup> 42 U.S.C. § 7506(c)(1)(A).

<sup>258</sup> *Id.* § 7506(c)(1)(B).

<sup>259</sup> EPA, General Conformity Training Module (2010) at 3.

the end of which the federal agency must determine whether it must support its action with a formal conformity determination.<sup>260</sup>

Estimating emissions for comparison with the region's *de minimis* levels is an important component of the applicability analysis. To determine whether the emissions contributed by the federal government's actions are *de minimis*, the federal agency must show that total direct and indirect emissions, combined, are below the region's stipulated thresholds.<sup>261</sup> Direct emissions are those that are caused by the action and indirect emissions are those that may be separated by time or space but are of the type that "the agency can practically control" and for which "the agency has continuing program responsibility."<sup>262</sup> All emissions must be "reasonably foreseeable," which means that they may be calculated based on reasonable assumptions regarding techniques and equipment to be used.<sup>263</sup>

BLM's use of EPA's Air Quality Index (AQI) in the Draft 2025 SEIS does *not* satisfy these requirements, is arbitrary and capricious, and cannot establish that air emissions are minimal. Instead, BLM's required conformity analysis must include specific emission contributions from individual criteria pollutants/precursors that the Planning Area is in nonattainment with. The Draft 2025 SEIS's tactic of just adding up all pollutants and comparing to total AQI for the region is not connected to any CAA requirements and minimizes the importance of the most harmful pollutants.<sup>264</sup>

**b. The Bakersfield Planning Area is one of the most polluted places in the nation.**

Vast swaths of the Bakersfield Planning Area, particularly the San Joaquin Valley, are currently designated as nonattainment for 8-hour ozone and PM<sub>2.5</sub> NAAQS, and as nonattainment for 1-hour ozone under state standards.<sup>265</sup>

In fact, recent research and data show that pollution levels are so severe that the ozone nonattainment status for each of the counties in the Valley is designated as extreme<sup>266</sup>: the worst

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<sup>260</sup> 40 C.F.R. § 93.152.

<sup>261</sup> EPA, General Conformity Training Module (2010) at 21.

<sup>262</sup> 40 C.F.R. § 93.152.

<sup>263</sup> EPA, General Conformity Training Module (2010) at 21.

<sup>264</sup> Draft 2025 SEIS at 20–21.

<sup>265</sup> The 1-hour ozone NAAQS was revoked in 2005, but the San Joaquin Valley had previously been classified as extreme nonattainment. Under California standards, the Valley is classified as severe nonattainment. San Joaquin Valley Air Pollution Control Dist., "Ambient Air Quality Standards & Attainment Status," <https://ww2.valleyair.org/air-quality-information/ambient-air-quality-standards-valley-attainmnet-status/>.

<sup>266</sup> San Joaquin Valley Air Pollution Control Dist., Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI) (Mar. 19, 2015) at 29, <https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>.

possible classification for ozone.<sup>267</sup> Currently, there are only a total of 12 counties in the entire nation that are classified at this level.<sup>268</sup> This means that the Valley Air Basin accounts for two thirds of our nation’s most severely polluted counties in terms of ozone. This pollutant is measured at 25 monitoring stations across the Valley, and the basin’s maximum 8-hour average ozone concentration has increased between 2019 and 2020.<sup>269</sup>

Air pollution is widely known to have serious health effects on communities. One recent study found that people living in areas with the highest pollution in California, including the Valley, experienced 51% higher risk of COVID-19 mortality compared to those living in areas with less pollution.<sup>270</sup> For the nearly 3 million Californians who live within a half mile of an oil or gas well, these health effects have acute and lasting impacts on daily life—causing some to experience dramatic challenges in completing normal daily activities.<sup>271</sup>

As a result of the region’s ongoing struggles with air pollution and NAAQS violations, this area is often called the most polluted air basin in the country. Until the Valley sheds this label—until it achieves attainment designations for all criteria pollutants—it will be required to comply with the CAA’s General Conformity Rule. While the San Joaquin Valley Air Basin continues its efforts toward providing cleaner air for its communities, BLM must amend its 2014 RMP to comply with the lowest *de minimis* thresholds for ozone precursors as established under the CAA: 10 tons per year (TPY) for both nitrogen oxides (NOx) and reactive organic gases (ROGs) (or VOCs).<sup>272</sup>

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<sup>267</sup> Areas designated as nonattainment for ozone may be classified as marginal, moderate, serious, severe, or extreme. 42 U.S.C. § 7511(a)(1).

<sup>268</sup> EPA, “Greenbook: Current Nonattainment Counties for All Criteria Pollutants” (Feb. 28, 2026), <https://www3.epa.gov/airquality/greenbook/ancl.html#Top>.

<sup>269</sup> San Joaquin Valley Air Pollution Control Dist., 2022 Plan for the 2015 8-Hour Ozone Standard (Dec. 15, 2022) at 2-11, 2-16, <https://ww2.valleyair.org/media/q55posm0/0000-2022-plan-for-the-2015-8-hour-ozone-standard.pdf> (Figure 2-11: Basin Maximum 8-Hour Average Ozone Concentrations).

<sup>270</sup> P.B. English et al., *Association Between Long-Term Exposure to Particulate Air Pollution with SARS-CoV-2 Infections and COVID-19 Deaths in California, U.S.A.*, 9 *Env’t Advances* 100270 (Oct. 2022), <https://doi.org/10.1016/j.envadv.2022.100270>.

<sup>271</sup> CalGEM Scientific Advisory Panel Report at ES-4; J.L. Mernit, “The Health Hazards of California’s Neighborhood Drilling,” *High Country News* (Apr. 13, 2021), <https://www.hcn.org/articles/climate-desk-oil-the-health-hazards-of-californias-neighborhood-drilling/>.

<sup>272</sup> *See generally* San Joaquin Valley Air Pollution Control Dist., 2022 Plan for the 2015 8-Hour Ozone Standard; *see also* CCST, *An Independent Scientific Assessment of Well Stimulation in California*, Vol. 2, Chpt. 3, Air Quality Impacts from Well Stimulation at 184 (“ROGs” refers to a California-specific defined class of species, and are similar to VOCs). Because NOx is a major precursor for PM<sub>2.5</sub>, BLM should also comply with the PM<sub>2.5</sub> *de minimis* threshold. San Joaquin Valley Air Pollution Control Dist., 2024 Plan for the 2012 Annual PM<sub>2.5</sub> Standard (June 20, 2024) at 4-23, 5-10, <https://ww2.valleyair.org/media/gw5bacvj/2024-pm25-plan.pdf>.

### c. Oil and gas development produces significant emissions.

At every stage of oil and gas extraction—including construction, drilling, operations, maintenance, plugging, and abandonment—pollutants are released that exacerbate NAAQS violations in the Bakersfield Planning Area, cause adverse health effects to communities, and worsen the consequences of climate change.

The process of oil extraction involves industrial procedures that emit significant amounts of criteria pollutants, both intentionally and unintentionally. Specifically, oil and gas operations can produce emissions from oil production (pumping and extraction), oil handling in tanks and pipelines, well drilling and workovers, well stimulation via hydraulic fracturing and acidization, and the separation of oil and water.<sup>273</sup> Pollutants are released from pump seals, tank hatches, site glasses, pipe fittings, gauges, valves, pipe repairs that produce a blowdown, and a number of other common channels.<sup>274</sup>

Leaks are also troublingly common, with state inspectors recently identifying recurring leaks spewing methane from dozens of wells in and around Bakersfield and Arvin.<sup>275</sup> In April 2024, residents and first responders in Bakersfield reported a leak from a nearby well site that caused symptoms including “fatigue, [a] bad headache . . . brain fog, trouble with concentration, and . . . nausea.”<sup>276</sup> And as recently as January 2025, EPA reported seven different “super emitter” methane leaks at oil and gas sites across Kern County.<sup>277</sup> EPA’s super emitter program reports large leaks “of 100 kilograms per hour of methane or greater” from oil and gas facilities,<sup>278</sup> with some of the leaks as large as 800 kilograms per hour,<sup>279</sup> further highlighting the extent of the crisis facing frontline communities.

Ozone precursors, NO<sub>x</sub> and VOC, are of particular concern in this region because it is already in extreme nonattainment for ozone, as is NO<sub>x</sub> as a PM<sub>2.5</sub> precursor because the region is in serious nonattainment for PM<sub>2.5</sub>. In oil operations, NO<sub>x</sub> emissions are specifically attributable to activities that depend on diesel or natural gas engines, such as drilling, workovers, hydraulic fracturing, and general use trucks.<sup>280</sup> Emissions of VOCs are also highly impacted by oil extraction, and in fact the oil and natural gas industry is the largest source of industrial VOCs in

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<sup>273</sup> EDF, *Filling the Void: The Value of New Technology to Reduce Air Pollution and Improve Information at Oil and Gas Sites in California* (2017) at 13.

<sup>274</sup> *Id.*; see also CalGEM Scientific Advisory Panel Report, Chapter 2.

<sup>275</sup> J. Cox, “State Finds 27 Oil Wells Leaking Methane in Arvin-Lamont Area” (June 1, 2023), [https://www.bakersfield.com/news/state-finds-37-oil-wells-leaking-methane-in-arvin-lamont-area/article\\_52120332-00da-11ee-b466-83e7f8b280c5.html](https://www.bakersfield.com/news/state-finds-37-oil-wells-leaking-methane-in-arvin-lamont-area/article_52120332-00da-11ee-b466-83e7f8b280c5.html).

<sup>276</sup> See, e.g., *Identifying Violations Affecting Neighborhoods (IVAN), Local Reports*, Kern County (multiple reports on April 3 to 5, 2024).

<sup>277</sup> EPA, “Methane Super Emitter Data Explorer” (2025).

<sup>278</sup> *Id.*

<sup>279</sup> EPA, “Methane Emissions Event Report” (2025).

<sup>280</sup> CCST, *An Independent Scientific Assessment of Well Stimulation in California*, Vol. 2, Chpt. 3, *Air Quality Impacts from Well Stimulation* (July 2015) at 182–266.

the country.<sup>281</sup> A recent study even found that benzene, a known carcinogen, is often leaking from abandoned wells, a vast majority of which are in close proximity to buildings and homes.<sup>282</sup> Hazardous air pollutant (HAP) emissions are also highly significant at drilling sites and can be detected at well production, during completions and recompletions, during flaring, and from equipment leaks.<sup>283</sup> By one estimate, total fuel chain emissions from California-refined oil between 2013 and 2017 produced around 75.9 metric tons of PM<sub>2.5</sub> and were responsible for more than 8,000 deaths.<sup>284</sup>

Oil and gas regions can experience spikes in emissions where dramatic increases can occur in just a few minutes. These spikes can amount to emissions in the wheelhouse of “a thousand or more wells in routine operation” occurring simultaneously.<sup>285</sup> Such is the case during the region’s recent “super emitter” leaks in Kern County.

Other times, delinquent operators have allowed accidents to go undetected. This has occurred when crude oil spills and degraded netting around sump ponds have gone entirely unnoticed, adding additional air pollution.<sup>286</sup> Even the state agency responsible for enforcing compliance with regulations at extraction sites, CalGEM, admits that it is unable to “prosecute enforcement actions in a timely manner” or to “adequately protect the health and safety of the citizens of the state.”<sup>287</sup>

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<sup>281</sup> EPA, “Controlling Air Pollution from the Oil and Natural Gas Industry” (Sep. 10, 2025), <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry/basic-information-about-oil-and-natural-gas>.

<sup>282</sup> D.C. DiGiulio et al., *Chemical Characterization of Natural Gas Leaking from Abandoned Oil and Gas Wells in Western Pennsylvania*, 8 ACS Omega no. 22, 19443 (2023), <https://doi.org/10.1021/acsomega.3c00676>; see also L. Gross, “Abandoned Oil and Gas Wells Emit Carcinogens and Other Harmful Pollutants, Groundbreaking Study Shows,” Inside Climate News (June 6, 2023), <https://insideclimatenews.org/news/06062023/abandoned-oil-gas-wells-health/>.

<sup>283</sup> Earthjustice, *Petition to the EPA: EPA Must List Oil and Gas Wells and Associated Equipment as an Area Source Category and Set National Air Toxics Standards to Protect Public Health* (May 13, 2014) at 26–29.

<sup>284</sup> G. Karras, *Decommissioning California Refineries: Climate and Health Paths in an Oil State* (July 2020) at 22–25, <https://www.cbecal.org/wp-content/uploads/2020/07/Decomm-CA-Refineries-July2020.pdf> (compiling deaths attributable to chronic exposure to PM<sub>2.5</sub>, and excluding deaths related to other pollutants and indirect emissions such as wildfires).

<sup>285</sup> D. Allen, *Emissions from Oil and Gas Operations in the United States and their Air Quality Implications*, *Journal of the Air & Waste Management Association*, 66 J. of the Air & Waste Mgmt. Ass’n 549 (June 1, 2016), <https://www.tandfonline.com/doi/full/10.1080/10962247.2016.1171263>.

<sup>286</sup> J. Wilson, “Are California Oil Companies Complying with the Law? Even Regulators Often Don’t Know,” *ProPublica* (Mar. 22, 2021), <https://www.propublica.org/article/are-california-oil-companies-complying-with-the-law-even-regulators-often-dont-know>.

<sup>287</sup> *Id.*

In the area with the worst ozone designation under the CAA, actions that have the potential to contribute to the ambient pollution of ozone precursors must be scrutinized carefully at the RMP stage. Oil extraction in California emits significant pollution at every step of the process, and our state lacks the resources to ensure compliance with basic health and safety measures as they exist now—allowing significant deterioration of machinery and leaks to go unnoticed. The General Conformity Rule’s exception for *de minimis* emissions, which recognizes that some actions do not significantly contribute to emissions and should therefore be exempted, cannot apply to activities that promise to contribute significantly to air pollution concerns in the San Joaquin Valley such as well drilling—which BLM has failed to show fall below *de minimis* levels.

**d. BLM has never undertaken a meaningful conformity review for oil and gas development in the San Joaquin Valley.**

As discussed above, at every point in BLM’s three-stage process for oil and gas decisionmaking in the Bakersfield region, BLM has evaded performing a conformity determination.

In the 2014 RMP, BLM incorrectly determined that estimated emissions from the plan fall below *de minimis* levels. Specifically, the agency found that the total projected emissions from oil and gas development in the San Joaquin Valley would result in an additional 2.058 tons per year (TPY) of NO<sub>x</sub> and 6.779 TPY of ROG/VOCs emissions—both of which are below the region’s *de minimis* threshold of 10 TPY each.<sup>288</sup> These estimates are unsubstantiated, unrealistically low, and over a decade old at this point. The Draft 2025 SEIS appears to update these numbers and now estimates total emissions from the RFDS would result in 473.3 TPY of NO<sub>x</sub> and 536.6 TPY of ROG/VOCs, including fracking and mid-stream emissions (or 83.74 TPY of NO<sub>x</sub> and 104.05 TPY of ROG/VOCs, including fracking and excluding mid-stream emissions).<sup>289</sup>

Although these estimates are significantly higher than in the 2014 RMP, and way over the 10 TPY threshold, they are *still* unsubstantiated and unrealistically low and—as EPA has previously commented—still “do not allow for a full understanding of the emissions.”<sup>290</sup> The estimates continue to lack “detailed emissions calculations” including, among other factors, “a breakout of emissions calculated for individual equipment and area sources, as well as emissions estimates for transportation (e.g., number of truck trips for set-up, fracturing, take-down)” and an explanation of “emission factors and required horsepower (hp) for all equipment.”<sup>291</sup> The estimates also lack entire categories of emissions like well pad construction, power poles, and pipelines needed at well sites and power and water generation needed to supply operations. EPA

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<sup>288</sup> 2012 FEIS at 402, 756.

<sup>289</sup> Draft 2025 SEIS at 48.

<sup>290</sup> EPA, Comments on Bakersfield Field Office Hydraulic Fracturing Draft Supplemental Environmental Impact Statement (June 10, 2019) at 2.

<sup>291</sup> *Id.* at 1–2.

and commenters have repeatedly requested this information for years to no avail.<sup>292</sup> The lack of detail makes it impossible to compare BLM’s latest estimates with the numbers provided in the 2014 RMP, which similarly lack any detail or context.

Moreover, BLM limited its updated estimates to only 4 wells projected to be fracked per year on new leases in the Planning Area, ignoring the hundreds of other wells its RFDS projects to be drilled per year on both new and existing leases in the area (which is still an undercount as discussed earlier), and emissions from highly common and polluting EOR practices used on wells in this area.<sup>293</sup>

BLM ultimately dismisses the larger estimates in its Draft 2025 SEIS by claiming a conformity review is not applicable now anyway but “will be analyzed for each APD submitted on any leases issued following this action.”<sup>294</sup> Not only does this claim contradict BLM’s statements in the 2014 RMP, where the agency confirmed it is “[a]t this RMP stage [that] an applicability analysis is required to determine whether current and anticipated emissions are below de minimis and whether a formal conformity determination is required,” BLM has a long history of evading conformity at the APD stage too, as discussed in more detail below.<sup>295</sup> Critically, the agency relies on per-well emissions estimates from 2024 and 2025 APDs for its calculations in the Draft 2025 SEIS,<sup>296</sup> but a coalition of organizations including some of those on this letter has repeatedly sued BLM for its deficient APD analysis<sup>297</sup> and BLM has already

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<sup>292</sup> *Id.* at 1–2; EPA, Comments on 2019 SEIS (Dec. 2, 2019); Letter from Matthew J. Lakin, Acting Director, Air and Radiation Division, EPA Region 9 to Michelle Ghafar (Oct. 20, 2022); Emails between Thomas Plenys at EPA Region 9, Environmental Review Branch and Matthew J. Thomas and Franklin E. Giles at BLM’s Bakersfield Field Office (Nov. 16, 2022 through Feb. 21, 2023); Letter from Tom Kelly, Air and Radiation Division, EPA Region 9 to Matthew Thomas at BLM’s Bakersfield Field Office (Apr. 3, 2023); Center for Biological Diversity et al., Comments on Applications for Permit to Drill in the Bakersfield Field Office, submitted to BLM (Dec. 18, 2025).

<sup>293</sup> Draft 2025 SEIS at 2, 48.

<sup>294</sup> *Id.* at 24.

<sup>295</sup> 2012 FEIS at 233.

<sup>296</sup> Draft 2025 SEIS at 39.

<sup>297</sup> *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-cv-00938-JLT-CDB (E.D. Cal., filed June 22, 2023); Second Amended Complaint for Declaratory and Injunctive Relief, *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-CV-00938-JLT-CDB (E.D. Cal., filed April 4, 2025), Dkt. No. 71; *see also* Expert Declaration of Dr. Ranajit Sahu in Support of Plaintiffs’ Response to Motion for Voluntary Remand (Dec. 19, 2023), *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-cv-00938-JLT-CDB (E.D. Cal., filed April 4, 2025), Dkt. No. 23-3; Letter from coalition of community, environmental justice, and environmental organizations to BLM, DOI, and EPA officials re. BLM’s Routine Violations of the Clean Air Act in Issuing Oil and Gas Drilling Permits on Public Land in California (July 16, 2024).

conceded in response that its estimates are entire orders of magnitude too low<sup>298</sup> and that its emissions methodology for California needed to be scrapped.<sup>299</sup> This litigation is ongoing and BLM’s deficient permitting process has not been fixed. Thus, now in its third round of RMP review for the Bakersfield area, BLM continues to refuse to perform the complete and accurate conformity review required at this stage.

At the second (leasing) stage after the RMP stage, BLM has continued to evade conformity analysis. In its most recent December 2020 lease sale in the Bakersfield area, BLM claimed that lease sales are exempt from conformity review because the “location of the emission sources are not known,” and because conformity determinations do not need to be performed “for any portions of a federal action that are subject to major or minor New Source Review [] permitting.”<sup>300</sup> BLM further claimed that performing a conformity analysis at this stage would be redundant because the actions would still need to be permitted through a local agency, so “[a] secondary analysis by BLM is not required.”<sup>301</sup> Instead, BLM stated that it will perform a conformity analysis for non-permitted emission sources as a result of a lease.

What is not mentioned, however, is that by the time BLM performs its conformity analysis at the third and final stage (the APD stage), the project has been segmented into smaller actions. What was once an entire regional plan for petroleum operations, consisting of hundreds of APDs, has now become a project with just a single or handful of APDs. This means that at the very final point at which petroleum extraction could undergo a conformity determination, it evades the process again and the entire oil development process skirts review. For this reason, BLM has never found any APD project in the Bakersfield region exceeds the *de minimis* threshold of 10 TPY, despite the fact it permits hundreds of APDs per year. This practice violates federal laws. NEPA law doctrines prevent federal projects from being “segmented” or

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<sup>298</sup> Compare BLM, Environmental Assessment California Resource Production Corporation Mount Poso; 6 Applications for Permit to Drill DOI-BLM-CA-C060-2022-0112-EA Programmatic Project #136 (May 31, 2023) at 30–31, with BLM, Environmental Assessment California Resource Production Corporation Mount Poso; 6 Applications for Permit to Drill DOI-BLM-CA-C060-2022-0112-EA Programmatic Project #136 (May 23, 2024) at 18–19.

<sup>299</sup> Federal Defendants’ Motion for Voluntary Remand and Memorandum in Support at 7–8, Decl. of Gabriel Garcia in Support of Federal Defendants’ Motion at 1–4, *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. 1:23-CV-00938-JLT-CDB (E.D. Cal., filed Nov. 7, 2023), Dkt. Nos. 21-1, 21-2.

<sup>300</sup> 2020 Lease Sale EA at 6.

<sup>301</sup> *Id.*; see also *WildEarth Guardians v. U.S. Bureau of Land Mgmt.*, 322 F.Supp.3d 1134, 1146 (D. Colo. 2018) (“BLM determined that because a conformity analysis requires more precise information to allow an accurate comparison of project-level emissions with specific thresholds in the General Conformity Rules, it cannot reasonably estimate air quality impacts for conformity purposes because of all the unknowns previously discussed.”).

piecemealed to circumvent proper review.<sup>302</sup> The same prohibition against segmentation under NEPA applies to conformity review under the CAA.<sup>303</sup>

For example, BLM recently approved 25 APDs for Holmes Western Oil Corporation on the same day at the same location in the same oil field in Kern County, but segmented the permits across three different permit packages and EAs.<sup>304</sup> In another example, Chevron was allowed to split 41 APDs at the same location into five separate EAs, avoiding conformity determination for them all.<sup>305</sup> These are representative examples of how BLM typically handles air emissions at the APD stage in the Bakersfield region. As a result, BLM's emissions estimates for each package are unrealistically low and unsupported,<sup>306</sup> conflicting with per-well estimates in the Oil and Gas Zoning Ordinance Environmental Impact Report issued by Kern County itself as well as estimates for BLM APDs in other states where the *de minimis* level is conveniently higher.<sup>307</sup> In fact, due to commenters repeatedly requesting this information from BLM's

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<sup>302</sup> *Del. Riverkeeper Network v. F.E.R.C.*, 753 F.3d 1304, 1308, 1320 (D.C. Cir. 2014) (holding agency had improperly segmented a pipeline project and failed to assess cumulative impacts).

<sup>303</sup> EPA, General Conformity Training Module (2010) at 12 (stating that an “action cannot be segmented to create several smaller projects with the emissions from each compared to the *de minimis* levels”).

<sup>304</sup> See 2024 Holmes Western EA; BLM, Environmental Assessment, Holmes Western Oil Corporation, Ten Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2024-0060-EA (Dec. 18, 2024); BLM, Environmental Assessment, Holmes Western Oil Corporation, Four Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2024-0085-EA (Dec. 18, 2024).

<sup>305</sup> BLM either approved or slated for approval 41 APDs for Chevron at the same location in the Midway Sunset oil field. BLM, Environmental Assessment, Chevron USA Incorporated, Twelve Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2020-0095-EA; BLM, Environmental Assessment, Chevron USA Incorporated, Three Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2020-0141-EA; BLM, Environmental Assessment, Chevron USA Incorporated, Three Applications for Permit to Drill in Midway Sunset, DOI-BLM-CA-C060-2020-0123-EA; BLM, Environmental Assessment, Chevron USA Incorporated, Nine APDs in Midway Sunset, DOI-BLM-CA-C060-2021-0010-EA; BLM, Environmental Assessment, Chevron USA Incorporated, Fourteen APDs Drill in Midway Sunset, DOI-BLM-CA-C060-2021-0054-EA.

<sup>306</sup> See, e.g., BLM, Environmental Assessment, Berry Petroleum, Nineteen Applications for Permit to Drill in Main Camp, DOI-BLM-CA-C060-2024-0059-EA at 35 (in a permit package approved in 2025 for nineteen wells to Berry Petroleum in Midway Sunset, BLM calculated total maximum year emissions for nineteen wells at 2.79 tons of VOC (or 0.147 tons per well) and 2.58 tons of NO<sub>x</sub> (or 0.136 tons per well)).

<sup>307</sup> See, e.g. Center for Biological Diversity et al., Comments on Applications for Permit to Drill in the Bakersfield Field Office, submitted to BLM (Dec. 18, 2025) at 54–57; BLM, Environmental Assessment, DJR Operating LLC, Nageezi Unit 2309 and 2409 Cluster Oil Wells Projects, DOI-BLM-NM-FO10-2020-0029 at 108 (project EA for four well pads and 16 APDs in San Juan County, New Mexico estimating emissions as 4.36 TPY of NO<sub>x</sub> and 18.306 TPY of VOC per well).

Bakersfield Field Office to no avail, EPA itself has also requested this information repeatedly but has yet to receive a response either.<sup>308</sup>

The agency also routinely omits important sources of emissions from its calculations, like from the construction of the well pads, power poles, and pipelines that are slated to be built and from emissions due to power and water generation needed to supply well operations. Indeed, after conceding its emissions methodology was seriously flawed in response to several commenters' litigation challenging Bakersfield area APDs, BLM's revised estimates are several orders of magnitude higher now, with NO<sub>x</sub> estimates for one representative permit package increasing by more than 12,000%—from 0.053 tons per year for well development to 6.8 tons per year. Because BLM considered this package in a vacuum divorced from any other APDs it is issuing, it claimed these emissions are nonetheless below the *de minimis* threshold.

Given the agency's unhindered piecemealing at the APD stage, the Draft 2025 SEIS's claim that conformity is not applicable now but "will be analyzed for each APD submitted on any leases issued following this action" is false and not borne out in practice.<sup>309</sup> BLM must analyze the aggregated emissions impacts for all drilling in the region now, at the current planning stage, in order to perform a proper cumulative assessment for conformity review. Indeed, EPA also urges BLM to complete an "air basin level" emissions analysis for the Bakersfield region with "mitigation measures (including control measures and design features)" identified at this stage "to help ensure consistency for all future BLM-authorized activities."<sup>310</sup>

Moreover, assuming Bakersfield region APDs produce more than *de minimis* emissions, BLM must also amend its 2014 RMP before issuing additional APDs because these APDs exceed the "levels of production or use" contemplated in the RMP (which assumed only *de minimis* emissions from APDs).<sup>311</sup>

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<sup>308</sup> See Emails between Thomas Plenys, EPA Region 9, Environmental Review Branch, and Matthew Thomas and Franklin Giles, BLM Bakersfield Field Office (Nov. 16, 2022 through Feb. 21, 2023), where Mr. Plenys repeatedly requested Draft EAs for APDs from Mr. Thomas and Mr. Giles but did not receive this information; Letter from Tom Kelly, EPA Region 9, Geographic Strategies and Modeling Section, Air and Radiation Division, to Matthew Thomas (cc Franklin Giles) (Apr. 3, 2023), requesting again "an example of the calculations supporting a general conformity applicability analysis, i.e., the comparison of estimated project emissions with the general conformity *de minimis* thresholds" and noting EPA had "not yet received this information and remain interested in viewing calculations" for a Bakersfield Field Office APD.

<sup>309</sup> Draft 2025 SEIS at 24.

<sup>310</sup> EPA, Scoping Comments for Draft 2025 SEIS at 3–4.

<sup>311</sup> 43 C.F.R. §§ 1601.0-5(n)(2), (3), 1610.5-3(c), 1610.5-5 (requiring initiation of amendment process to address any "change in the scope of resource uses" within the resource area); see 2012 FEIS at 402, 756; see also, e.g., *Diné Citizens Against Ruining Our Env't*, 923 F.3d at 856 (holding that BLM abused its discretion in tiering EAs for APDs to RMP EIS, when EIS predicted that drilling a single vertical well would use 283,500 gallons of water but Appellants stated that drilling a single horizontal well will actually use 1,020,000 gallons of water).

To comply with the CAA, BLM must support its findings with calculations, assumptions, data sources, and explanations. Further, BLM’s final emissions estimates must be reasonable and based on the best data available. Unrealistically low estimates that BLM is unable to support, or that are based on outdated or otherwise inferior data, cannot properly exempt these emissions from a conformity determination. Finally, BLM must actually perform site-specific analysis that shows individualized project-based estimates. Failure to perform any one of these will constitute arbitrary and capricious behavior by BLM in its failure to comply with the CAA’s General Conformity Rule.<sup>312</sup>

**e. BLM must also comply with other CAA requirements.**

Beyond NAAQS, cumulative impacts from additional PM<sub>2.5</sub> and ozone precursor emissions could affect California’s Regional Haze Rule plan for improving visibility in nearby Federal Class 1 areas. Numerous Class 1 areas like Yosemite, Sequoia, and Kings Canyon National Parks and San Rafael and Dome Land Wilderness Areas are directly adjacent to or within the planning area identified in the Draft SEIS.<sup>313</sup> These Class I areas already suffer from some of the worst visibility the nation, and while progress has been made, there is still substantial work to be done before the state reaches long term goals of natural visibility in Class 1 areas. Beyond the CAA mandate to remedy existing visibility impairment, the Act also requires prevention of future impairment.<sup>314</sup> As such it is incumbent on BLM to analyze potential impacts to visibility in nearby Class 1 areas, including cumulative impacts. In addition, to the extent it has not already, BLM should have consulted with, and incorporated any recommended mitigation or other measures recommended by, federal land managers including the National Park Service (NPS) to assess this proposal and adopt measures to ensure potential cumulative visibility impacts do not result in additional degradation of Class I area air quality.

**8. BLM must address new information and changed circumstances related to greenhouse gas emissions in the Bakersfield Planning Area and the reality of the accelerating climate crisis.**

The Draft 2025 SEIS identifies GHGs as a resource area with “specific substantive issues which required further consideration based on new information or circumstances.”<sup>315</sup> The document identifies the substantive issue as “[h]ow will the BLM assess and mitigate the impacts

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<sup>312</sup> An agency’s analysis will be considered arbitrary and capricious if it has “relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Bark*, 958 F.3d at 869 (quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

<sup>313</sup> Draft 2025 SEIS at 22–23.

<sup>314</sup> SIPs are required to “contain such emission limits, schedules of compliance and other measures as may be necessary to make reasonable progress toward meeting the national goal” of preventing “any future, and the remedying of any existing, impairment of visibility in mandatory class I Federal areas which impairment results from manmade air pollution.” 42 U.S.C. § 7491.

<sup>315</sup> Draft 2025 SEIS at 9.

of oil and gas development on . . . greenhouse gasses?”<sup>316</sup> However, the GHG analysis is fundamentally flawed by being unreasoned and failing to assess and incorporate significant new information and changed circumstances critical to evaluating the GHG impacts of oil and gas development in the Bakersfield Planning Area and 2020 Lease Sale, and how to mitigate these impacts. BLM must therefore amend the 2014 RMP and complete a broader SEIS that addresses this significant new information.

In enacting FLPMA, Congress declared that public lands must be managed to protect the quality of various resources, including the air and atmosphere.<sup>317</sup> In creating FLPMA, Congress paired this declaration of values that must be protected with the obligations that BLM account for “the long-term needs of future generations,” prevent “permanent impairment,” and “prevent unnecessary or undue degradation.”<sup>318</sup> Taken together, FLPMA may be properly read as directing BLM to make management decisions that are protective of the air and atmosphere—including the climate—for the long-term.<sup>319</sup> Yet BLM has not fulfilled its duty under FLPMA to prevent impairment of the atmosphere here. While BLM admits that oil and gas development will lead to emissions of GHG,<sup>320</sup> BLM nonetheless is proposing a plan (and refusing to amend the 2014 RMP) for maximum oil and gas development. BLM then shirks its duty to properly estimate GHG emissions from oil and gas development the RMP will enable.

As detailed below, the Draft 2025 SEIS is flawed and inadequate because the GHG analysis fails to (a) assess and incorporate significant new data in estimating upstream and midstream GHG emissions; (b) consider and incorporate new scientific information that confirms that new oil and gas development on federal lands is inconsistent with preventing the worst damages of the climate crisis; (c) consider new information showing that many GHG mitigation measures relied on in the Draft 2025 SEIS have been delayed, weakened, or nullified; (d) acknowledge that oil and gas development on federal lands in the Planning Area is inconsistent with California climate policy; and (e) consider the climate change impacts to California that will result from the GHG emissions in the Planning Area.

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<sup>316</sup> *Id.*

<sup>317</sup> 43 U.S.C. § 1701(8) (“The Congress declares that it is the policy of the United States that . . . the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, *air and atmospheric*, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use”) (emphasis added).

<sup>318</sup> 43 U.S.C. §§ 1701(a)(8), 1702(c) 1732(b).

<sup>319</sup> Climate change and the atmosphere are inextricably linked. *See* NASA, “What is Climate Change?” (last updated Oct. 21, 2024), <https://science.nasa.gov/climate-change/what-is-climate-change/> (“Changes observed in Earth’s climate since the mid-20th century are driven by human activities, particularly fossil fuel burning, which increases heat-trapping greenhouse gas levels in Earth’s atmosphere, raising Earth’s average surface temperature.”).

<sup>320</sup> *See, e.g.*, Draft 2025 SEIS at 24, 49-50.

**a. BLM fails to assess and incorporate new data on the increasingly high carbon intensity of oil and gas production in the Planning Area’s oil fields.**

The Draft 2025 SEIS fails to assess and incorporate new information on the high upstream GHG emissions from oil and gas production specific to the oil fields in the Bakersfield Planning Area and 2020 Lease Sale parcels, although this data is publicly available and updated annually by the California Air Resources Board (CARB).<sup>321</sup> This omission results in substantially underestimated upstream GHG emissions. BLM must calculate the production of GHG emissions from the Planning Area and 2020 Lease Sale using the most recent 2024 CARB oil field-specific carbon intensity values.

CARB estimates the upstream carbon intensity (CI) for crude oil produced in each oil field in California. The most recent 2024 CARB data shows that the average upstream CI across all California-produced crude oil was 20 g CO<sub>2</sub>eq/MJ, equivalent to 117 kg CO<sub>2</sub>eq/barrel in 2024.<sup>322</sup> This is 1.6 times higher than the average CI for crudes produced outside California and refined in the state, which averaged 12.38 g CO<sub>2</sub>eq/MJ, equivalent to 71.96 kg CO<sub>2</sub>eq/barrel in 2024.<sup>323</sup> Many major oil fields in the Planning Area have very high CI values, for example, Midway Sunset oil field at 36.59 g CO<sub>2</sub>eq/MJ, Kern Front at 33.38 g CO<sub>2</sub>eq/MJ, and McKittrick at 28.52 g CO<sub>2</sub>eq/MJ.<sup>324</sup> The Draft 2025 SEIS should use these 2024 oil field-specific CI values for its upstream GHG estimates.

The Draft 2025 SEIS similarly fails to incorporate and consider a 2021 report based on CARB data that concluded that “California-sourced oils are now among the most climate-damaging in the world and are rapidly becoming even more so.”<sup>325</sup> The report found that in 2019, the CI of oil produced in California and refined in the state was more than one-and-a-half times greater than that of crudes produced outside of California and refined in the state (i.e., crude from the Middle East, South America, Africa, Canada and Mexico). The report also found that the CI of California-produced crude is increasing over time. For example, the 2024 average upstream CI of California-produced crude oil was 117 kg CO<sub>2</sub>eq/barrel, which was 1.4 times higher than in 2012, when the average CI of California-produced crude was 81 kg CO<sub>2</sub>eq/barrel. As detailed in the 2021 report, the production GHG emissions are so high in many California

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<sup>321</sup> Cal. Air Resources Bd. (CARB), “LCFS Crude Oil Life Cycle Assessment, Final California Crude Average Carbon Intensity Values,” <https://ww2.arb.ca.gov/resources/documents/lcfs-crude-oil-life-cycle-assessment> (accessed March 12, 2026).

<sup>322</sup> CARB, Low Carbon Fuel Standard: Crude Oil Life Cycle Assessment, Calculation of 2024 Crude Average Carbon Intensity Value (Jan. 14, 2026) at 5–9, [https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/crude-oil/2024\\_Crude\\_Average\\_CI\\_Calculation\\_F.pdf](https://ww2.arb.ca.gov/sites/default/files/classic/fuels/lcfs/crude-oil/2024_Crude_Average_CI_Calculation_F.pdf).

<sup>323</sup> *Id.*

<sup>324</sup> *Id.*

<sup>325</sup> J. Fleming, Killer Crude: How California Produces Some of the Dirtiest, Most Dangerous Oil in the World, Center for Biological Diversity (June 2021) at 5, [https://www.biologicaldiversity.org/programs/climate\\_law\\_institute/pdfs/June-2021-Killer-Crude-Rpt.pdf](https://www.biologicaldiversity.org/programs/climate_law_institute/pdfs/June-2021-Killer-Crude-Rpt.pdf).

oil fields, including in the Bakersfield Planning Area, because extracting the remaining heavy oil from aging oil fields requires more energy-intensive EOR extraction methods like cyclic steam injection, steam flooding, waterflooding—which are very prevalent in the state—and fracking (prior to the state’s fracking ban).

**b. BLM fails to assess and incorporate new information on the high methane leakage rate in California, which leads to an underestimate of midstream emissions.**

BLM’s estimates of GHG emissions from the distribution, storage, and processing stages of oil and gas development (commonly called midstream emissions) fail to assess and incorporate published data on the high methane leakage that occurs during these midstream operations. Incorporating this information would significantly increase the estimates of midstream GHG emissions from the Bakersfield Planning Area and 2020 Lease Sale.

The Draft 2025 SEIS assumes that the methane leakage rate would be similar to the national average taken from older Department of Energy National Energy Technology Laboratory (NETL) reports.<sup>326</sup> However, abundant new research not considered by BLM has established that methane leakage rates from U.S. oil and gas development are much higher than reported by NETL.<sup>327</sup> A 2021 study not considered by BLM provides methane leakage rates specific to oil and gas development in the San Joaquin Basin in the Planning Area. Burns and Grubert (2021) report a methane leakage level of 4.8% for gas production in the San Joaquin Basin, which is among the highest leakage rates reported in the U.S.<sup>328</sup> BLM should use this published methane leakage rate for the San Joaquin Basin for calculating midstream emissions in the Planning Area. Indeed, as recently as 2025, EPA reported seven different “super emitter” methane leaks at oil and gas sites across Kern County.<sup>329</sup>

**c. BLM fails to consider and incorporate new scientific information that confirms that new oil and gas development on federal lands is inconsistent with preventing the worst damages of the climate crisis.**

New scientific evidence not considered in the Draft 2025 SEIS confirms that new oil and gas development on federal lands is inconsistent with preventing the worst damages of the climate crisis, specifically that (i) fossil fuel emissions are the primary driver of the climate crisis and causing severe and growing harms to people, wildlife, and the environment, and (ii) the federal government must stop approvals of new fossil fuel production and infrastructure to avoid

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<sup>326</sup> Draft 2025 SEIS at 50–51.

<sup>327</sup> See e.g., M. Omara et al., *Methane Emissions from US Low Production Oil and Natural Gas Well Sites*, 13 *Nature Comm’n* 2085 (Apr. 2022), <https://doi.org/10.1038/s41467-022-29709-3>; E.D. Sherwin et al., *U.S. Oil and Gas System Emissions from One Million Aerial Site Measurements*, 627 *Nature* 328 (2024), <https://doi.org/10.1038/s41586-024-07117-5>.

<sup>328</sup> D. Burns & E. Grubert, *Attribution of Production-Stage Methane Emissions to Assess Spatial Variability in the Climate Intensity of US Natural Gas Consumption*, 16 *Env’t Rsch. Letters* 044059 (2021), <https://doi.org/10.1088/1748-9326/abef33>.

<sup>329</sup> EPA, “Methane Super Emitter Data Explorer.”

exacerbating the crisis. The scoping letter from the Center for Biological Diversity described and submitted much of this important new research and is incorporated by reference here. In addition to those studies submitted in the scoping comments, these comments highlight several additional studies that should be assessed and incorporated into the Draft 2025 SEIS.

Fossil fuel production and use are currently responsible for around 90% of global human-caused CO<sub>2</sub> emissions.<sup>330</sup> The Intergovernmental Panel on Climate Change (IPCC) concluded in its 2023 Sixth Assessment Report that fossil fuel emissions were responsible for the largest share and growth in GHG emissions.<sup>331</sup>

The federal government has repeatedly recognized that fossil fuel emissions are causing severe and increasing climate change damages, and that rapid, deep reductions are needed to prevent catastrophic harms. The 2023 Fifth National Climate Assessment (NCA) concluded that “[t]he global warming observed over the industrial era is unequivocally caused by greenhouse gas emissions from human activities—primarily burning fossil fuels.”<sup>332</sup> It found that “[t]he effects of human-caused climate change are already far-reaching and worsening across every region of the United States.”<sup>333</sup> Further, “[a]cross all regions of the U.S., people are experiencing warming temperatures and longer-lasting heatwaves. Many other extremes, including heavy precipitation, drought, flooding, wildfire, and hurricanes, are becoming more frequent and/or severe, with a cascade of effects in every part of the country.”<sup>334</sup> The Fifth NCA makes clear that:

[t]he more the planet warms, the greater the impacts. Without rapid and deep reductions in global greenhouse gas emissions from human activities, the risks of accelerating sea level rise, intensifying extreme weather, and other harmful climate impacts will continue to grow. Each additional increment of warming is expected to lead to more damage and greater economic losses compared to previous increments of warming, while the risk of catastrophic or unforeseen consequences also increases.<sup>335</sup>

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<sup>330</sup> SEI, *The Production Gap Report 2025*.

<sup>331</sup> Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report: A Report of the Intergovernmental Panel on Climate Change* at 4, [https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC\\_AR6\\_SYR\\_FullVolume.pdf](https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf).

<sup>332</sup> U.S. Global Change Research Program, *Fifth National Climate Assessment (2023)*, Overview at 1-13.

<sup>333</sup> *Id.* at 1-5.

<sup>334</sup> *Id.* at 1-16.

<sup>335</sup> *Id.* at 1-5.

The IPCC 2023 Report assessed that all pathways consistent with the Paris Agreement's 1.5 degrees Celsius target require transformational action to rapidly phase out fossil fuels so that global fossil CO<sub>2</sub> emissions peak by 2025 and decline by half by 2030.<sup>336</sup>

The Draft 2025 SEIS fails to consider new scientific research showing that there is no room in the global carbon budget for new fossil fuel extraction and infrastructure if the U.S. is to avoid the worst dangers from climate change. In 2015, the United States agreed to the pivotal goal of limiting global temperature rise to 1.5 degrees Celsius under the Paris Agreement, given the evidence that 2 degrees Celsius heating would lead to catastrophic climate outcomes.<sup>337</sup> International organizations and scientific assessments (e.g., IPCC, International Energy Agency (IEA), United Nations (UN)) have repeatedly established that, to meet the 1.5 degrees Celsius benchmark, governments must immediately stop approving new fossil fuel extraction and infrastructure projects.<sup>338</sup> Fossil fuel extraction and infrastructure projects already in operation and under development would release enough GHGs to heat the planet well past 1.5 degrees Celsius.<sup>339</sup> Simply stated, the global carbon budget has no room for fossil fuel expansion—meaning no new oil and gas fields, coal mines, pipelines, fossil fuel export terminals, fossil fuel power plants, or other infrastructure. Moreover, existing extraction and infrastructure projects must be phased out to limit harms from global heating.<sup>340</sup>

The IEA in its World Energy Outlook report has mapped out a Net Zero Emissions Scenario designed to meet energy needs while limiting temperature rise to 1.5 degrees Celsius. In 2021, 2023, and again in 2025, the IEA concluded that to limit temperature rise to 1.5 degrees,

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<sup>336</sup> *Id.* at 29; see also IPCC, Global Warming of 1.5°C (2018), <https://www.ipcc.ch/sr15/> (An IPCC special report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty.).

<sup>337</sup> United Nations (UN), Framework Convention on Climate Change, Conference of the Parties, Adoption of the Paris Agreement (2015) at 3.

<sup>338</sup> SEI, The Production Gap; D. Welsby et al., *Unextractable Fossil Fuels in a 1.5 °C World*, 597 *Nature* 230 (2021), <https://doi.org/10.1038/s41586-021-03821-8>; D. Calverley & K. Anderson, Phaseout Pathways for Fossil Fuel Production Within Paris-Compliant Carbon Budgets (2022), <https://research.manchester.ac.uk/en/publications/phaseout-pathways-for-fossil-fuel-production-within-paris-complia>; K. Trout et al., *Existing Fossil Fuel Extraction Would Warm the World Beyond 1.5°C*, 17 *Env't Rsch. Letters* 064010 (2022), <https://iopscience.iop.org/article/10.1088/1748-9326/ac6228#references>; F. Green et al., *No New Fossil Fuel Projects: The Norm We Need*, 384 *Science* 954 (2024), <https://www.science.org/doi/10.1126/science.adn6533>.

<sup>339</sup> K. Trout et al., *Existing Fossil Fuel Extraction Would Warm the World Beyond 1.5°C*; IPCC, Climate Change 2023: Synthesis Report: A Report of the Intergovernmental Panel on Climate Change.

<sup>340</sup> D. Tong et al., *Committed Emissions from Existing Energy Infrastructure Jeopardize 1.5°C Climate Target*, 572 *Nature* 373 (2019), <https://www.nature.com/articles/s41586-019-1364-3>; K. Trout et al., *Existing Fossil Fuel Extraction Would Warm the World Beyond 1.5°C*.

no new oil and gas fields or coal mines should be approved, some fields must close early, and “many of the LNG projects currently under construction are no longer necessary.”<sup>341</sup>

**d. BLM fails to consider new information demonstrating that many of its GHG mitigation measures have been delayed, weakened, or nullified.**

The Draft 2025 SEIS fails to discuss, consider, and incorporate new information on the status of the mitigation measures that it relies on to reduce the GHG impacts of the 2014 RMP. The document states that “emission controls (e.g., vapor recovery devices, no-bleed pneumatics, leak detection and repair, etc.) can substantially limit the amount of GHGs emitted to the atmosphere.”<sup>342</sup> The Draft 2025 SEIS then lists federal regulations that it claims “will reduce GHG emissions from any development related to the proposed leasing action.”<sup>343</sup> The regulations listed include the New Source Performance Standard for Crude Oil and Natural Gas Facilities (40 C.F.R. 60, OOOOa), Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After November 15, 2021 (40 C.F.R. 60, OOOOb), Waste Emissions Charge for Petroleum and Natural Gas Systems (40 C.F.R. 99), and the Greenhouse Gas Reporting Rule.<sup>344</sup> However, the document fails to acknowledge that these regulations have recently been delayed, weakened, or nullified.

In November 2025, the EPA issued a final rule<sup>345</sup> to delay implementation of the 2024 New Source Performance Standards (NSPS) and Emissions Guidelines (i.e., Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification or Reconstruction Commenced After November 15, 2021 (40 C.F.R. 60, OOOOb)) focused on reducing emissions of methane and VOCs from oil and gas production. The 2025 EPA rule delays many of the requirements to limit methane pollution from oil and gas leaks, venting, and flaring, such as delaying provisions for control devices, equipment leaks, storage vessels, process controllers, and covers/closed vent systems.<sup>346</sup>

In May 2025, EPA nullified the final rule for the Waste Emissions Charge for Petroleum and Natural Gas Systems (40 C.F.R. 99).<sup>347</sup> This program facilitated compliance with the requirements of the Waste Emissions Charge in the 2024 Methane Emissions Reduction Program. In September 2025, EPA announced a proposed rule to end the Greenhouse Gas Reporting Program. If finalized, the proposal would remove reporting obligations for

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<sup>341</sup> Int’l Energy Agency, World Energy Outlook (2025).

<sup>342</sup> Draft 2025 SEIS at 56.

<sup>343</sup> *Id.*

<sup>344</sup> *Id.*

<sup>345</sup> 90 Fed. Reg. 55671 (Dec. 3, 2025).

<sup>346</sup> EPA, Final Extension of Deadlines in Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review (Nov. 2025), [https://www.epa.gov/system/files/documents/2025-11/fact-sheet\\_o-g\\_final-ifr\\_20251124.pdf](https://www.epa.gov/system/files/documents/2025-11/fact-sheet_o-g_final-ifr_20251124.pdf).

<sup>347</sup> 90 Fed. Reg. 21225 (May 19, 2025).

most large facilities, all fuel and industrial gas suppliers, and CO<sub>2</sub> injection sites.<sup>348</sup>

The effect of delaying, weakening or nullifying these regulations to reduce methane and VOC emissions from oil and gas operations is increased emissions of methane that worsen the climate crisis, as well as increased emissions of smog and soot-forming VOCs and other toxic air pollutants that harm public health. There was a significant increase of 2.4% in U.S. GHG emissions in 2025, marking a dramatic change from the prior two years of emissions decreases.<sup>349</sup> The 2025 rise in U.S. GHG emissions was driven in part by increases in fossil fuel emissions including a 1.1% increase in oil emissions and 1.1% increase in gas emissions.<sup>350</sup>

**e. BLM fails to acknowledge that its proposal to expand oil and gas development on federal lands in the Bakersfield Planning Area is inconsistent with California climate policy.**

The Draft 2025 SEIS fails to acknowledge that GHG emissions from new oil and gas development in the Planning Area are inconsistent with California climate policy and meeting state climate targets. New oil and gas development under the RFDS will lock in new GHG emissions for decades in California. This is counter to Governor Newsom’s 2021 directive to CARB to evaluate how to phase out oil and gas extraction in the state by 2045.<sup>351</sup> This is also counter to Assembly Bill 1279, the California Climate Crisis Act, which requires the state to reduce GHG emissions by 85% compared to 1990 levels by 2045.

**f. BLM fails to consider the climate change impacts to California that will result from Bakersfield Planning Area GHG emissions.**

The Draft 2025 SEIS fails to consider climate change impacts resulting from the GHG emissions from oil and gas development in the Bakersfield Planning Area and 2020 Lease Sale. The document refers to the 2023 BLM Specialist Report in its GHG analysis, but this report is outdated and fails to disclose key climate change impacts to California.<sup>352</sup>

For example, the BLM Specialist Report does not include any discussion of how fossil fuel emissions-driven climate change is increasing wildfire impacts to California. BLM must disclose and assess the new scientific research demonstrating that climate change is the primary

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<sup>348</sup> EPA, “EPA Releases Proposal to End the Burdensome, Costly Greenhouse Gas Reporting Program, Saving up to \$2.4 Billion” (Sept. 12, 2025), <https://www.epa.gov/newsreleases/epa-releases-proposal-end-burdensome-costly-greenhouse-gas-reporting-program-saving-24>.

<sup>349</sup> Rhodium Grp., “Preliminary US Greenhouse Gas Emissions Estimates for 2025” (Jan. 13, 2026), <https://rhg.com/research/us-greenhouse-gas-emissions-2025/>.

<sup>350</sup> P. Friedlingstein et al., *Global Carbon Budget 2025*, Earth Sys. Sci. Data (Nov. 2025, preprint), <https://doi.org/10.5194/essd-2025-659>.

<sup>351</sup> Gov. Gavin Newsom, “Governor Newsom Takes Action to Phase Out Oil Extraction in California.”

<sup>352</sup> BLM, 2023 BLM Specialist Report on Annual Greenhouse Gas Emissions and Climate Trends from Coal, Oil, and Gas Exploration and Development on the Federal Mineral Estate (Aug. 22, 2024) at 25 (hereafter “BLM Specialist Report”).

driver of the increases in area burned, extreme fire weather, and community wildfire destruction in California in recent decades.<sup>353</sup> Increasing autumn temperatures and decreasing precipitation have contributed to a more than doubling of autumn days with extreme fire weather in California over the past few decades.<sup>354</sup> Extreme fire weather leads to rapidly spreading wildfires that are difficult to suppress and are responsible for most of the area burned and most community destruction by wildfire.<sup>355</sup> Fast-moving wildfires comprise less than 3% of all U.S. fire events but are estimated to account for 89% of all structures damaged or destroyed.<sup>356</sup>

BLM must also consider new research confirming that GHG emissions from oil and gas development projects have quantifiable and consequential impacts. Abrams et al. (2025) provides a framework to quantify the additional temperature rise that will be caused by new fossil fuel projects and shows ways to quantify their concrete, foreseeable harms to people and wildlife. Project-specific damages that can be quantified include the near-immediate climate heating in response to CO<sub>2</sub> emissions (called the Transient Climate Response to CO<sub>2</sub> Emissions); number of people who will be left outside of the “human climate niche” which is the climate conditions in which human societies have historically thrived; number of people who will be exposed to unprecedented heat; number of additional heat-related deaths; and ecosystem damages. This study highlights that every ton of CO<sub>2</sub> emissions adds to global warming, and every fraction of a degree of additional warming matters.<sup>357</sup> This study counters false claims that project-level GHG emissions are “negligible” in the context of global emissions and have negligible impacts.

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<sup>353</sup> A.P. Williams et al., *Observed Impacts of Anthropogenic Climate Change on Wildfire in California*, 7 *Earth’s Future* 892 (2019), <https://doi.org/10.1029/2019EF001210>; L.R. Hawkins et al., *Anthropogenic Influence on Recent Severe Autumn Fire Weather in the West Coast of the United States*, 49 *Geophysical Research Letters* e2021GL095496 (2022), <https://doi.org/10.1029/2021GL095496>; P. Jain et al., *Observed Increases in Extreme Fire Weather Driven by Atmospheric Humidity and Temperature*, 12 *Nature Climate Change* 63 (2022), <https://doi.org/10.1038/s41558-021-01224-1>; M. Turco et al., *Anthropogenic Climate Change Impacts Exacerbate Summer Forest Fires in California*, 120 *Proceedings of the National Academy of Sciences* e2213815120 (2023), <https://doi.org/10.1073/pnas.2213815120>.

<sup>354</sup> M. Goss et al., *Climate Change is Increasing the Likelihood of Extreme Autumn Wildfire Conditions across California*, 15 *Environmental Research Letters* 094016 (2020), <https://doi.org/10.1088/1748-9326/ab83a7>.

<sup>355</sup> J.D. Coop et al., *Extreme Fire Spread Events and Area Burned under Recent and Future Climate in the Western USA*, 31 *Global Ecology and Biogeography* 1949 (2022), <https://onlinelibrary.wiley.com/doi/10.1111/geb.13496>.

<sup>356</sup> J.K. Balch et al., *The Fastest-Growing and Most Destructive Fires in the U.S. (2001-2020)*, 386 *Science* 425 (2024), <https://www.science.org/doi/10.1126/science.adk5737>.

<sup>357</sup> N.J. Abram et al., *Quantifying the Regional to Global Climate Impacts of Individual Fossil Fuel Projects to Inform Decision-Making*, 4 *npj Climate Action* 92 (2025).

**9. BLM must consider new information and changed circumstances related to energy supply and demand that undercuts the premises underlying the 2014 RMP.**

While a key premise of the 2014 RMP is the “critical need for domestic energy production” and “[t]he national focus on increased domestic oil and gas production and the development of renewable energy,”<sup>358</sup> it is clear that energy supply and demand have shifted away from fossil fuels in the years since the plan was finalized and that we are not in an energy emergency that would justify increasing oil and gas production on public lands or leaving sensitive public lands open to drilling.

Oil production is at an all-time high,<sup>359</sup> the United States is a net exporter of petroleum,<sup>360</sup> and companies are sitting on more than 6,000 approved drilling permits on public lands that are not being used.<sup>361</sup> The United States is currently the world’s top producer of oil and natural gas, according to the U.S. Energy Information Administration.<sup>362</sup> In fact, by March of last year, under President Biden, the United States was producing more crude oil than any other country, ever.<sup>363</sup> In 2023 and early 2024, the United States produced more than 13 million barrels of oil per day. Today, oil prices remain stable or are declining, a sign that production is stable. Meanwhile, the oil and gas industry, as well as mining and other extractive industries, enjoy ample access to public lands. Contrary to the principles of multiple use and sustained yield, the oil and gas industry dominates our public lands with over 81% of public lands open to drilling.<sup>364</sup> Therefore, a purported energy emergency cannot be used to justify portions of the 2014 RMP that unlawfully prioritize oil and gas above other multiple uses.

**10. BLM must address new information and changed circumstances regarding sensitive species impacted by oil and gas development within the Bakersfield Planning Area.**

The 2014 RMP recognized the need to “[e]nsure appropriate protection for Threatened and Endangered species, critical habitat, other biological resources, and cultural and paleontological resources in a multiple-use environment” in light of “the extraordinary

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<sup>358</sup> 2012 FEIS at 2.

<sup>359</sup> See, e.g., U.S. Energy Info. Admin. (EIA), “United States Produces More Crude Oil than Any Country, Ever” (Mar. 11, 2024).

<sup>360</sup> See, e.g., EIA, “Oil and Petroleum Products Explained” (Jan. 19, 2024),

<https://www.eia.gov/energyexplained/oil-and-petroleum-products/imports-and-exports.php>.

<sup>361</sup> See, e.g., Oil & Gas Watch, “Thousands of Permits to Drill on Federal Lands Are Not Being Used. So Why 'Expedite' More?” (Jan. 16, 2025)

<https://news.oilandgaswatch.org/post/thousands-of-permits-to-drill-on-federal-lands-are-not-being-used-so-why-accelerate-more-approvals>.

<sup>362</sup> EIA, “United States Produces More Crude Oil than Any Country, Ever.”

<sup>363</sup> *Id.*

<sup>364</sup> The Wilderness Society, Open for Drilling: The Outsized Influence of Oil and Gas on Public Lands (Mar. 19, 2025).

biodiversity present within the Planning Area.”<sup>365</sup> But BLM has ignored new information, research, and studies provided during the scoping period, and incorporated herein by reference, showing the 2014 RMP does not satisfy its biodiversity goals and must be amended to properly address impacts from oil and gas development on sensitive species and their habitats within the Bakersfield region,<sup>366</sup> including but not limited to amending the best management practices and standard operating procedures (BMPs/SOPs) for biological resources in Appendix L from the underlying 2012 FEIS.<sup>367</sup>

Likewise, this comment letter offers additional studies that bolster the concerns raised in scoping and further support the need to amend the biodiversity-related portions of the 2014 RMP. Moreover, consistent with the need for a 2014 RMP amendment and BLM’s announcement in the scoping notice that it was considering such an amendment, additional consultation is required under the ESA regarding the issues discussed herein.

**a. BLM improperly ignored, or inadequately considered, new species-related information submitted during the scoping period.**

The scoping comments introduced new information about (i) species listed or proposed to be listed under the federal ESA since the publication of the 2019 SEIS; (ii) species listed or given candidate species status under the California ESA (CESA) since the publication of the 2019 SEIS; (iii) post-2019 research providing new insight into the harms of conventional and unconventional oil and gas development on wildlife and ecosystems; and (iv) post-2019 research<sup>368</sup> on the impacts of development to San Joaquin kit fox, blunt-nosed leopard lizard, and giant kangaroo rat. The Draft 2025 SEIS does not adequately consider—and, indeed, fails to consider at all in the RMP amendment context—this new information, in violation of laws including FLPMA and NEPA. As noted above, this type of information concerning new species listings, and a changed understanding of impacts on species covered by an RMP, justify an RMP amendment.<sup>369</sup>

The Draft 2025 SEIS acknowledges that species occurring within the Planning Area have been “either proposed for listing or formally listed” under the ESA since 2019,<sup>370</sup> but it addresses this issue by providing very limited information concerning only five species—the Southern Sierra Nevada Distinct Population Segment (DPS) of Fisher; Kern Canyon slender salamander; Monarch butterfly; Northwestern pond turtle; and Southwestern pond turtle—in Table 3-7 (reproduced below).<sup>371</sup>

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<sup>365</sup> 2014 RMP at 7.

<sup>366</sup> Center Scoping Comments at 46–64.

<sup>367</sup> 2012 FEIS, app. L.

<sup>368</sup> *Id.* at 64–65.

<sup>369</sup> *Bd. of Cnty. Comm’rs of Cnty. of San Miguel*, 584 F. Supp. 3d at 961, 968; *Klamath*, 468 F.3d at 556.

<sup>370</sup> Draft 2025 SEIS at 25.

<sup>371</sup> *Id.* at 26.

**Table 3-7** Species listed or proposed for listing on the ESA since publication of the 2019 FSEIS.

<b>Common Name (Scientific Name)</b>	<b>Status<sup>3</sup></b>	<b>Proposed or Designated Critical Habitat</b>	<b>General Habitat Description</b>
Fisher ( <i>Pekania pennanti</i> ) Southern Sierra Nevada Distinct Population Segment (DPS)	USFWS: FLE BLM: N/A CDFW: SLE	Planning Area: Present Supplemental Analysis Areas: Not present Lease Areas: Not present	Mature conifer and mixed hardwood forests in the Sierra Nevada.
Kern Canyon slender salamander ( <i>Batrachoseps simatus</i> )	USFWS: FPT BLM: S CDFW: N/A	Planning Area: Present Supplemental Analysis Areas: Not Present Lease Areas: Not Present	Narrow canyons in rocky habitat along the lower Kern River Canyon, Erskine Creek and Bodfish Creek Drainages. Preference of rocks and woody debris in areas that retain soil moisture.
Monarch butterfly ( <i>Danaus plexippus</i> )	USFWS: FPT BLM: S CDFW: SGCN	Planning Area: Present Supplemental Analysis Areas: Not Present Lease Areas: Not Present	Found throughout California. Presence of milkweed is critical for habitat selection.
Northwestern pond turtle ( <i>Actinemys marmorata</i> )	USFWS: FPT BLM: S CDFW: SSC	No proposed or designated critical habitat at this time.	Ponds, lakes, and streams, as well as the adjacent upland features throughout most of California.
Southwestern pond turtle ( <i>Actinemys pallida</i> )	USFWS: FPT BLM: S CDFW: SSC	No proposed or designated critical habitat at this time.	Ponds, lakes, and streams, as well as the adjacent upland features throughout most of California.

While scoping comments pointed out that at least three other newly listed or proposed-for-listing species occur within the Planning Area—relictual slender salamander, South Coast DPS and South Sierra DPS foothill yellow-legged frogs (FYLF), and Northern DPS and Southern DPS western spadefoots<sup>372</sup>—BLM fails to even acknowledge their existence.

Likewise, despite new information submitted in the scoping comments concerning impacts from oil and gas operations to previously listed species in the Planning Area, the giant kangaroo rat and blunt-nosed leopard lizard do not appear in the Draft 2025 SEIS at all. The kit fox is only mentioned as an example of a special status species that the 2019 SEIS concluded may experience “significant loss . . . from all cumulative surface-disturbing activities, over time, throughout the Planning Area.”<sup>373</sup>

The scoping comments also noted that, since 2019, five species occurring within the Planning Area were listed or given candidate status under CESA—South Coast DPS and South Sierra DPS of FYLF, Temblor legless lizard, Crotch’s bumble bee, Western bumble bee, and burrowing owl.<sup>374</sup> While it is well settled that BLM must abide by CESA as well as the federal ESA,<sup>375</sup> the Draft 2025 SEIS completely ignores these newly state-protected species and the

<sup>372</sup> Center Scoping Comments at 52.

<sup>373</sup> Draft 2025 SEIS at 64.

<sup>374</sup> *Id.* at 53, 60–64.

<sup>375</sup> *See, e.g.*, 81 Fed. Reg. 12938, 12939 (Mar. 11, 2016) (characterizing a proposed amendment to a renewable energy conservation plan as “developed by the BLM, USFWS, California Energy Commission, and California Department of Fish and Wildlife,” in part to “[m]eet the requirements of the . . . California Endangered Species Act”); *see also* BLM, “California Coastal

proffered information regarding impacts to such species and their habitat in connection with the 2014 RMP.

For species it does not refuse to acknowledge, BLM fails to disclose where exactly the new federal- and state-protected species are known to occur within the Planning Area. BLM focuses only on the seven parcels at issue in the 2020 Lease Sale as opposed to the entire Planning Area at issue in the 2014 RMP. Moreover, BLM’s limited analysis claims that “[t]he fisher, Kern Canyon slender salamander, northwestern pond turtle and southwestern pond turtle are not likely to occur within the lease parcels, based on their habitat (described in Table 3-7).”<sup>376</sup> However, Table 3-7 only considers proposed or designated critical habitat for these species; it does not disclose where these species are known to occur, which is likely a broader area.<sup>377</sup> Without this basic geographic information for the entire Planning Area, it is impossible for BLM to adequately evaluate how the 2014 RMP and development on the seven lease parcels involved in the 2020 Lease Sale will affect these imperiled species, and BLM’s decision to reject an RMP amendment is arbitrary and unsupported.

**b. Additional post-2019 research and studies concerning federally listed species confirm the need to amend the 2014 RMP.**

**i. Foothill Yellow-Legged Frog**

As previously discussed, despite apparent overlap of the South Coast DPS and South Sierra DPS FYLF ranges with federal lands and mineral estate in the Planning Area (see range map below),<sup>378</sup> the Draft 2025 SEIS does not mention FYLF.

The South Coast DPS and South Sierra DPS FYLF were listed as endangered on September 28, 2023.<sup>379</sup> On January 14, 2025, the United States Fish and Wildlife Service (USFWS) proposed a final rule designating 10,077 acres of critical habitat for the South Coast DPS and 307,772 acres of critical habitat for the South Sierra DPS.<sup>380</sup>

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National Monument Resource Management Plan” (Sept. 2005) at 1-14, 1-20 to 1-22, <https://eplanning.blm.gov/Project-Home/?id=2d119c99-a7f2-f011-8407-001dd80c29f3>; BLM, Record of Decision for Headwaters Forest Reserve Resource Management Plan (June 2004) at 12, <https://eplanning.blm.gov/Project-Home/?id=9245e39b-a7f2-f011-8406-001dd802fdea>.

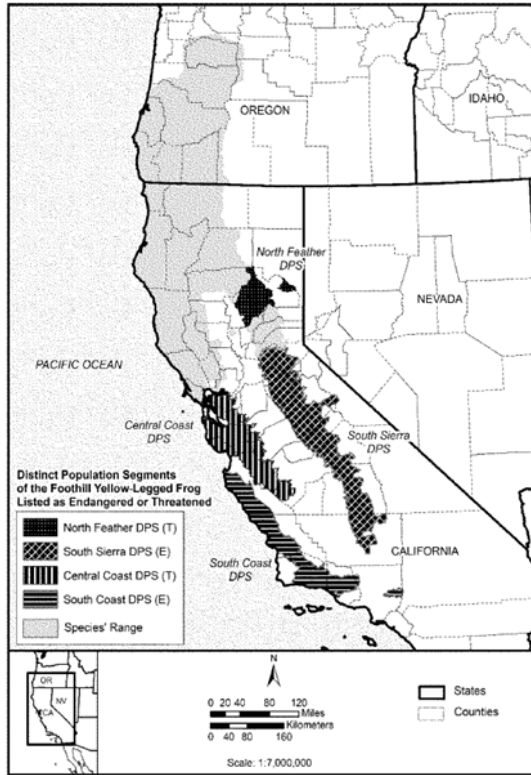
<sup>376</sup> Draft 2025 SEIS at 27.

<sup>377</sup> *Id.* at 26.

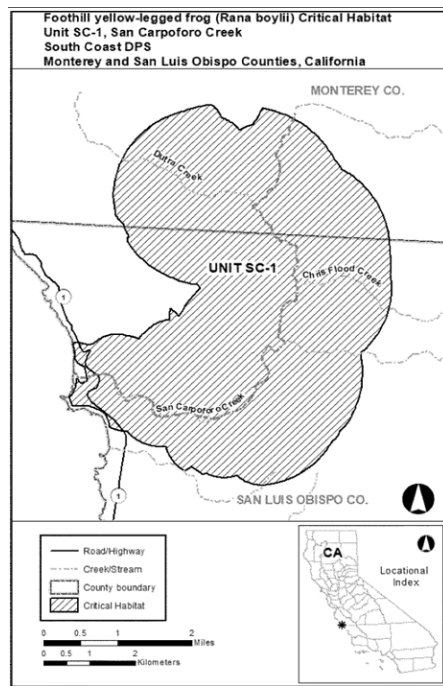
<sup>378</sup> 90 Fed. Reg. 3412, 3416 (Jan. 14, 2025).

<sup>379</sup> *See generally* 88 Fed. Reg. 59698 (Aug. 29, 2023).

<sup>380</sup> 90 Fed. Reg. 3412–70 (Jan. 14, 2025).



Further, proposed critical habitat Unit SC-1 (see map below)<sup>381</sup> appears to intersect with federal lands open for leasing under the RMP in northwest San Luis Obispo County.



<sup>381</sup> *Id.* at 3453.

The available scientific information regarding impacts to FYLF confirm the need for an RMP amendment to ensure species protection—including but not limited to the following studies:

- Cook et al. (2012) made “frequent observations” of FYLF up to 331 meters from a natal stream and found substantial evidence of “road mortality,” indicating that FYLF “are susceptible to indirect impacts from urbanization.”<sup>382</sup> BLM acknowledges that roads will accompany oil and gas activity under the 2014 RMP and on the seven lease parcels involved in the 2020 Lease Sale.<sup>383</sup> Accordingly, it is likely that new roads accompanying RMP projects will adversely affect FYLF, with additional mitigation needed in a revised SEIS and RMP amendment, especially given the proposed critical habitat overlap with BLM surface land and split estate.
- Adams et al. (2017) observed “that Bd [(amphibian chytrid fungus)] loads in *R. boylei* increase at lower stream flows, indicat[ing] that climate change, water extraction for human use, and disease may be acting synergistically to threaten *R. boylei* populations in central California . . . .”<sup>384</sup> BLM acknowledges that, in the Planning Area, “[p]rolonged droughts in 2012-2016 and again in 2020-2022 significantly reduced streamflows, concentrated water quality constituents, and heightened stress on both managed and natural hydrologic systems.”<sup>385</sup> Accordingly, it is likely that the threats of drought, water extraction, and disease will come together to exacerbate known threats to FYLF from oil and gas development in a manner not fully reflected in the prior environmental review and 2014 RMP, such that an amendment is necessary.
- Kupferberg et al. (2022) “expect that transmission of pathogens would be reduced in years with higher baseflows.”<sup>386</sup> The Draft 2025 SEIS acknowledges that “[o]il and gas development can contribute to declining groundwater levels and reductions in aquifer storage.”<sup>387</sup> It is likely that groundwater extraction for oil and gas activity may lead to lower baseflows, and thus higher chytrid transmission, in FYLF habitat, resulting in impacts greater than those previously acknowledged in the 2014 RMP and prior environmental review, and confirming the need for an RMP amendment.

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<sup>382</sup> D.G. Cook et al., *Rana boylei* (Foothill Yellow-legged Frog) *Upland Movement*, 43(2) *Herpetological Rev.* 325 (2012).

<sup>383</sup> See, e.g., Draft 2025 SEIS at 36–37.

<sup>384</sup> Adams, A.J. et al., *Extreme drought, host density, sex, and bullfrogs influence fungal pathogen infection in a declining lotic amphibian*, 8(3) *Ecosphere* at 11 (2017).

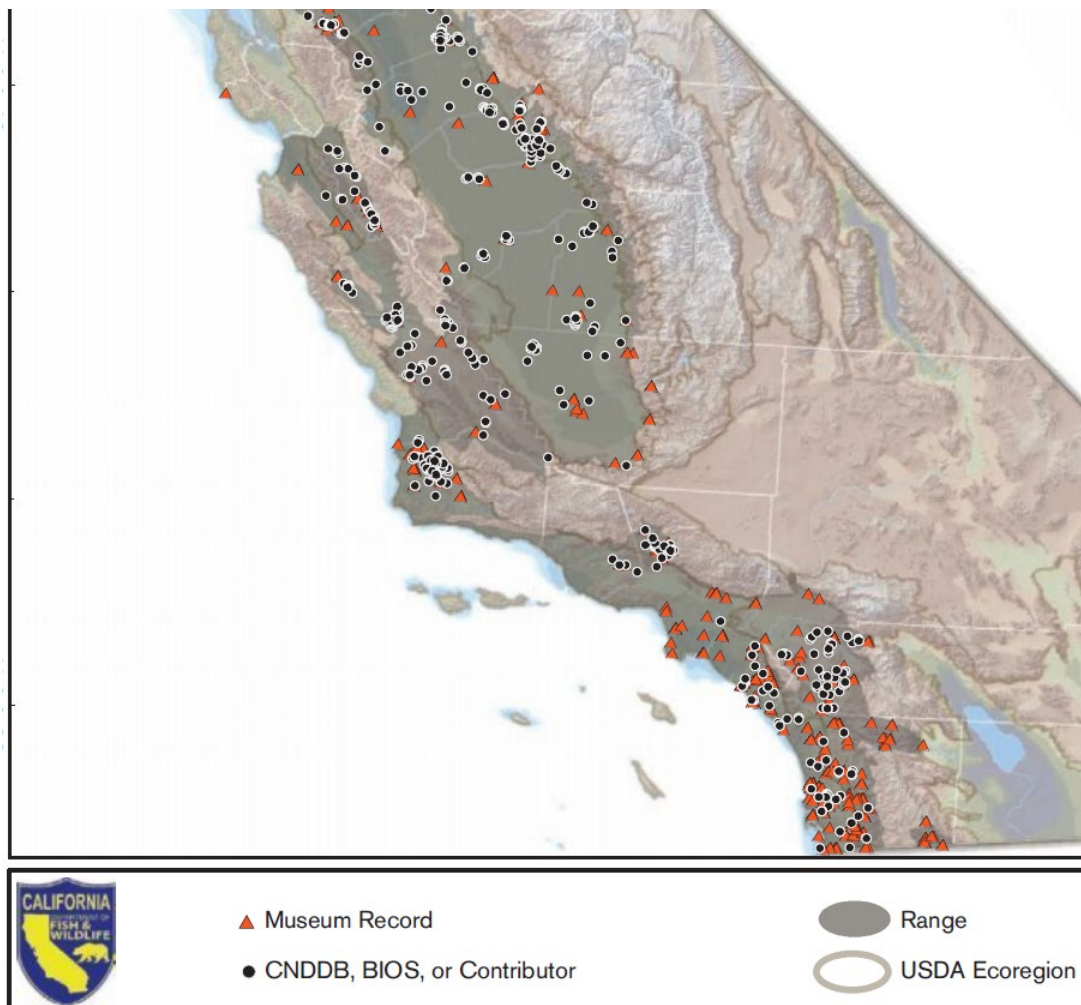
<sup>385</sup> Draft 2025 SEIS at 30.

<sup>386</sup> S.J. Kupferberg et al., *Seasonal Drought and its Effects on Frog Population Dynamics and Amphibian Disease in Intermittent Streams*, *Ecohydrology* at 12 (2022).

<sup>387</sup> Draft 2025 SEIS at 62.

## ii. Western Spadefoot

As previously discussed, despite apparent overlap of Western spadefoot range with federal lands and mineral estate in the Planning Area (see range map below),<sup>388</sup> the Draft 2025 SEIS does not mention Western spadefoot. USFWS proposed to list the Northern DPS western spadefoot as threatened on December 5, 2023.<sup>389</sup>



The available scientific information regarding impacts to Western spadefoot from oil and gas development under the 2014 RMP confirms the need for an RMP amendment to ensure species protections—including but not limited to the following studies, which are newly relevant as supplying part of the basis for the proposed listing:<sup>390</sup>

<sup>388</sup> R.C. Thomson et al., *California Amphibian and Reptile Species of Special Concern*, Univ. of Cal. Press (2016) at 131.

<sup>389</sup> See generally 88 Fed. Reg. 84252 (Dec. 5, 2023).

<sup>390</sup> 88 Fed. Reg. at 84254, 84260, 84263, 84271, 84274–75.

- USFWS (2005) warned: “Activities that produce low frequency noise and vibration, such as grading for development and seismic exploration for natural gas, in or near habitat for western spadefoot toads, may be detrimental to the species. Dimmitt and Ruibal (1980) determined that spadefoot toads were extremely sensitive to such stimuli and would break dormancy and emerge from their burrows in response to these disturbances. Disturbances that cause spadefoot toads to emerge at inappropriate times could result in detrimental effects such as mortality or reduced fitness.”<sup>391</sup> It is, thus, likely that oil and gas activity under the RMP and on the seven lease parcels could harm Western spadefoot by causing individuals to emerge at inappropriate times, resulting in a need for an amendment to the 2014 RMP and broader SEIS.
- USFWS (2005) also noted that “[s]padefoot toad metamorphs attempting to disperse across dirt roads have been killed, possibly because they often try to bury themselves in the road to avoid an approaching vehicle (J. Vance pers. comm. 2005).”<sup>392</sup> As noted above, BLM acknowledges that new roads may be built to service oil and gas development under the RMP and on the seven lease parcels. It is, thus, likely that these roads will impact Western spadefoot in a way not addressed in the Draft 2025 SEIS, prior environmental review, and the 2014 RMP. BLM must amend the 2014 RMP to address these impacts, in conjunction with fully considering them in a revised SEIS.

### iii. Northwestern and Southwestern Pond Turtles

The USFWS proposed to list the Northwestern pond turtle and the Southwestern pond turtle as threatened on October 3, 2023,<sup>393</sup> after the 2019 SEIS and 2020 EA. These new listings illustrate the need to amend the 2014 RMP to ensure species protection, in combination with a revised SEIS that properly evaluates the available scientific information concerning impacts to Northwestern and Southwestern pond turtles from oil and development under the 2014 RMP—including but not limited to the following studies:

- Otten et al. (2023) notes previous studies have found that freshwater turtle populations exposed to crude oil experienced “altered diets” and “increased rates of hatchling deformities.”<sup>394</sup> In addition, “beyond the direct mortality caused by the spill,” freshwater northern map turtles exposed to an oil spill experienced “declines in the estimated population size and shifts in the size distribution,” which are “likely indicative of negative demographic impacts” following the spill.<sup>395</sup> BLM acknowledges that oil and gas activity under the 2014 RMP and on the seven lease

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<sup>391</sup> U.S. Fish & Wildlife Service (USFWS), Recovery Plan for Vernal Pool Ecosystems of California and Southern Oregon (2005) at II-234.

<sup>392</sup> *Id.*

<sup>393</sup> *See generally* 88 Fed. Reg. 68370 (Oct. 3, 2023).

<sup>394</sup> J.G. Otten et al., *Freshwater Turtle Populations as Bioindicators Following an Oil Spill: Delayed Demographic Changes Reveal Long-Term Impacts*, Ecological Indicators (2023) at 7.

<sup>395</sup> *Id.* at 1.

parcels can result in hydrocarbon spills<sup>396</sup> and wastewater spills threatening surface water.<sup>397</sup> It is, thus, likely that spills from oil and gas activity under the 2014 RMP and on the seven lease parcels will impact the pond turtles in a manner requiring an RMP amendment.

- Nicholson et al. (2020) noted that “[r]ecent [western pond turtle] population studies revealed that road density and proximity were significantly associated with increasingly male-biased sex ratios, further suggesting female-biased road mortality,” and their analyses “indicate that roads... constitute significant threats to the long-term persistence of both species of [western pond turtle].”<sup>398</sup> As noted above, BLM acknowledges that new roads may be built to service oil and gas development under the RMP and on the seven lease parcels. It is, thus, likely that these roads will impact pond turtles in a manner requiring an amendment to the 2014 RMP and full consideration and disclose in a revised SEIS.

#### iv. Monarch Butterfly

The Draft 2025 SEIS states that the monarch butterfly, its proposed critical habitat, and the milkweed it depends on are “[p]resent” in the Planning Area,<sup>399</sup> and that monarch butterflies and milkweed “may occur within the lease parcels.”<sup>400</sup> However, the Draft 2025 SEIS fails to consider information on the impacts of oil and gas development on monarch butterflies and their critical habitat in the Planning Area and 2020 Lease Sale, or discuss mitigation for these impacts. The 2014 RMP also fails to discuss mitigation for threats to monarch butterflies and their critical habitat and, thus, requires an amendment to ensure adequate species protection.

The USFWS proposed to list the monarch butterfly under the ESA and designate 4,395 acres of critical habitat on December 12, 2024 due to its precarious status and numerous threats to its continued existence.<sup>401</sup> Western migratory monarch butterflies, which occur in the Planning Area, are particularly threatened: “The western migratory population has declined by more than 95% since the 1980s, putting the western populations at greater than 99% chance of extinction by 2080.”<sup>402</sup> In 2025 there were only 12,260 overwintering western migratory monarchs in

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<sup>396</sup> See, e.g., 2020 Lease Sale EA at 63.

<sup>397</sup> See, e.g., Draft 2025 SEIS at 60.

<sup>398</sup> E.G. Nicholson et al., *Historical Museum Collections and Contemporary Population Studies Implicate Roads and Introduced Predatory Bullfrogs in the Decline of Western Pond Turtles*, PeerJ at 1, 17 (2020).

<sup>399</sup> Draft 2025 SEIS at 26 (Table 3-7).

<sup>400</sup> *Id.* at 27, 58.

<sup>401</sup> See generally 89 Fed. Reg. 100662 (Dec. 12, 2024); USFWS, Monarch (*Danaus plexippus*) Species Status Assessment Report, version 2.1 (Sept. 2020).

<sup>402</sup> USFWS, “Fish and Wildlife Service Proposes Endangered Species Act Protection for Monarch Butterfly; Urges Increased Public Engagement to Help Save the Species” (Dec. 10, 2024), <https://www.fws.gov/press-release/2024-12/monarch-butterfly-proposed-endangered-species-act-protection>.

California, down from 4.5 million in the 1980s.<sup>403</sup> Indeed, “[t]he three lowest counts . . . have all occurred in recent years: 1,901 individual monarchs in 2020, 9,119 in 2024, and 12,260 in 2025.”<sup>404</sup>

Research not considered by the Draft 2025 SEIS or prior environmental review has recognized that numerous sites along the central and southern California coast are critical for overwintering and migratory western monarchs.<sup>405</sup> In addition, the Central Valley and Coast Range, which fall within the Planning Area, also serve as important migratory habitat for western monarchs, especially “for the first spring generation . . . [by] provid[ing] the last habitats that most fall migrating western monarchs cross before arriving at their coastal overwintering areas.”<sup>406</sup>

BLM also did not consider research that identifies major threats to monarchs from habitat loss and modification, pesticide and herbicide use, light pollution, road mortality, and climate change, all of which are likely to be worsened by oil and gas development in the Planning Area.

The negative effects of pesticides and herbicides on monarchs cannot be overstated. The introduction and widespread use of neonicotinoid insecticides has been identified as the most likely factor behind the sudden decline of western monarchs.<sup>407</sup> Monarchs are exposed to herbicides and insecticides not only on use sites but also in areas affected by spray drift.<sup>408</sup> Oil and gas leasing in the Planning Area could foreseeably lead to greater pesticide use. For example, pesticide use at leasing sites is permitted,<sup>409</sup> and restrictions on herbicide use in the 2014 RMP (i.e., “herbicide use will not be permitted within 300 feet of listed plant populations

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<sup>403</sup> *Id.*; Xerces Soc’y, *Western Monarch Numbers Remain at Historic Low* (Jan. 29, 2026), <https://xerces.org/press/western-monarch-numbers-remain-at-historic-low>.

<sup>404</sup> *Id.*

<sup>405</sup> See generally E.M. Pelton et al., *Western Monarch Population Plummet: Status, Probable Causes, and Recommended Conservation Actions*, 7 *Front. Ecol. Evol.* (2019), <https://doi.org/10.3389/fevo.2019.00258>; D.G. James, *Monarch Butterflies in Western North America: A Holistic Review of Population Trends, Ecology, Stressors, Resilience and Adaptation*, 15 *Insects* 40 (2024), <https://doi.org/10.3390/insects15010040>; 89 Fed. Reg. 100662 (Dec. 12, 2024).

<sup>406</sup> P.J. McIntyre et al., *Mapping Migration Habitat for Western Monarch Butterflies Reveals Need for Public-Private Approach to Conservation*, 19 *Frontiers in Ecology and Evolution* at 1, 10 (2024), <https://doi.org/10.3389/fevo.2024.1460363>.

<sup>407</sup> D.G. James, *Monarch Butterflies at Western North America: A Holistic Review of Population Trends, Ecology, Stressors, Resilience and Adaptation* at 1, 4–5; C.A. Halsch et al., *Pesticide Contamination of Milkweeds Across the Agricultural, Urban, and Open Spaces of Low Elevation Northern California*, 8 *Frontiers in Ecology and Evolution* (2020) at 2–3, 7–8, <https://doi.org/10.3389/fevo.2020.00162>.

<sup>408</sup> D.G. James, *Monarch Butterflies at Western North America: A Holistic Review of Population Trends, Ecology, Stressors, Resilience and Adaptation* at 5; M.L. Forister et al., *Increasing Neonicotinoid Use and the Declining Butterfly Fauna of Lowland California*, 12 *Biology Letters* 20160475 at 1 (2016), <http://dx.doi.org/10.1098/rsbl.2016.0475>.

<sup>409</sup> 2014 RMP at 245.

identified during pre-project surveys”) only apply to the few plant species listed therein, and not milkweed upon which monarchs depend.<sup>410</sup> This is inadequate.

Road mortality is another major threat to monarchs. Estimates of the percentage of monarchs road-killed during fall migration by collisions with vehicles is as high as 99.5%.<sup>411</sup> The DSEIS indicates that there will be significant road development in the Planning Area: “[e]ach new access road comprises approximately 1.1 acres (47,520 square feet) (0.5 miles long by 18 feet wide) per new pad.”<sup>412</sup> Nighttime light pollution has been shown to disturb diurnal migratory monarch butterflies.<sup>413</sup> While the 2025 DSEIS does not mention night lighting, the 2019 SEIS indicates that well sites and rigs will have night lighting for conventional and fracked wells.<sup>414</sup>

Climate change has been identified as a primary driver of monarch decline,<sup>415</sup> and future climate change threatens to make much of their habitat unsuitable.<sup>416</sup> Rising temperatures are causing phenological mismatches between migration timing and flowering of milkweeds and nectar resources in spring and summer. Rising summer temperatures, and unseasonal severe cold fronts and early heat waves, can lower reproductive success and survival. Drought reduces the availability of milkweeds and nectar plants. Severe winter storm events can kill large proportions of the overwintering population and damage habitat.<sup>417</sup> Oil and gas development in the Planning Area will contribute to climate change and worsen climate harms to monarch butterflies.

The Draft 2025 SEIS, and prior environmental reviews associated with the 2014 RMP, do not discuss mitigation for these threats to monarch butterflies and their critical habitat from oil and gas development in the Planning Area. The 2014 RMP has general BMPs/SOPs for biological resources, which also fail to discuss mitigation for threats to monarch butterflies and the plants they depend on.<sup>418</sup>

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<sup>410</sup> *Id.* at 234.

<sup>411</sup> I. Momeni-Dehaghi et al., *Roadkill is a Crucial Factor in the Population Decline of Migratory Monarch Butterflies*, bioRxiv at 1 (2024), <https://doi.org/10.1101/2024.09.27.615542>.

<sup>412</sup> Draft 2025 SEIS at 37 (Table 4-3).

<sup>413</sup> See generally A.F. Parlin et al., *Oriented Migratory Flight at Night: Consequences of Nighttime Light Pollution for Monarch Butterflies*, 25 *iScience* 104310 (2022), <https://doi.org/10.1016/j.isci.2022.104310>.

<sup>414</sup> 2019 SEIS at 82.

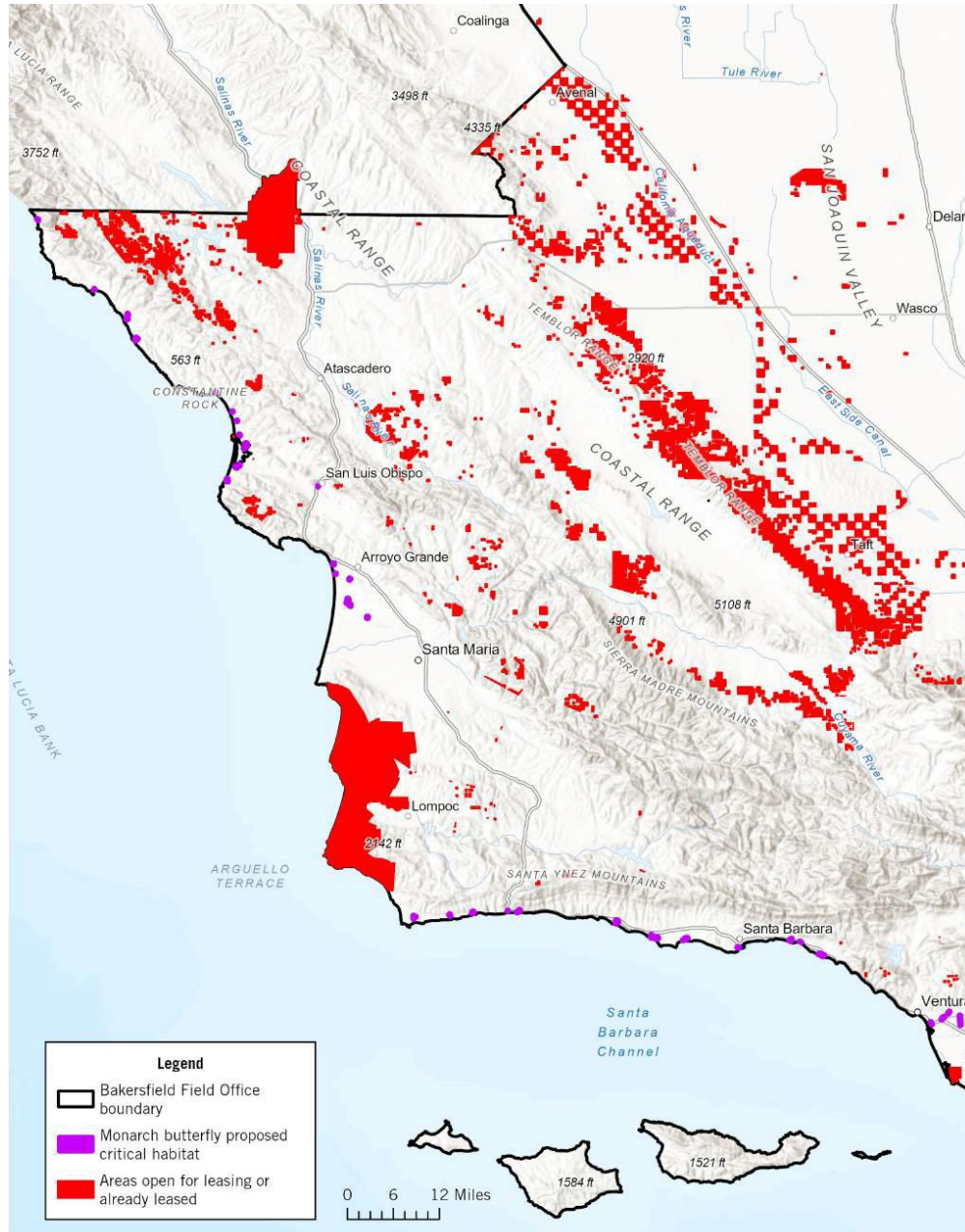
<sup>415</sup> D.G. James, *Monarch Butterflies at Western North America: A Holistic Review of Population Trends, Ecology, Stressors, Resilience and Adaptation* at 3, 11; see generally E.R. Zylstra et al., *Changes in Climate Drive Recent Monarch Butterfly Dynamics*, 5 *Nature Ecology & Evolution* 1441 (2021), <https://www.nature.com/articles/s41559-021-01504-1>.

<sup>416</sup> C. Sáenz-Romero et al., *Establishing Monarch Butterfly Overwintering Sites for Future Climates: *Abies Religiosa* Upper Altitudinal Limit Expansion by Assisted Migration*, 7 *Frontiers in Forests and Global Change* 1440517 at 2 (2024), <https://doi.org/10.3389/ffgc.2024.1440517>.

<sup>417</sup> 89 Fed. Reg. 100662, 10672–73 (Dec. 12, 2024); USFWS, *Monarch (*Danaus plexippus*) Species Status Assessment Report*, version 2.1 at 40–41.

<sup>418</sup> 2012 FEIS, app. L.

For the 2020 Lease Sale, the Draft 2025 SEIS notes that “[s]ince milkweed plant habitat populations occur throughout most of California, monarch butterflies may occur within the lease parcels.”<sup>419</sup> Even so the Draft 2025 SEIS does not address other locations within the Bakersfield Planning Area where monarchs may occur. BLM should consider that, per the following map, one proposed critical habitat site is within 1 mile of an area open for leasing, while 21 proposed critical habitat sites are within 5 miles of areas open for leasing.<sup>420</sup>



<sup>419</sup> Draft 2025 SEIS at 42.

<sup>420</sup> Center for Biological Diversity, GIS map and data analysis by K. Clauser (2026).

Additionally, the Draft 2025 SEIS vaguely states that “[t]his species is dependent on the milkweed plant, which can be easily identified at most times of the year; thus, populations should be easily identified and avoided.”<sup>421</sup> However, the Draft 2025 SEIS and 2014 RMP contain no measures that would require the identification and avoidance of milkweed, or any suggestion that operators would be trained to identify milkweed. The Draft 2025 SEIS also states that “Controlled surface use (CSU) stipulations would be applied to all parcels (see Appendix B of the 2020 EA)” and that “potential impacts would be mitigated by the CSU stipulations.”<sup>422</sup> But the CSU stipulations similarly do not address mitigation for threats to monarch butterflies.

The above discussion reflects new information and changed circumstances confirming the need for an amendment to the 2014 RMP and a revised SEIS that fully accounts for and mitigates impacts to monarchs.

#### **v. Kern Canyon slender salamander & relictual slender salamander**

The Draft 2025 SEIS states that the Kern County slender salamander and its proposed critical habitat are present within the Planning Area, within the lower Kern River Canyon, Erskine Creek and Bodfish Creek Drainages.<sup>423</sup> Without explanation, though, the Draft 2025 SEIS fails to include the relictual slender salamander despite the overlap of the salamander’s habitat with the Planning Area. For both species, the Draft 2025 SEIS fails to consider information on the impacts of oil and gas development on these species or discuss mitigation for these impacts. For both species, there is new information and changed circumstances that require an amendment to the 2014 RMP.

In 2022, the USFWS proposed to list the Kern Canyon slender salamander as threatened with approximately 2,051 acres of critical habitat, and the relictual slender salamander as endangered with approximately 2,685 acres of critical habitat.<sup>424</sup> On November 21, 2023, the USFWS proposed to increase its critical habitat proposal to 2,057 acres for the Kern Canyon slender salamander and to 4,942 acres for the relictual slender salamander.<sup>425</sup>

Major threats to both species are road-building, disease, and climate change.<sup>426</sup> Roads damage the hydrology of the salamander’s habitat, and destroy and degrade the seeps and springs that salamanders depend on. Roads may also result in direct mortality of individual salamanders. Amphibian chytrid fungus (*Batrachochytrium dendrobatidis*, or *Bd*) is a major threat, where infection could cause die-offs in already small populations. Climate change is expected to reduce the water level of the seeps and springs that support these species.<sup>427</sup>

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<sup>421</sup> Draft 2025 SEIS at 58.

<sup>422</sup> *Id.*

<sup>423</sup> *Id.* at 26 (Table 3-7).

<sup>424</sup> 87 Fed. Reg. 63150, 63150 (Oct. 18, 2022).

<sup>425</sup> 88 Fed. Reg. 81028, 81029–30 (Nov. 21, 2023).

<sup>426</sup> C.D. Moss et al., *Distribution, natural history, and conservation status of the relictual slender salamander* (*Batrachoseps relictus*), 105 *Northwestern Naturalist* 32, 41–43 (2024), <https://doi.org/10.1898/NWN23-18>.

<sup>427</sup> *Id.*

Based on the above, oil and gas development in or near the salamander’s restricted range is likely to worsen the harms from road-building and could contribute to the spread of chytrid fungus. Oil and gas development in the Planning Area will also worsen climate change. The Draft 2025 SEIS and the BMPs/SOPs for biological resources in the 2014 RMP fail to address mitigation for the threats to these imperiled salamanders.<sup>428</sup> Accordingly, an amendment to the 2014 RMP is necessary, along with a revised SEIS that fully accounts for and mitigates species impacts.

**c. BLM must amend the 2014 RMP to address new state listings and new information about state-listed species.**

Federally listed FYLF were also listed under CESA after the 2019 FEIS, and proposed-for-listing Western spadefoot is now being recommending for listing under CESA.<sup>429</sup> In addition, the Southern California/Central Coast Distinct Population Segment (“DPS”) of mountain lions received permanent protections under CESA in 2026<sup>430</sup> and are present throughout the Planning Area,<sup>431</sup> as discussed further below.

As the California Departments of Conservation, Fish and Wildlife, and Parks and Recreation, and the California Coastal Commission and State Water Resources Control Board noted in their scoping comment, “[t]he state’s regulatory and permitting authority and processes [including under CESA and the California Environmental Quality Act] apply to third party (e.g. non-federal) oilfield operations in California on all land administered by BLM whether that land is owned in total by the federal government or land that is under private ownership with federal mineral estate (split-estate).”<sup>432</sup>

Accordingly, these new listings warrant amendments to the 2014 RMP and Draft 2025 SEIS to ensure compliance with California law and adequate protections for these species.

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<sup>428</sup> 2012 FEIS, app. L.

<sup>429</sup> Cal. Nat. Res. Agency, Dep’t of Fish and Wildlife, Biogeographic Data Branch, California Natural Diversity Database, State and Federally Listed Endangered and Threatened Animals of California (Feb. 2026) at 14; Cal. Nat. Res. Agency, Dep’t of Fish and Wildlife, Petition Evaluation for Western Spadefoot (*Spea hammondi*) (Jan 2026).

<sup>430</sup> *Id.* at 21.

<sup>431</sup> *See, e.g.*, News23 Bakersfield, “Mountain Communities Demand Action as Mountain Lion Attacks Surge in Kern County” (Jan. 3, 2026), <https://www.turnto23.com/news/in-your-neighborhood/frazier-park-grapevine/mountain-communities-demand-action-as-mountain-lion-attacks-surge-in-kern-county>; Los Padres ForestWatch, “Mountain Lion,” <https://forestwatch.org/learn-explore/wildlife-plants/mountain-lion/>.

<sup>432</sup> Scoping Comments for the Draft 2025 SEIS, from the Cal. State Water Boards, Cal. Dept. of Conservation, Cal. Dept. of Fish & Wildlife, Cal. Coastal Commission, Cal. State Parks (July 23, 2025) at 12.

## i. Mountain lion

While California recently listed mountain lions in the Bakersfield Planning Area as “threatened” under CESA, the Draft 2025 SEIS fails to mention mountain lions, much less consider the impacts oil and gas leasing would have on that species.<sup>433</sup> The mountain lion has been on track for CESA protection since 2020. In January 2020, the California Department of Fish and Wildlife (CDFW) recommended that the state Fish and Game Commission designate mountain lions as a candidate species under CESA, which gives candidate species the same protections as listed species.<sup>434</sup> That same year, the California Fish and Game Commission agreed, and granted these populations candidacy status.<sup>435</sup> On December 10, 2025, CDFW released their status review regarding the petition and recommended listing six genetically distinct sub-populations of pumas as the threatened Southern California/Central Coast mountain lion DPS under CESA.<sup>436</sup> On February 12, 2026, the California Fish and Game Commission agreed with CDFW’s recommendation and voted to officially list this DPS as threatened under CESA.<sup>437</sup>

The newly listed DPS includes the Central Coast North (“CC-N”), Central Coast Central (“CC-C”), Central Coast South (“CC-S”), the Santa Ana Mountains/San Gorgonio (“SGSB”), and Eastern Peninsular Range populations.<sup>438</sup> The CC-C, CC-S, and SGSB populations are relevant to the Bakersfield Planning Area, as reflected in the following figure:

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<sup>433</sup> The 2019 SEIS does not mention the mountain lion. The 2012 FEIS contains mere mentions but has no substantive discussion of impacts. Mentions of the mountain lion include: 2012 FEIS at 280 (noting the Sierra bioregion includes the mountain lion), 344 (discussing Bitter Creek and noting “Recently, three condors have been lost to a mountain lion in the area”), 355 (noting the Back Country Byway has mountain lion habitat).

<sup>434</sup> *See generally* CDFW, Report to the Fish and Game Commission: Evaluation of Petition from the Center for Biological Diversity and the Mountain Lion Foundation to List the Southern California/Central Coast Evolutionarily Significant Unit (ESU) of Mountain Lions as Threatened U (Issue 7) (2020) (hereafter “CDFW 2020”).

<sup>435</sup> CDFW, A Status Review of the Petitioned Southern California/Central Coast Evolutionarily Significant Unit (ESU) of Mountain Lion (*Puma concolor* cougar) in California (2025) at 1 (hereafter “CDFW 2025”).

<sup>436</sup> *Id.* at 85.

<sup>437</sup> *See generally* CDFW, California Fish and Game Commission Finds CESA Protections Warranted for Southern California and Central Coast Mountain Lion (2026) (hereafter “CDFW 2026”), <https://wildlife.ca.gov/News/Archive/california-fish-and-game-commissionfinds-cesa-protections-warranted-forsouthern-californiaandcentral-coastmountain-lion>.

<sup>438</sup> CDFW 2025 at vii-viii.

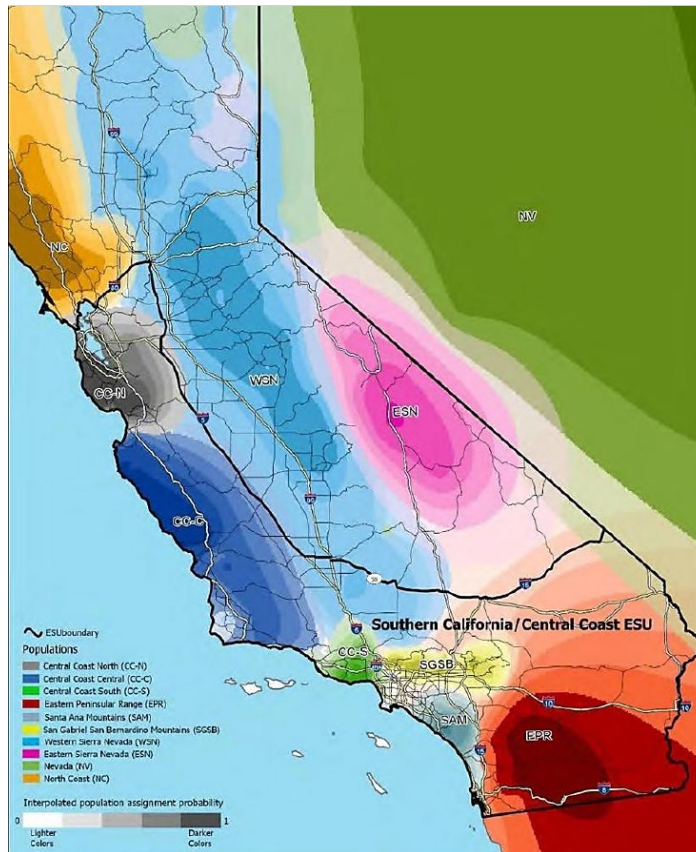


Figure 1: Genetically distinct mountain lion populations in California. The black represents the CC-N population, dark blue the CC-C population, green the CC-S population, and yellow the San Gabriel/San Bernardino population. The black outline along the Central Coast and Southern California represents the originally petitioned Evolutionarily Significant Unit (“ESU”). The ultimately protected Central Coast and Southern California Distinct Population Segment is almost the entire area of the petitioned ESU.<sup>439</sup>

There is a wealth of recent scientific studies that address threats to mountain lions. These studies illuminate, for example, the dire conditions of the DPS’s genetic health and viability, the myriad threats they face, and the importance of the lease area for their long-term survival.<sup>440</sup> The research cited in CDFW’s Status Review and this Comment represent the best available science

<sup>439</sup> See T.A. Yap et al., *A Petition to List the Southern California/Central Coast Evolutionarily Significant Unit (ESU) of Mountain Lions as Threatened under the California Endangered Species Act (CESA)* at 3 (2019) (modeling map on K.D. Gustafson et al., *Genetic Source–Sink Dynamics Among Naturally Structured and Anthropogenically Fragmented Puma Populations*, 20 *Conservation Genetics* 215 (2019) at Fig. 2 (hereafter “Gustafson 2019”).

<sup>440</sup> See generally K.D. Gustafson et al., *Multi-Population Puma Connectivity Could Restore Genomic Diversity to at-risk Coastal Populations in California*, 15(2) *Evolutionary Applications* 286 (2022), <https://doi.org/10.1111/eva.13341>; T.A. Yap et al., *California Connections: How Wildlife Connectivity Can Fight Extinction and Protect Public Safety* (2021); Gustafson 2019; J.F. Benson et al., *The Ecology of Human-Caused Mortality for a Protected Large Carnivore*, 120(13) *Proceedings of the Nat’l Academy of Scis.* e2220030120 (2023); CDFW 2025.

regarding mountain lions in the region. BLM must consider these myriad recent studies and use them to inform their decisionmaking regarding which areas of the mineral estate to open, or close, to industrial development. In particular, an amendment to the 2014 RMP, and a broader SEIS, are necessary to address likely impacts on mountain lions from increased noise, light, human presence, and traffic enabled by oil and gas activities in the Bakerfield Planning Area.

**Human Presence:** The construction and operation of oil and gas facilities in the lands open for leasing would increase human presence. Several studies document the nuanced sensitivities of California mountain lions to human presence, activities, and infrastructure. Studies have demonstrated that mountain lion avoidance behavior increases with greater development densities.<sup>441</sup> One study found that mountain lions are so fearful of humans and noise generated by humans that they will abandon the carcass of a deer and forgo the feeding opportunity just to avoid humans.<sup>442</sup> In addition, mountain lions have been found to respond fearfully upon hearing human vocalizations, avoiding the area and moving more cautiously when hearing humans.<sup>443</sup> Other studies have demonstrated that mountain lion behavior is impacted when exposed to other evidence of human presence, such as lighting or vehicles/traffic.<sup>444</sup>

One way California mountain lions adapt to increased human presence and development is to decrease their activity during the daytime and increase their activity during the nighttime.<sup>445</sup> The BKFO SEIS anticipates that “wells [would] generally operate 24 hours per day, 7 days per week, and 365 days per year.”<sup>446</sup> These constant operations would deter mountain lions during any hour, reducing their ability to adapt to increased human development in the region. At the very least, BLM should amend the 2014 RMP to impose an SOP and BMPs to pause oil and gas activities at night to mitigate harms to the mountain lion (and other species).

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<sup>441</sup> J.A. Smith et al., *Moving Through the Matrix: Promoting Permeability for Large Carnivores in a Human-Dominated Landscape*, *Landscape and Urban Planning*, 183, 50–56 (2019); J.A. Smith et al., *Top Carnivores Increase Their Kill Rates on Prey as a Response to Human-Induced Fear*, *Proceedings of the Royal Society B: Biological Sciences*, 282(1802) at 1-5 (2015); Y. Wang et al., *Mesopredator Spatial and Temporal Responses to Large Predators and Human Development in the Santa Cruz Mountains of California*, *Biological Conservation* 190, 24 (2015), <https://doi.org/10.1016/j.biocon.2015.05.007>; Y. Wang et al., *Residential Development Alters Behavior, Movement, and Energetics in a Top Carnivore*, *PlosOne*, 12(10), e0184687 (2017) at 11.

<sup>442</sup> See generally J.A. Smith et al., *Fear of the Human ‘Super Predator’ Reduces Feeding Time in Large Carnivores*, *Proceedings of the Royal Society B: Biological Sciences*, 284(1857), 20170433 (2017). The study concluded that even “non-consumptive forms of human disturbance may alter the ecological role of large carnivores by affecting the link between these top predators and their prey.” *Id.* at 3.

<sup>443</sup> *Id.*; J.P. Suraci et al., *Fear of Humans as Apex Predators Has Landscape-Scale Impacts from Mountain Lions to Mice*, *Ecology Letters*, 22(10) (2019) at 1-2.

<sup>444</sup> Wang 2017 at 2; Smith 2017 at 4; C.C. Wilmers et al., *Scale Dependent Behavioral Responses to Human Development by a Large Predator, the Puma*, *PLoS ONE*, 8(4) at 7 (2013).

<sup>445</sup> Suraci 2019 at 1, 4–5; Wang 2015 at 29.

<sup>446</sup> Draft 2025 SEIS at 38.

**Constructions and Operations:** Even when humans are not present at the oil and gas well sites, the noise caused by production is likely to adversely affect the region’s mountain lions. Fracking is associated with constant noise, which can be substantial even hundreds of meters away from the production site.<sup>447</sup> According to the Draft 2025 SEIS, conventional drilling could produce sound in the 50-82 decibel range, and fracking would reach 107 decibels.<sup>448</sup> Yet BLM provides no analysis of how this increase in noise pollution would impact mountain lions.

Increased noise from oil and gas development has been shown to alter predator-prey dynamics, reducing hunting success in predators relying on acoustic cues.<sup>449</sup> Mountain lions have sensitive hearing and respond rapidly to new auditory cues. The topography and plant composition of a landscape affect how well sound travels, and therefore how much of an impact construction and production of oil and gas will have on mountain lions and other.<sup>450</sup>

**Traffic and Roads:** Alternative B will foreseeably increase the number of roads and vehicles throughout the Planning Area. In addition to impacts to mountain lion wildlife connectivity, increasing traffic and roads in the area could lead to an increased chance of a vehicle strikes. CDFW identified vehicle strikes as one of the leading threats to mountain lions in the DPS.<sup>451</sup> The SEIS states that new access roads just for fracking would be disturb up to 48 acres.<sup>452</sup> Roads can substantially fragment a landscape and render it far less habitable for mountain lions. BLM must take these impacts into consideration.

## ii. Temblor Legless Lizard

BLM must improve its analysis of the impacts of conventional and unconventional oil and gas development on the imperiled Temblor legless lizard (TLL). Oil and gas development is the primary threat to the Temblor legless lizard, and new information and changed circumstances around this species demonstrate the need for an amendment to the 2014 RMP and a broader NEPA analysis.

As stated in the Center for Biological Diversity’s July 2025 scoping comments—

The Temblor legless lizard (*Anniella alexanderae*) is a rare species with a restricted range in western Kern County, Kings County, and southern Fresno County. The TLL is listed as a Species of Special Concern in California and has been recommended by scientific

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<sup>447</sup> J. Hays et al., *Public Health Implications of Environmental Noise Associated with Unconventional Oil and Gas Development*, 580 *Science of the Total Environment*, 448, 450 (2017) <https://doi.org/10.1016/j.scitotenv.2016.11.118>; T. Rutherford et al., *Effects of Noise from Oil and Gas Development on Ungulates and Small Mammals—A Science Synthesis to Inform National Environmental Policy Act Analyses*, United States Geological Survey (2024) at 1.

<sup>448</sup> Draft 2025 SEIS at 38.

<sup>449</sup> Rutherford 2024 at 20.

<sup>450</sup> *Id.* at 8.

<sup>451</sup> CDFW 2025 at 27, 81.

<sup>452</sup> Draft 2025 SEIS at 36.

experts for federal and state listing under the Endangered Species Act. The species was recently granted candidate status under the CESA, meaning that as of July 2022, the lizard receives the same legal protection afforded to an endangered or threatened species in the State.<sup>453</sup>

The U.S. Fish and Wildlife Service is conducting a status review of the TLL to determine if it should be listed under the federal Endangered Species Act.

Since the scoping period, new information and changed circumstances on the TLL have emerged, including critical updated mitigation measures proposed by CDFW. BLM must take all of this into account in its environmental analysis and decisionmaking.

**Rose et al. (2024) Study:** A 2024 study by herpetologist Jonathan Rose and other experts provides important survey recommendations for Temblor legless lizards to address the challenges associated with lizard detection. This important study and its insights into the TLL’s habitats, behaviors, and occurrences illustrate that past surveys were likely underinclusive, showing a need for an updated NEPA review and amendment to the 2014 RMP.<sup>454</sup>

For example, the study recognizes that the TLL prefers warm, loose and friable soil with low clay content such as loamy sand.<sup>455</sup> They also prefer sites with moderate plant cover and sites near ephemeral streams (e.g., washes and alluvial fans) likely due to these habitats having loose, friable soils suitable for burrowing.<sup>456</sup> A key recommendation of the study is “increased spatial and temporal coverage of sampling,” including multiple surveys of the same site within each survey season and conducting site surveys over multiple years.<sup>457</sup>

Notably, the study describes how targeted surveys for TLLs were conducted in Kern and Fresno counties during mid-February to mid-April in 2022 and 2023 when lizard detectability is highest due to mild temperatures and higher soil moisture near the surface.<sup>458</sup> The researchers surveyed a total of 89 sites in 2022 (n=60) and 2023 (n=68) and detected Temblor legless lizards at 12 of 89 sites, including 5 new localities.<sup>459</sup> Several new TLL detection sites were documented in Kern County.<sup>460</sup>

Separate from this study, there have been TLL detections at 13 locations within oil field boundaries, including the Midway Sunset oil field, which is the largest oil field in Kern County with more than 25,000 active and idle wells; the McKittrick oil field; and Pleasant Valley oil

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<sup>453</sup> Center Scoping Comments at 60–62.

<sup>454</sup> See generally J.P. Rose et al. (2024), *Digging into Detectability: Uncovering How Temperature Influences Detection Probability of the Fossorial Temblor Legless Lizard*, 15(1) *Journal of Fish and Wildlife Management* 237 (2024) (hereafter “Rose et al. (2024)”).

<sup>455</sup> *Id.* at 244, 247.

<sup>456</sup> *Id.*

<sup>457</sup> *Id.* at 237, 245, 248.

<sup>458</sup> *Id.* at 237.

<sup>459</sup> *Id.*

<sup>460</sup> *Id.* at 240.

field.<sup>461</sup> Ten occurrence locations overlap protected lands: one occurrence overlaps the State's Pleasant Valley Ecological Reserve within the Pleasant Valley oil field; one occurrence overlaps the Center for Natural Land's Management's private conservation area "Lokern Preserve"; two occurrences overlap the State's Lokern Ecological Reserve (one of these is the same one that overlaps the Lokern Preserve); three occurrences overlap BLM's Panoche/Coalinga Area of Critical Environmental Concern; and six occurrences overlap BLM's Lokern-Buena Vista Area of Critical Environmental Concern (two of which are the same occurrences that overlap Lokern Ecological Reserve).<sup>462</sup> In total, 31 oil fields overlap the Temblor legless lizard's narrow range (Figure 2).<sup>463</sup>

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<sup>461</sup> Center for Biological Diversity, GIS map and data analysis by K. Clauser (2026).

<sup>462</sup> *Id.*

<sup>463</sup> *Id.* These 31 oil fields are Antelope Hills, North Antelope Hills, Antelope Plains Gas (ABD), Asphalt, Belgian Anticline, Blackwells Corner, Buena Vista, Cal Canal Gas, Carneros Creek, Chico-Martinez, Coalinga, Coalinga East Extension, Cymric, Elk Hills, Gujarral Hills, Jacalitos, Kettleman North Dome, Kreyenhagen (ABD), McDonald Anticline, McKittrick, Midway-Sunset, Monument Junction, North Belridge, Pleasant Valley, Pyramid Hills, Railroad Gap, Shale Flats Gas (ABD), Shale Point Gas (ABD), South Belridge, Temblor East (ABD), and Temblor Ranch.

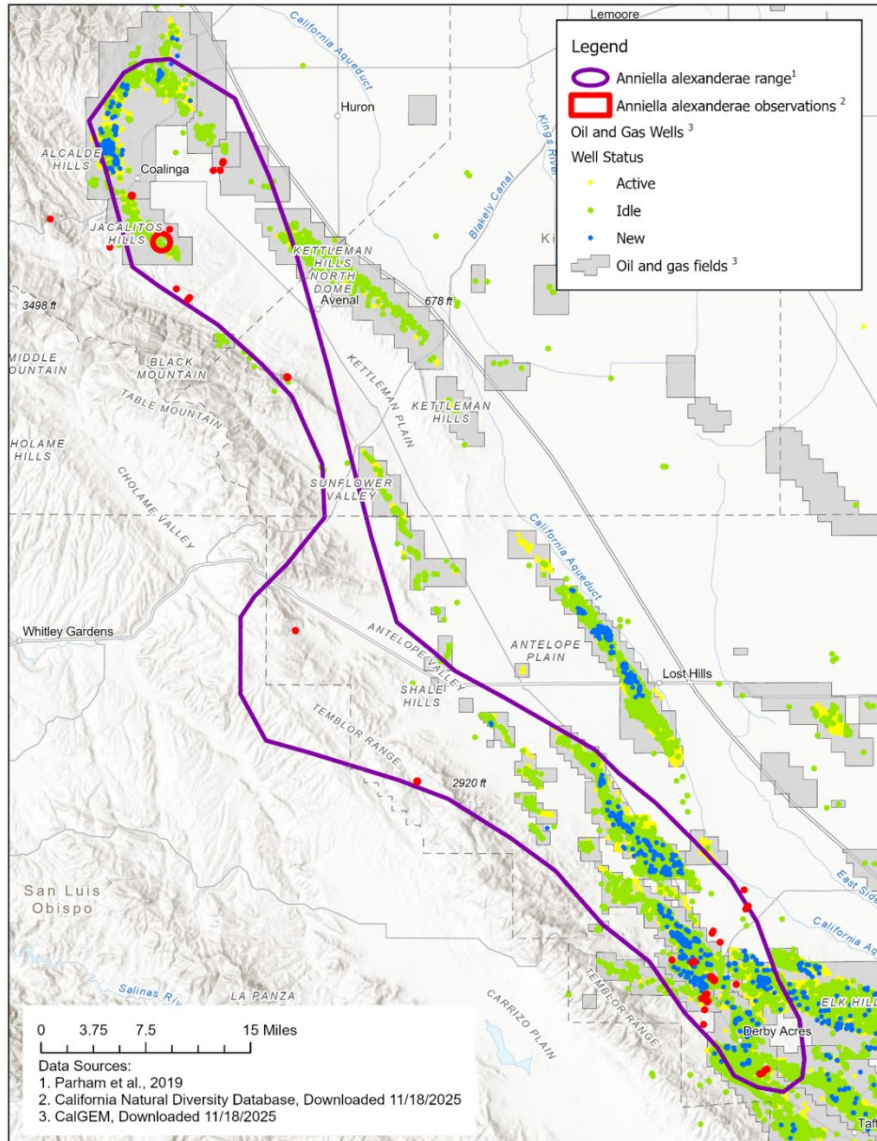


Figure 2: Active oil and gas development in the Temblor legless lizard range and overlap with lizard detection sites.

Rose et al. (2024) researchers also found that “a few negative surveys are not sufficient to conclude that this species is absent from a site.”<sup>464</sup> At many sites, TLL were not observed until the researchers had conducted three or more surveys. At three of 12 sites where lizards were detected over the 2-year survey period, lizards were observed during surveys in one year but not in the other year. The study further concluded that their “results also show that surveys over multiple years might be needed to document the presence of Temblor legless lizards, particularly during droughts when conditions at the surface are unsuitable.”<sup>465</sup>

The study found that substrate temperature influences detectability, and estimated a

<sup>464</sup> Rose et al. (2024) at 245.

<sup>465</sup> *Id.*

higher probability of detections from surveys conducted between mid-February and mid-April based on temperature and humidity.<sup>466</sup> For surveys done in summer when the detectability of TLLs is lower, the study concluded that an even larger number of surveys would be required.<sup>467</sup> Specifically, the study estimated the number of sequential negative surveys (n\*) required to have high confidence that a site was truly unoccupied by TLLs for surveys done in winter and spring.<sup>468</sup> The number of surveys needed depends on the substrate temperature at the time of the survey, soil texture, and the distance that the site was located from an ephemeral stream.<sup>469</sup> The number of sequential negative surveys needed was found to range up to 16 surveys in habitat areas with low clay soil, lower substrate temperature (~10°C) and close proximity to ephemeral streams.<sup>470</sup>

Accordingly, BLM must amend the 2014 RMP after an updated TLL survey.

**CDFW (2024) Mitigations:** In 2024, CDFW specified mitigation measures for the TLL to reduce threats from oil and gas development under the Kern County Zoning Ordinance that governs oil and gas permitting in Kern County.<sup>471</sup> In the case of the Kern Ordinance, CDFW concluded that oil and gas development activities associated with the Project “would be likely to significantly impact TLL.”<sup>472</sup> CDFW laid out mitigation measures for habitat assessment and surveys for TLL.

Importantly, CDFW specified that multiple surveys should be conducted at surveys sites during February to April and it recommends site surveys multiple times per season, along with surveys over multiple seasons to increase the probability of lizard detection.<sup>473</sup> CDFW also recommends consultation if TLL are documented or suspected to be present to discuss project implementation and take avoidance, including an incidental take permit if avoidance is not feasible.<sup>474</sup>

BLM must consider these mitigation measures (reproduced as follows) and update its own to reflect the best and most updated science and management for protecting the TLL:

**Recommended Mitigation Measure 1:** CDFW recommends that a qualified biologist prepare a TLL habitat assessment and survey plan (Plan) for CDFW review and approval prior to implementation of any Project-related activity (including projects that result in ministerial actions) that may involve ground disturbance, vegetation maintenance, and/or

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<sup>466</sup> *Id.* at 237.

<sup>467</sup> *Id.* at 245.

<sup>468</sup> *Id.* at 247.

<sup>469</sup> *Id.* at 244.

<sup>470</sup> *Id.* at 247.

<sup>471</sup> CDFW, *Revisions to Title 19 – Kern County Zoning Ordinance (2024) Focused on Oil and Gas Local Permitting (Project) Second Supplemental Recirculated Environmental Impact Report (SSREIR) SCH: 2013081079* (June 6, 2025) (hereinafter “CDFW (June 2025)”) at 3-4.

<sup>472</sup> *Id.* at 3.

<sup>473</sup> *Id.*

<sup>474</sup> *Id.* at 4.

construction or maintenance of facilities. This would include activities such as exploration, production, completion, stimulation, reworking, injection, and plugging and abandonment. The Plan would detail the habitat assessment and surveys methods that would be incorporated prior to the initiation of the activities outlined above.<sup>475</sup>

The Plan would require a qualified biologist to conduct a detailed habitat assessment to determine if the Project activity and the immediate surrounding vicinity contain habitat suitable to support TLL. Suitable areas, such as areas with loose or friable soils, in or near a wash, ephemeral streams and swales, and areas that include the presence of native shrubs, should be documented as part of the habitat assessment.<sup>476</sup>

The Plan would also include detailed survey methods that would be implemented prior to the initiation of Project activities within suitable habitat to detect the presence of TLL. Surveys would be designed to optimize TLL detectability, incorporating best available science on appropriate survey approaches, to reasonably ensure that Project activities would not result in the unauthorized take of the species. To optimize detectability, surveys would need to include the use of coverboards and/or raking, and would need to be conducted by a qualified biologist with a valid Memorandum of Understanding (MOU) with CDFW. Surveys should be conducted during appropriate temperatures (e.g., 10 to 30 degrees Celsius) and during the appropriate time of year (e.g., February through April). Additionally, due to the difficulty in detecting TLL, multiple surveys would need to be conducted within a season, and multiple survey seasons would increase the probability of detection.<sup>477</sup>

The Plan would be submitted to CDFW for review and concurrence at least 60 days prior to implementation. This plan would be superseded if or when there is a CDFW-approved TLL protocol available for public use.<sup>478</sup>

**Recommended Mitigation Measure 2:** If TLL are documented or suspected to be present, either during surveys or Project activities, consultation with CDFW is warranted to discuss how to implement the Project and avoid take; or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP) prior to the implementation of any Project activities identified above, pursuant Fish and Game Code section 2081 subdivision (b).<sup>479</sup>

**d. BLM is required to conduct additional consultation under the ESA.**

An agency must initiate consultation with USFWS whenever it takes an action that “may affect” a listed species or its critical habitat.<sup>480</sup> What constitutes “agency action” is to be broadly interpreted. The amendment or approval of an RMP is an “agency action” to which the

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<sup>475</sup> *Id.*

<sup>476</sup> *Id.*

<sup>477</sup> *Id.*

<sup>478</sup> *Id.*

<sup>479</sup> *Id.* at 4.

<sup>480</sup> *See* 50 C.F.R. § 402.14(a).

obligation to consult applies if the amendment “may affect” listed species.<sup>481</sup> “Section 7(a)(2) consultation is required so long as the federal agency has ‘some discretion’ to take action for the benefit of a protected species.”<sup>482</sup> The decision that BLM proposes to make upon finalization of the Draft 2025 SEIS and approval of a new ROD also undoubtedly triggers BLM’s duty to consult.

It is without doubt that a decision on a land use plan is an “agency action” within the meaning of the ESA, as it is a discretionary decision whereby BLM designates which public lands and mineral estate are available for oil and gas leasing and development, imposes conditions on such uses,<sup>483</sup> and thereby satisfies the legally binding preconditions for leasing mineral estate in the Planning Area for oil and gas development. The decision is an action that “may affect” listed species: it is the required first decision that decides exactly where and how federal mineral estate may be developed.

BLM claims that “additional consultation has been determined to be unnecessary” because prior “consultations concluded that the effects of the proposed action(s) are not likely to jeopardize the continued existence of any species listed as threatened or endangered under the ESA” and “the 2019 FSEIS and this DSEIS...did not show a notable increase in total impacts to listed species in the Planning Area.”<sup>484</sup> However, the 2017 Programmatic Biological Opinion (PBO) was limited such that additional consultation is required.

First, the “geographic scope” of the 2017 PBO was limited to lands “primarily in Kings and Kern Counties, with occasional projects in a small portion of San Luis Obispo County,”<sup>485</sup> whereas the 2014 RMP includes opening federal lands for oil and gas leasing in Fresno, Madera, Santa Barbara, Tulare, and Ventura Counties as well.<sup>486</sup> Second, the 2017 PBO only covers eight listed species: San Joaquin kit fox, blunt-nosed leopard lizard, giant kangaroo rat, Tipton kangaroo rat, Kern mallow, San Joaquin wooly-threads, California jewelflower, and Bakersfield cactus.<sup>487</sup> Yet according to BLM’s 2012 FEIS, 86 federally listed species occur within the Planning Area, of which 38 are known or likely to occur on public lands in the Decision Area and three more of which may occur on split estate.<sup>488</sup> The 2012 FEIS reports that public lands provide “important habitat” for 16 listed species and provide “potentially important habitat” for

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<sup>481</sup> 50 C.F.R. § 402.02; *All. for the Wild Rockies v. U.S. Dep’t of Agric.*, 772 F.3d 592, 598–99 (9th Cir. 2014); *Lane Cnty. Audubon Soc’y v. Jamison*, 958 F.2d 290, 293–94 (9th Cir. 1992) (BLM land use plans that designate areas for particular uses are agency action to which section 7 of the ESA applies); *Pac. Rivers Council v. Thomas*, 30 F.3d 1050, 1056 (9th Cir. 1994).

<sup>482</sup> *Nat. Res. Def. Council v. Jewell*, 749 F.3d 776, 779 (9th Cir. 2014) (en banc).

<sup>483</sup> *See Pac. Rivers Council v. Thomas*, 30 F.3d 1050, 1055 (9th Cir. 1994); *Cottonwood Env’t Law Ctr. v. U.S. Forest Serv.*, 789 F.3d 1075, 1086 n.12 (9th Cir. 2015); *All. for Wild Rockies*, 772 F.3d at 598–99.

<sup>484</sup> Draft 2025 SEIS at 67–68.

<sup>485</sup> USFWS, Programmatic Biological Opinion on Oil and Gas Activities on Bureau of Land Management Lands in the San Joaquin Valley (2017) (hereafter “2017 PBO”) at 1.

<sup>486</sup> Draft 2025 SEIS at 4.

<sup>487</sup> 2017 PBO at 1.

<sup>488</sup> 2012 FEIS at 252.

16 additional species.<sup>489</sup> Third, the 2017 PBO did not cover the newly listed FYLF populations occurring within the Planning Area. BLM must complete consultation with USFWS prior to making a decision on whether to amend the 2014 RMP and whether to move forward with oil and gas activities on the seven parcels involved in the 2020 Lease Sale.

In addition, since issuance of the 2019 SEIS and 2017 PBO, USFWS proposed the Northwestern and Southwestern pond turtles,<sup>490</sup> Western spadefoot,<sup>491</sup> monarch butterfly,<sup>492</sup> Kern Canyon slender salamander,<sup>493</sup> and relictual slender salamander<sup>494</sup> for listing under the federal ESA, as discussed further above. BLM must confer with USFWS “on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under [ESA Section 4] or result in the destruction or adverse modification of critical habitat proposed to be designated for such species.”<sup>495</sup> Thus, BLM must confer with USFWS on the above proposed-to-be-listed species prior to making a decision on amending the 2014 RMP and allowing oil and gas activities on the seven lease parcels.

Finally, as discussed in the scoping comments, BLM must consult with the National Marine Fisheries Service regarding listed steelhead populations within the Planning Area.<sup>496</sup> BLM did not address this requirement in the Draft 2025 SEIS. BLM must initiate and complete consultation on the steelhead prior to making a decision on amendment of the 2014 RMP and finalizing the environmental review associated with the seven lease parcels.

#### **11. BLM must address new information and changed circumstances related to surface and groundwater resources in the Bakersfield Planning Area.**

As discussed further in the incorporated scoping comments, new data concerning the acceleration of groundwater depletion in the Central Valley and San Joaquin Valley underscore the need to amend the 2014 RMP to ensure adequate mitigation of water-related impacts to groundwater from oil and gas production. As climate change and the accompanying droughts continue to worsen, so will surface water scarcity and pressure on groundwater resources.<sup>497</sup>

A 2022 report uses data from the past two decades to show that the rate of groundwater depletion in the Central Valley has been accelerating since 2003, and “the patterns of groundwater storage variations documented here are unlikely to change without significant

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<sup>489</sup> *Id.*

<sup>490</sup> 88 Fed. Reg. 68370 (Oct. 3, 2023).

<sup>491</sup> 88 Fed. Reg. 84252 (Dec. 5, 2023).

<sup>492</sup> 89 Fed. Reg. 100662 (Dec. 12, 2024).

<sup>493</sup> 88 Fed. Reg. 81028 (Nov. 21, 2023).

<sup>494</sup> *Id.*

<sup>495</sup> 16 U.S.C. § 1536(a)(4); 50 C.F.R. § 402.10.

<sup>496</sup> Center Scoping Comments at 69–73.

<sup>497</sup> Hanak, Ellen et al., Water and the Future of the San Joaquin Valley, Public Policy Institute of California (2019) at 11, <https://www.ppic.org/wp-content/uploads/water-and-the-future-of-the-san-joaquin-valley-february-2019.pdf>.

groundwater management intervention.”<sup>498</sup> This trend is already visible, as groundwater overdraft in the San Joaquin Valley has accelerated in recent years.<sup>499</sup>

Indeed, the oil industry in Kern County enjoys “profligate” water use, with ever increasing amounts of water needed to extract the County’s heavy crude oil.<sup>500</sup> A 2022 analysis shows that Kern County accounts for 99.5 percent of the high-quality water injected for fossil fuel extraction across California—enough water to supply over 2,300 households—but the state is failing to accurately collect data on the exact quantities of water used to produce oil.<sup>501</sup>

Moreover, waste pits, and especially unlined pits, pose a number of threats to both surface water and groundwater in California. A 2021 study confirms that unlined pits endanger groundwater in the San Joaquin Valley, documenting how the disposal of over 16 billion barrels of oil and gas wastewater into unlined pits over a 50-year period has introduced salts, carcinogens, and other toxins into regional aquifers.<sup>502</sup>

Commenters have repeatedly raised issues related to the 2014 RMP’s failure to mitigate impacts of oil and gas operations on water scarcity and water quality, and BLM’s failure to take a “hard look” at such impacts in its prior review. Despite this issue being the subject of litigation leading to BLM’s commitment to prepare the Draft 2025 SEIS, this document continues to discount impacts to water resources and fails to propose a water quality-related RMP amendment.

In particular, the Draft 2025 SEIS continues to only address groundwater impacts to counties in the San Joaquin Valley as a whole as opposed to considering how groundwater supplies in local communities would be impacted by oil and gas drilling.

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<sup>498</sup> Liu, Pang-Wi et al., *Groundwater Depletion in Cal.’s Central Valley Accelerates During Megadrought*, Scientific Reports, Nature Communications (2022) at 7, doi:10.1038/s41467-022-35582-x; see also Bostic, Darcy et al., *Thousands of Domestic and Public Supply Wells Face Failure Despite Groundwater Sustainability Reform in Cal.’s Central Valley*, Scientific Reports (Sept. 8, 2023), doi:10.1038/s41598-023-41379-9.

<sup>499</sup> Hanak, Water and the Future of the San Joaquin Valley at 11.

<sup>500</sup> L. Gross, “A California Water Board Assures the Public that Oil Wastewater Is Safe for Irrigation, But Experts Say the Evidence Is Scant” (Feb. 2022).

<sup>501</sup> L. Gross & P. Aldhous, “Drought-Wracked California Allows Oil Companies to Use High-Quality Water. But Regulators’ Error-Strewn Records Make Accurate Accounting Nearly Impossible,” Inside Climate News (Sept. 18, 2022), <https://insideclimatenews.org/news/18092022/drought-wracked-california-allows-oil-companies-to-use-high-quality-water-but-regulators-error-strewn-records-make-accurate-accounting-nearly-impossible/>; Inside Climate News, “Water Injection into California Oil and Gas Wells” (Sept. 18, 2022), <https://insideclimate.news.github.io/2022-09-ca-kern-oil-water/>.

<sup>502</sup> D.C. DiGiulio et al., *Vulnerability of Groundwater Resources Underlying Unlined Produced Water Ponds in the Tulare Basin of the San Joaquin Valley, California*, 55 Environmental Science & Technology 14782, 14783 (2021).

BLM must consider alternatives and mitigation measures that would protect water quality and quantity, both through a revised SEIS and an amendment to the 2014 RMP.

## **12. BLM must address new information and changed circumstances related to geologic and seismicity risks in the Bakersfield Planning Area.**

As argued in the scoping comments incorporated by reference, the Bakersfield Planning Area is one of the most seismically active regions in California. Recent studies on the impacts of the region’s seismic activities on oil and gas activities, as well as the potential for induced seismicity by additional fossil fuel development, reflect impacts greater than previously understood and provide a basis for amending the 2014 RMP.

First, new research from 2019 shows a potential increase in oil and gas well leakage due to earthquakes, as follows:

Earthquakes occurring naturally or induced by human activities can damage surface and subsurface infrastructure. Oil and gas wells represent a category of subsurface infrastructure that can act as leakage pathways connecting oil and gas reservoirs, groundwater aquifers, and the atmosphere. The integrity of these wells can be compromised through a wide range of processes and contribute to groundwater contamination, greenhouse gas emissions, and air quality degradation.<sup>503</sup>

The study found that in California, the “hot spots” for subsurface leakage potential are correlated with well densities.<sup>504</sup> Specifically, [t]he well clusters in CA clearly delineate the Central Valley and southern coastal regions where oil and gas development is prevalent.”<sup>505</sup> BLM must consider this information and account for impacts to ground and surface water, air pollution, and other environmental and human features resulting from increased oil and gas development and possible leakage in an RMP amendment.

Second, a 2024 report explained that “the effect of natural or induced seismicity on wellbores” is “[o]f particular concern,” as natural or induced seismicity “can damage wellbores” after permanent plugging and abandonment.<sup>506</sup> The 2024 report analyzed additional research from 2023 regarding “increased leakage of gas from plugged oil and gas wells resulting from seismic activity due to injection of produced water into disposal wells and hydraulic fracturing.”<sup>507</sup>

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<sup>503</sup> M. Kang et al., *Potential Increase in Oil and Gas Well Leakage Due to Earthquakes*, 1 *Environ. Res. Commun.* (2019) at 1, <https://doi.org/10.1088/2515-7620/ab576e>.

<sup>504</sup> *Id.*

<sup>505</sup> *Id.* at 3.

<sup>506</sup> D.C. DiGiulio, *Evaluation of Draft Environmental Impact Report on Geological Storage of Carbon Dioxide at the Carbon TerraVault I Facility in Kern County, California* (Feb. 25, 2024) at 13–14.

<sup>507</sup> *Id.* at 14.

Third, BLM should have considered the cumulative geologic and seismic impacts of other oil field projects that have been developed, or are reasonably foreseeable, in the Planning Area in evaluating the need for amendment to the 2014 RMP and the need for a broader SEIS. One such category of projects that is highly consequential and could impact oil and gas development is carbon capture and storage (CCS).

CCS is the process of capturing carbon dioxide (CO<sub>2</sub>) emissions from a smokestack, compressing that CO<sub>2</sub>, and then injecting the CO<sub>2</sub> waste (transported via pipeline or truck) at high pressures underground. In California, due to the passage of Senate Bill 905 (SB 905), only permanent storage of CO<sub>2</sub> waste is allowed, though in other areas of the country, injection of CO<sub>2</sub> for enhanced oil recovery is common. As with California's fracking ban, discussed above, BLM must amend the 2014 RMP to ensure compliance with SB 905 and prohibit the use of CCS for enhanced oil recovery.

In Kern County alone there are three CCS projects planned for oil fields; these projects are moving through various stages of permitting and/or have been approved.<sup>508</sup> In the CEQA review for the Carbon TerraVault I project in the Elk Hills oil field, Kern County identified 22 "cumulative" projects, many of which involve CCS.<sup>509</sup> Documents about many of these projects are available and BLM must consider these projects and the related impacts of increased oil and gas activity via an RMP amendment. For example, injected CO<sub>2</sub> can travel through pore space for long distances (e.g., 10+ miles). It is likely that such subsurface intrusion will exacerbate impacts previously recognized in the 2014 RMP, warranting an amendment.

Moreover, as noted above, BLM has acknowledged that activities under the 2014 RMP "may cause land subsidence," and "potential impacts to surface water infrastructure, such as aqueduct and canal damage," but has improperly postponed a full assessment of those impacts until the site-specific stage.<sup>510</sup> The scoping comments incorporated herein by reference highlighted the seismicity risks discussed by the California Council on Science and Technology.<sup>511</sup> These risks further support an amendment.

Finally, the Draft 2025 SEIS acknowledges that the fungus that causes Valley Fever (Coccidiomycosis) is common in the soil of the Planning Area and has led to an increased number of infections.<sup>512</sup> In addition to the research cited in the Draft 2025 SEIS, however, a recent preprint study conducted in Kern County found that the odds for developing Valley Fever were increased by 11% for people living within 5 kilometers (3 miles) of at least one preproduction oil and gas well, and that the odds of infection increased by 0.7% for each

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<sup>508</sup> See, e.g., Kern County, Recirculated Environmental Impact Report for Carbon TerraVault I Project, Vol. 1, ch. 3.9 (June 2024) at 3-45.

<sup>509</sup> *Id.* at 3-45 to 3-46.

<sup>510</sup> Draft 2025 SEIS at 61-62.

<sup>511</sup> Center Scoping Comments at 37.

<sup>512</sup> Draft 2025 SEIS at 27, 59.

additional preproduction well within that distance.<sup>513</sup> Nevertheless, the underlying 2014 RMP contains no mitigation plan to protect the public from dust and soil disturbance related to oil and gas activities in the Planning Area. It is necessary for BLM to amend the 2014 RMP to address this new information regarding increased Valley Fever risk to communities living near oil and gas production and ensure adequate mitigation.<sup>514</sup>

**13. BLM must address new information and changed circumstances related to the treatment of wilderness, ACECs, recreation and visual resources, and cultural resources in the Bakersfield Planning Area.**

The new information and changes discussed above and in the incorporated scoping comments submitted on July 23, 2025 by CalWild and others—including with regard to climate change, energy policy, air quality and greenhouse gas emissions, public health risks and compliance with state laws like SB 1137, and the potential impact of the 2025 Budget Reconciliation Act—illustrate the need to amend the 2014 RMP to make sure that lands with high ecological, historical, recreational, visual, cultural, or other values remain closed to leasing instead of potentially “available,” and to reign in the federal government’s energy dominance agenda seeking to promote the production of fossil fuels over all other uses of our public lands.

Additionally, BLM must amend the 2014 RMP to comply with the Public Lands Rule, enacted in 2024, which requires conservation to be on an equal footing with other uses on our public lands in resource management planning.<sup>515</sup> Among other requirements, the rule directs BLM to:

- Implement conservation as a land use within the multiple use framework in planning efforts;<sup>516</sup>
- Conduct and maintain an inventory of landscape intactness as a resource value and evaluate alternatives to protect intact landscapes or portions of intact landscapes, identify which of those will be managed for their intactness and establish management direction for desired conditions and landscape objectives;<sup>517</sup>
- Identify quantifiable restoration outcomes in land use plans that are consistent with restoration principles;<sup>518</sup>
- Avoid permanent impairment of ecosystem resilience and provide justification where there may be impairment;<sup>519</sup>

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<sup>513</sup> L. Couper et al., Oil and Gas Well Development and Coccidioidomycosis Risk in California: A Case-Crossover Study, Preprint (Sept. 21, 2025) at 9, <https://doi.org/10.1101/2025.09.19.25336198>.

<sup>514</sup> EPA, Scoping Comments on Draft 2025 SEIS at 5.

<sup>515</sup> See generally 89 Fed. Reg. 40308 (May 9, 2024).

<sup>516</sup> 43 C.F.R. § 6101.5.

<sup>517</sup> *Id.* § 6102.2.

<sup>518</sup> *Id.* § 6102.3.1.

<sup>519</sup> *Id.* § 6102.5(b)(1), (b)(8).

- Identify allowable uses and actions anticipated to achieve or promote significant progress towards achieving land health standards;<sup>520</sup>
- Conduct watershed conditions assessments every 10 years and use them to inform land use planning;<sup>521</sup> and
- Meaningfully consult w/tribes and incorporate indigenous knowledge.<sup>522</sup>

Incorporating these and other requirements of the Conservation and Landscape Health Rule into the 2014 RMP and a broader SEIS is critical to BLM's resource management planning for the Bakersfield Field Office.

Moreover, an RMP amendment is necessary to reflect BLM's own updated reporting, which acknowledges the tension and inconsistency between oil and gas leasing and protecting other important resources and values.<sup>523</sup> Accordingly, reevaluating the 2014 RMP's treatment of the types of public lands listed above, and revising the Draft 2025 SEIS to include a comprehensive analysis concerning such lands in light of updated information, is necessary to ensure consistency with FLPMA's multiple use and sustained yield mandate, along with FLPMA's commitment to avoiding unnecessary and undue degradation.

It is also important for BLM to consider and put forth an alternative that closes existing available areas to future oil and gas leasing, does not make available additional areas for leasing, and incorporates conservation elements and mitigation measures for oil and gas permitting, while incorporating the following elements into an updated alternatives analysis as part of a revised SEIS, including in the preferred alternative for an amendment to the 2014 RMP:

- Emphasize conservation and (quiet) recreation access and prohibit or limit extractive industrial activities (by making additional/retaining existing areas as unavailable for leasing, using conditions of approval, stipulations and/or mitigation measures) in additional sensitive areas;
- Prioritize reducing greenhouse gas emissions, and preventing pollution, and include strict standards to monitor and protect public health and the environment;
- Require meaningful prior engagement with land trusts (including but not limited to Friends of the Carrizo Plain, Carrizo Plain Conservancy, The Wildlands Conservancy, Ojai Valley Land Conservancy, Sequoia Riverlands Trust, Tejon Ranch Conservancy, and Santa Barbara County Land Trust) regarding any proposed leasing within five miles of lands in which they have an ownership interest (e.g., Carrizo Plain National Monument, Wind Wolves Preserve, etc.); and
- Include elements that reflect community and Tribal priorities for these public lands.

The new information and changes discussed throughout this comment letter further illustrate the need for an amendment to the 2014 RMP that updates the inventory of lands with wilderness characteristics (LWCs), which appears to date back to an earlier RMP such as the

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<sup>520</sup> *Id.* § 6103.1.1.

<sup>521</sup> *Id.* § 6103.2.

<sup>522</sup> *Id.* § 6102.5 (b)(4), (b)(6).

<sup>523</sup> *See, e.g.*, DOI, Report on the Federal Oil and Gas Leasing Program (Nov. 2021) at 12.

1997 Caliente RMP or the 1984 Hollister RMP. An updated LWCs inventory is especially important for any lands in the Planning Area that are open to leasing or being considered for such designation. LWCs should be managed as closed to fluid mineral development and/or leasing.

Additionally, it is important for any amendment to the 2014 RMP to confirm BLM's commitment to managing wilderness areas and wilderness study areas as closed to leasing, and to make the following updates concerning ACECs:

- Close the Ancient Lakeshores, Bitter Creek, Blue Ridge, Chico Martinez, Erskine Creek, Horse Canyon, Piute Cypress, Point Sal, Tierra Redonda, and Upper Cuyama Valley ACECs to any and all oil and gas development/leasing, in order to protect and prevent irreparable damage to the ACECs' resources; and
- Close the Compensation Lands, Cypress Mountain, Cyrus Canyon, Hopper Mountain, Kaweah, Kettleman Hills, Lokern-Buena Vista, Los Osos, and Salinas River ACECs to any and all oil and gas development/leasing, in order to protect and prevent irreparable damage to the ACECs' resources or, at a minimum, put a fluid mineral leasing stipulation (NSO) in place for each ACEC.

Next, BLM must reconsider and amend the 2014 RMP's determinations with regard to eligible wild and scenic rivers, as BLM's most recent analysis failed to take into account the overall ecological value of particular segments, along with upstream segments managed by the National Park Service, leading to improper and inaccurate unsuitability determinations on the Kaweah, Kern, and Salinas Rivers. An RMP amendment must close these four segments to oil and gas leasing, in addition to preserving the closure for the segments previously deemed suitable.

Finally, BLM must reconsider and amend the 2014 RMP with regard to recreation management, including to—

- Complete designation of the Wu Ki' Oh Trail and San Joaquin River Trail as National Recreation Trails and close the trail corridor (0.25-mile wide) to fluid mineral leasing;
- Ensure complete closure of the Pacific Crest Trail corridor (0.25-mile wide) to fluid mineral leasing;
- Close the Keyesville, San Joaquin River Gorge, and Temblor Range Special Recreation Management Areas (SRMAs) to fluid mineral development and/or leasing;
- Close the Atwell Island, Case Mountain, Chimney Peak, and Fresno River Extensive Recreation Management Areas (ERMAs) to fluid mineral development and/or leasing;
- Prohibit oil and gas development and leasing in the Keyesville Historic Mining District, Piedras Blancas Lighthouse Station, and any other location which has significant historical values; and
- Treat all lands within five miles of lands held for conservation purposes by land trusts and nonprofit organizations (e.g., Wind Wolves Preserve, Tejon Ranch), and lands

held as state, national, and county parks and beaches (e.g., Yosemite, Sequoia and Kings Canyon National Parks), as closed to fluid mineral leasing or development.<sup>524</sup>

#### **14. BLM must amend the 2014 RMP to factor in idle and orphaned wells and cleanup obligations.**

BLM has failed to consider, discuss, and disclose how oil and gas development under the 2014 RMP and on the seven lease parcels will contribute to the growing idle and orphaned wells crisis, despite its awareness of the end-of-life environmental consequences of oil and gas production.

Experts note that California’s statewide cost of cleanup for all unplugged oil and gas wells is around \$21.5 billion.<sup>525</sup> Operators have only submitted less than 1% of that amount in bonds.<sup>526</sup> “[I]t is unlikely that the remaining production of over 100,000 wellbores and nearly 30,000 facilities operating today will suffice to pay for their own decommissioning even if all future profits are applied to the liabilities.”<sup>527</sup>

In response to this rapidly growing idle and orphaned well crisis, California’s Bipartisan Infrastructure Law of 2021 provided nearly \$5 billion of taxpayer money to fund the plugging of orphaned wells across the country, “confront[ing] the potent atmospheric pollution that orphaned oil and gas wells emit, while also accounting for the legacy impact that orphaned wells have on their surrounding environment.”<sup>528</sup> BLM noted in 2024 that “[i]n many cases, idled wells can be used as a proxy for wells at risk of becoming orphaned.”<sup>529</sup> Despite the Bipartisan Infrastructure Law requiring the BLM director to “review and reduce the inventory of idled wells on federal land,”<sup>530</sup> the Draft 2025 SEIS does not address the magnitude of the problem in the Planning Area.

CalGEM notes that plugging expenses in recent years have been \$220,000 to \$900,000 per well.<sup>531</sup> Prior to BLM’s 2024 Fluid Mineral Leases and Leasing Process Rule, “BLM ha[d] not increased its minimum bond amounts, which [were] \$10,000 for individual lease bonds, \$25,000 for statewide bonds, and \$150,000 for nationwide bonds, since 1951 (statewide and nationwide bonds) and 1960 (individual lease bonds).”<sup>532</sup> BLM recognized that its “minimum

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<sup>524</sup> See Los Padres ForestWatch, Key Places Targeted by BLM Drilling/Fracking Plan (2026), <https://forestwatch.org/wp-content/uploads/2026/01/Key-Landscapes-Opened-to-Drilling-by-BLM-Plan-2026.pdf>.

<sup>525</sup> See D. Purvis, There Will Be Blood: Decommissioning California’s Oilfields, CarbonTracker (May 2023) at 5.

<sup>526</sup> *Id.*

<sup>527</sup> *Id.* at 41.

<sup>528</sup> DOI, Orphaned Wells Program Annual Report to Congress (Nov. 2024) at 7.

<sup>529</sup> *Id.* at 41.

<sup>530</sup> *Id.*

<sup>531</sup> Cal. Department of Conservation, Fiscal Year 2025-2026 Budget Change Proposal, No. 3480-081-BCP-2025-MR (Apr. 15, 2025) at 5.

<sup>532</sup> 88 Fed. Reg. 47562, 47565 (July 24, 2023).

bond amounts [were] outdated, expose[d] the Federal Government to significant financial risks in the event of bankruptcies, and delay[ed] ‘complete and timely’ reclamation and restoration of lease tracts, which can cause or exacerbate a range of environmental issues, including methane leaks, surface and groundwater contamination, interference with agricultural activities, and degraded wildlife habitat.”<sup>533</sup>

The 2024 Rule increased the minimum lease bond to \$150,000 and the minimum statewide bond to \$500,000.<sup>534</sup> These amounts still pale in comparison to the \$220,000 to \$900,000 required to plug a single well in California. In addition, in December 2025 BLM moved to extend the deadline for operators to secure the increased level of bonding while BLM contemplates a separate rulemaking that would “significantly change the timeline for this requirement.”<sup>535</sup>

BLM is acutely aware of the environmental impacts of idle and orphaned wells:

Without proper maintenance, orphaned wells and other abandoned oil and natural gas infrastructure can lead to significant methane emissions. As unmaintained wellbores, wellheads, pipes, and casings age, corrode, and deteriorate, infrastructure intended to isolate oil, gas, and other substances can allow harmful gases, such as methane, hydrogen sulfide and produced waters to escape into the surrounding environment. These emissions occur when there is a source of methane, such as a geologic formation, and a leaking wellbore acting as a pathway for the gas to travel from the source to the environment... The gas may escape directly into the atmosphere and soils or contaminate groundwater resources that the public may rely on for drinking water.<sup>536</sup>

In 2024, BLM pointed to a “2021 study of abandoned wells [that] found an average methane emission rate of 11 grams per hour per well,”<sup>537</sup> as well as a 2024 study that found “some individual unplugged wells have been measured emitting 76,000 grams of methane per hour.”<sup>538</sup> BLM also noted that “[a]s subsurface oil and gas casing and well infrastructure erode

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<sup>533</sup> *Id.*

<sup>534</sup> 43 C.F.R. § 3104.1(a).

<sup>535</sup> 90 Fed. Reg. 59069, 59069 (Dec. 18, 2025).

<sup>536</sup> DOI, Orphaned Wells Program Annual Report to Congress at 42 (citing N.J. Gianoutsos et al., *Geologic Sources and Well Integrity Impact Methane Emissions from Orphaned and Abandoned Oil and Gas Wells*, 912 *Science of the Total Environment* (2024) at 4).

<sup>537</sup> *Id.* (citing J.P. Williams et al., *Methane Emissions from Abandoned Oil and Gas Wells in Canada and the United States*, 55 *Environmental Science & Technology* 563 (2021)).

<sup>538</sup> *Id.* at 43 (citing S.N. Riddick et al., *Methane Emissions from Abandoned Oil And Gas Wells in Colorado*, 922 *Science of the Total Environment* (2024)); *see also* E.D. Lebel et al., *Methane Emissions from Abandoned Oil and Gas Wells in California*, *Environmental Science & Technology* (2020) (survey finding two-thirds of sampled idle wells in California are leaking methane)).

over time, deterioration and other factors can lead to increased methane emissions from the well.”<sup>539</sup>

Given the above, it is likely that oil and gas development under the 2014 RMP and on the seven lease parcels will contribute to the idle and orphaned well crisis in a manner that must be addressed in an RMP amendment and much broader SEIS.

BLM must take into account the severe lack of financial assurance that operators have and will provide for cleanup of their wells. Of the Bipartisan Infrastructure Law’s \$241.3 million in direct funding “for well plugging and reclamation of orphaned wells located on federal land,” BLM only “received \$35 million in total funds to plug 93 wells.”<sup>540</sup> That equates to an average of about \$376,000 per well. Even if operators eventually comply with the 2024 Fluid Mineral Leases and Leasing Process Rule increased bonding requirements (\$150,000 minimum lease bond and \$500,000 minimum statewide bond), oil and gas wells developed under the RMP and on the seven lease parcels will still be dramatically under-bonded.

BLM must amend the 2014 RMP to account for the GHG, air quality, and water quality impacts that will persist until all wells in the Planning Area are properly plugged.

#### **15. BLM must ensure consistency with management plans for adjacent field offices.**

FLPMA and its regulations mandate that RMPs and RMP amendments are consistent with other resource-related plans and assist with resolving any inconsistencies.<sup>541</sup> BLM must ensure that the SEIS for the 2014 RMP is consistent with management of other adjacent field offices, particularly the Central Coast planning area, which is directly adjacent to the Bakersfield Planning Area. BLM has now opened *another* several hundred thousand acres of federal land and mineral estate to oil and gas development as part of the ongoing process for the Central Coast RMP, and that process is moving forward during the same timeframe as for the Bakersfield region.<sup>542</sup> Indeed, the Central Coast and Bakersfield field offices are managing similar, connected resources in these regions. BLM must therefore ensure consistent management across field office boundaries of shared resources like air quality, wilderness, ACECs, recreation and visual resources, cultural resources, among others.

#### **V. BLM’s Draft 2025 SEIS is legally deficient in its analysis of the impacts of fracking in both the 2014 RMP and the 2020 Lease Sale.**

As argued above, the Draft 2025 SEIS should have been much broader in scope and should have addressed the full range of new information and changed circumstances discussed

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<sup>539</sup> DOI, Orphaned Wells Program Annual Report to Congress at 44 (citing Gianoutsos et al., *Geologic Sources and Well Integrity Impact Methane Emissions from Orphaned and Abandoned Oil and Gas Wells* (2024)).

<sup>540</sup> DOI, Orphaned Wells Program Annual Report to Congress (Nov. 2025) at 6-7.

<sup>541</sup> 43 U.S.C. § 1712(c)(8); 43 C.F.R. §§ 1610.3-2, 1610.3-1(a).

<sup>542</sup> See generally BLM, Central Coast Field Office, Draft SEIS (Dec. 12, 2025).

herein pertaining to the need to amend the 2014 RMP. Without such analysis, the Draft 2025 SEIS fails to comply with NEPA.

Assuming *arguendo* that BLM could have limited the Draft 2025 SEIS to evaluating the impacts of fracking on the 2014 RMP and the 2020 Lease Sale, the Draft 2025 SEIS still fails to satisfy NEPA’s “hard look” requirement. The “hard look” requirement applies to SEISs in addition to EISs,<sup>543</sup> and “must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made[.]”<sup>544</sup> By contrast, the analysis contained in the Draft 2025 SEIS is either absent, cursory, or improperly deferred in key respects.

Moreover, the Draft 2025 SEIS does not contain a holistic analysis of impacts to the seven parcels involved in the 2020 Lease Sale but, instead, sprinkles a few lease sale references throughout while improperly relying on prior analysis rather than new information.

For these reasons and as further discussed *infra*, BLM must revise the Draft 2025 SEIS to include a comprehensive analysis of new information and changed circumstances relevant not only to fracking but the broader question of amending the 2014 RMP.

#### **A. The Draft 2025 SEIS contains an inadequate analysis of the impacts of fracking.**

With regard to fracking, the Draft 2025 SEIS (1) does not properly factor in California’s fracking ban and SB 1137, (2) improperly defers analysis to later stages of BLM’s planning process, (3) downplays air pollution-related impacts on communities in California, (4) miscalculates greenhouse gas emissions and climate impacts, (5) ignores or discounts impacts to biological resources, (6) ignores concerns about the chemicals used in fracking, (7) relies on unfounded assumptions regarding impacts to surface and groundwater resources, (8) fails to mitigate soil-related impacts from Valley Fever, (9) downplays seismicity concerns, (10) discounts impacts to recreation and visual resources, and (11) ignores or downplays impacts to wilderness and ACECs.

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<sup>543</sup> *Or. Nat. Res. Council v. Lowe*, 109 F.3d 521, 528 (9th Cir. 1997); *see Northwest Resource Info. Ctr. v. National Marine Fisheries Serv.*, 56 F.3d 1060, 1066 (9th Cir. 1995) (“An agency’s EIS (or SEIS) may thus be reversed or remanded only if it is arbitrary, capricious, or an abuse of discretion. However, this court still must ensure that the agency took a ‘hard look’ at the environmental consequences of its action.”) (citations omitted).

<sup>544</sup> *W. Watersheds Project v. Kraayenbrink*, 632 F.3d 472, 491 (9th Cir. 2011) (citation and internal quotation marks omitted).

**1. The Draft 2025 SEIS continues to discuss fracking as if it will occur, despite BLM’s acknowledgment that California has banned fracking and has restricted most new oil and gas drilling within 3,200 feet of sensitive receptors.**

As discussed further above, California announced the need to ban fracking in 2020 and finalized a regulation under which it ceased issuing fracking permits in 2024.<sup>545</sup> While the Draft 2025 SEIS gives lip service to the existence of California’s ban on fracking,<sup>546</sup> the document proceeds based on the underlying assumption that fracking in California will continue to occur on federal lands, including continued reliance on a fracking-related RFDS of greater than zero. BLM must revise the Draft 2025 SEIS to make clear that operators must comply with state fracking laws and regulations on federal lands, including the ban that is currently in effect in California.

To the extent BLM intended the Draft 2025 SEIS to evaluate the impacts of fracking on a contingent basis assuming that California’s fracking ban goes away, the document must make this assumption explicit.

In the same vein, any contingent discussion of fracking must acknowledge the relevance of SB 1137 as an additional limitation on fracking, even assuming *arguendo* that California repeals its fracking ban or the ban otherwise becomes invalid. SB 1137 prohibits most new oil and gas activities within 3,200 feet of sensitive receptors like homes, schools, and hospitals and applies to operators on federal as well as state lands, as discussed further above.

As the Draft 2025 SEIS fails to acknowledge that fracking may not occur on federal lands in California as long as the state’s fracking ban is in effect, and fails to mandate compliance with SB 1137 as an additional limit on fracking, revision is necessary to ensure that BLM takes a “hard look” at these issues and makes a corresponding amendment to the 2014 RMP.

**2. The Draft 2025 SEIS improperly defers analysis to later stages of BLM’s planning process.**

Throughout the Draft 2025 SEIS, BLM evades meaningful review of impacts by stating that site-specific analyses will be conducted at the APD phase.<sup>547</sup> For example, BLM claims that “[t]he impacts on newly listed wildlife species are minimal,” even though “site-specific reviews” would be necessary at later stages,<sup>548</sup> with BLM ultimately postponing ESA consultation until

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<sup>545</sup> Cal. Exec. Order N-79-20 (Sept. 23, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>; Cal. Code Regs. tit. 14, § 1780(d) (2024).

<sup>546</sup> Draft 2025 SEIS at 18 (acknowledging California’s fracking ban and stating, with regard to federal lands, that “BLM does not have regulatory authority over hydraulic fracturing in California; that authority rests with [CalGEM], which oversees all well stimulation activities in the state”).

<sup>547</sup> *See, e.g., id.* at ES-2, 3, 28, 57–58, 68.

<sup>548</sup> *Id.* at ES-2.

the site-specific stage.<sup>549</sup> Moreover, BLM asserts that “environmental review, including direct and indirect effects, for the development of leased parcels, including well completion techniques such as hydraulic fracturing, is a site-specific analysis,”<sup>550</sup> “concludes that the [San Joaquin Valley Air District] requirement to quantify GHG emissions would occur at the [site-specific] stage,”<sup>551</sup> and claims that it “would consider site specific conditions and data [regarding water use conditions] during project level review.”<sup>552</sup> In another example, although BLM acknowledges that oil and gas “may cause land subsidence,” and “potential impacts to surface water infrastructure, such as aqueduct and canal damage,” it postpones a full assessment of those impacts until the site-specific stage.<sup>553</sup>

BLM’s reliance on later site-specific analyses to assuage concerns about leasing violates the law. First, the Ninth Circuit has held that deferring analysis of foreseeable impacts until a later, site-specific stage, is unlawful.<sup>554</sup> Indeed, the purpose of an EIS “is to evaluate the [range of] possibilities in light of current and contemplated plans and to produce an informed estimate of the environmental consequences.”<sup>555</sup>

Second, the July 2025 Budget Reconciliation Act amended the MLA, as discussed above, potentially impacting BLM’s routine practice of deferring analysis to later stages of its oil and gas management process. BLM must address the gaps in its RMP-level analysis now because it has never done so for the Bakersfield Field Office region before, whether in the 2012 FEIS, the 2014 RMP, or the 2019 SEIS, and it has historically failed to do so at the APD stage.

### **3. The Draft 2025 SEIS improperly analyzes the air pollution-related impacts of fracking.**

As discussed above, the Draft 2025 EIS is incorrect in asserting that CAA conformity review is not required at this stage.<sup>556</sup> Considering the prevalence of areas of nonattainment within the Bakersfield Planning Area, it is likely that the decision to finalize the 2014 RMP and open large swaths of land to oil and gas drilling will, in fact, cause or contribute to a violation of

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<sup>549</sup> *Id.* at 68.

<sup>550</sup> *Id.* at 3.

<sup>551</sup> *Id.* at 57.

<sup>552</sup> *Id.* at 61.

<sup>553</sup> *Id.* at 61–62.

<sup>554</sup> *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1072 (9th Cir. 2002) (“An agency may not avoid an obligation to analyze in an EIS environmental consequences that foreseeably arise from an RMP merely by saying that the consequences are unclear or will be analyzed later when an EA is prepared for a site-specific program proposed pursuant to the RMP . . . If an agency were able to defer analysis discussion of environmental consequences in an RMP, based on a promise to perform a comparable analysis in connection with later site-specific projects, no environmental consequences would ever need to be addressed in an EIS at the RMP level if comparable consequences might arise, but on a smaller scale, from a later site-specific action proposed pursuant to the RMP.”).

<sup>555</sup> *City of Davis v. Coleman*, 521 F.2d 661, 676 (9th Cir. 1975).

<sup>556</sup> Draft 2025 SEIS at 24.

the NAAQS and interfere with the purpose of one or more SIPs. The failure to conduct a proper conformity review here violates both NEPA and the CAA.

Critically, the Draft 2025 SEIS improperly excludes emissions that should be part of the conformity analysis. BLM must consider all reasonably foreseeable direct and indirect emissions from oil and gas activities as part of the conformity analysis, but the agency misclassifies midstream emissions in particular as indirect emissions for which it lacks “practical control” and “continuing program responsibility.”<sup>557</sup> But “continuing program responsibility” simply means that:

[A] Federal agency has responsibility for emissions caused by[] (1) Actions it takes itself; or (2) Actions of non-Federal entities that the Federal agency, in exercising its normal programs and authorities, approves, funds, licenses or permits, provided the agency can impose conditions on any portion of the action that could affect the emissions.<sup>558</sup>

The Draft 2025 SEIS therefore underestimates reasonably foreseeable emissions. First midstream emissions are actually direct emissions caused or initiated by the federal action, occurring at the same time and place as the action, and reasonably foreseeable.<sup>559</sup> This is evident from BLM’s description of the proposed action: it considers the “impacts of hydraulic fracturing technology on BLM-managed land and mineral estate in the Planning Area,” excluding national monuments,<sup>560</sup> and based on reasonably foreseeable well development over the course of “10 years.”<sup>561</sup> Thus the lifetime of the action is projected to be approximately 10 years across the entire Bakersfield Planning Area. All midstream emissions (i.e., those emissions occurring after production but before refining) take place within this geographic and temporal boundary and should be properly categorized as “direct” emissions.

Second, even assuming, *arguendo*, that site-specific operational emissions are properly characterized as indirect emissions, they nevertheless fall under BLM’s continuing program responsibility. BLM must therefore include them in its conformity analysis. When EPA promulgated the general conformity regulations in 1993, it provided numerous examples for emissions that would fall under an agency’s continuing program and practical control.<sup>562</sup> For example, if the Forest Service were to issue a permit to a ski resort and included conditions regarding the construction and operation of the resort, “emissions from the construction and operation of the resort are a continuing program responsibility of the Forest Service[.]”<sup>563</sup> As another example, if the Federal Aviation Administration was deciding whether to expand an airport located in a nonattainment area, the resulting “increase in emissions of 50 [tpy] of

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<sup>557</sup> 40 C.F.R. § 93.153(b); Draft 2025 SEIS at 44.

<sup>558</sup> 40 C.F.R. § 93.152.

<sup>559</sup> *Id.*

<sup>560</sup> Draft 2025 SEIS at 2.

<sup>561</sup> *Id.*

<sup>562</sup> *See generally* 58 Fed. Reg. 63214 (Nov. 30, 1993).

<sup>563</sup> *Id.* at 63221.

[VOCs] due to vehicle and airport related emissions” would be considered under a conformity determination.<sup>564</sup>

Courts have reinforced these principles. For example, one court assessed whether the Department of Energy (“DOE”) was required to assess emissions from Mexican power plants in its approval of a transmission line and compliance with CAA general conformity requirements.<sup>565</sup> The court found that because DOE “can, and did, condition the issuance of the [] permits upon the maintenance of pollution control measures,” where “[n]o other federal agency ha[d] the ability to impose such conditions,” and where without the permits the transmission lines could not be built, power plant emissions were those that DOE could “practicably control” through issuance of a transmission line permit.<sup>566</sup>

Here, BLM maintains continuing program responsibility and practical control over midstream operational emissions stemming from the 2014 RMP because it will issue a final decision approving certain federal lands for oil and gas leasing, it has discretion to dictate which areas are open or closed for leasing, and its decision will include stipulations and mitigation measures applicable to operation of those wells. Moreover, BLM has continuing program responsibility for federal oil and gas leasing throughout the leasing, APD, and plugging/abandonment stages. As a result, and for the purposes of CAA conformity under EPA’s regulations, midstream operations of oil and gas leasing in the Bakersfield region remain under practical control and continuing program responsibility of BLM, and those emissions must be included in an RMP-level conformity analysis.

We are also concerned that the Draft 2025 SEIS uses the Air Quality Index (AQI) metric and very large geographic areas to portray the RMP’s relative incremental emissions as negligible.<sup>567</sup> However, AQI is not a CAA standard, nor is it a metric for demonstrating conformity to the SIP, nor is it a viable metric for air quality analysis in areas that are already failing to meet NAAQS. What matters is whether emissions of ozone precursors in nonattainment areas will cause or contribute to NAAQS violations or interfere with SIP measures.

The analysis of impacts to air and atmospheric values in the Draft 2025 SEIS is further flawed for the reasons discussed in the previous section, including the document’s failure to properly evaluate the air pollution-related impacts of fracking on communities located near oil and gas activities. The Draft 2025 SEIS downplays air impacts by claiming that “[t]he primary contributors to air pollution in the region continue to be wildfires, mobile sources, and agricultural activities,” based on aggregating its impact analysis over the entire Planning Area or

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<sup>564</sup> *Id.* at 63222–23.

<sup>565</sup> *Border Power Plant Working Grp. v. DOE*, No. 02cv513-IEG(POR), 2006 LX 19756, at \*21 (S.D. Cal. Feb. 8, 2006).

<sup>566</sup> *Id.*

<sup>567</sup> Draft 2025 SEIS at 45 (estimating “less than one point (1% of the AQI at the NAAQS concentration)”).

entire counties, rather than recognizing significant impacts to communities where oil and gas drilling occur.<sup>568</sup> This approach is improper and requires revision to the Draft 2025 SEIS.

#### **4. The Draft 2025 SEIS undercounts greenhouse gas emissions from fracking.**

The fracking-related discussion of climate change and GHG emissions in the Draft 2025 SEIS is flawed for the same reasons discussed above concerning the need for an amendment to the 2014 RMP. In particular, as detailed above, the Draft 2025 SEIS is flawed and inadequate because the GHG analysis fails to (1) assess and incorporate significant new data in estimating upstream and midstream GHG emissions; (2) consider and incorporate new scientific information that confirms that new oil and gas development on federal lands is inconsistent with preventing the worst damages of the climate crisis; (3) consider new information showing that many GHG mitigation measures relied on in the Draft 2025 SEIS have been delayed, weakened, or nullified; (4) acknowledge that oil and gas development on federal lands in the Planning Area is inconsistent with California climate policy; and (5) consider the climate change impacts to California that will result from the GHG emissions in the Planning Area.

In addition, the Draft 2025 SEIS fails to adequately explain its estimates of GHGs that would be emitted from oil and gas development in the Bakersfield Planning Area and fails to provide a GHG emissions estimate for the 2020 Lease Sale. The document estimates potential GHG emissions from oil and gas development in the area at 17,200,815 metric tons CO<sub>2</sub>e “over the life of the RFDS.”<sup>569</sup> However, the Draft 2025 SEIS fails to provide an explanation of what RFDS scenario is being used to generate this estimate and fails to show its work. The RFDS represents a large range of 90 to 360 new wells per year on existing leases, and 10 to 40 new wells per year on new leases, over 10 years.<sup>570</sup> Therefore, the estimate of GHG emissions resulting from the RFDS should also be a range reflecting the number of wells assumed to be developed, rather than a single number. The document does not state how many wells were modeled to generate the GHG estimate and whether it modeled only wells on new leases, or whether wells on existing leases were also included. The Draft 2025 SEIS also fails to specify whether GHG emissions from fracking are included and what those emissions are, instead vaguely stating that well development emissions “may include” emissions from fracking.<sup>571</sup> The Draft 2025 SEIS states that these emissions estimates are calculated in the “BLM Lease Sale Emissions Tool”<sup>572</sup> but fails to provide any citation or documentation for that tool or show its work on how it arrived at those estimates.

The Draft 2025 SEIS also fails to provide an estimate of GHG emissions that would be emitted by the 2020 Lease Sale. Instead, the document vaguely states that “air emissions and related impacts from the 2020 Lease Sale are considered in this analysis and are included in the emission estimates discussed above,”<sup>573</sup> without showing any estimate or how this estimate is

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<sup>568</sup> *Id.* at ES-2, 44–45.

<sup>569</sup> *Id.* at 51–52.

<sup>570</sup> *Id.* at 2.

<sup>571</sup> *Id.* at 51.

<sup>572</sup> *Id.*

<sup>573</sup> *Id.* at 57.

included. Because the Draft 2025 SEIS does not adequately explain how BLM developed its GHG emission estimates, or the data or tools BLM used to do so, the public cannot ensure that these estimates are correct or meaningfully comment thereon.

The Draft 2025 SEIS refers to the 2023 BLM Specialist Report on Annual Greenhouse Gas Emissions and Climate Trends from Coal, Oil, and Gas Exploration and Development on the Federal Mineral Estate for “further discussion of the reasonably foreseeable and cumulative GHG emissions associated with BLM’s oil and gas leasing actions and methodologies.”<sup>574</sup> However, this report’s purpose is to provide estimates of the GHG emissions from federal fossil fuel production in 2023. The report does not add clarity on how the Draft 2025 SEIS estimates GHG emissions from the 2014 RMP or from the 2020 Lease Sale. The report itself states that it “does not take the place of an analysis and disclosure of emissions at the project level that may be completed for NEPA analysis specific to a decision to lease or authorize development.”<sup>575</sup>

### **5. The Draft 2025 SEIS improperly ignores or discounts fracking-related impacts to biological resources.**

As argued above, there is a need to amend the 2014 RMP and prepare a broader in scope SEIS to address new species-related information relevant to the Planning Area. This same information illustrates the deficiencies in the Draft 2025 SEIS with regard to fracking-specific impacts.

Moreover, BLM makes no attempt to analyze how the Table 3-7 species will be impacted by fracking under the 2014 RMP. According to the Draft 2025 SEIS, “potential direct and indirect impacts to special status species from hydraulic fracturing activities depend on species occurrence within a potential leasing area and would therefore be further analyzed at the leasing stage and protective measures and lease stipulations would be applied at that stage.”<sup>576</sup> This conclusion is inaccurate and inadequate to satisfy NEPA’s “hard look” requirements for three reasons.

First, project-level mitigation is inadequate for avoiding the cumulative harms to special status species. The RMP stage is the proper place to consider cumulative impacts and area-wide impacts on specific species. Second, BLM relies on delineated Supplemental Analysis Areas in the Draft 2025 SEIS and in the prior environmental documents, yet it makes no attempt to discuss impacts on newly protected species even within these Areas. And third, BLM has access to occurrence data—it claims that in “identify[ing] the best available information to develop the Draft 2025 SEIS . . . BLM biologists reviewed the . . . California Fish and Wildlife – California Natural Diversity Database.”<sup>577</sup> BLM must disclose, discuss, and consider where Table 3-7 species and ignored protected species occur and how oil and gas development under the 2014 RMP and on the seven lease parcels involved in the 2020 Lease Sale will impact them.

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<sup>574</sup> *Id.* at 50.

<sup>575</sup> BLM Specialist Report at 8.

<sup>576</sup> *Id.* at 58.

<sup>577</sup> *Id.* at 25.

NEPA's purpose is to ensure that an agency, "in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decision-making process and the implementation of that decision."<sup>578</sup> With this bare-bones Draft 2025 SEIS, BLM fails to consider and disclose important information about newly protected species and how they will be impacted by fracking.

## **6. The Draft 2025 SEIS does not take a hard look at chemicals used in fracking operations.**

There is no discussion in the Draft 2025 SEIS of chemicals used in fracking operations and their potential air quality, water quality, and public health-related impacts, despite commenters raising this issue in past comment letters and litigation leading to BLM's commitment to prepare the Draft 2025 SEIS.

Fracking is directly associated with hundreds of chemical additives employed and the resultant air pollution. These chemicals fall into categories: breakers to lower fracking fluid viscosity before fracking fluid flows back, proppants to keep newly-formed fractures open, gelling agents to pry open fractures, biocides to prevent bacteria from degrading gelling agents, carriers for aiding in transport of other fluids, and crosslinkers to increase viscosity of fluids in order to boost fracking effectiveness.<sup>579</sup> Reporting via the California South Coast Air Quality Management District has shown that at least 38 chemicals known to be air toxics have been used in fracking and other types of unconventional oil and gas recovery in Los Angeles County, California.<sup>580</sup>

Many chemicals used in fracking operations are designated as Hazardous Air Pollutants (HAPs), which can enter the air during the venting of gases during fracking or the evaporation of chemicals from fracking and produced fluids, leading to dangerous human exposures. For example, "ethylbenzene and formaldehyde are both known carcinogens, while methanol is linked to reproductive harm, and hydrochloric acid and hydrofluoric acid can cause both eye irritation and respiratory harm."<sup>581</sup>

Additionally, studies show that oil and gas operations, including fracking, contaminate groundwater through the common practice of disposing wastewater in unlined pits, which are

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<sup>578</sup> *Methow Valley Citizens Council*, 490 U.S. at 349.

<sup>579</sup> See, e.g., W. Stringfellow et al., *Identifying Chemicals of Concern in Hydraulic Fracturing Fluids Used for Oil Production*, 220 *Envtl. Pollution* 413, 415 (2017).

<sup>580</sup> J.C. Fleming et al., *Danger Next Door: The Top 12 Air Toxics Used for Neighborhood Oil Drilling in Los Angeles* (Dec. 2017) at 6, <https://www.biologicaldiversity.org/publications/papers/DangerNextDoor.pdf>.

<sup>581</sup> *Californians Against Fracking, Fracking and Dangerous Drilling in California Briefing Book* (Dec. 2017) at 8, [https://www.biologicaldiversity.org/campaigns/california\\_fracking/pdfs/fracking-and-drilling-in-california.pdf](https://www.biologicaldiversity.org/campaigns/california_fracking/pdfs/fracking-and-drilling-in-california.pdf).

prone to leaking.<sup>582</sup> The contaminants, which include “arsenic, uranium and other naturally occurring toxic elements,” and make their way into water used for human consumption and agricultural crop irrigation, have been shown to include potentially carcinogenic chemicals.<sup>583</sup>

For these reasons, it is important for BLM to revise the Draft 2025 SEIS to take a “hard look” at impacts related to chemical additives used in fracking.

**7. The Draft 2025 SEIS uses a misleading methodology when discussing fracking-related impacts to surface and groundwater resources.**

The Draft 2025 SEIS states that “oil and gas development continues to use only a small fraction of the region’s overall water supply,”<sup>584</sup> which is not the same as assessing the impacts of oil and gas development on the communities who rely on groundwater in the immediate vicinity. In addition, as argued above, the Draft 2025 SEIS fails to take a “hard look” at impacts of fracking-related oil and gas operations on water scarcity and water quality and fails to mitigate the same.

**8. The Draft 2025 SEIS fails to take a hard look at fracking’s impacts on soil resources.**

As discussed further above, the Draft 2025 SEIS gives only a cursory acknowledgment to the prevalence of Valley Fever, without recognizing the likelihood that oil and gas operations will exacerbate its spread in neighboring communities and without any attempt to mitigate those impacts. Consistent with NEPA, additional analysis is required.

**9. The Draft 2025 SEIS fails to conduct an updated analysis of seismicity-related impacts.**

The Draft 2025 SEIS mentions seismicity only in passing, asserting that “Seismic activity related to potential hydraulic fracturing associated with oil and gas leasing and development in the Planning Area is sufficiently analyzed in Section 4.10 of the 2019 FSEIS.”<sup>585</sup> By contrast,

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<sup>582</sup> EPA, Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States (Dec. 2016) at 7-26, <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990>; K. Graham, “Unlined Waste Disposal Pits Endanger Groundwater in San Joaquin Valley,” Digital Journal (Oct. 24, 2021), <https://www.digitaljournal.com/tech-science/unlined-waste-disposal-pits-endanger-groundwater-in-san-joaquin-valley/article>.

<sup>583</sup> L. Gross, “A California Water Board Assures the Public that Oil Wastewater Is Safe for Irrigation, But Experts Say the Evidence Is Scant”; S.B.C. Shonkoff et al., Hazard Assessment of Chemical Additives Used in Oil Fields that Reuse Produced Water for Agricultural Irrigation, Livestock Watering, and Groundwater Recharge in the San Joaquin Valley of California: Preliminary Results (2016) at 9, [https://www.psehealthyenergy.org/wp-content/uploads/2022/11/Preliminary\\_Results\\_13267\\_Disclosures\\_FINAL-1.pdf](https://www.psehealthyenergy.org/wp-content/uploads/2022/11/Preliminary_Results_13267_Disclosures_FINAL-1.pdf).

<sup>584</sup> Draft 2025 SEIS at ES-2.

<sup>585</sup> *Id.* at 11.

and as discussed above, new information on the interplay between seismic activity and oil and gas production reflect impacts greater than previously understood, warranting a thorough analysis under NEPA.

**10. The Draft 2025 SEIS improperly discounts impacts to recreation and visitor services.**

The Draft 2025 SEIS incorrectly asserts that “[i]mpacts of oil and gas leasing and development on recreation are sufficiently analyzed in Section 4.15 of the 2012 FEIS,” with “[n]o . . . new circumstances or information . . . that would change these conclusions,” including the recent designation of a new historic trail in the Planning Area.<sup>586</sup> This conclusion is incorrect for the reasons discussed above, as big picture changes and new information related to public health underscore the need for additional recreation-related closures throughout the Planning Area.

**11. The Draft 2025 SEIS improperly omits or discounts impacts to wilderness, wilderness study areas, and ACECs.**

There is no discussion of wilderness and wilderness study areas in the Draft 2025 SEIS. To ensure adequate protection for these resources, BLM must revise the SEIS to take a “hard look” at fracking’s impacts to such resources.

Additionally, while the Draft 2025 SEIS claims that “Impacts of oil and gas leasing and development on Areas of Critical and Environmental Concern (ACEC) are sufficiently analyzed in Section 4.17 of the 2012 FEIS and supplemented in Section 4.11 of the 2019 FSEIS,”<sup>587</sup> the discussion above illustrates the inaccuracy of this conclusion. In particular, there is a need for additional ACEC closures from oil and gas leasing to ensure protection of those landscapes and the species—including newly-protected species—living in, and relying on, those ACECs. BLM must take a fresh, “hard look” at ACECs without relying entirely on prior environmental review.

**B. The Draft 2025 SEIS’s analysis of impacts related to the 2020 Lease Sale is similarly flawed.**

If an EA indicates that a federal action “may” significantly affect the quality of the human environment, the agency must prepare an EIS.<sup>588</sup> In making this determination, BLM must “consider every significant aspect of the environmental impact of a proposed action.”<sup>589</sup> “A determination that significant effects on the human environment will in fact occur is not

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<sup>586</sup> *Id.* at 12.

<sup>587</sup> *Id.*

<sup>588</sup> *See, e.g., Anderson v. Evans*, 371 F.3d 475, 488 (9th Cir. 2004) (citation and internal quotation marks omitted).

<sup>589</sup> *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 97 (1983) (citation and internal quotation marks omitted).

essential. If substantial questions are raised whether a project may have a significant effect upon the human environment, an EIS must be prepared.”<sup>590</sup>

BLM has acknowledged its obligation to supplement the 2020 Lease Sale EA with regard to a broader “analysis of potential environmental impacts from leasing seven parcels” in the Bakersfield region.<sup>591</sup> Accordingly, BLM claimed that the Draft 2025 SEIS “will provide supplemental information for the 2020 EA . . . for on-the-ground, site-specific field evaluations for the seven lease parcels (4,134 acres) nominated through Expressions of Interest (EOI) and leased during the December 2020 Competitive Oil and Gas Lease Sale.”<sup>592</sup>

Even so, as discussed further above, the Draft 2025 SEIS contains only sporadic mentions to the 2020 Lease Sale sprinkled throughout the document as opposed to a holistic and comprehensive discussion of relevant impacts. Most of the references to the Lease Sale come from the category of “Issues Considered but Not Further Analyzed,” with BLM asserting that the 2020 Lease Sale EA sufficiently analyzed those issues rather than conducting an independent analysis.<sup>593</sup> In particular, the Draft 2025 SEIS concludes that cultural resources, Native American values, paleontological resources, visual resources, livestock grazing, ACECs, social and economic resources, recreation, and visitor services are sufficiently analyzed in the 2020 Lease Sale EA and that there is no significant new information relevant to those issues.<sup>594</sup> BLM likewise claims that it is no longer required to analyze the environmental justice impacts of the lease sale, despite the significant environmental justice communities in the sale area.<sup>595</sup>

Moreover, with regard to biological resources, the Draft 2025 SEIS also makes no attempt to analyze the impacts of oil and gas development on the seven lease parcels to the Table 3-7 special status species. BLM states that “[p]otential impacts to the species listed in Table 3-7 and their associated habitats would be similar to effects on other species discussed in the 2020 EA, including the potential for direct mortality, loss or alteration of habitat, and harassment.”<sup>596</sup> “Similar” does not mean “same.” Describing potential impacts to newly protected species as similar to impacts previously discussed for different species is an acknowledgement that there would be additional and different impacts to newly protected species. Even if “similar” and “same” were perfect synonyms, the Draft 2025 SEIS fails to support that conclusion. It simply repeats, without providing any evidence, that “the fisher, Kern Canyon slender salamander, and northwestern and southwestern pond turtles are unlikely to be present within the seven lease parcels and therefore would be unlikely to be impacted by surface disturbance resulting from leasing these parcels.”<sup>597</sup>

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<sup>590</sup> *Found. for N. Am. Wild Sheep v. U.S. Dep’t of Agric.*, 681 F.2d 1172, 1178 (9th Cir. 1982) (internal citation omitted).

<sup>591</sup> Draft 2025 SEIS at ES-1, 4.

<sup>592</sup> *Id.* at 3.

<sup>593</sup> *Id.* at 10–12.

<sup>594</sup> *Id.*

<sup>595</sup> *Id.* at 12.

<sup>596</sup> *Id.* at 58.

<sup>597</sup> *Id.*

In the same vein, BLM claims that “impacts to these species are not expected to be greater than those analyzed in the 2020 EA.”<sup>598</sup> The 2020 EA’s analysis—though slim itself—at least notes “Species Specific Impacts.”<sup>599</sup> For the instant SEIS, BLM cannot replace consideration and discussion of species-specific impacts with a vague comparison to a document that did not even reference the species at issue here.

The conclusions in the Draft 2025 SEIS concerning the 2020 Lease Sale are improper and unsupported for the same reasons discussed throughout this comment letter, regarding the need for an updated amendment to the 2014 RMP and more thorough environmental review to address new information and changed circumstances, and because the 2020 Lease Sale-specific analysis in the Draft 2025 SEIS relies and depends on the Draft 2025 SEIS’s flawed fracking discussion.

As discussed above, the lack of analysis regarding the impacts of the 2020 Lease Sale motivated the last round of litigation and led to BLM’s commitment to prepare the Draft 2025 SEIS. Even so, the Draft 2025 SEIS remains out of compliance with NEPA because it repeats rather than remedies the same flaws identified in the earlier litigation, along with ignoring new information and changed circumstances discussed during the 2025 scoping period and identified above.

#### **VI. Because BLM signaled an intent to reopen the 2019 ROD and invited broad public comments, BLM must consider and respond to all comments related to the Draft 2025 SEIS and 2014 RMP.**

As discussed above, BLM’s June 2025 scoping notice invited comments on a potential amendment to the 2014 RMP, including comments on previously considered alternatives, suggestions for additional alternatives, and issues such as “air quality; water quality; special status species; archaeology; fluid mineral resources (oil and gas); and social and economic conditions.”<sup>600</sup> The text of the Draft 2025 SEIS itself states that the final SEIS will lead to “a new decision document” that “will amend or supersede the 2019 Record of Decision (ROD) to the extent determined necessary or appropriate by Federal Defendants.”<sup>601</sup> BLM, thus, has set the expectation that it is reopening the underlying administrative record for reconsideration of the full suite of issues relevant to fluid mineral leasing in the 2014 RMP, and that it will consider all comments relevant to the 2014 RMP.

Accordingly, even if any of the comments contained herein, or in the incorporated scoping comments, could be construed as seeking reopening and reconsideration of the wisdom of policy decisions in the 2014 RMP unrelated to fracking and without offering new information and changed circumstances, BLM must nevertheless treat such comments as falling within the scope of this administrative action, and must properly respond to all such comments as required by FLPMA and NEPA.

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<sup>598</sup> *Id.*

<sup>599</sup> 2020 Lease Sale EA at 62.

<sup>600</sup> 90 Fed. Reg. 26605, 26605 (June 23, 2025).

<sup>601</sup> Draft 2025 SEIS at 1, 14.

## VII. Conclusion

We look forward to seeing a proposed amendment to the 2014 RMP and a revised SEIS addressing the concerns raised herein in a manner that will protect the health of all Californians—especially communities most impacted by oil and gas activity—the unique landscapes we cherish, and the species that dwell there. It is imperative that BLM complies with its multiple use and sustained yield mandate, and its duty to prevent unnecessary and undue degradation of public lands, rather than continuing to prioritize one polluting industry at everyone else’s expense.

If you have any questions about the foregoing comments, you may reach out to any of us directly or contact Elizabeth Fisher (efisher@earthjustice.org), Michelle Ghafar (mghafar@earthjustice.org), Cooper Kass (ckass@biologicaldiversity.org), or Victoria Bogdan Tejada (vbogdantejada@biologicaldiversity.org), who helped prepare this submission.

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