

ELIZABETH B. FORSYTH (CA Bar No. 288311)
eforsyth@earthjustice.org
EARTHJUSTICE
810 3rd Avenue #610
Seattle, WA 98104
Tel: (206) 531-0841

GREGORY C. LOARIE (Bar No. 215859)
gloarie@earthjustice.org
EARTHJUSTICE
180 Steuart St. #194330
San Francisco, CA 94105
Tel: (415) 217-2000

Counsel for Plaintiffs

*(Additional Counsel of Record
Listed in Signature Block)*

IN THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

CENTER FOR BIOLOGICAL DIVERSITY)
and SIERRA CLUB,)

Plaintiffs,)

vs.)

U.S. BUREAU OF LAND MGMT.; DOUG)
BURGUM, Secretary of Interior; LANNY)
ERDOS, Acting Assistant Secretary for Land)
and Minerals Management; JOSEPH STOUT,)
California Director, Bureau of Land Mgmt.;)
MARC STAMER, Acting California Desert)
District Manager, Bureau of Land Mgmt.;)
RONALD NUCKLES, Needles Field Office)
Manager, Bureau of Land Mgmt.,)

Defendants.)

No.: 2:26-cv-08287

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1
2 1. This case challenges a renewed decision by defendants U.S. Bureau of
3 Land Management (collectively, “BLM”) to issue a right-of-way to convey water
4 through a mothballed oil and gas pipeline that crosses Mojave Trails National
5 Monument and other protected federal public land in southeastern California, without
6 accounting for the significant environmental impacts this approval will have. BLM’s
7 decision granting a right-of-way to Fenner Gap Mutual Water Company (“FGMWC”)
8 allows a private company, “Cadiz,” to implement the so-called “Cadiz Valley Water
9 Conservation, Recovery and Storage Project” (or “Cadiz Water Project”), a
10 longstanding scheme to sell groundwater extracted from the ancient aquifer basin
11 underlying the Mojave Desert.

12 2. BLM’s decision will have a devastating impact on the fragile desert
13 environment. Conversion and use of the oil and gas pipeline for water will make it
14 possible for Cadiz to extract far more groundwater from the desert aquifer than is
15 replenished naturally, causing overdraft in the affected groundwater basin in and
16 around Mojave Trails National Monument. The resulting drawdown of the water table
17 will cause many freshwater springs of critical importance to desert plants and animals
18 to go dry. The retreating aquifer will also desiccate desert “playa” lakebeds, resulting
19 in toxic air pollution from windswept sediments akin to what has plagued the Owens
20 Valley to the north ever since large-scale water diversions to Los Angeles dried
21 Owens Lake a century ago.

22 3. Construction of the pipeline conversion from oil and gas to water itself
23 will also cause substantial environmental harm even before any groundwater is
24 pumped. To convert the dormant oil-and-gas pipeline into a water conveyance system,
25 Cadiz must undertake extensive construction activities across public lands, including
26 the construction and improvement of access roads, installation of pumping
27 infrastructure, and repeated use of heavy-duty construction equipment over 1,346
28 acres—a geographic area more than ten times larger than Disneyland. These activities

1 will fragment desert habitat, disturb sensitive biological resources, and generate
2 significant air pollution in an area that already suffers from poor air quality.

3 4. This is not the first time the court has been asked to step in to stop BLM
4 from illegally approving this environmentally devastating project without adequate
5 review. BLM initially issued approval for this project to proceed in 2020. Plaintiffs
6 brought suit against BLM, challenging BLM's failure to comply with the Federal
7 Land Policy and Management Act ("FLPMA"), the Proclamation Establishing Mojave
8 Trails National Monument, and the National Environmental Policy Act ("NEPA")
9 because BLM granted approval without evaluating the impacts of water drawdowns
10 on the environment. Rather than defend against its unlawful decision, BLM admitted
11 it should have accounted for the effects of the project on water drawdowns, and it
12 sought a voluntary remand. The court granted BLM's request, agreeing that BLM had
13 violated its duties under FLPMA, the Proclamation Establishing Mojave Trails
14 National Monument, and NEPA.

15 5. BLM has now re-approved the project, but instead of correcting the legal
16 errors identified by the Court, it has reversed course on its prior admission. After
17 previously conceding that its approval required consideration of the environmental
18 consequences of the groundwater extraction it would enable, BLM now claims those
19 impacts fall outside the scope of its review. BLM is wrong. BLM also unlawfully
20 approved the right-of-way without adequately analyzing the project's impacts on
21 groundwater-dependent resources, desert air quality, and other protected public-land
22 values; without preparing an Environmental Impact Statement despite significant
23 environmental effects; without conducting the public participation process required by
24 federal law; and without complying with the Clean Air Act's requirements. In doing
25 so, BLM ignored both its prior position and the Court's ruling, and once again
26 illegally authorized a project that threatens significant harm to Mojave Trails National
27 Monument and public lands and resources of the surrounding fragile desert ecosystem.
28

1 and climate that species need to survive. The Center has offices in California and over
2 22,851 members across the state, and it is actively involved in species and habitat
3 protection in the California desert, including on the federal lands at issue in this case.

4 12. Plaintiff Sierra Club is a national nonprofit organization with sixty-three
5 chapters and more than 640,000 members dedicated to exploring, enjoying, and
6 protecting the wild places of the earth; to practicing and promoting the responsible use
7 of the earth's ecosystems and resources; to educating and enlisting humanity to protect
8 and restore the quality of the natural and human environment; and to using all lawful
9 means to carry out these objectives. Sierra Club has over 120,000 members in
10 California, and led by the Sierra Club's San Geronio Chapter, has worked to
11 conserve and restore the Mojave Desert for decades.

12 13. Plaintiffs have members who live, work, and recreate in the Mojave
13 Desert region in the vicinity of the Cadiz Water Project and the pipeline route.
14 Plaintiffs' members and supporters enjoy, on a continuing basis, public lands within
15 Mojave Trails National Monument and other public lands that will be affected by the
16 Cadiz Water Project and pipeline conversion construction. In a land where water is
17 scarce and precious, Plaintiffs' members have visited freshwater springs that will be
18 impacted by the Cadiz Water Project, including Bonanza Spring, to observe rare
19 plants and animals and find solace and renewal, and they intend to continue to do so in
20 the future. Plaintiffs' members derive professional, scientific, aesthetic, recreational,
21 and educational enjoyment from the natural ecosystems that these desert springs and
22 other riparian areas support.

23 14. Plaintiffs also have members who live, work, and recreate within the
24 Mojave Desert Air Basin. These members' use and enjoyment of these areas is
25 harmed by poor air quality, and they are concerned about activity that may further
26 exacerbate air pollution levels, including construction allowing the pipeline's
27 conversion to convey water. The additional pollution caused by the conversion will
28

1 worsen the already poor air quality in the affected region and harm Plaintiffs’
2 members’ use and enjoyment of these areas.

3 15. For example, one of the Center’s members has long had an interest in the
4 Mojave Desert, where she regularly visits for both work and for personal enjoyment.
5 She has specifically visited Bonanza Spring, where she has watched birds, botanized,
6 looked at aquatic and terrestrial invertebrates, and walked the full length of the wetted
7 and moist part of the oasis, and she plans to do so again this fall when the weather
8 cools down. The construction and water mining and extraction impacts to the Mojave
9 Desert ecosystem area arising from the challenged action will injure her interests in
10 and enjoyment of the public lands, especially by increasing noise, traffic, and dust
11 along the pipeline route and road, scaring wildlife away, and potentially harming rare
12 plants and animals in the path of construction, operation, and maintenance of the
13 pipeline. The long-term impacts of the operation of the Cadiz pumping project and
14 pipeline will additionally injure her interests in and enjoyment of the Mojave Desert
15 by adversely impacting plants and animals she observes and studies, reducing scarce
16 yet critical water resources for those same plants and animals, and further impairing
17 the already unhealthful air quality in the region and therefore the wide-open vistas that
18 have made the Mojave Desert famous.

19 16. As another example, one of Sierra Club’s members lives within the
20 Mojave Desert Air Basin and has long had interests in preserving the resources of the
21 Mojave Desert, where he lives and regularly recreates, observes wildlife, and studies
22 paleontological resources. For example, he has hiked in areas within the Mojave Trails
23 National Monument including Trilobite Wilderness where he searched for trilobites,
24 Marble Mountains, and the Cady Mountains where he has observed desert bighorn
25 sheep; he is interested in preserving the resources of these places for himself and so
26 that his grandchildren will continue to have the opportunity to visit these places in the
27 future. He plans to visit Bonanza Spring in the fall of 2026. He is concerned that
28 construction impacts to the Mojave Desert ecosystem area will injure his interests in

1 and enjoyment of the public lands and could exacerbate already poor air quality where
2 he lives. He is particularly concerned that the water extraction from the operation of
3 the Cadiz pumping project and pipeline will deplete ancient “paleo” water from this
4 desert aquifer that cannot be replenished in decades or even centuries. He is concerned
5 that drawdown of this aquifer will have long-term impacts to plants and animals in the
6 Mojave Trails National Monument and surrounding areas including impacts to ancient
7 yuccas and Joshua trees and will deplete live-giving springs in this dry desert
8 environment. He is also concerned that the groundwater monitoring for the pumping
9 project to protect springs is insufficient because it does not require pumping to cease
10 or decline when impacts are observed and does not take into account the delay in
11 recovery of groundwater systems even after pumping ceases or declines.

12 17. Plaintiffs have been, are being, and will continue to be adversely affected
13 and irreparably injured by BLM’s decision to issue FGMWC a right-of-way that will
14 allow Cadiz to convey water through the oil and gas pipeline at issue, which is
15 necessary for Cadiz to carry out the Cadiz Water Project. The interests of Plaintiffs’
16 members described above will be injured not only by the noise, pollution, and adverse
17 impacts to plants and wildlife associated with construction, operation, and
18 maintenance of the pipeline and other infrastructure for the Cadiz Water Project, but
19 also by the drawdown of the aquifer that will result from operation of the Project. The
20 drying of desert springs and riparian areas, as well as the air pollution caused by
21 excessive drying of desert lakebeds, will cause Plaintiffs and their members to suffer
22 actual injury-in-fact that is both concrete and particularized.

23 18. One of the core business activities of the Plaintiff organizations is
24 participating in decision-making processes related to management of public lands,
25 including in the California Desert. Both organizations have sought to comment and
26 participate in BLM’s decision to issue a right-of-way to Cadiz. These organizations
27 would have reviewed and commented on a draft NEPA document, Dingell Act
28 compliance, and Clean Air Act conformity determination for the right-of-way if

1 provided an opportunity to do so, but they were provided no such opportunity. BLM's
2 unlawful issuance of the right-of-way without any opportunity for public participation
3 directly harms Plaintiff organizations' ability to engage in their core business
4 activities.

5 19. Defendant Bureau of Land Management is the administrative agency
6 within the U.S. Department of Interior responsible for managing the public land
7 surrounding much of the Cadiz Water Project and underlying much of the right-of-
8 way at issue.

9 20. Defendant Doug Burgum is Secretary of the U.S. Department of Interior
10 and sued in his official capacity as such.

11 21. Defendant Lanny Erdos is the Acting Assistant Secretary for Land and
12 Minerals Management for the U.S. Department of Interior and Director of the Office
13 of Surface Mining and sued in his official capacity as such.

14 22. Defendant Joseph Stout is BLM's California State Director and sued in
15 his official capacity as such.

16 23. Defendant Marc Stamer is the Acting District Manager for BLM's
17 California Desert District and sued in his official capacity as such.

18 24. Defendant Ronald Nuckles is the Field Manager for BLM's Needles
19 Field Office and sued in his official capacity as such.

20 **LEGAL BACKGROUND**

21 **The Federal Land Policy and Management Act**

22 25. Congress enacted the Federal Land Policy and Management Act in 1973
23 to ensure that federal public land administered by BLM is "managed in a manner that
24 will protect the quality of scientific, scenic, historical, ecological, environmental, air
25 and atmospheric, water resource, and archeological values." 43 U.S.C. § 1701(a)(8).
26 FLPMA requires BLM to "take any action necessary to prevent unnecessary or undue
27 degradation of the lands." *Id.* § 1732(b).
28

1 26. FLPMA finds the deserts of southern California are an especially rich
2 and unique environment containing “historical, scenic, archeological, environmental,
3 biological, cultural, scientific, educational, recreational, and economic resources.” 43
4 U.S.C. § 1781(a)(1). The statute recognizes that California’s deserts, though vast, are
5 “extremely fragile, easily scarred, and slowly healed.” *Id.* § 1781(a)(2). FLPMA finds,
6 “the California desert environment and its resources, including certain rare and
7 endangered species of wildlife, plants, and fishes, and numerous archeological and
8 historic sites, are seriously threatened by air pollution . . . and pressures of increased
9 use.” *Id.* § 1781(a)(3).

10 27. To protect southern California’s deserts for future generations, FLPMA
11 designated 25 million acres of federal public land as the California Desert
12 Conservation Area. 43 U.S.C. § 1781(a)(4), (c). The California Desert Conservation
13 Area was designated “to provide for the immediate and future protection and
14 administration of the public lands in the California desert within the framework of a
15 program of multiple use and sustained yield, and the maintenance of environmental
16 quality.” *Id.* § 1781(b). FLPMA directs the Secretary of the Interior to develop a
17 “comprehensive, long-range plan for the management, use, development, and
18 protection of the public lands within the California Desert Conservation Area.” *Id.*
19 § 1781(d). Exercising this authority, BLM has adopted the California Desert
20 Conservation Area Management Plan of 1980, as amended by both the Northern and
21 Eastern Colorado Desert Coordinated Management Plan, and the Desert Renewable
22 Energy Conservation Plan (“DRECP”). BLM regulations require “[a]ll future resource
23 management authorizations and actions” to “conform” with these plans. 43 C.F.R.
24 § 1610.5-3(a).

25 28. Title V of FLPMA sets forth a process by which the Secretary of Interior,
26 acting through BLM, may “grant, issue, or renew rights-of-way over, upon, under, or
27 through” federal land administered by BLM for, among other things, “pipelines . . .
28 for the . . . transportation or distribution of water.” 43 U.S.C. § 1761(a)(1). Any rights-

1 of-way granted must be consistent with Title V regulations and “any other applicable
2 law.” *Id.* § 1764(c).

3 29. Prior to issuing a right-of-way for a water pipeline under FLPMA, the
4 applicant must submit substantial analysis, and the Secretary of Interior, acting
5 through BLM, must make a number of findings. For example, “prior to granting or
6 issuing a right-of-way . . . for a new project which may have a significant impact on
7 the environment,” BLM “shall require the applicant to submit a plan for construction,
8 operation, and rehabilitation for such right-of-way” that complies with BLM’s terms
9 and conditions. *Id.* § 1764(d). BLM’s terms and conditions must, among other things,
10 “minimize damage to scenic and esthetic values and fish and wildlife habitat and
11 otherwise protect the environment”; “protect Federal property and economic
12 interests”; “require compliance with applicable air and water quality standards
13 established by or pursuant to applicable Federal or State law”; and “require
14 compliance with State standards for public health and safety, [and] environmental
15 protection” *Id.* § 1765(a)–(b).

16 30. “[F]or any activity that proposes to utilize groundwater resources,” the
17 DRECP also requires that “[a] Water (Groundwater) Supply Assessment shall be
18 prepared in conjunction with the activity’s NEPA analysis and prior to an approval or
19 authorization.” The DRECP explains that “[t]he purpose of the Water Supply
20 Assessment is to determine whether over-use or over-draft conditions exist within the
21 project basin(s), and whether the project creates or exacerbates these conditions.”

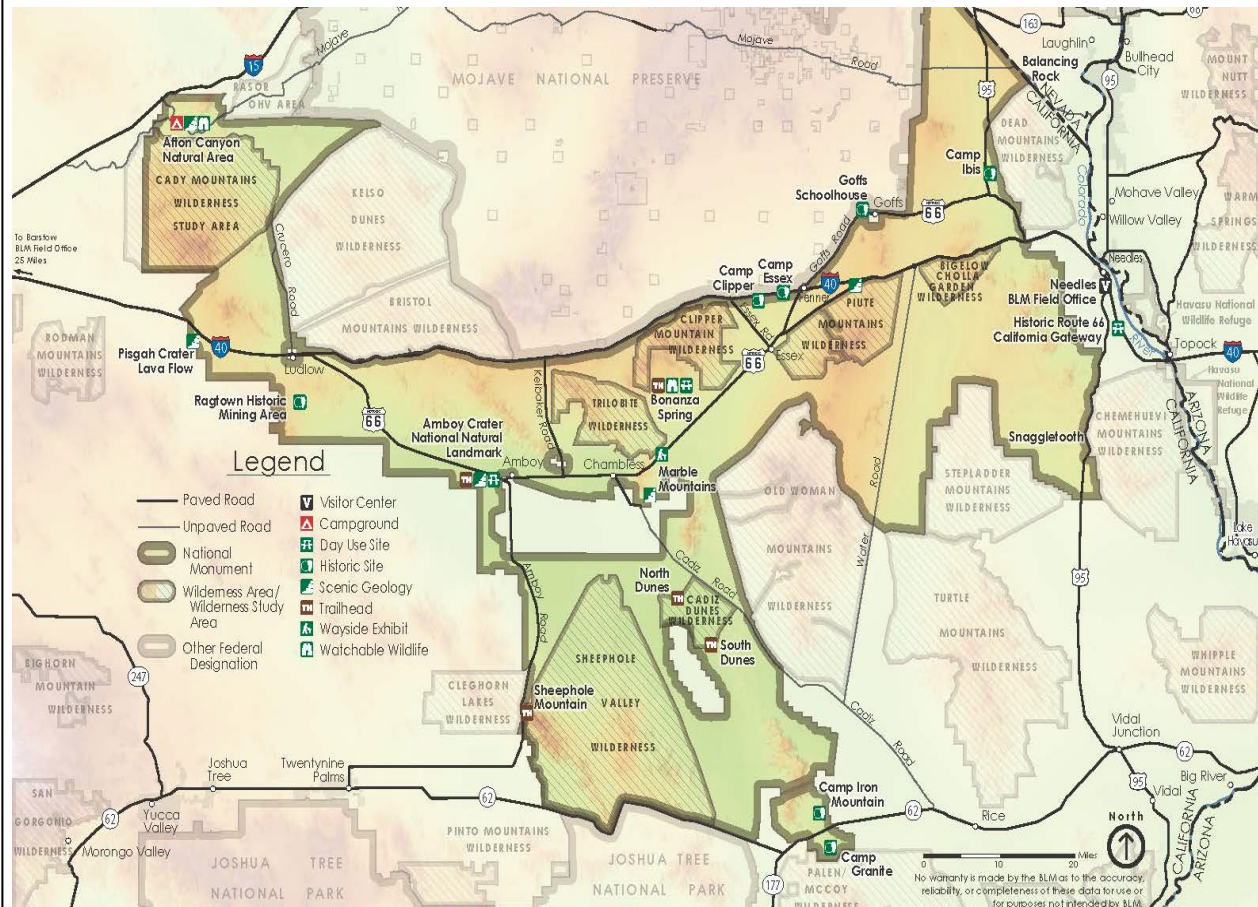
22 31. The DRECP imposes additional requirements for certain California
23 Desert Conservation Area lands acquired by the United States pursuant to the Catellus
24 Land Exchange and Donation Agreement (“Catellus Agreement”), a historic
25 conservation agreement under which The Wildlands Conservancy acquired more than
26 587,000 acres of land in the Mojave Desert from the Catellus Development
27 Corporation (a holding company created in 1984 to manage Southern Pacific’s real
28 estate holdings in California) and donated it to federal agencies. Under DRECP

1 Conservation and Management Action LUPA-LANDS-6, any proposed use of these
2 lands must be consistent with the deed restrictions and conservation purposes
3 governing their acquisition. DRECP LUPA-LANDS-7 further provides that activities
4 on Catellus Agreement lands are subject to review and approval by the California
5 State Director.

6 32. FLPMA also requires BLM to “establish procedures” to “give . . . the
7 public adequate notice and an opportunity to comment upon . . . and to participate in
8 the preparation and execution of plans and programs for and the management of[] the
9 public lands.” 43 U.S.C. § 1739(e). The Ninth Circuit Court of Appeals recently has
10 explained that FLPMA specifically requires BLM “to provide opportunities for public
11 participation . . . for down-the-line decisions,” including “individual land use
12 decisions,” like whether to grant a right-of-way. *Mont. Wildlife Fed’n v. Haaland*, 127
13 F.4th 1, 40 (9th Cir. 2025).

14 **Mojave Trails National Monument**

15 33. President Obama established Mojave Trails National Monument by
16 presidential proclamation on February 12, 2016. *See* Proclamation No. 9395, 81 Fed.
17 Reg. 8371 (Feb. 12, 2016). Stretching from Joshua Tree National Park north to
18 Mojave National Preserve, the Monument encompasses 1.6 million acres of federal
19 land administered by BLM within the California Desert Conservation Area. A BLM
20 map of the Monument is reproduced below.



34. The presidential proclamation describes the Mojave Trails area as “a stunning mosaic of rugged mountain ranges, ancient lava flows, and spectacular sand dunes.” 81 Fed. Reg. at 8371. The proclamation finds the monument is “an invaluable treasure and will continue to serve as an irreplaceable national resource for geologists, ecologists, archaeologists, and historians for generations to come.” *Id.* It concludes “protection of the Mojave Trails area will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this area remain for the benefit of all Americans.” *Id.* at 8374.

35. An ancient underground aquifer supports a number of ecologically significant springs, seeps, and other riparian areas in and near Mojave Trails National Monument. The proclamation establishing Mojave Trails National Monument specifically identified “[t]he area’s scarce springs and riparian areas such as Afton

Canyon, Chuckwalla Spring, Hummingbird Spring, Barrel Spring, and Fenner Spring” as ecological objects warranting protection. *Id.* at 8372.

California Desert Protection Act and Public Water Reserve No. 107

36. Congress enacted the California Desert Protection Act (“CDPA”) in 1994 to, among other things, “preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes,” “perpetuate in their natural state significant and diverse ecosystems of the California desert,” “protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert.” Pub. L. No. 103–433, § 2(b)(1), 108 Stat. 4471, 4471–501 (1994).

37. Relevant here, as part of the CDPA, Congress designated the Bigelow Cholla Garden Wilderness, Cadiz Dunes Wilderness, Clipper Mountain Wilderness, Piute Mountains Wilderness, Sheephole Valley Wilderness, and Trilobite Wilderness areas, which are all now within the Mojave Trails National Monument. Pub. L. No. 103–433, §§ 102(2), (8), (14), (51), (61), (67). The CDPA also maintained the status of the Proposed Cady Mountains Wilderness as a Wilderness Study Area, which is also now within the Mojave Trails National Monument. *Id.* at § 104(b)(7).

38. The CDPA expressly reserved water rights for these wilderness areas to fulfill the purposes of the Act, 16 U.S.C. § 410aaa-76(a). The CDPA requires that the Secretary of the Interior “and all other officers of the United States shall take all steps necessary to protect the rights reserved . . .” *Id.* § 410aaa-76(b).

39. In addition to wilderness-reservation water rights established by the CDPA, federal law has long protected certain desert springs and waterholes through Public Water Reserve No. 107. In 1926, President Calvin Coolidge created Public Water Reserve No. 107 through executive order, providing that water flows in springs and waterholes on public land in the West are reserved for public use. The reservation of federal water rights also included a withdrawal from entry of public lands within

one-quarter of a mile around each spring/waterhole. Public Water Reserve No. 107 provides:

[I]t is hereby ordered that every smallest legal subdivision of public land surveys which is vacant, unappropriated, unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water hole located on unsurveyed public land, be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of Section 10 of the Act of December 29, 1916.

40. Exec. Order of Apr. 17, 1926. *See also United States v. State of Idaho*, 959 P.2d 449, 452 (1998) (“[Public Water Reserve No. 107] evidences an express intention by Congress that reserves a water right in the United States.”).

The National Landscape Conservation System Act

41. Congress established the National Landscape Conservation System (“NLCS”) by statute in 2009. 16 U.S.C. §§ 7201–03. The purpose of the NLCS is to “conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations.” *Id.* § 7202(a).

42. The NLCS Act requires resources of the system to be managed in accordance with applicable laws and regulations and “in a manner that protects the values for which the components of the system were designated.” *Id.* § 7202(c)(2).

43. Lands included in the NLCS include national monuments, such as the Mojave Trails National Monument, as well as national conservation areas, wilderness study areas, and national scenic and historic trails. *Id.* § 7202(b). Lands within the Mojave Trails National Monument and lands designated as California Desert National Conservation Lands are included within the NLCS. *Id.* § 7202(b)(1)(A), (b)(2)(D).

The Dingell Act

44. In 2019, Congress enacted the John D. Dingell, Jr. Conservation, Management, and Recreation Act (the “Dingell Act”) Pub. L. No. 116-9, 133 Stat. 580

(2019). Title I of the Dingell Act, codified at 16 U.S.C. § 410aaa-81c, applies to various types of lands in the California Desert Conservation Area, including “acquired lands” which are defined as “any land acquired within the Conservation Area using amounts from the land and water conservation fund” and “donated” lands which are defined as “any private land donated to the United States for conservation purposes in the Conservation Area.” *Id.* § 410aaa-81c(a)(1), (4). The Dingell Act imposes certain limitations on the use of acquired and donated lands including prohibiting the use of “acquired land . . . or donated land within the Conservation Area for any activities contrary to the conservation purposes for which the land was acquired . . . or donated, including . . . rights-of-way,” *Id.* § 410aaa-81c(b), subject to certain exceptions, *Id.* § 410aaa-81c(c). As relevant here, for a right-of-way “the Secretary may authorize limited exceptions to prohibited uses of acquired or donated land in the Conservation Area if . . . after the completion and consideration of an analysis under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*), the Secretary has determined that proposed use is in the public interest,” *Id.* § 410aaa-81c(c)(1)(B), with the inclusion of conditions enumerated in the statute at 16 U.S.C. § 410aaa-81c(c)(2). The conditions include mitigation requirements for additional donations of land within the California Desert Conservation Area “of comparable value” which can only be approved by the Secretary after “consultation, to the maximum extent practicable, with the donor of the private land proposed for nonconservation uses; and [] an opportunity for public comment regarding the donation.” *Id.* § 410aaa-81c(c)(2)(A), (B)(i)–(ii).

The National Environmental Policy Act

45. The National Environmental Policy Act declares “it is the continuing policy of the Federal Government . . . to use all practicable means and measures . . . to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.” 42 U.S.C. § 4331(a). NEPA establishes “a broad

1 national commitment to protecting and promoting environmental quality.” *Robertson*
2 *v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). NEPA “ensures that the
3 agency and the public are aware of the environmental consequences of proposed
4 projects” and “helps agencies to make better decisions.” *Seven Cnty. Infrastructure*
5 *Coal. v. Eagle Cnty.*, 605 U.S. 168, 177 (2025). To meet those goals, NEPA requires
6 that agencies “consider every significant aspect of the environmental impact of a
7 proposed action” and inform the public of the environmental impacts of agency
8 proposals. *Balt. Gas & Elec. Co. v. Nat. Res. Def. Council*, 462 U.S. 87, 97 (1983)
9 (quoting *Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council*, 435 U.S. 519,
10 553 (1978)).

11 46. To fulfill these purposes, NEPA requires that: (1) agencies take a “hard
12 look” at the environmental impacts of their actions before the actions occur, thereby
13 ensuring “that the agency, in reaching its decision, will have available, and will
14 carefully consider, detailed information concerning significant environmental
15 impacts,” and (2) “the relevant information will be made available to the larger
16 audience that may also play a role in both the decisionmaking process and the
17 implementation of that decision.” *Robertson*, 490 U.S. at 349–50.

18 47. Where the proposed federal action “has a reasonably foreseeable
19 significant effect on the quality of the human environment,” the agency must prepare
20 an Environmental Impact Statement (“EIS”). 42 U.S.C. § 4336(b)(1). “An
21 EIS *must* be prepared if substantial questions are raised as to whether a project
22 *may* cause significant degradation of some human environmental factor.” *Ocean*
23 *Advocs. v. U.S. Army Corps of Eng’rs*, 402 F.3d 846, 864 (9th Cir. 2005) (citation
24 omitted). “To trigger this requirement a plaintiff need not show that significant
25 effects *will in fact occur*, but raising substantial questions whether a project may have
26 a significant effect is sufficient.” *Id.* at 864–65 (citation omitted). Agencies must also
27 prepare an environmental impact statement “whenever a federal action is
28

1 controversial, that is, when substantial questions are raised as to whether a project
2 may cause significant degradation of some human environmental factor or there is a
3 substantial dispute about the size, nature, or effect of the major Federal action.” *Nat’l*
4 *Parks & Conservation Ass’n v. Babbitt*, 241 F.3d 722, 736 (9th Cir. 2001) (citation
5 omitted). A substantial dispute exists when evidence, raised prior to the preparation of
6 an EIS or FONSI, “casts serious doubt upon the reasonableness of an agency’s
7 conclusions.” *Id.*

8 48. An EIS must set forth:

- 9 (i) reasonably foreseeable environmental effects of the proposed
10 agency action;
11 (ii) any reasonably foreseeable adverse environmental effects which
12 cannot be avoided should the proposal be implemented;
13 (iii) a reasonable range of alternatives to the proposed agency
14 action, including an analysis of any negative environmental impacts
15 of not implementing the proposed agency action in the case of a no
16 action alternative, that are technically and economically feasible,
17 and meet the purpose and need of the proposal;
18 (iv) the relationship between local short-term uses of man's
19 environment and the maintenance and enhancement of long-term
productivity; and
(v) any irreversible and irretrievable commitments of Federal
resources which would be involved in the proposed agency action
should it be implemented.

20 42 U.S.C. § 4332(C). In conducting a NEPA analysis an agency must ensure the
21 “scientific integrity” of its analysis and make use of “reliable data and resources.” *Id.*
22 § 4332(D)–(E).

23 49. Where the proposed action does not have a reasonably foreseeable
24 significant effect, or its significance is unknown, the agency may prepare an
25 environmental assessment (“EA”) to determine whether the effect of the action is
26 significant and thus requires an EIS, or is not significant, in which case the agency
27 issues a finding of no significant impact (“FONSI”). *Id.* § 4336(b)(2).
28

50. Public participation is integral to NEPA to ensure 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.” *Robertson*, 490 U.S. at 349–50. The Ninth Circuit has held that “[a]n agency, when preparing an EA, must provide the public with sufficient environmental information, considered in the totality of circumstances, to permit members of the public to weigh in with their views and thus inform the agency decision-making process.” *Bering Strait Citizens for Responsible Res. Dev. v. U.S. Army Corps of Eng’rs*, 524 F.3d 938, 953 (9th Cir. 2008). The Ninth Circuit has also required 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.” *Mont. Wildlife Fed’n*, 127 F.4th at 38 (concluding BLM violated NEPA “when it eliminated in some instances and severely shortened in others the various public participation periods” for environmental documents like EAs).

The Clean Air Act

51. The CAA establishes a comprehensive program for controlling and improving the nation’s air quality through shared federal and state responsibility. The CAA authorizes the U.S. Environmental Protection Agency (“EPA”), the agency with primary regulatory authority under the Act, to establish National Ambient Air Quality Standards (“NAAQS”) for serious pollutants known as “criteria pollutants,” including ozone—the main ingredient in smog. 42 U.S.C. §§ 7407–10. The CAA requires every region in the U.S. to reach attainment of the NAAQS for all pollutants, and it has set timetables for attainment since the 1970s. *See id.* § 7407(a)–(d)(1)(A). Areas that fail to attain the NAAQS are designated “nonattainment areas.” *Id.* § 7407(d)(1)(A)(i). For ozone, regions are assigned “marginal” to “extreme” classifications depending on the level of pollution. *Id.* § 7511(a)(1). Because ozone is the product of the interaction

1 between nitrogen oxides (“NO_x”) and volatile organic compounds (“VOCs”), control
 2 of ozone under CAA regulations consists of emissions limitations on these precursors.
 3 *See, e.g.*, 40 C.F.R. § 93.153(b)(1).

4 52. Section 176(c)(1) of the CAA provides that no federal agency shall
 5 “engage in, support in any way or provide financial assistance for, license or permit,
 6 or approve, any activity which does not conform to [a state implementation plan
 7 (“SIP”)].” *Id.* § 7506(c)(1). Federal activities must not:

- 8 (i) cause or contribute to any new violation of any standard in
- 9 any area;
- 10 (ii) increase the frequency or severity of any existing violation of
- 11 any standard in any area; or
- 12 (iii) delay timely attainment of any standard of any required
- interim emission reductions or other milestones in any area.

13 *Id.* § 7506(c)(1)(B).

14 53. This is referred to as the “conformity” requirement (or the General
 15 Conformity Rule). A conformity determination is required for each criteria pollutant
 16 or precursor in a nonattainment or maintenance area where the total emissions caused
 17 by a federal action would equal or exceed the rates provided in the regulations.
 18 40 C.F.R. § 93.153(b). Relevant here, this threshold is 100 tons of NO_x or VOCs per
 19 year for “moderate” ozone nonattainment areas, 25 tons of NO_x or VOCs per year for
 20 “severe” ozone nonattainment areas, and 10 tons per year of NO_x or VOCs for
 21 “extreme” ozone nonattainment areas. *Id.* § 93.153(b)(1).

22 54. Federal law prescribes a two-step process to conduct conformity review
 23 of federal actions. First, an agency must determine whether its action will result in
 24 emissions exceeding the applicable threshold (or *de minimis* level). *Id.* § 93.153(b)–
 25 (c).

26 55. To determine a project’s emissions are *de minimis*, the federal agency
 27 must show that total direct and indirect emissions, combined, are below the region’s
 28 applicable thresholds. *Id.* § 93.153(b). Direct emissions are those that are caused by

1 the action and indirect emissions are those that may be separated by time or space but
2 are of the type that the agency can practically control and for which the agency has
3 continuing program responsibility. *Id.* § 93.152.

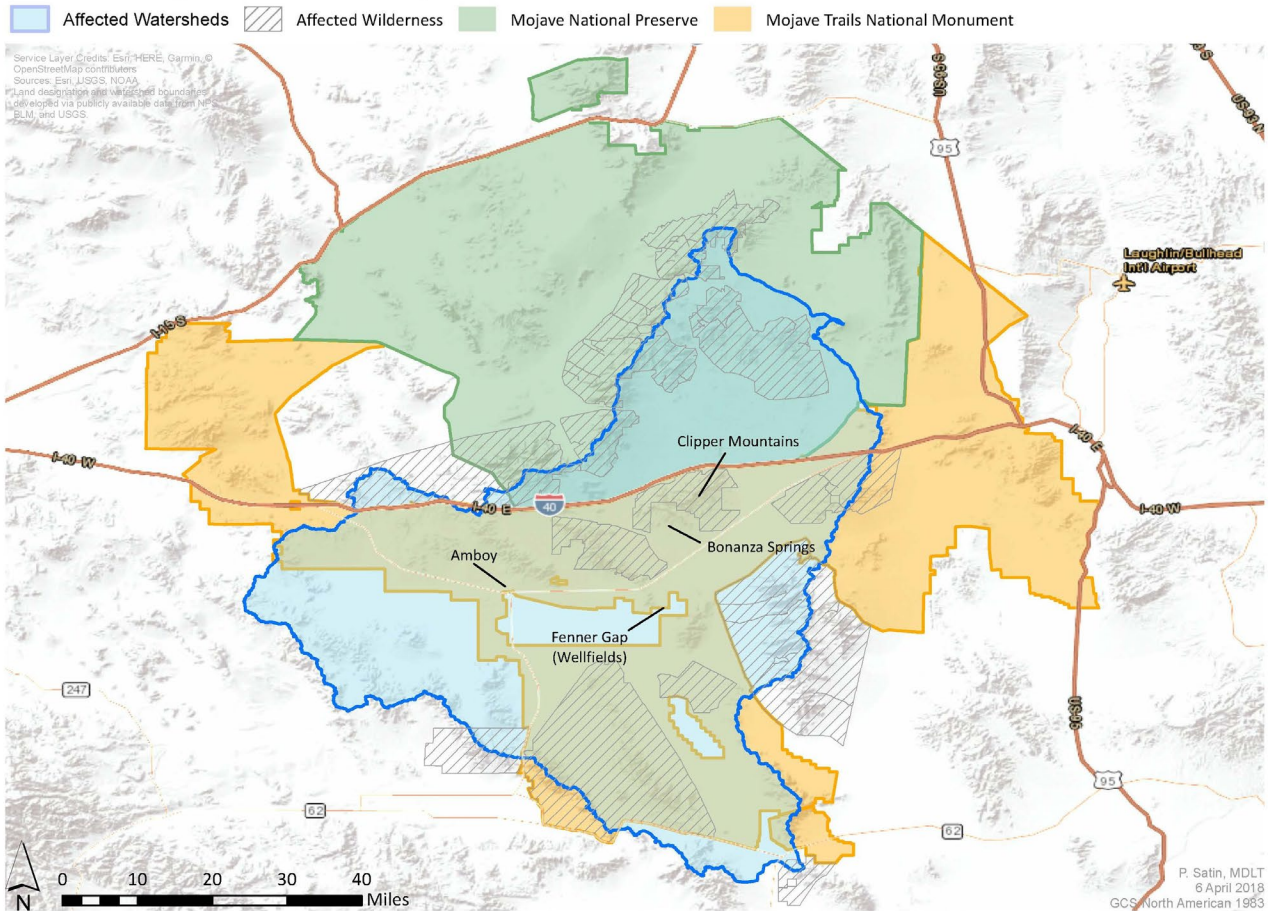
4 56. If the threshold requirement is met, the agency must prepare a full
5 “conformity determination.” This determination requires agencies to publicly notice
6 the action for public comment, and it requires agencies to ensure that pollution
7 emissions are mitigated by (a) redesigning the action to reduce emissions, (b) reducing
8 the same type of emissions elsewhere at the facility, or (c) securing offsets in the same
9 nonattainment or maintenance area or an adjacent area with an equal or higher
10 classification. *Id.* §§ 93.156, 93.158.

11 **FACTUAL BACKGROUND**

12 **The Cadiz Water Project**

13 57. Cadiz, Inc. and its subsidiary Cadiz Real Estate, LLC, are for-profit
14 corporations that have acquired over 34,000 acres of private land in the Mojave
15 Desert, most of which is located within the large rectangular “donut hole” at the center
16 of Mojave Trails National Monument. This property spans portions of the Fenner,
17 Cadiz, and Bristol Valley watersheds, and it sits above the same underground aquifer
18 basin that feeds springs, seeps and riparian areas within the Monument, Mojave
19 National Preserve, Joshua Tree National Park, and other public lands. A map
20 depicting the property (“Fenner Gap (Wellfields)”) in relation to the affected
21 watersheds is reproduced below.

22
23
24
25
26
27
28



58. Cadiz Inc. formed “Fenner Gap Mutual Water Company” (collectively, Cadiz, Inc., Cadiz Real Estate, LLC, and Fenner Gap Mutual Water Company are referred to as “Cadiz”) to construct and operate the “Cadiz Valley Water Conservation, Recovery and Storage Project” or “Cadiz Water Project.” The Cadiz Water Project proposes to extract an average of 50,000 acre feet (an amount equivalent to 16.3 billion gallons) of groundwater every year for 50 years from the aquifer underlying Cadiz’s property. Cadiz seeks to profit by selling the extracted groundwater through Fenner Gap Mutual Water Company, to municipal water districts and other users.

59. The Cadiz Water Project will extract far more groundwater from the underlying aquifer than is replenished naturally each year, causing overdraft. Overall, the Cadiz Water Project would lower groundwater levels by at least 80 feet in the

1 aquifer system through unsustainable pumping, and it could take 390 years after the
2 cessation of pumping for the aquifer to return to its current equilibrium.

3 60. The Cadiz Water Project will draw down the underlying aquifer and
4 dewater springs, seeps, and other riparian areas in Mojave Trails National Monument,
5 in wilderness areas, and other public lands, harming species that depend on these
6 springs. A recent peer-reviewed study of springs across the Mojave Desert and Great
7 Basin found that regional aquifer springs support disproportionately high numbers of
8 endemic aquatic species and function as critical biodiversity hotspots preserving
9 vulnerable endemic taxa. The study explained that such springs often provide the only
10 reliable source of surface water in arid landscapes, serve as refugia for species found
11 nowhere else, and are increasingly threatened by groundwater depletion. The authors
12 concluded that conservation of regional aquifer desert springs should be a major
13 priority because loss or degradation of spring flows can result in the extirpation or
14 extinction of endemic species and the collapse of unique desert ecosystems.

15 61. The retreating aquifer will also desiccate desert “playa” lakebeds like
16 Bristol and Cadiz Dry Lakes, resulting in toxic air pollution from windswept
17 sediments akin to what has plagued the Owens Valley to the north ever since large-
18 scale water diversions to Los Angeles dried Owens Lake a century ago.

19 62. For the Cadiz Water Project to proceed, Cadiz must secure a right-of-way
20 across Mojave Trails National Monument and other BLM-managed public lands that
21 surround its property for a water pipeline capable of conveying water from the
22 wellfield to an existing aqueduct and/or other water conveyance offsite. A water
23 pipeline across BLM-managed public lands with sufficient capacity is a critical
24 component of the Cadiz Water Project, without which the Project is not economically
25 viable and cannot proceed.

26 63. In 2011, Cadiz negotiated the purchase of an approximately 217-mile oil
27 and gas pipeline owned by the El Paso Natural Gas Company that stretches from
28 Cadiz’s property northwest to Barstow and all the way to Interstate 5 near the Los

Angeles Grapevine, crossing the California Aqueduct, the Los Angeles Aqueduct, and the Mojave River Pipeline. Cadiz proposes to convert approximately 162 miles of this oil and gas pipeline, which has been unused since 2004, into a water pipeline capable of conveying up to 30,000 acre-feet from the Cadiz Water Project per year. Cadiz estimates it will cost more than \$250 million to convert the pipeline to carry water.

64. The oil and gas pipeline crosses approximately 83 miles of federal lands, including 65 miles of BLM lands and 18 miles of Department of War lands located in San Bernardino and Kern Counties, California. A map depicting the pipeline route is reproduced below.



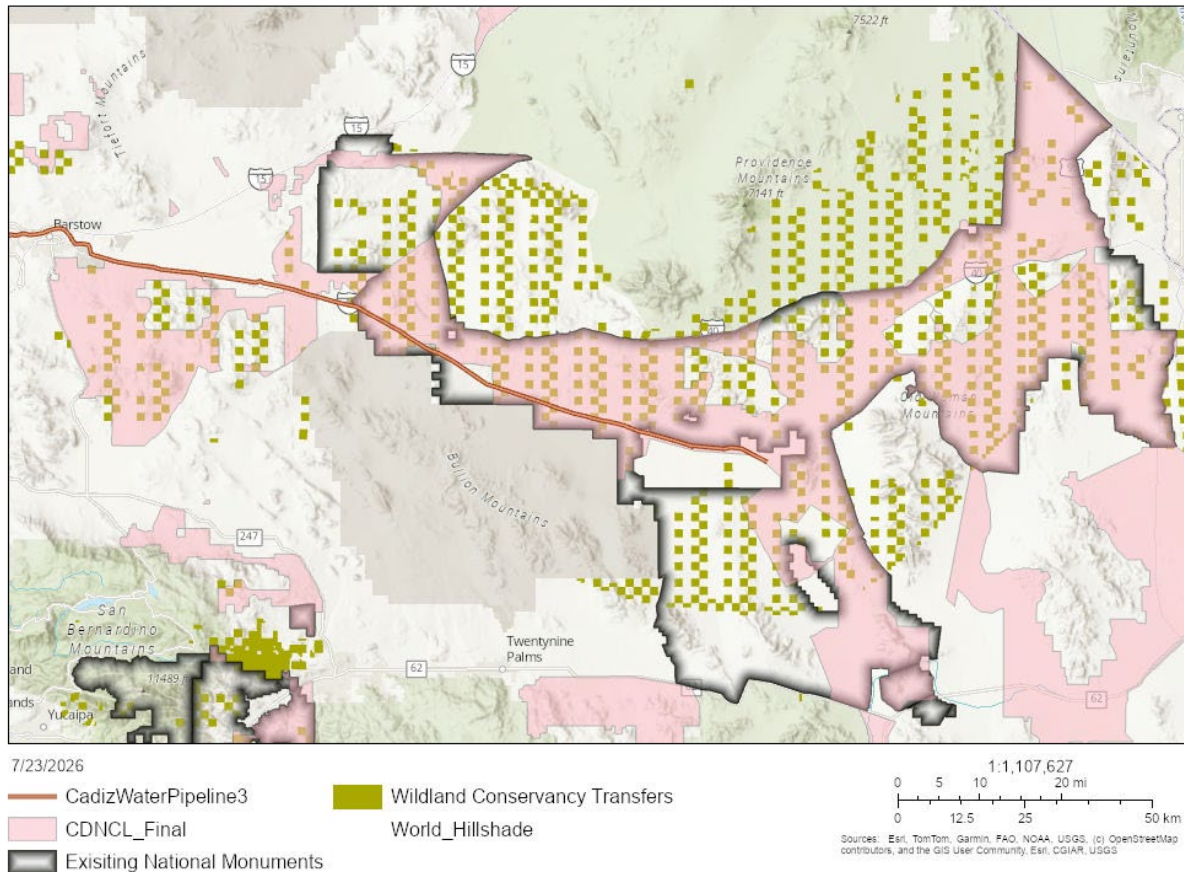
SOURCE: ESRI; BLM; ESA, 2026

Fenner Gap Mutual Water Company Northern Pipeline Conversion

65. The pipeline crosses over 11 miles of “acquired land” and/or of “donated land” as well as 66.79 acres of disturbance and 21.81 acres of road access, as defined in 16 U.S.C. § 410aaa-81c(a)(1), (4). These acquired and/or donated lands were

1 formerly private lands owned by the Catellus Company in the California desert that
 2 were donated to the U.S. Department of Interior for conservation by The Wildlands
 3 Conservancy.

4
 5 Cadiz Catellus lands 3



66. The pipeline is located within the Mojave Desert Air Basin and the San Joaquin Valley Air Basin. Both air basins experience degraded air quality and are designated by EPA as nonattainment areas for the NAAQS for ozone. As a result, emissions of the ozone precursor chemical NO_x are a significant concern in both air basins. Portions of these air basins that the pipeline crosses are designated as in “extreme” nonattainment, “severe” nonattainment, and “moderate” nonattainment for ozone.

1 67. The portion of the pipeline that crosses BLM lands is located within a
2 right-of-way previously granted to El Paso Natural Gas Company under the Mineral
3 Leasing Act of 1920, 30 U.S.C. § 185. On July 30, 2020, Cadiz applied to BLM (1) to
4 reassign El Paso Natural Gas’s Mineral Leasing Act right-of-way to Cadiz, and (2) to
5 convert the Mineral Leasing Act right-of-way to a FLPMA Title V right-of-way.
6 Cadiz’s application confirmed the requested rights-of-way would allow the Cadiz
7 Water Project to proceed. The application described the need for the proposed
8 “project” broadly as to “increase flexibility and resiliency of the water supply”
9 through “enhanced conveyance capacity[.]” The application explained that the
10 “probable effects” of the “project” would include “open[ing] up additional,
11 diversified, [water] supply options” for water users.

12 68. On December 21, 2020, BLM both assigned the El Paso Natural Gas
13 Company’s Mineral Leasing Act right-of-way to Cadiz, and simultaneously issued
14 Cadiz a right-of-way converting the Mineral Leasing Act right-of-way to a FLPMA
15 Title V right-of-way. BLM did not issue any environmental analysis along with its
16 decision, instead concluding that the decision was exempt from environmental review.

17 69. On March 23, 2021, Plaintiffs challenged BLM’s 2020 issuance of the
18 rights-of-way to Cadiz as violating FLPMA, the Proclamation Establishing Mojave
19 Trails National Monument, and NEPA. *Ctr. for Biological Diversity v. U.S. Bureau of*
20 *Land Mgmt.*, No. 2:21-cv-02507-GW-AS (C.D. Cal. filed Mar. 23, 2021). The case
21 was related to *Native American Land Conservancy v. Haaland*, No. 5:21-cv-00496-
22 GW-AS (C.D. Cal. filed Mar. 23, 2021), which challenged the issuance of the rights-
23 of-way as violating the National Historic Preservation Act (“NHPA”), NEPA, and
24 FLPMA.

25 70. Rather than defend its unlawful decision, BLM sought a voluntary
26 remand and vacatur of the rights-of-way. *Ctr. for Biological Diversity v. U.S. Bureau*
27 *of Land Mgmt.*, No. 2:21-cv-02507-GW-AS (C.D. Cal. filed Dec. 3, 2021). BLM
28 admitted that the “legal errors” it made were “serious” when it granted the rights-of-

1 way without analyzing the source of the water that will be transported through the
2 pipeline and the potential impacts on the environment or historic properties of drawing
3 down the water at its source.

4 71. The Court granted BLM's motion for voluntary remand on September
5 13, 2022. The Court found that "under the FLPMA, the BLM is required to 'take any
6 action necessary to prevent unnecessary or undue degradation of the lands.' 43 U.S.C.
7 § 1732(b). However, the BLM acknowledges that it 'conducted no analysis of the
8 potential impacts of water drawdowns on Mojave Trails National Monument or other
9 federal lands.'" *Ctr. for Biological Diversity v. U.S. Bureau of Land Mgmt.*, No. CV
10 21-2507-GW-ASX, 2022 WL 4233648, at *8 (C.D. Cal. Sept. 13, 2022). The Court
11 found that BLM's failure to consider "whether the grant of the rights-of-way at issue
12 complied with the FLPMA, the applicable land management plans, or the Mojave
13 Trails National Monument Proclamation" was a failure to "consider 'an important
14 aspect of the problem,'" and was thus "arbitrary and capricious." *Id.* (quoting *Kalispel*
15 *Tribe of Indians v. U.S. Dep't of Interior*, 999 F.3d 683, 688 (9th Cir. 2021)). The
16 Court further found that "[b]y too narrowly defining the project at issue to include
17 only the transport of water, the BLM failed to evaluate the potential effects from the
18 grant of the rights-of-way at issue on historic properties protected by the NHPA," in
19 violation of the NHPA. *Id.* Finally, the Court also found that by failing to evaluate the
20 potential impacts of drawing down water due to issuing the rights-of-way, BLM failed
21 to satisfy its "hard look" obligation under NEPA. *Id.* at *7.

22 72. In July, 2023, BLM announced it would seek public comment on its
23 proposal to reassign El Paso Natural Gas's Mineral Leasing Act right-of-way to
24 Cadiz, authorizing Cadiz to operate and maintain the existing oil and gas pipeline.
25 U.S. Senators Diane Feinstein and Alex Padilla wrote to BLM requesting that it
26 prepare a full environmental impact analysis on the reassignment. In response, BLM
27 declined to conduct environmental review of water transport when approving the oil
28 and gas pipeline transfer under the Mineral Leasing Act, but promised the Senators it

1 would not take the next step of allowing the oil and gas pipeline to be converted to
2 carry water “without fully analyzing the environmental and historic resource impacts
3 associated with a new use, e.g., the transport of water, consistent with the National
4 Environmental Policy Act, Section 106 of the National Historic Preservation Act, and
5 the Endangered Species Act.” BLM acknowledged that “[d]ue to the sensitive nature
6 of the federal lands surrounding the existing [Mineral Leasing Act right-of-way] and
7 Cadiz’s property, including the Mojave National Preserve, the Mojave Trails National
8 Monument, and other specially designated lands with fragile ecosystems, the BLM
9 anticipates that any [right-of-way] application seeking to use the existing pipeline to
10 transport water would require intensive environmental studies of those potential
11 impacts associated with the transport of water, including Cadiz’s extraction of water
12 from its underground aquifer, to the surrounding federal lands.”

13 73. On information and belief, sometime in 2025, Cadiz’s Fenner Gap
14 Mutual Water Company applied to BLM for a FLPMA Title V right-of-way to
15 convert the El Paso Natural Gas oil and gas pipeline to transport water.

16 74. BLM posted notice of the right-of-way application online, but it did not
17 circulate the application materials or a draft environmental assessment for public
18 review, and it did not provide a public comment period, despite FLPMA’s
19 requirement that BLM “give . . . the public adequate notice and an opportunity to
20 comment upon . . . and to participate in . . . the management of[] the public lands.” 43
21 U.S.C. § 1739(e).

22 75. A coalition of groups concerned about the impacts of the right-of-way
23 approval, including Plaintiffs, nevertheless wrote to BLM on January 5, 2026, and
24 again on February 22, 2026, imploring BLM to consider the impacts of its approval on
25 groundwater drawdowns, and providing BLM with extensive scientific research
26 showing that Cadiz’s proposed groundwater pumping would deplete the ancient desert
27 aquifer it seeks to pump from, “cutting off water to life and culture sustaining springs
28 on public lands.”

1 76. Congressman Raul Ruiz, whose district includes the Cadiz Water Project,
2 also wrote to Secretary Burgum in May, 2026, explaining that the “California Desert
3 is a national treasure” and “strongly urg[ing]” BLM “to conduct a full and rigorous
4 environmental and historic resource review as required under the National
5 Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA),
6 and the Endangered Species Act (ESA), including a comprehensive assessment of all
7 impacts associated with groundwater extraction and conveyance.” Congressman Ruiz
8 noted that “[s]cientists within the Department of the Interior, including experts at the
9 U.S. Geological Survey and the National Park Service, as well as peer-reviewed
10 scientific literature, have raised serious concerns regarding the scale, permanence, and
11 uncertainty of groundwater extraction on federal lands and surrounding communities.
12 These concerns warrant thorough, independent review before any federal
13 authorization proceeds.”

14 77. BLM conducted no such thorough independent review. Instead, on July
15 8, 2026—and without first providing a draft environmental assessment for public
16 comment—BLM issued the final Environmental Assessment, Finding of No
17 Significant Impact, and Record of Decision approving the Title V right-of-way to
18 Fenner Gap Mutual Water Company for the purpose of transporting water through the
19 former El Paso Natural Gas pipeline. The approved right-of-way authorizes
20 conversion of the pipeline from an idle oil-and-gas pipeline into a water conveyance
21 system capable of transporting groundwater extracted from the Cadiz Water Project to
22 municipal and other customers throughout Southern California. As BLM has long
23 recognized, the right-of-way is a critical component of the Cadiz Water Project and is
24 necessary for Cadiz to market and sell water extracted from the desert aquifer system;
25 BLM’s Finding of No Significant Impact explicitly explains that the right-of-way’s
26 benefits include “providing access to a new reliable water supply for communities in
27 Southern California.”
28

1 78. Although BLM previously acknowledged that approval of a Title V right-
2 of-way for water transport would require environmental review of “potential impacts
3 associated with the transport of water, including Cadiz’s extraction of water from its
4 underground aquifer,” BLM reversed course in the Environmental Assessment. BLM
5 concluded that groundwater pumping associated with the Cadiz Water Project was not
6 part of the federal action before it and therefore declined to prepare the “intensive
7 environmental studies” that it had previously represented would be required before
8 issuance of a Title V right-of-way. And while the Environmental Assessment includes
9 an appendix summarizing environmental review of the impacts of Cadiz’s pumping
10 conducted by the Santa Margarita Water District and other agencies, BLM did not
11 conduct any independent scrutiny of the findings of that review, did not solicit or
12 incorporate the latest scientific information regarding groundwater recharge rates and
13 impacts to springs. BLM also did not prepare a “Water (Groundwater) Supply
14 Assessment” as required by the DRECP; did not analyze the impacts on Catellus
15 Agreement lands; failed to address the impact that pumping will have on federal
16 reserved water rights, including on springs within California Desert National
17 Conservation Lands and the Mojave Trails National Monument; and failed to respond
18 to comments, including those submitted by members of Congress, highlighting
19 scientific analysis demonstrating significant impacts from Cadiz’s proposed
20 groundwater extraction on federal public land.

21 79. Even while excluding the significant impacts of groundwater extraction
22 from review, BLM acknowledged that implementation of the approved right-of-way
23 will require a massive pipeline-conversion construction project. According to the
24 Environmental Assessment, the project corridor encompasses approximately 1,346
25 acres of right-of-way disturbance—an area more than ten times the size of
26 Disneyland. This includes approximately 983 acres associated with the pipeline
27 corridor itself and 349 acres associated with access roads. The approved corridor
28 crosses extensive federal, state, military, and private lands, including approximately

1 454 acres of BLM-managed public lands and 144 acres of military lands. The project
2 also includes construction of seven new pump stations, each occupying roughly two
3 acres—including several built directly within Mojave Trails National Monument—
4 together with installation of up to 140 air-release/air-vacuum valves and 140 blow-off
5 facilities distributed along the pipeline, replacement of 16 miles of pipeline, and
6 construction of a holding pond to retain “flushed and hydrostatic testing water.” These
7 facilities will require excavation, grading, equipment staging, construction of access
8 roads for vehicular access, and the operation of heavy construction equipment
9 throughout the project area, construction that the Environmental Assessment predicts
10 will cost over \$250 million and require more than 1,300 workers. This construction
11 alone will have significant environmental impacts on biological resources, air quality,
12 Catellus Agreement lands, and on “special designated areas” including the Mojave
13 Trails National Monument. The Environmental Assessment does not fully analyze the
14 impacts of these activities, however, on biological resources, air pollution, Catellus
15 Agreement lands, or special designated areas like the Mojave Trails National
16 Monument, but nevertheless concludes they are insignificant.

17 80. Finally, BLM did not prepare a conformity determination under the
18 Clean Air Act, instead concluding that the Project’s emissions fall below applicable
19 conformity thresholds. But BLM’s own air-quality analysis does not substantiate this
20 conclusion. BLM’s own air-quality analysis indicates that construction-related
21 emissions associated with implementation of the approved right-of-way and the
22 groundwater-pumping project it was designed to facilitate will exceed *de minimis*
23 thresholds. Moreover, BLM’s air pollution calculations fail to take into account
24 numerous construction activities authorized by BLM and are otherwise internally
25 inconsistent with details of the project disclosed in the Environmental Assessment. As
26 a result of its failure to adequately perform a conformity review, BLM did not
27 undertake the associated agency consultation and public-review procedures required
28 by the Clean Air Act, nor did BLM demonstrate through any authorized conformity

1 method—including enforceable mitigation measures or emissions offsets—that the
 2 project’s emissions will not cause or contribute to new violations of federal air-quality
 3 standards, increase the frequency or severity of existing violations, or delay attainment
 4 or maintenance of such standards.

5 **FIRST CLAIM FOR RELIEF**

6 **(Violations of FLPMA, the CDPA, the NLCS Act, the Dingell Act, Public Water** 7 **Reserve No. 107, and the Proclamation Establishing Mojave Trails National** 8 **Monument)**

8 81. Plaintiffs re-allege, as if fully set forth herein, the allegations contained in
 9 the preceding paragraphs.

10 82. BLM’s compliance with FLPMA, the CDPA, the NLCS Act, the Dingell
 11 Act, Public Water Reserve No. 107, and the Proclamation Establishing Mojave Trails
 12 National Monument are subject to judicial review under the APA. The APA provides
 13 that courts must “hold unlawful and set aside agency action, findings, and conclusions
 14 found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in
 15 accordance with law.” 5 U.S.C. § 706(2)(A). An agency must articulate satisfactory
 16 explanation for its action, including a rational connection between the facts found and
 17 the choices made. *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.*
 18 *Ins. Co.*, 463 U.S. 29, 43 (1983). An agency action is unlawfully arbitrary and
 19 capricious where “the agency has relied on factors which Congress has not intended it
 20 to consider, entirely failed to consider an important aspect of the problem, offered an
 21 explanation for its decision that runs counter to the evidence before the agency, or is
 22 so implausible that it could not be ascribed to a difference in view or the product of
 23 agency expertise.” *Id.* When an agency changes its position, and its new position rests
 24 upon factual findings that contradict those which underly its prior position, “a
 25 reasoned explanation is needed for disregarding facts and circumstances that
 26 underlay” the prior position. *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502,
 27 515–16 (2009). Any unexplained inconsistency between the prior policy and its
 28

1 replacement is a basis for finding the agency's interpretation arbitrary and capricious.
2 *Id.*; see also *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016).

3 83. Here, BLM acted arbitrarily and capriciously and in violation of the
4 public-land protection and land-use-planning requirements of FLPMA, the CDPA, the
5 NLCS Act, the Dingell Act, Public Water Reserve No. 107, and the Proclamation
6 Establishing Mojave Trails National Monument by failing to evaluate and protect
7 Mojave Trails National Monument resources, NLCS resources, wilderness resources,
8 Catellus Agreement lands, and reserved water rights.

9 84. First, under FLPMA, BLM's decisions must conform to the California
10 Desert Conservation Area Plan, as amended by the Desert Renewable Energy
11 Conservation Plan. 43 U.S.C. § 1781; 43 U.S.C. § 1732(a). The DRECP requires that
12 "for any activity that proposes to utilize groundwater resources," "[a] Water
13 (Groundwater) Supply Assessment shall be prepared in conjunction with the activity's
14 NEPA analysis and prior to an approval or authorization." The DRECP explains that
15 "[t]he purpose of the Water Supply Assessment is to determine whether over-use or
16 over-draft conditions exist within the project basin(s), and whether the project creates
17 or exacerbates these conditions." The sole purpose of the Title V right-of-way
18 challenged in this case is to transport groundwater extracted from the Cadiz aquifer
19 system. It therefore triggers the DRECP requirement. BLM's issuance of the Title V
20 right-of-way and determination that it is consistent with the DRECP, without
21 conducting a Water (Groundwater) Supply Assessment, violates the DRECP and
22 FLPMA and is arbitrary, capricious, an abuse of discretion, or otherwise not in
23 accordance with law.

24 85. Second, the DRECP provides detailed information about the Nationally
25 Significant Values within the California Desert National Conservation Lands and
26 includes objectives and management actions BLM must implement to protect those
27 values. BLM concluded that the right-of-way would not "negatively affect the values
28 for which the California Desert National Conservation Lands are designated," but

1 without addressing the impacts of the groundwater drawdown on the values of the
2 California Desert National Conservation Lands that will be affected, including
3 springs. BLM's issuance of the Title V right-of-way and determination that it is
4 consistent with the DRECP, without providing a reasoned explanation, supported by
5 substantial evidence, demonstrating how issuance of the right-of-way meets the
6 requirements of the DRECP's objectives and management actions for California
7 Desert National Conservation Lands, violates the DRECP and FLPMA and is
8 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

9 86. Third, the DRECP requires that for Catellus Agreement lands, any
10 proposed use of these lands must be consistent with the deed restrictions and
11 conservation purposes governing their acquisition and that activities must be subject
12 to review and approval by the California State Director. *See* LUPA-LANDS-6;
13 LUPA-LANDS-7. The pipeline crosses significant portions of Catellus Agreement
14 lands and the water drawdown will also affect conservation values on other acquired
15 and/or Catellus Agreement lands. BLM's issuance of the right-of-way, without
16 analyzing or ensuring compliance with LUPA-LANDS-6 or LUPA-LANDS-7,
17 violates the DRECP and FLPMA and is arbitrary, capricious, an abuse of discretion,
18 or otherwise not in accordance with law.

19 87. Fourth, the Dingell Act prohibits the use of "acquired land . . . or donated
20 land within the Conservation Area for any activities contrary to the conservation
21 purposes for which the land was acquired . . . or donated, including . . . rights-of-
22 way," 16 U.S.C. § 410aaa-81c(b), unless "the Secretary has determined that proposed
23 use is in the public interest," 16 U.S.C. § 410aaa-81c(c)(1)(B), with the inclusion of
24 conditions enumerated in 16 U.S.C. § 410aaa-81c(c)(2). The conditions include
25 mitigation requirements for additional donations of land within the California Desert
26 Conservation Area "of comparable value," which can only be approved by the
27 Secretary after "consultation, to the maximum extent practicable, with the donor of the
28 private land proposed for nonconservation uses and [] an opportunity for public

comment regarding the donation.” *Id.* The pipeline crosses significant portions of acquired and/or donated land and the water drawdown will also affect conservation values on other acquired and/or donated lands—contrary to the purposes for which the land was acquired or donated. BLM’s failure to address the Dingell Act before issuing the new Title V right-of-way, including its failure to (1) make a statutory public-interest determination under Section 410aaa-81c(c)(B), (2) require the permittee to donate private land of comparable value, and (3) provide an opportunity for public comment regarding the donation, violates the Dingell Act and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law

88. Fifth, FLPMA provides that, “prior to granting or issuing a right-of-way . . . for a new project which may have a significant impact on the environment,” BLM “shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way” that complies with BLM’s terms and conditions. 43 U.S.C. § 1764(d). BLM’s terms and conditions must, among other things, “minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment” and “protect Federal property and economic interests.” 43 U.S.C. § 1765. The Cadiz Water Project will have a significant impact on the environment. BLM’s issuance of the FLPMA right-of-way, without specifying sufficient terms and conditions for operation of the right-of-way that will “minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment” and “protect Federal property and economic interests,” including federal reserved water rights under the CDPA and Public Water Reserve No. 107, violates FLPMA and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

89. Sixth, FLPMA requires BLM to “take any action necessary to prevent unnecessary or undue degradation of the lands.” 43 U.S.C. § 1732(b). For areas within the California Desert Conservation Area, FLPMA also requires BLM to ensure “immediate and future protection and administration of the public lands in the

1 California desert” and “the maintenance of environmental quality.” 43 U.S.C.
2 § 1781(b). The NLCS Act also requires resources of the system, including California
3 Desert National Conservation Lands managed by BLM, to be managed in accordance
4 with applicable laws and regulations and “in a manner that protects the values for
5 which the components of the system were designated.” 16 U.S.C. § 7202(c)(2). BLM
6 concluded that the right-of-way “would be used in a manner that prevents unnecessary
7 or undue degradation to public lands” while simultaneously declining to meaningfully
8 evaluate the groundwater drawdown, spring depletion, air-quality, and other public-
9 land impacts that the right-of-way is designed to facilitate. BLM failed to provide a
10 reasoned explanation, supported by substantial evidence, demonstrating how issuance
11 of the right-of-way satisfies FLPMA’s public-land protection mandates and protects
12 springs on California Desert National Conservation Lands. BLM’s issuance of the
13 right-of-way therefore violates FLPMA and the NLCS Act and is arbitrary, capricious,
14 an abuse of discretion, and otherwise not in accordance with law.

15 90. Seventh, the CDPA requires the Secretary and BLM to “take all steps
16 necessary to protect” federal reserved water rights in springs in the wilderness areas,
17 16 U.S.C. § 410aaa-76(a), (b). Public Water Reserve No. 107 also requires protection
18 of reserved water rights in springs and on the quarter-mile of surrounding reserved
19 lands on all western public lands. BLM’s approval of the right-of-way will facilitate
20 the Cadiz Water Project’s groundwater pumping, which is predicted to cause Bonanza
21 Spring on California Desert National Conservation Lands and other springs with
22 federal reserved rights established in the CDPA and/or established under Public Water
23 Reserve No. 107 to be eliminated or have substantially reduced flows. BLM’s
24 issuance of the right-of-way, without ensuring protection of federal reserved water
25 rights, violates the CDPA and Public Water Reserve No. 107 and is arbitrary,
26 capricious, an abuse of discretion, and otherwise not in accordance with law.

27 91. Eighth, BLM must comply with the requirements of the Mojave Trails
28 National Monument Proclamation, 43 U.S.C. § 1732(a), and must manage national

monument lands “in a manner that protects the values for which the components of the system were designated.” 16 U.S.C. § 7202(c)(2). The Mojave Trails National Monument Proclamation requires that BLM may only allow assignments of and modifications to pipelines located within the Mojave Trails National Monument if they are “consistent with the care and management” of the Monument objects. 81 Fed. Reg. at 8375. The Proclamation similarly provides that existing pipelines within the Monument “may be expanded . . . only to the extent consistent with the care and management” of Monument objects. *Id.* The Mojave Trails National Monument Proclamation also directs the Secretary of Interior to “work with appropriate State officials to ensure the availability of water resources, including groundwater resources, needed for monument purposes.” 81 Fed. Reg. at 8375. In approving the right-of-way, BLM concluded that it is consistent with the Mojave Trails National Monument Proclamation. BLM, however, failed to provide a reasoned explanation demonstrating how conversion of the pipeline to transport groundwater, construction and operation of pump stations and associated facilities, installation of up to 140 air-release and air-vacuum valves and 140 blow-off facilities, and the long-term operation of the project are consistent with the protection of the Monument objects identified in the Proclamation. BLM likewise failed to adequately analyze whether the Project would impair, diminish, or undermine those objects. BLM’s issuance of a right-of-way without demonstrating it is consistent with the Mojave Trails National Monument violates the proclamation establishing the Mojave Trails National Monument and is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

92. Ninth, 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.” 43 U.S.C. § 1739(e). The Ninth Circuit has explained that FLPMA specifically requires BLM to “provide opportunities for public participation . . . for down-the-line decisions” like whether to issue right-of-way. *Mont. Wildlife Fed’n*, 127 F.4th at 40. BLM’s failure to provide for a public

1 participation opportunity is contrary to FLPMA and arbitrary, capricious, an abuse of
2 discretion, or otherwise not in accordance with law.

3 93. Finally, BLM previously acknowledged that its approval of a Title V
4 right-of-way for water transport requires analysis of groundwater extraction and its
5 impacts on surrounding federal lands under FLPMA. BLM subsequently reversed that
6 position and concluded that groundwater extraction falls outside the scope of the
7 federal action. BLM failed to provide a reasoned explanation for that reversal or for
8 disregarding the factual findings and circumstances underlying its previous position.
9 This unexplained change in position violates FLPMA and renders approval of the
10 right-of-way arbitrary, capricious, an abuse of discretion, or otherwise not in
11 accordance with law.

12 **SECOND CLAIM FOR RELIEF**

13 **(Violations of NEPA)**

14 94. Plaintiffs re-allege, as if fully set forth herein, the allegations contained in
15 the preceding paragraphs.

16 95. BLM's compliance with NEPA is subject to judicial review under the
17 APA, which authorizes the court to set aside arbitrary and capricious agency action.

18 96. Here, BLM acted arbitrarily and capriciously in violation of NEPA. First,
19 NEPA's purpose is to ensure that an agency, "in reaching its decision, will have
20 available, and will carefully consider, detailed information concerning significant
21 environmental impacts; it also guarantees that the relevant information will be made
22 available to the larger audience that may also play a role in both the decisionmaking
23 process and the implementation of that decision." *Robertson*, 490 U.S. at 349. The
24 Ninth Circuit has recently held that NEPA requires BLM to provide public
25 participation periods for its environmental documents that are "sufficiently long to
26 permit members of the public to weigh in on the decision in an informed manner," and
27 "for participants to obtain and absorb the environmental information provided by the
28 agency and then prepare their own analyses and critiques, including consultation with

1 experts where appropriate.” *Montana Wildlife Fed’n*, 127 F.4th at 38. BLM’s failure
2 to provide for a public participation opportunity on the Environmental Assessment
3 and allow the public to weigh in is contrary to NEPA and arbitrary, capricious, an
4 abuse of discretion, or otherwise not in accordance with law.

5 97. Second, NEPA requires BLM to take a “hard look” at all reasonably
6 foreseeable environmental impacts and adverse effects of the right-of-way, *Robertson*,
7 490 U.S. at 349–50; 42 U.S.C. § 4332(C), and to prepare an EIS for agency actions
8 that have reasonably foreseeable significant effects on the quality of the environment.
9 By failing to take a hard look at the effects of operation of the right-of-way on water
10 drawdowns and failing to take a hard look at all environmental impacts from
11 construction of pipeline conversion, BLM has failed to consider important aspects of
12 the problem. BLM’s failure to disclose and adequately analyze all significant and
13 adverse environmental impacts of its right-of-way approval is contrary to NEPA and
14 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

15 98. Third, BLM’s issuance of the right-of-way is a major Federal action
16 significantly affecting the quality of the human environment, within the meaning of
17 NEPA. The project will cause significant impacts to environmentally sensitive
18 resources, including groundwater-dependent ecosystems, desert springs, resources
19 protected within Mojave Trails National Monument and California Desert National
20 Conservation Lands, federal reserved water rights, Catellus Agreement lands, and
21 local air quality. The action is also highly controversial, as demonstrated by
22 longstanding calls from federal agencies, scientists, public commenters, and members
23 of Congress for BLM to analyze the impact of the right-of-way on groundwater
24 recharge, groundwater connectivity, and impacts to springs and groundwater-
25 dependent ecosystems. BLM’s issuance of a FONSI and failure to prepare an EIS is
26 contrary to NEPA and arbitrary, capricious, an abuse of discretion, or otherwise not in
27 accordance with law.

28 99. Fourth, NEPA requires agencies to ensure the scientific integrity of

1 environmental analyses and make use of reliable data and resources. 42 U.S.C.
2 § 4332(D), (E). By refusing to evaluate scientific evidence regarding groundwater
3 connectivity, groundwater-dependent ecosystems, spring flows, and groundwater
4 recharge, while simultaneously disclaiming responsibility for analyzing the very
5 impacts the right-of-way was designed to facilitate, BLM unlawfully failed to ensure
6 the scientific integrity of its environmental review.

7 100. Finally, BLM's failure to provide an adequate justification for reversing
8 its determination that it must evaluate the impact of granting the right-of-way on water
9 drawdowns violates NEPA and renders BLM's decision to grant the right-of-way
10 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

11 **THIRD CLAIM FOR RELIEF**

12 **(Violation of the Clean Air Act)**

13 101. Plaintiffs re-allege, as if fully set forth herein, each and every allegation
14 contained in the preceding paragraphs.

15 102. BLM's compliance with the Clean Air Act is subject to judicial review
16 under the APA, which authorizes the Court to set aside arbitrary and capricious
17 agency action.

18 103. Here, BLM acted arbitrarily and capriciously in violation of the Clean
19 Air Act. First, under the Clean Air Act, a conformity determination is required where
20 total direct and indirect emissions of a criteria pollutant or precursor caused by the
21 federal action equal or exceed the applicable *de minimis* rates. 40 C.F.R. § 93.153(b).
22 BLM's own air-quality analysis demonstrates that construction associated with the
23 Cadiz Water Project and the pipeline conversion would generate significant
24 construction-related emissions of nitrogen oxides, a precursor to ozone pollution. In
25 the Environmental Assessment's supporting air-quality worksheet, BLM calculates
26 that final construction emissions connected to the Cadiz Water Project and pipeline
27 conversion will emit NO_x in amounts exceeding 429.70 pounds per day, well above
28 the 137-pound-per-day significance threshold applied in the worksheet. Yet BLM's

1 Environmental Assessment separately reports only 3.08 tons per year in total
2 construction-related NO_x emissions and did not explain or reconcile the materially
3 different daily and annual calculations. BLM's failure to make a conformity
4 determination, despite its finding of significant NO_x emissions, is contrary to the
5 CAA and arbitrary, capricious, an abuse of discretion, or otherwise not in accordance
6 with law.

7 104. Second, all direct and indirect sources of emissions must be accurately
8 included in an agency's conformity review calculations to lawfully substantiate a
9 finding that a project's emissions fall under the applicable thresholds triggering a
10 conformity determination. 40 C.F.R. § 93.153(b). BLM's pollution emissions
11 estimates do not accurately include all direct and indirect sources of emissions
12 because they substantially understate and/or fail to account for the full scope of
13 pipeline conversion construction emissions. For example, BLM calculated maximum-
14 daily NO_x emissions of 7.65 pounds per day for only "1 Unit" of "AR/AV & BO
15 Installation," even though the Environmental Assessment states that the pipeline
16 conversion may require installation of up to 140 new air-release/air-vacuum valves
17 ("AR/AVs") and 140 new blow-offs ("BOs"). Properly accounting for all installations
18 could materially increase project emissions and could cause emissions to exceed one
19 or more applicable General Conformity *de minimis* thresholds. BLM's air pollution
20 calculations also omitted entirely emissions from other construction and operation
21 activities disclosed in the Environmental Assessment, including construction of new
22 access roads, replacement of 16 miles of existing pipeline, construction of a holding
23 pond, water-truck travel, worker and vendor travel on primitive unpaved roads, and
24 emissions from ongoing pipeline and pump station inspection trips, which BLM
25 estimates to take place on a daily basis across the length of the pipeline. BLM further
26 used modeling assumptions inconsistent with its own project description, including
27 assuming "1 acre per [pump] station" in its emissions model, even though the
28 Environmental Assessment states that each pump station would occupy approximately

two acres; assuming pipeline rehabilitation would only take four months in its emissions model even though the Environmental Assessment states that it will likely take six to eight months; and assuming only five to ten workers for each of the four project components it estimates emissions from, even though the Environmental Assessment's economic analysis predicts the construction project will directly support 1,302 jobs and \$225.5 million in construction activity in 2026. BLM's determination that emissions are *de minimis*, and its associated failure to make a conformity determination, is contrary to the CAA and arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a declaratory judgment that BLM violated the law as described in this complaint;

B. Vacate and set aside BLM's Environmental Assessment, Finding of No Significant Impact, and Decision to issue the FLPMA Title V right-of-way to FGMWC;

C. Enjoin BLM from authorizing or otherwise allowing FGMWC or any Cadiz entity to undertake any activities within the right-of-way at issue;

D. Award Plaintiffs their costs of litigation, including reasonable attorneys' fees and costs;

E. Grant Plaintiffs such additional relief as the Court may deem proper; and

F. Retain continuing jurisdiction of this matter until BLM fully remedies the violations of law complained of herein.

Respectfully submitted,

Dated: July 28, 2026

/s/ Elizabeth B. Forsyth
ELIZABETH B. FORSYTH (CA Bar No. 288311)
eforsyth@earthjustice.org
EARTHJUSTICE
810 3rd Ave #610

1 Seattle, WA 98104
2 Tel: (206) 531-0841

3 GREGORY C. LOARIE (Bar No. 215859)
4 gloarie@earthjustice.org
5 EARTHJUSTICE
6 180 Steuart St. #194330
7 San Francisco, CA 94105
8 Tel: (415) 217-2000

9 *Counsel for All Plaintiffs*

10 LISA T. BELENKY (CA Bar No. 203225)
11 ARUNA M. PRABHALA (CA Bar No. 278865)
12 lbelenky@biologicaldiversity.org
13 aprabhala@biologicaldiversity.org
14 CENTER FOR BIOLOGICAL DIVERSITY
15 1212 Broadway Street, Suite 800
16 Oakland, CA 94612
17 Tel: (510) 844-7100

18 *Counsel for Plaintiff Center for Biological Diversity*