

1 JEAN E. WILLIAMS
Acting Assistant Attorney General
2 Environment and Natural Resources Division
United States Department of Justice

3 ARWYN CARROLL (MA Bar 675926)
4 Natural Resources Section
P.O. Box 7611
5 Washington, D.C. 20044-7611
Phone: (202) 305-0465
6 Fax: (202) 305-0506
arwyn.carroll@usdoj.gov

7 *Attorneys for Federal Defendants*

8
9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10
11 WESTERN WATERSHEDS PROJECT,
et al.,

12 Plaintiffs,

13 v.

14 UNITED STATES DEPARTMENT
15 OF THE INTERIOR, *et al.*,

16 Defendants

17 and

18 LITHIUM NEVADA CORP.

19 Defendant-Intervenor

Case No. 3:21-cv-103-MMD-CLB

**FEDERAL DEFENDANTS’
ANSWER TO PLAINTIFFS’
COMPLAINT**

20
21 Federal Defendants United States Department of the Interior (“Interior”), United
22 States Bureau of Land Management (“BLM”), and Ester M. McCullough, in her official
23 capacity as District Manager of BLM’s Winnemucca District Office, answer as follows
24 in response to Plaintiffs’ Complaint. *See* ECF No. 1. The numbered paragraphs herein
25 correspond to the numbered paragraphs in the Complaint.
26
27
28

1 1. The allegations in Paragraph 1 constitute Plaintiffs' characterization of
2 their case to which no response is required. To the extent that a response is required,
3 the allegations are denied.
4

5 2. The allegations in the first sentence of Paragraph 2 purport to characterize
6 a July 15, 2020 letter from Katherine Sinclair MacGregor, Deputy Secretary, Interior,
7 to Larry Kudlow, Assistant to the President for Economic Policy, Director, National
8 Economic Council, which speaks for itself and provides the best evidence of its
9 contents. Any allegations contrary to its plain meaning, language and context are
10 denied. Federal Defendants admit that Ester M. McCullough, as District Manager of
11 BLM's Winnemucca District Office, signed the Record of Decision ("ROD") for the
12 Thacker Pass Mine ("Project") on January 15, 2021. The remaining allegations in
13 Paragraph 2 purport to characterize the ROD for the Project, which speaks for itself
14 and provides the best evidence of its contents. Any allegations contrary to its plain
15 meaning, language and context are denied.
16
17

18 3. Federal Defendants deny the allegations in Paragraph 3 and deny any
19 violations of law.
20

21 4. The allegations in Paragraph 4 constitute Plaintiffs' characterization of
22 their case to which no response is required and purport to characterize the ROD and
23 the December 2020 Final Environmental Impact Statements ("FEIS") for the Project,
24 which speak for themselves and provide the best evidence of their contents. Any
25 allegations contrary to their plain meaning, language, and context are denied.
26
27
28

1 5. The allegations in Paragraph 5 constitute Plaintiffs' request for relief to
2 which no response is required. To the extent that a response is required, Federal
3 Defendants deny that Plaintiffs are entitled to any relief whatsoever.
4

5 6. The allegations in Paragraph 6 purport to characterize the FEIS and ROD
6 for the Project, which speak for themselves and provide the best evidence of their
7 contents. Any allegations contrary to their plain meaning, language, and context are
8 denied.
9

10 7. The allegations in Paragraph 7 purport to characterize the FEIS and ROD
11 for the Project, which speak for themselves and provide the best evidence of their
12 contents. Any allegations contrary to their plain meaning, language, and context are
13 denied.
14

15 8. The allegations in Paragraph 8 purport to characterize the FEIS and ROD
16 for the Project, which speak for themselves and provide the best evidence of their
17 contents. Any allegations contrary to their plain meaning, language, and context are
18 denied.
19

20 9. The allegations in Paragraph 9 purport to characterize the FEIS and ROD
21 for the Project, which speak for themselves and provide the best evidence of their
22 contents. Any allegations contrary to their plain meaning, language, and context are
23 denied.
24

25 10. The allegations in Paragraph 10 purport to characterize the FEIS for the
26 Project, which speaks for itself and provides the best evidence of its contents. Any
27 allegations contrary to its plain meaning, language and context are denied.
28

1 11. The allegations in the first and second sentences of Paragraph 11 purport
2 to characterize the ROD for the Project, which speaks for itself and provides the best
3 evidence of its contents. Any allegations contrary to its plain meaning, language and
4 context are denied. The allegations in the third sentence of Paragraph 11 purport to
5 characterize the FEIS for the Project, which speaks for itself and provides the best
6 evidence of its contents. Any allegations contrary to its plain meaning, language and
7 context are denied.
8

9
10 12. Federal Defendants deny the allegations in the first sentence of
11 Paragraph 12. The allegations in the second sentence of Paragraph 12 purport to
12 characterize the FEIS for the Project, which speaks for itself and provides the best
13 evidence of its contents. Any allegations contrary to its plain meaning, language and
14 context are denied.
15

16 13. The allegations in Paragraph 13 purport to characterize the FEIS for the
17 Project, which speaks for itself and provides the best evidence of its contents. Any
18 allegations contrary to its plain meaning, language and context are denied.
19

20 14. The allegations in Paragraph 14 constitute legal conclusions to which no
21 response is required. To the extent that a response is required, the allegations are
22 denied. They further purport to characterize the Federal Land Policy Management Act
23 (“FLPMA”) and BLM’s Surface Management Regulations, 43 C.F.R. Subpart 3809,
24 which speak for themselves and provide the best evidence of their contents. Any
25 allegations contrary to their plain meaning, language, and context are denied.
26
27
28

1 15. The allegations in Paragraph 15 purport to characterize the October 2019
2 “Toxicological Profile for Antimony and Compounds” published by the U.S.
3 Department of Health and Human Services, Agency Toxic Substances and Disease
4 Registry, which speaks for itself and provides the best evidence of its contents. Any
5 allegations contrary to its plain meaning, language and context are denied.
6

7 16. The allegations in Paragraph 16 constitute legal conclusions to which no
8 response is required. To the extent that a response is required, the allegations are
9 denied.
10

11 17. The allegations in Paragraph 17 purport to characterize the FEIS for the
12 Project and the January 4, 2021 letter from the United States Environmental Protection
13 Agency (“EPA”) to BLM, which speak for themselves and provide the best evidence
14 of their contents. Any allegations contrary to their plain meaning, language, and
15 context are denied.
16

17 18. The allegations in all but the last sentence of Paragraph 18 purport to
18 characterize the FEIS for the Project and the January 4, 2021, letter from EPA to BLM,
19 which speak for themselves and provide the best evidence of their contents. Any
20 allegations contrary to their plain meaning, language, and context are denied. The
21 allegations in the last sentence of Paragraph 18 constitute legal conclusions to which
22 no response is required. To the extent that a response is required, the allegations are
23 denied.
24
25
26
27
28

1 19. The allegations in Paragraph 19 purport to characterize the FEIS for the
2 Project, which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language and context are denied.
4

5 20. The allegations in Paragraph 20 purport to characterize the FEIS for the
6 Project, which speaks for itself and provides the best evidence of its contents. Any
7 allegations contrary to its plain meaning, language and context are denied.
8

9 21. The allegations in Paragraph 21 purport to characterize the FEIS for the
10 Project, which speaks for itself and provides the best evidence of its contents. Any
11 allegations contrary to its plain meaning, language and context are denied.
12

13 22. The allegations in Paragraph 22 constitute legal conclusions to which no
14 response is required. To the extent that a response is required, the allegations are
15 denied. The allegations in Paragraph 22 further purport to characterize the FEIS and
16 ROD for the Project, which speak for themselves and provide the best evidence of their
17 contents. Any allegations contrary to their plain meaning, language, and context are
18 denied.
19

20 23. Federal Defendants deny the allegations in the first sentence of
21 Paragraph 23. The remaining allegations in Paragraph 23 purport to characterize the
22 FEIS for the Project, which speaks for itself and provides the best evidence of its
23 contents. Any allegations contrary to its plain meaning, language and context are
24 denied.
25

26 24. The allegations in the first sentence of Paragraph 24 purport to
27 characterize the FEIS for the Project, which speaks for itself and provides the best
28

1 evidence of its contents. Any allegations contrary to its plain meaning, language and
2 context are denied. Federal Defendants admit the allegations in the second sentence of
3 Paragraph 24.
4

5 25. Federal Defendants deny the allegations in the first sentence of
6 Paragraph 25. The remaining allegations in Paragraph 25 purport to characterize the
7 FEIS for the Project and the January 4, 2021, letter from the State of Nevada
8 Department of Wildlife (“NDOW”) to BLM, which speak for themselves and provide
9 the best evidence of their contents. Any allegations contrary to their plain meaning,
10 language, and context are denied.
11

12 26. The allegations in Paragraph 26 purport to characterize the January 4,
13 2021, letter from NDOW to BLM, which speaks for itself and provides the best
14 evidence of its contents. Any allegations contrary to its plain meaning, language and
15 context are denied.
16

17 27. The allegations in Paragraph 27 purport to characterize the FEIS for the
18 Project, which speaks for itself and provides the best evidence of its contents. Any
19 allegations contrary to its plain meaning, language and context are denied.
20

21 28. Federal Defendants deny the allegations in Paragraph 28.

22 29. Federal Defendants deny the allegations in Paragraph 29.

23 30. Federal Defendants admit that the greater sage grouse is a ground-nesting
24 bird known for its elaborate mating dance performed on breeding grounds called
25 “leks” and that destruction and fragmentation of its sagebrush habitats impacts the
26 species. Federal Defendants further aver that the species’ habitat is briefly described in
27
28

1 Section 3.2.2 of the 2015 BLM Nevada and Northeastern California Greater Sage-
2 Grouse Approved Resource Management Plan Amendment (“2015 BLM NV/CA
3 ARMPA”) approved in the BLM 2015 Record of Decision and Approved Resource
4 Management Plan Amendments for the Great Basin Region, Including the Greater
5 Sage-Grouse Sub-Regions of Idaho and Southwestern Montana, Nevada and
6 Northeastern California, Oregon and Utah (“2015 GB ARMPAs ROD”). Federal
7 Defendants deny the remaining allegations in Paragraph 30.
8
9

10 31. Federal Defendants admit the allegations in the first sentence of
11 Paragraph 31 that the U.S Fish and Wildlife Service defined the Western Great Basin
12 “Priority Area for Conservation” (“PAC”) and that NDOW designated the Lone
13 Willow Population Management Unit (“PMU”). The remaining allegations in
14 Paragraph 31 purport to characterize the FEIS for the Project, which speaks for itself
15 and provides the best evidence of its contents. Any allegations contrary to its plain
16 meaning, language and context are denied.
17

18 32. Federal Defendants admit the allegations in the first sentence of
19 Paragraph 32 that the Lone Willow PMU has experienced sage grouse habitat loss and
20 fragmentation due to wildfires. *See* FEIS at 4–43. The remaining allegations in
21 Paragraph 32 are vague and therefore denied. To the extent they purport to characterize
22 the FEIS for the Project and unknown quoted sources, those documents speak for
23 themselves and provide the best evidence of their contents. Any allegations contrary to
24 their plain meaning, language and context are denied.
25
26
27
28

1 33. The allegations in Paragraph 33 purport to characterize the FEIS for the
2 Project, which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language and context are denied.
4

5 34. The allegations in Paragraph 34 purport to characterize the FEIS for the
6 Project, which speaks for itself and provides the best evidence of its contents. Any
7 allegations contrary to its plain meaning, language and context are denied.
8

9 35. The allegations in Paragraph 35 purport to characterize the FEIS for the
10 Project, which speaks for itself and provides the best evidence of its contents. Any
11 allegations contrary to its plain meaning, language and context are denied.
12

13 36. The allegations in Paragraph 36 purport to characterize the FEIS for the
14 Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language and context are denied.
16

17 37. The allegations in the first and sixth sentences of Paragraph 37 are vague
18 and therefore denied. The remaining allegations in Paragraph 37 purport to
19 characterize the FEIS for the Project, which speaks for itself and provides the best
20 evidence of its contents. Any allegations contrary to its plain meaning, language and
21 context are denied.
22

23 38. The allegations in Paragraph 38 purport to characterize the FEIS for the
24 Project, which speaks for itself and provides the best evidence of its contents. Any
25 allegations contrary to its plain meaning, language and context are denied.
26

27 39. The allegations in Paragraph 39 are vague and therefore denied.
28

1 40. Federal Defendants deny the allegations in Paragraph 40 and deny any
2 violation of law.

3 41. Federal Defendants deny the allegations in Paragraph 41.

4 42. Federal Defendants lack knowledge or information sufficient to form a
5 belief as to the truth of the allegations in Paragraph 42, and the allegations are
6 therefore denied.
7

8 43. The allegations through the end of the block quote in Paragraph 43 purport
9 to characterize the FEIS for the Project, which speaks for itself and provides the best
10 evidence of its contents. Any allegations contrary to its plain meaning, language and
11 context are denied. The allegations in the last sentence of Paragraph 43 constitute legal
12 conclusions to which no response is required. To the extent that a response is required,
13 the allegations are denied. The allegations in the last sentence of Paragraph 43 further
14 purport to characterize FLPMA, which speaks for itself and provides the best evidence
15 of its contents. Any allegations contrary to its plain meaning, language and context are
16 denied.
17

18 44. The allegations in the first sentence of Paragraph 44 constitute Plaintiffs'
19 characterization of their case to which no response is required. The allegations in the
20 second sentence constitute legal conclusions to which no response is required. To the
21 extent that a response is required, the allegations are denied.
22

23 45. The allegations in the first sentence of Paragraph 45 constitute legal
24 conclusions to which no response is required. To the extent that a response is required,
25 the allegations are denied. Federal Defendants admit the allegations in the second
26
27
28

1 sentence of Paragraph 45, that the BLM Winnemucca District Office and Ester M.
2 McCullough, District Manager of BLM's Winnemucca District Office, are located in
3 Nevada, and the allegations in the third sentence of Paragraph 45, that the Project is
4 located in Humboldt County, Nevada. Defendants lack knowledge or information
5 sufficient to form a belief as to the truth of the allegations in the fourth sentence, and
6 the allegations are therefore denied.
7

8 46. Federal Defendants lack knowledge or information sufficient to form a
9 belief as to the truth of the allegations in Paragraph 46, and the allegations are
10 therefore denied.
11

12 47. Federal Defendants lack knowledge or information sufficient to form a
13 belief as to the truth of the allegations in Paragraph 47, and the allegations are
14 therefore denied.
15

16 48. Federal Defendants lack knowledge or information sufficient to form a
17 belief as to the truth of the allegations in Paragraph 48, and the allegations are
18 therefore denied.
19

20 49. Federal Defendants lack knowledge or information sufficient to form a
21 belief as to the truth of the allegations in Paragraph 49, and the allegations are
22 therefore denied.
23

24 50. Federal Defendants deny the allegations in Paragraph 50.

25 51. Federal Defendants admit the allegations in Paragraph 51.

26 52. Federal Defendants admit that Ester M. McCullough is the District
27 Manager for BLM's Winnemucca District Office and that she signed the ROD for the
28

1 Project, but deny the remaining allegations of the first sentence of Paragraph 52 as
2 vague. The allegations in the second sentence constitute Plaintiffs' statement of their
3 case to which no response is required. To the extent a response is required, the
4 allegations are denied.
5

6 53. The allegations in Paragraph 53 constitute legal conclusions to which no
7 response is required. To the extent that a response is required, the allegations are
8 denied.
9

10 54. The allegations in Paragraph 54 constitute legal conclusions to which no
11 response is required. To the extent that a response is required, the allegations are
12 denied. The allegations in Paragraph 54 further purport to characterize FLPMA and 43
13 U.S.C. § 1732(a), which speak for themselves and provide the best evidence of their
14 contents. Any allegations contrary to their plain meaning, language and context are
15 denied.
16

17 55. The allegations in Paragraph 55 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 55 further purport to characterize FLPMA and 43
20 U.S.C. § 1701(a)(8), which speak for themselves and provide the best evidence of their
21 contents. Any allegations contrary to their plain meaning, language and context are
22 denied.
23

24 56. The allegations in Paragraph 56 constitute legal conclusions to which no
25 response is required. To the extent that a response is required, the allegations are
26 denied. The allegations in Paragraph 56 further purport to characterize a judicial
27
28

1 opinion in *Or. Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1128 (9th Cir.
2 2007), which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language and context are denied.
4

5 57. The allegations in Paragraph 57 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 57 further purport to characterize FLPMA and 43
8 U.S.C. § 1732(b), which speak for themselves and provide the best evidence of their
9 contents. Any allegations contrary to their plain meaning, language and context are
10 denied.
11

12 58. The allegations in Paragraph 58 constitute legal conclusions to which no
13 response is required. To the extent that a response is required, the allegations are
14 denied. The allegations in Paragraph 58 further purport to characterize 43 C.F.R.
15 § 1610.5-3(a), which speaks for itself and provides the best evidence of its contents.
16 Any allegations contrary to its plain meaning, language and context are denied.
17

18 59. The allegations in Paragraph 59 constitute legal conclusions to which no
19 response is required. To the extent that a response is required, the allegations are
20 denied. The allegations in Paragraph 59 further purport to characterize 43 C.F.R. §§
21 1610.5-3(b) and 1601.0-5(b) and (c), which speak for themselves and provide the best
22 evidence of their contents. Any allegations contrary to their plain meaning, language
23 and context are denied.
24

25 60. The allegations in Paragraph 60 constitute legal conclusions to which no
26 response is required. To the extent that a response is required, the allegations are
27
28

1 denied. The allegations in Paragraph 60 further purport to characterize a judicial
2 opinion in *Mineral Policy Center v. Norton*, 292 F. Supp. 2d 30, 49 (D.D.C. 2003),
3 which speaks for itself and provides the best evidence of its contents. Any allegations
4 contrary to its plain meaning, language and context are denied.
5

6 61. The allegations in Paragraph 61 constitute legal conclusions to which no
7 response is required. To the extent that a response is required, the allegations are
8 denied.
9

10 62. The allegations in Paragraph 62 are vague and constitute legal conclusions
11 to which no response is required. To the extent that a response is required, the
12 allegations are denied. The allegations in Paragraph 62 further purport to characterize
13 the Winnemucca Resource Management Plan (“RMP”) approved in the May 2015
14 ROD, the 2015 BLM NV/CA ARMPA approved in the 2015 GB ARMPAs ROD, and
15 the 2019 Nevada and Northeastern California Greater Sage-Grouse Record of Decision
16 and Approved Resource Management Plan Amendment (“2019 ROD and Approved
17 RMPA”), which speak for themselves and provide the best evidence of their contents.
18 Any allegations contrary to their plain meaning, language and context are denied.
19
20

21 63. The allegations in Paragraph 63 purport to characterize the Sage-grouse
22 National Technical Team’s *Report on National Greater Sage-Grouse Conservation*
23 *Measures* (Dec. 21, 2011) (“NTT Report”), which speaks for itself and provides the
24 best evidence of its contents. Any allegations contrary to its plain meaning, language,
25 and context are denied
26
27
28

1 64. The allegations in Paragraph 64 purport to characterize the NTT Report,
2 which speaks for itself and provides the best evidence of its contents. Any allegations
3 contrary to its plain meaning, language, and context are denied
4

5 65. The allegations in Paragraph 65 purport to characterize the U.S. Fish and
6 Wildlife Service's ("FWS") Greater Sage-grouse Conservation Objectives: Final
7 Report (Feb. 2013), which speaks for itself and provides the best evidence of its
8 contents. Any allegations contrary to its plain meaning, language, and context are
9 denied.
10

11 66. The allegations in Paragraph 66 purport to characterize the 2015 GB
12 ARMPAs ROD, which speaks for itself and provides the best evidence of its contents.
13 Any allegations contrary to its plain meaning, language, and context are denied
14

15 67. The allegations in Paragraph 67 purport to characterize the 2015 GB
16 ARMPAs ROD, which speaks for itself and provides the best evidence of its contents.
17 Any allegations contrary to its plain meaning, language, and context are denied
18

19 68. Federal Defendants admit that in 2015 BLM issued RODs in 2015
20 approving a series of RMPAs and RMPs intended to protect the greater sage grouse.
21 The remaining allegations in Paragraph 68 are vague and therefore denied. To the
22 extent that the allegations in Paragraph 68 purport to characterize various Approved
23 RMPs, ARMPAs, and RODs, those documents speak for themselves and provide the
24 best evidence of their contents. Any allegations contrary to their plain meaning,
25 language, and context are denied.
26
27
28

1 69. The allegations in Paragraph 69 purport to characterize the FEIS for the
2 Project and a Nevada Department of Wildlife Greater Sage-Grouse Habitat
3 Categorization map, which speak for themselves and provide the best evidence of their
4 contents. Any allegations contrary to their plain meaning, language, and context are
5 denied.
6

7 70. The allegations in Paragraph 70 purport to characterize the 2015 BLM
8 NV/CA ARMPA, which speaks for itself and provides the best evidence of its
9 contents. Any allegations contrary to its plain meaning, language, and context are
10 denied.
11

12 71. The allegations in Paragraph 71 constitute legal conclusions to which no
13 response is required, and purport to characterize the FEIS for the Project, which speaks
14 for itself and provides the best evidence of its contents. Any allegations contrary to its
15 plain meaning, language, and context are denied.
16

17 72. The allegations in Paragraph 72 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 72 further purport to characterize the 2015 BLM
20 NV/CA ARMPA and the FEIS for the Project, which speak for themselves and provide
21 the best evidence of their contents. Any allegations contrary to their plain meaning,
22 language, and context are denied.
23

24 73. The allegations in Paragraph 73 constitute legal conclusions to which no
25 response is required. To the extent that a response is required, the allegations are
26 denied. The allegations in Paragraph 73 further purport to characterize the 2015 BLM
27
28

1 NV/CA ARMPA, which speaks for itself and provides the best evidence of its
2 contents. Any allegations contrary to its plain meaning, language, and context are
3 denied.

4
5 74. The allegations in Paragraph 74 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 74 further purport to characterize the 2015 BLM
8 NV/CA ARMPA, which speaks for itself and provides the best evidence of its
9 contents. Any allegations contrary to its plain meaning, language, and context are
10 denied.

11
12 75. The allegations in Paragraph 75 constitute legal conclusions to which no
13 response is required. To the extent that a response is required, the allegations are
14 denied. The allegations in Paragraph 75 further purport to characterize the 2015 BLM
15 NV/CA ARMPA, which speaks for itself and provides the best evidence of its
16 contents. Any allegations contrary to its plain meaning, language, and context are
17 denied.

18
19
20 76. Federal Defendants deny the allegations in Paragraph 76.

21 77. The allegations in Paragraph 77 purport to characterize the ROD and FEIS
22 for the Project, which speak for themselves and provide the best evidence of their
23 contents. Any allegations contrary to their plain meaning, language, and context are
24 denied. The allegations in Paragraph 77 further constitute legal conclusions to which
25 no response is required. To the extent that a response is required, the allegations are
26 denied.

1 78. The allegations in Paragraph 78 purport to characterize the ROD and FEIS
2 for the Project and unidentified correspondence between Plaintiffs and BLM, which
3 speak for themselves and provide the best evidence of their contents. Any allegations
4 contrary to their plain meaning, language, and context are denied.
5

6 79. Federal Defendants admit that the 2015 NV/CA ARMPA incorporates a
7 disturbance cap of 3% within the biologically sensitive unit and proposed project
8 analysis areas in Priority Habitat Management Areas unless a biological analysis
9 indicates a net conservation gain to the species, and that BLM did not convene the
10 “technical team,” described in the 2015 NV/CA ARMPA, Appendix E, to conduct the
11 biological analysis regarding a net conservation gain to the greater sage-grouse prior to
12 the issuance of the ROD for this Project. Federal Defendants deny the remaining
13 allegations in Paragraph 79.
14
15

16 80. The allegations in the first and third sentences of Paragraph 80 constitute
17 legal conclusions to which no response is required. To the extent that a response is
18 required, the allegations are denied. The allegations in the second and third sentences
19 of Paragraph 80 purport to characterize the FEIS for the Project and the 2015 BLM
20 NV/CA ARMPA, respectively, which speak for themselves and provide the best
21 evidence of their contents. Any allegations contrary to their plain meaning, language,
22 and context are denied.
23
24

25 81. The allegations in Paragraph 81 constitute legal conclusions to which no
26 response is required. To the extent that a response is required, the allegations are
27 denied. The allegations in Paragraph 81 further purport to characterize the FEIS for the
28

1 Project and the 2015 BLM NV/CA ARMPA, which speak for themselves and provide
2 the best evidence of their contents. Any allegations contrary to their plain meaning,
3 language, and context are denied.
4

5 82. The allegations in the first sentence of Paragraph 82 constitute legal
6 conclusions to which no response is required. To the extent that a response is required,
7 the allegations are denied. The allegations in the first sentence of Paragraph 82 further
8 purport to characterize the FEIS for the Project and the 2015 BLM NV/CA ARMPA,
9 which speak for themselves and provide the best evidence of their contents. Any
10 allegations contrary to their plain meaning, language, and context are denied. Federal
11 Defendants deny the allegations in the second sentence of Paragraph 82.
12

13 83. The allegations in Paragraph 83 purport to characterize FEIS for the
14 Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language, and context are denied.
16

17 84. The allegations in the first sentence of Paragraph 84 constitute legal
18 conclusions to which no response is required. To the extent that a response is required,
19 the allegations are denied. The allegations in the first sentence of Paragraph 84 further
20 purport to characterize the FEIS for the Project, the 2015 BLM NV/CA ARMPA, and
21 the 2015 GB ARMPAs ROD, which speak for themselves and provide the best
22 evidence of their contents. Any allegations contrary to their plain meaning, language,
23 and context are denied. Federal Defendants deny the allegations in the second and third
24 sentences of Paragraph 84.
25
26
27
28

1 85. The allegations in Paragraph 85 constitute legal conclusions to which no
2 response is required. To the extent that a response is required, the allegations are
3 denied. The allegations in Paragraph 85 further purport to characterize FEIS for the
4 Project, which speaks for itself and provides the best evidence of its contents. Any
5 allegations contrary to its plain meaning, language, and context are denied.
6

7 86. Federal Defendants deny the allegations in Paragraph 86.
8

9 87. Federal Defendants admit the allegations in the first sentence of
10 Paragraph 87 that LNC holds mining claims within the Project site and that BLM did
11 not prepare a mineral examination report before issuing the challenged decision, but
12 further aver that BLM's regulations at 43 C.F.R. § 3809.100 do not require BLM to do
13 so. Federal Defendants deny the remaining allegations in Paragraph 87. To the extent
14 the allegations in Paragraph 87 purport to characterize the FEIS for the Project, the
15 NTT Report, and the Mining Law of 1872, those documents speak for themselves and
16 provide the best evidence of their contents. Any allegations contrary to their plain
17 meaning, language, and context are denied.
18

19 88. The allegations in Paragraph 88 constitute legal conclusions to which no
20 response is required. To the extent that a response is required, the allegations are
21 denied. The allegations in Paragraph 88 further purport to characterize FLPMA and the
22 2015 BLM NV/CA ARMPA, which speak for themselves and provide the best
23 evidence of their contents. Any allegations contrary to their plain meaning, language,
24 and context are denied.
25
26
27
28

1 89. The allegations in Paragraph 89 constitute legal conclusions to which no
2 response is required. To the extent that a response is required, the allegations are
3 denied. The allegations in Paragraph 89 further purport to characterize a document
4 published in the Federal Register, 65 Fed. Reg. 69,998, 70,053 (Nov. 21, 2000), which
5 speaks for itself and provides the best evidence of its contents. Federal Defendants
6 aver that the quoted material actually appears on page 70,052, which also speaks for
7 itself and provides the best evidence of its contents. Any allegations contrary to its
8 plain meaning, language, and context are denied.
9
10

11 90. The allegations in Paragraph 90 constitute legal conclusions to which no
12 response is required. To the extent that a response is required, the allegations are
13 denied. The allegations in Paragraph 90 further purport to characterize the FEIS for the
14 Project, FLPMA, the Winnemucca RMP approved in the May 2015 ROD, the 2015
15 BLM NV/CA ARMPA approved in the 2015 GB ARMPAs ROD, and the 2019 ROD
16 and Approved RMPA, which speak for themselves and provide the best evidence of
17 their contents. Any allegations contrary to their plain meaning, language, and context
18 are denied.
19
20

21 91. The allegations in Paragraph 91 purport to characterize the ROD and FEIS
22 for the Project, which speak for themselves and provide the best evidence of their
23 contents. Any allegations contrary to their plain meaning, language, and context are
24 denied.
25

26 92. The allegations in Paragraph 92 purport to characterize FLPMA and 43
27 U.S.C. §§ 1701(a)(8) and 1702(c), which speak for themselves and provide the best
28

1 evidence of their contents. Any allegations contrary to their plain meaning, language,
2 and context are denied.

3 93. The allegations in Paragraph 93 purport to characterize FLPMA, 43 U.S.C.
4 §§ 1701(a)(8) and 1702(c), and the Winnemucca RMP approved in the May 2015
5 ROD, which speak for themselves and provide the best evidence of their contents. Any
6 allegations contrary to their plain meaning, language, and context are denied.
7

8 94. The allegations in Paragraph 94 purport to characterize the Winnemucca
9 District Proposed Resource Management Plan, Final EIS, DOI-BLM-NV-W000-2010-
10 0001-EIS (Aug. 2013), Vol. 1, which speaks for itself and provides the best evidence
11 of its contents. Any allegations contrary to its plain meaning, language, and context are
12 denied.
13

14 95. The allegations in Paragraph 95 purport to characterize the FEIS for the
15 Project, which speaks for itself and provides the best evidence of its contents. Any
16 allegations contrary to its plain meaning, language, and context are denied.
17

18 96. The allegations in Paragraph 96 purport to characterize the FEIS for the
19 Project, which speaks for itself and provides the best evidence of its contents. Any
20 allegations contrary to its plain meaning, language, and context are denied.
21

22 97. The allegations in Paragraph 97 purport to characterize the FEIS for the
23 Project, which speaks for itself and provides the best evidence of its contents. Any
24 allegations contrary to its plain meaning, language, and context are denied.
25
26
27
28

1 98. The allegations in Paragraph 98 purport to characterize the FEIS for the
2 Project, which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language, and context are denied.
4

5 99. The allegations in Paragraph 99 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied.
8

9 100. Federal Defendants admit the allegations in the first sentence of
10 Paragraph 100 that one or more of the Plaintiffs submitted comments on the DEIS. The
11 remaining allegations in the first sentence of Paragraph 100 purport to characterize the
12 FEIS for the Project, which speaks for itself and provides the best evidence of its
13 contents. Any allegations contrary to its plain meaning, language, and context are
14 denied. Federal Defendants deny the allegations in the second sentence of
15 Paragraph 100.
16

17 101. The allegations in the first, second, and fourth sentences of Paragraph 101
18 constitute legal conclusions to which no response is required. To the extent that a
19 response is required, the allegations are denied. The allegations in Paragraph 101
20 further purport to characterize NEPA, 43 C.F.R. § 1503.4(a), a judicial decision in *City*
21 *of Davis v. Coleman*, 521, F.2d 661, 679 (9th Cir. 1975), the APA, and a judicial
22 decision in *NRDC v. EPA*, 859 F.2d 156, 188 (D.C. Cir. 1988), which speak for
23 themselves and provide the best evidence of their contents. Any allegations contrary to
24 their plain meaning, language, and context are denied.
25
26
27
28

1 102. The allegations in Paragraph 102 constitute legal conclusions to which no
2 response is required. To the extent that a response is required, the allegations are
3 denied.
4

5 103. Federal Defendants admit the allegations in the first sentence of
6 Paragraph 103. The remaining allegations in Paragraph 103 purport to characterize the
7 Notice of Intent to Prepare a Draft EIS for the Project, published in the Federal
8 Register at 85 Fed. Reg. 3413-15 (Jan. 21, 2020), which speaks for itself and provides
9 the best evidence of its contents. Any allegations contrary to its plain meaning,
10 language, and context are denied.
11

12 104. The allegations in Paragraph 104 are vague and purport to characterize the
13 FEIS for the Project, which speaks for itself and provides the best evidence of its
14 contents. Any allegations contrary to its plain meaning, language, and context are
15 denied.
16

17 105. The allegations in Paragraph 105 constitute legal conclusions to which no
18 response is required, and purport to characterize 43 C.F.R. § 1610.2(e), which speaks
19 for itself and provides the best evidence of its contents. Any allegations contrary to its
20 plain meaning, language, and context are denied.
21

22 106. Federal Defendants admit that the Draft EIS for the Project was published
23 on its e-planning website on July 29, 2020. The remaining allegations in
24 Paragraph 106 purport to characterize the Notice of Availability of the Draft EIS for
25 the Project , published in the Federal Register at 85 Fed. Reg. 45651-52 (July 29,
26 2020), and the Draft EIS for the Project, which speak for themselves and provide the
27
28

1 best evidence of their contents. Any allegations contrary to their plain meaning,
2 language, and context are denied.

3 107. The allegations in Paragraph 107 purport to characterize the FEIS, ROD,
4 and the Notice of Intent to prepare an EIS for the Project, published by BLM in the
5 Federal Register on January 21, 2020 (FR Volume 85, Number 13), which speak for
6 themselves and provide the best evidence of their contents. Any allegations contrary to
7 their plain meaning, language, and context are denied.
8

9 108. Federal Defendants deny the allegations in Paragraph 108. The allegations
10 in Paragraph 108 further purport to characterize the FEIS for the Project, which speaks
11 for itself and provides the best evidence of its contents. Any allegations contrary to its
12 plain meaning, language, and context are denied.
13

14 109. The allegations in Paragraph 109 constitute legal conclusions to which no
15 response is required. To the extent that a response is required, the allegations are
16 denied. The allegations in Paragraph 109 further purport to characterize the Mining
17 Law of 1872 and judicial decisions in *Lara v. Secretary of the Interior*, 820 F.2d 1535,
18 1537 (9th Cir. 1987) and *Davis v. Nelson*, 329 F.2d at 845 (9th Cir. 1964), which speak
19 for themselves and provide the best evidence of their contents. Any allegations
20 contrary to their plain meaning, language, and context are denied.
21

22 110. The allegations in the first sentence of Paragraph 110 purport to
23 characterize the ROD for the Project, which speaks for itself and provides the best
24 evidence of its contents. Any allegations contrary to its plain meaning, language, and
25 context are denied. The remaining sentence of Paragraph 110 constitute legal
26
27
28

1 conclusions to which no response is required. To the extent that a response is required,
2 the allegations are denied. The remaining allegations in Paragraph 110 further purport
3 to characterize the Mining Law of 1872 and 30 U.S.C. § 22, which speak for
4 themselves and provide the best evidence of their contents. Any allegations contrary to
5 their plain meaning, language, and context are denied.
6

7 111. The allegations in Paragraph 111 constitute legal conclusions to which no
8 response is required. To the extent that a response is required, the allegations are
9 denied. The allegations in Paragraph 111 further purport to characterize the Mining
10 Law of 1872, 30 U.S.C. § 23, and judicial decisions in *Cole v. Ralph*, 252 U.S. 286,
11 295–96 (1920), *Freeman v. Dept. of Interior*, 37 F.Supp.3d 313, 319 (D.D.C. 2014),
12 and *Center for Biological Diversity v. U.S. Fish and Wildlife Service*, 409 F.Supp.3d
13 738, 748 (D. Ariz. 2019), which speak for themselves and provide the best evidence of
14 their contents. Any allegations contrary to their plain meaning, language, and context
15 are denied.
16

17 112. The allegations in Paragraph 112 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 112 further purport to characterize the Mining
20 Law of 1872 and a judicial decision in *U.S. v. Coleman*, 390 U.S. 599, 602 (1968),
21 which speak for themselves and provide the best evidence of their contents. Any
22 allegations contrary to their plain meaning, language, and context are denied.
23

24 113. The allegations in Paragraph 113 purport to characterize the FEIS and
25 ROD for the Project, which speak for themselves and provide the best evidence of their
26
27
28

1 contents. Any allegations contrary to their plain meaning, language, and context are
2 denied.

3 114. The allegations in Paragraph 114 purport to characterize the Plan of
4 Operations for the Project, which speaks for itself and provides the best evidence of its
5 contents. Any allegations contrary to its plain meaning, language, and context are
6 denied.
7

8 115. Federal Defendants admit the allegations in Paragraph 115 that BLM did
9 not prepare a mineral examination report before issuing the challenged decision and
10 aver that BLM's regulations at 43 C.F.R. § 3809.100 do not require BLM to do so.
11 Federal Defendants deny the remaining allegations in Paragraph 115.
12

13 116. Federal Defendants admit the allegations in Paragraph 116 that BLM did
14 not prepare a mineral examination report before issuing the ROD for the Project and
15 aver that BLM's regulations at 43 C.F.R. § 3809.100 do not require BLM to do so.
16 Federal Defendants deny the remaining allegations in Paragraph 116.
17

18 117. The allegations in Paragraph 117 purport to characterize the FEIS and
19 ROD for the Project, which speak for themselves and provide the best evidence of their
20 contents. Any allegations contrary to their plain meaning, language, and context are
21 denied. The allegations in the second sentence of Paragraph 117 further constitute legal
22 conclusions to which no response is required. To the extent that a response is required,
23 the allegations are denied.
24

25 118. The allegations in Paragraph 118 constitute legal conclusions to which no
26 response is required. To the extent that a response is required, the allegations are
27
28

1 denied. The allegations in Paragraph 118 further purport to characterize the Surface
2 Resources and Multiple Use Act of 1955 and 30 U.S.C. § 611, which speak for
3 themselves and provide the best evidence of their contents. Any allegations contrary to
4 their plain meaning, language, and context are denied.
5

6 119. Federal Defendants admit the allegations in Paragraph 119 that BLM did
7 not prepare a mineral examination report before issuing the challenged decision and
8 aver that BLM's regulations at 43 C.F.R. §§ 3809.100 and 3809.101 do not require
9 BLM to do so. Federal Defendants deny the remaining allegations in Paragraph 119.
10

11 120. The allegations in the first sentence of Paragraph 120 purport to
12 characterize the FEIS for the Project, which speaks for itself and provides the best
13 evidence of its contents. Any allegations contrary to its plain meaning, language, and
14 context are denied. The allegations in the second sentence of Paragraph 120 constitute
15 legal conclusions to which no response is required. To the extent that a response is
16 required, the allegations are denied.
17

18 121. The allegations in Paragraph 121 constitute legal conclusions to which no
19 response is required. To the extent that a response is required, the allegations are
20 denied.
21

22 122. The allegations in Paragraph 122 purport to characterize NEPA and 40
23 C.F.R. § 1500.1(a), which speak for themselves and provide the best evidence of their
24
25
26
27
28

1 contents.¹ Any allegations contrary to their plain meaning, language, and context are
2 denied.

3 123. The allegations in Paragraph 123 constitute legal conclusions to which no
4 response is required. To the extent that a response is required, the allegations are
5 denied. The allegations in Paragraph 123 further purport to characterize NEPA, 40
6 C.F.R. §§ 1500.1(b), 1500.1.2, and 1502.5, and judicial decisions in *Idaho Sporting*
7 *Congress v. Thomas*, 137 F.3d 1146, 1150 (9th Cir. 1998) and *N. Plains v. Surface*
8 *Transp. Bd.*, 668 F.3d 1067, 1075 (9th Cir. 2011), which speak for themselves and
9 provide the best evidence of their contents. Any allegations contrary to their plain
10 meaning, language, and context are denied.

11 124. The allegations in Paragraph 124 constitute legal conclusions to which no
12 response is required. To the extent that a response is required, the allegations are
13 denied. The allegations in Paragraph 124 further purport to characterize NEPA and 42
14 U.S.C. § 4332(2)(C), which speak for themselves and provide the best evidence of
15 their contents. Any allegations contrary to their plain meaning, language, and context
16 are denied.

17 125. The allegations in Paragraph 125 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 125 further purport to characterize NEPA and 40
20 C.F.R. §§ 1508.7, 1508.8, 1508.9, and 1508.25(c), which speak for themselves and

21
22
23
24
25
26
27 ¹ Federal Defendants admit the allegations in FN 1 of the Complaint that revised NEPA regulations went into effect
28 on September 14, 2020. The remaining allegations in FN 1 purport to characterize the FEIS for the Project, which
speaks for itself and is the best evidence of its contents. Any allegations contrary to its plain meaning, language, and
context are denied.

1 provide the best evidence of their contents. Any allegations contrary to their plain
2 meaning, language, and context are denied.

3 126. The allegations in Paragraph 126 constitute legal conclusions to which no
4 response is required. To the extent that a response is required, the allegations are
5 denied. The allegations in Paragraph 126 further purport to characterize NEPA and 40
6 C.F.R. § 1502.2(d), which speak for themselves and provide the best evidence of their
7 contents. Any allegations contrary to their plain meaning, language, and context are
8 denied.
9

10 127. The allegations in Paragraph 127 constitute legal conclusions to which no
11 response is required. To the extent that a response is required, the allegations are
12 denied. The allegations in Paragraph 127 further purport to characterize FLPMA and
13 43 U.S.C. § 1732(b), which speak for themselves and provide the best evidence of
14 their contents. Any allegations contrary to their plain meaning, language, and context
15 are denied.
16

17 128. The allegations in Paragraph 128 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 128 further purport to characterize NEPA,
20 FLPMA and a decision of Interior's Board of Land Appeals in *Island Mountain*
21 *Protectors*, 144 IBLA 168, 202, 1998 WL 344223, at *2843 (1998), which speak for
22 themselves and provide the best evidence of their contents. Any allegations contrary to
23 their plain meaning, language, and context are denied.
24
25
26
27
28

1 129. The allegations in Paragraph 129 constitute legal conclusions to which no
2 response is required. To the extent that a response is required, the allegations are
3 denied. The allegations in Paragraph 129 further purport to characterize 43 C.F.R. §
4 3809.5, which speaks for itself and provides the best evidence of its contents. Any
5 allegations contrary to its plain meaning, language, and context are denied.
6

7 130. The allegations in Paragraph 130 purport to characterize BLM's Special
8 Status Species Management Manual, which speaks for itself and provides the best
9 evidence of its contents. Any allegations contrary to its plain meaning, language, and
10 context are denied.
11

12 131. The allegations in Paragraph 131 purport to characterize BLM's Special
13 Status Species Management Manual, which speaks for itself and provides the best
14 evidence of its contents. Any allegations contrary to its plain meaning, language, and
15 context are denied.
16

17 132. The allegations in the first sentence of Paragraph 132 constitute legal
18 conclusions to which no response is required. To the extent that a response is required,
19 the allegations are denied. The allegations in the first sentence of Paragraph 132
20 further purport to characterize the FEIS for the Project and 40 C.F.R. § 1502.2(d),
21 which speak for themselves and provide the best evidence of their contents. Any
22 allegations contrary to their plain meaning, language, and context are denied. The
23 allegations in the second sentence of Paragraph 132 purport to characterize the FEIS
24 for the Project, which speaks for itself and provides the best evidence of its contents.
25 Any allegations contrary to its plain meaning, language, and context are denied.
26
27
28

1 133. The allegations in Paragraph 133 constitute legal conclusions to which no
2 response is required. To the extent that a response is required, the allegations are
3 denied. The allegations in Paragraph 133 further purport to characterize FLPMA and
4 43 C.F.R. § 3809.420(b)(4), which speak for themselves and provide the best evidence
5 of their contents. Any allegations contrary to their plain meaning, language, and
6 context are denied.
7

8 134. The allegations in Paragraph 134 purport to characterize the Winnemucca
9 Resource Management Plan as approved in the May 2015 ROD, which speaks for
10 itself and provides the best evidence of its contents. Any allegations contrary to its
11 plain meaning, language, and context are denied.
12

13 135. The allegations in Paragraph 135 constitute legal conclusions to which no
14 response is required. To the extent a response is required, the allegations are denied.
15

16 136. The allegations in Paragraph 136 purport to characterize the FEIS for the
17 Project, which speaks for itself and provides the best evidence of its contents. Any
18 allegations contrary to its plain meaning, language, and context are denied.
19

20 137. The allegations in Paragraph 137 constitute legal conclusions to which no
21 response is required. To the extent that a response is required, the allegations are
22 denied. The allegations in Paragraph 137 further purport to characterize the FEIS for
23 the Project, FLPMA and 43 C.F.R. Subpart 3809, which speak for themselves and
24 provide the best evidence of their contents. Any allegations contrary to their plain
25 meaning, language, and context are denied.
26
27
28

1 138. The allegations in Paragraph 138 purport to characterize the FEIS for the
2 Project, which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language, and context are denied.
4

5 139. The allegations in Paragraph 139 purport to characterize the FEIS for the
6 Project, which speaks for itself and provides the best evidence of its contents. Any
7 allegations contrary to its plain meaning, language, and context are denied.
8

9 140. The allegations in Paragraph 140 purport to characterize the FEIS for the
10 Project, which speaks for itself and provides the best evidence of its contents. Any
11 allegations contrary to its plain meaning, language, and context are denied.
12

13 141. The allegations in Paragraph 141 purport to characterize the FEIS for the
14 Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language, and context are denied.
16

17 142. The allegations in Paragraph 142 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied. The allegations in Paragraph 142 further purport to characterize the FEIS for
20 the Project, NEPA, and FLPMA, which speaks for itself and provides the best
21 evidence of its contents. Any allegations contrary to its plain meaning, language, and
22 context are denied.
23

24 143. The allegations in Paragraph 143 purport to characterize the January 4,
25 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
26 of its contents. Any allegations contrary to its plain meaning, language, and context are
27 denied.
28

1 144. The allegations in Paragraph 144 purport to characterize the January 4,
2 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
3 of its contents. Any allegations contrary to its plain meaning, language, and context are
4 denied.
5

6 145. The allegations in Paragraph 145 purport to characterize the January 4,
7 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
8 of its contents. Any allegations contrary to its plain meaning, language, and context are
9 denied.
10

11 146. The allegations in Paragraph 146 purport to characterize the January 4,
12 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
13 of its contents. Any allegations contrary to its plain meaning, language, and context are
14 denied.
15

16 147. The allegations in Paragraph 147 purport to characterize the January 4,
17 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
18 of its contents. Any allegations contrary to its plain meaning, language, and context are
19 denied.
20

21 148. The allegations in Paragraph 148 purport to characterize the FEIS for the
22 Project, which speaks for itself and provides the best evidence of its contents. Any
23 allegations contrary to its plain meaning, language, and context are denied.
24

25 149. The allegations in the first sentence of Paragraph 149 constitute legal
26 conclusions to which no response is required. To the extent that a response is required,
27 the allegations are denied. The allegations in the second and third sentences of
28

1 Paragraph 149 are vague and purport to characterize the FEIS for the Project, which
2 speaks for itself and provides the best evidence of its contents. Any allegations
3 contrary to its plain meaning, language, and context are denied.
4

5 150. The allegations in Paragraph 150 purport to characterize the FEIS for the
6 Project, which speaks for itself and provides the best evidence of its contents. Any
7 allegations contrary to its plain meaning, language, and context are denied.
8

9 151. The allegations in Paragraph 151 purport to characterize the FEIS for the
10 Project, which speaks for itself and provides the best evidence of its contents. Any
11 allegations contrary to its plain meaning, language, and context are denied.
12

13 152. The allegations in Paragraph 152 are vague and purport to characterize the
14 FEIS for the Project, which speaks for itself and provides the best evidence of its
15 contents. Any allegations contrary to its plain meaning, language, and context are
16 denied.
17

18 153. The allegations in Paragraph 153 constitute legal conclusions to which no
19 response is required. To the extent that a response is required, the allegations are
20 denied. The allegations in Paragraph 153 further purport to characterize the ROD for
21 the Project, FLPMA and 43 C.F.R. Subpart 3809, which speak for themselves and
22 provide the best evidence of their contents. Any allegations contrary to their plain
23 meaning, language, and context are denied.
24

25 154. The allegations in Paragraph 154 constitute legal conclusions to which no
26 response is required. To the extent that a response is required, the allegations are
27 denied. The allegations in Paragraph 154 purport to characterize the FEIS and ROD for
28

1 the Project, as well as FLPMA, NEPA, and their implementing regulations, which
2 speak for themselves and provide the best evidence of their contents. Any allegations
3 contrary to their plain meaning, language, and context are denied.
4

5 155. The allegations in Paragraph 155 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 155 further purport to characterize FLPMA and
8 43 C.F.R. §§ 3809.420(b)(4) and 3809.5, which speak for themselves and provide the
9 best evidence of their contents. Any allegations contrary to their plain meaning,
10 language, and context are denied.
11

12 156. The allegations in Paragraph 156 constitute legal conclusions to which no
13 response is required. To the extent that a response is required, the allegations are
14 denied. The the allegations in Paragraph 156 further purport to characterize Chapter 2
15 of the Winnemucca RMP approved in the May 2015 ROD, which speaks for itself and
16 provides the best evidence of its contents. Any allegations contrary to its plain
17 meaning, language, and context are denied.
18

19 157. Federal Defendants admit that one or more of the Plaintiffs submitted
20 comments on the DEIS. The remaining allegations in Paragraph 157 purport to
21 characterize one or more of Plaintiffs' comments on the DEIS for the Project, as well
22 as the DEIS and FEIS for the Project, which speak for themselves and provide the best
23 evidence of their contents. Any allegations contrary to their plain meaning, language,
24 and context are denied.
25
26
27
28

1 158. The allegations in Paragraph 158 purport to characterize unidentified
2 communications of Plaintiffs and the “national ‘Acid Plant Database,’” which speak
3 for themselves and provide the best evidence of their contents. Any allegations
4 contrary to their plain meaning, language, and context are denied.
5

6 159. The allegations in Paragraph 159 are vague and therefore denied.

7 160. The allegations in the first and second sentences of Paragraph 160 purport
8 to characterize the FEIS for the Project, which speaks for itself and provides the best
9 evidence of its contents. Any allegations contrary to its plain meaning, language, and
10 context are denied. The allegations in the second sentence of Paragraph 160 further
11 constitute legal conclusions to which no response is required. To the extent that a
12 response is required, the allegations are denied. Federal Defendants deny the
13 allegations in the third sentence of Paragraph 160.
14
15

16 161. The allegations in the first sentence of Paragraph 161 purport to
17 characterize the FEIS for the Project, which speaks for itself and provides the best
18 evidence of its contents. Any allegations contrary to its plain meaning, language, and
19 context are denied. The allegations in the second sentence of Paragraph 161 constitute
20 legal conclusions to which no response is required. To the extent that a response is
21 required, the allegations are denied. The allegations in the second sentence of
22 Paragraph 161 further purport to characterize NEPA, FLPMA, and their implementing
23 regulations, which speak for themselves and provide the best evidence of their
24 contents. Any allegations contrary to their plain meaning, language, and context are
25 denied.
26
27
28

1 162. The allegations in the first sentence of Paragraph 162 purport to
2 characterize unidentified correspondence between Plaintiffs and BLM and the FEIS for
3 the Project, which speak for themselves and provide the best evidence of their
4 contents. Any allegations contrary to their plain meaning, language, and context are
5 denied.
6

7 163. The allegations in Paragraph 163 purport to characterize the FEIS for the
8 Project, which speaks for itself and provides the best evidence of its contents. Any
9 allegations contrary to its plain meaning, language, and context are denied.
10

11 164. The allegations in Paragraph 164 purport to characterize the FEIS for the
12 Project, which speaks for itself and provides the best evidence of its contents. Any
13 allegations contrary to its plain meaning, language, and context are denied.
14

15 165. Federal Defendants deny the allegations in Paragraph 165.

16 166. Federal Defendants deny the allegations in Paragraph 166.

17 167. Federal Defendants deny the allegations in Paragraph 167.

18 168. The allegations in Paragraph 168 constitute legal conclusions to which no
19 response is required. To the extent that a response is required, the allegations are
20 denied. The allegations in Paragraph 168 further purport to characterize NEPA and
21 judicial decisions in *Or. Nat. Desert Ass'n v. Jewell*, 823 F.3d 1258 (9th Cir. 2016) and
22 *N. Plains Resource Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1085 (9th Cir.
23 2011), which speak for themselves and provide the best evidence of their contents.
24 Any allegations contrary to their plain meaning, language, and context are denied.
25

26 169. Federal Defendants deny the allegations in Paragraph 169.
27
28

1 170. Federal Defendants deny the allegations in the first sentence of Paragraph
2
3 170. The allegations in the second sentence of Paragraph 170 purport to characterize
4 the FEIS for the Project, which speaks for itself and provides the best evidence of its
5 contents. Any allegations contrary to its plain meaning, language, and context are
6 denied. The allegations in the third sentence of Paragraph 170 purport to characterize
7 an unidentified NDOW report or correspondence, which speaks for itself and provides
8 the best evidence of its contents. Any allegations contrary to its plain meaning,
9 language, and context are denied.
10

11 171. The allegations in the first, second, and third sentences of Paragraph 171
12 purport to characterize the FEIS for the Project, which speaks for itself and provides
13 the best evidence of its contents. Any allegations contrary to its plain meaning,
14 language, and context are denied. Federal Defendants deny the allegations in the fourth
15 and fifth sentences of Paragraph 171. The allegations in the sixth sentence purport to
16 characterize the FEIS for the Project and unidentified correspondence between
17 Plaintiffs and BLM, which speak for themselves and provide the best evidence of their
18 contents. Any allegations contrary to their plain meaning, language, and context are
19 denied.
20
21

22 172. The allegations in Paragraph 172 purport to characterize the FEIS for the
23 Project, which speaks for itself and provides the best evidence of its contents. Any
24 allegations contrary to its plain meaning, language, and context are denied.
25

26 173. The allegations in the first, second, and third sentences of Paragraph 173
27 purport to characterize the FEIS for the Project, which speaks for itself and provides
28

1 the best evidence of its contents. Any allegations contrary to its plain meaning,
2 language, and context are denied. The allegations in the fourth sentence purport to
3 characterize the FEIS for the Project and unidentified correspondence between
4 Plaintiffs and BLM, which speak for themselves and provide the best evidence of their
5 contents. Any allegations contrary to their plain meaning, language, and context are
6 denied.
7

8 174. The allegations in Paragraph 174 purport to characterize the FEIS for the
9 Project, which speaks for itself and provides the best evidence of its contents. Any
10 allegations contrary to its plain meaning, language, and context are denied.
11

12 175. The allegations in Paragraph 175 purport to characterize the FEIS for the
13 Project, which speaks for itself and provides the best evidence of its contents. Any
14 allegations contrary to its plain meaning, language, and context are denied.
15

16 176. The allegations in Paragraph 176 purport to characterize the FEIS for the
17 Project, which speaks for itself and provides the best evidence of its contents. Any
18 allegations contrary to its plain meaning, language, and context are denied.
19

20 177. The allegations in Paragraph 177 purport to characterize the FEIS for the
21 Project, which speaks for itself and provides the best evidence of its contents. Any
22 allegations contrary to its plain meaning, language, and context are denied.
23

24 178. The allegations in Paragraph 178 purport to characterize the FEIS for the
25 Project, which speaks for itself and provides the best evidence of its contents. Any
26 allegations contrary to its plain meaning, language, and context are denied.
27
28

1 179. The allegations in Paragraph 179 purport to characterize the FEIS for the
2 Project and unidentified correspondence between Plaintiffs and BLM, which speak for
3 themselves and provide the best evidence of their contents. Any allegations contrary to
4 their plain meaning, language, and context are denied.
5

6 180. The allegations in Paragraph 180 constitute legal conclusions to which no
7 response is required. To the extent that a response is required, the allegations are
8 denied. The allegations in Paragraph 180 further purport to characterize the Bald and
9 Golden Eagle Protection Act, 16 U.S.C. §§ 668-668(c), the Migratory Bird Treaty Act,
10 16 U.S.C. §§ 703-712, and 50 C.F.R. § 22.3, which speak for themselves and provide
11 the best evidence of their contents. Any allegations contrary to their plain meaning,
12 language, and context are denied.
13

14 181. The allegations in Paragraph 181 purport to characterize the “Thacker Pass
15 Eagle Conservation Plan” and the FEIS for the Project, which speak for themselves
16 and provide the best evidence of their contents. Any allegations contrary to their plain
17 meaning, language, and context are denied.
18

19 182. The allegations in Paragraph 182 purport to characterize the FEIS for the
20 Project and unidentified correspondence between Plaintiffs and BLM, which speak for
21 themselves and provide the best evidence of their contents. Any allegations contrary to
22 their plain meaning, language, and context are denied.
23

24 183. The allegations in Paragraph 183 purport to characterize the FEIS for the
25 Project and Plaintiffs’ comment letters, which speak for themselves and provide the
26
27
28

1 best evidence of their contents. Any allegations contrary to their plain meaning,
2 language, and context are denied.

3 184. The allegations in Paragraph 184 purport to characterize the FEIS for the
4 Project, which speaks for itself and provides the best evidence of its contents. Any
5 allegations contrary to its plain meaning, language, and context are denied.
6

7 185. The allegations in Paragraph 185 purport to characterize the FEIS for the
8 Project, which speaks for itself and provides the best evidence of its contents. Any
9 allegations contrary to its plain meaning, language, and context are denied.
10

11 186. The allegations in Paragraph 186 purport to characterize the FEIS for the
12 Project, which speaks for itself and provides the best evidence of its contents. Any
13 allegations contrary to its plain meaning, language, and context are denied.
14

15 187. The allegations in Paragraph 187 purport to characterize the FEIS for the
16 Project and unidentified correspondence between Plaintiffs and BLM, which speak for
17 themselves and provide the best evidence of their contents. Any allegations contrary to
18 their plain meaning, language, and context are denied.
19

20 188. The allegations in Paragraph 188 purport to characterize the FEIS for the
21 Project, which speaks for itself and provides the best evidence of its contents. Any
22 allegations contrary to its plain meaning, language, and context are denied.
23

24 189. The allegations in Paragraph 189 constitute Plaintiffs' characterization of
25 their case to which no response is required, and purport to characterize the FEIS for the
26 Project, which speaks for itself and provides the best evidence of its contents. Any
27 allegations contrary to its plain meaning, language, and context are denied.
28

1 190. The allegations in the first, second, fifth, and sixth sentences of
2 Paragraph 190 purport to characterize the FEIS for the Project, which speaks for itself
3 and provides the best evidence of its contents. Any allegations contrary to its plain
4 meaning, language, and context are denied. The allegations in the third and fourth
5 sentences of Paragraph 190 purport to characterize “the State of Nevada’s At Risk
6 Tracking List of imperiled species” and “the State of Nevada’s Watch List of species
7 of long-term concern,” which speak for themselves and are the best evidence of their
8 contents. Any allegations contrary to their plain meaning, language, and context are
9 denied.
10

11 191. The allegations in the first, second, and third sentences of Paragraph 191
12 purport to characterize the FEIS for the Project, which speaks for itself and provides
13 the best evidence of its contents. Any allegations contrary to its plain meaning,
14 language, and context are denied. Federal Defendants admit the allegations in the
15 fourth sentence of Paragraph 191 that population studies of which they are aware
16 indicate that the Kings River pyrg is endemic to the Kings River Valley, but deny the
17 remaining allegations in the fourth sentence of Paragraph 191. The allegations in the
18 fifth sentence of Paragraph 191 are vague and therefore denied. The allegations in the
19 sixth sentence of Paragraph 191 purport to characterize the NDOW’s comment on the
20 FEIS for the Project and “Wildlife Resource Consultants, Lithium Nevada 2018
21 Springsnail (*Pyrgulopsis* spp.) Survey, at p. 7, December 19, 2018,” which speak for
22 themselves and provide the best evidence of their contents. Any allegations contrary to
23 their plain meaning, language, and context are denied.
24
25
26
27
28

1 192. The allegations in Paragraph 192 purport to characterize the FEIS for the
2 Project, which speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to its plain meaning, language, and context are denied.
4

5 193. Federal Defendants admit the allegations in Paragraph 193 that FWS has
6 listed the Lahontan cutthroat trout (“LCT”) as Threatened pursuant to the Endangered
7 Species Act, 16 U.S.C. 1531, *et seq.* Federal Defendants deny the remaining
8 allegations in Paragraph 193.
9

10 194. Federal Defendants deny the allegations in Paragraph 194.

11 195. The allegations in Paragraph 195 purport to characterize the FEIS for the
12 Project, which speaks for itself and provides the best evidence of its contents. Any
13 allegations contrary to its plain meaning, language, and context are denied.
14

15 196. Federal Defendants deny the allegations in Paragraph 196. Federal
16 Defendants further aver that BLM commenced an informal consultation with FWS on
17 November 6, 2020, and concluded that consultation on December 4, 2020.
18

19 197. The allegations in Paragraph 197 constitute legal conclusions to which no
20 response is required. To the extent that a response is required, the allegations are
21 denied. The allegations in Paragraph 197 further purport to characterize a judicial
22 decision in *Karuk Tribe of California v. U.S. Forest Service*, 681 F.3d 1006, 1020,
23 1027 (9th Cir. 2012), 16 U.S.C. § 1536(a)(2), and 50 C.F.R. § 402.14(a), which speak
24 for themselves and provide the best evidence of their contents. Any allegations
25 contrary to their plain meaning, language, and context are denied.
26
27
28

1 198. Federal Defendants lack knowledge or information sufficient to form a
2 belief as to the truth of the allegations in Paragraph 198, and the allegations are
3 therefore denied.
4

5 199. The allegations in Paragraph 199 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 199 further purport to characterize the FEIS for
8 the Project, which speaks for itself and provides the best evidence of its contents. Any
9 allegations contrary to its plain meaning, language, and context are denied.
10

11 200. The allegations in Paragraph 200 constitute legal conclusions to which no
12 response is required. To the extent that a response is required, the allegations are
13 denied. The allegations in Paragraph 200 further purport to characterize NEPA and 43
14 C.F.R. § 1508.7, which speak for themselves and provide the best evidence of their
15 contents. Any allegations contrary to their plain meaning, language, and context are
16 denied.
17

18 201. The allegations in Paragraph 201 constitute legal conclusions to which no
19 response is required. To the extent that a response is required, the allegations are
20 denied. The allegations in Paragraph 201 further purport to characterize judicial
21 decisions in *Te-Moak Tribe of W. Shoshone of Nev. v. U.S. Dep't of Interior*, 608 F.3d
22 592, 603 (9th Cir. 2010) and *Great Basin Resource Watch v. BLM*, 844 F.3d 1095,
23 1104 (9th Cir. 2016), which speak for themselves and provide the best evidence of
24 their contents. Any allegations contrary to their plain meaning, language, and context
25 are denied.
26
27
28

1 202. Federal Defendants deny the allegations in Paragraph 202.

2 203. The allegations in Paragraph 203 constitute legal conclusions to which no
3 response is required. To the extent that a response is required, the allegations are
4 denied. The allegations in Paragraph 203 further purport to characterize NEPA, 43
5 C.F.R. § 1508.7, and a judicial decision in *Great Basin Resource Watch* 844 F.3d at
6 1104-06, which speak for themselves and provide the best evidence of their contents.
7 Any allegations contrary to their plain meaning, language, and context are denied.
8

9 204. The allegations in Paragraph 204 purport to characterize the FEIS for the
10 Project, which speaks for itself and provides the best evidence of its contents. Any
11 allegations contrary to its plain meaning, language, and context are denied.
12

13 205. The allegations in Paragraph 205 purport to characterize the FEIS for the
14 Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language, and context are denied.
16

17 206. The allegations in Paragraph 206 purport to characterize the FEIS for the
18 Project, which speaks for itself and provides the best evidence of its contents. Any
19 allegations contrary to its plain meaning, language, and context are denied.
20

21 207. The allegations in Paragraph 207 purport to characterize the FEIS for the
22 Project, which speaks for itself and provides the best evidence of its contents. Any
23 allegations contrary to its plain meaning, language, and context are denied.
24

25 208. The allegations in Paragraph 208 purport to characterize a judicial decision
26 in *Great Basin Resource Watch*, 844 F.3d at 1104-06, which speaks for itself and
27
28

1 provides the best evidence of its contents. Any allegations contrary to its plain
2 meaning, language, and context are denied.

3 209. The allegations in Paragraph 209 constitute legal conclusions to which no
4 response is required. To the extent that a response is required, the allegations are
5 denied. The allegations in Paragraph 209 further purport to characterize NEPA and a
6 judicial decision in *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 971-74
7 (9th Cir. 2006), which speak for themselves and provide the best evidence of their
8 contents. Any allegations contrary to their plain meaning, language, and context are
9 denied.
10

11 210. The allegations in Paragraph 210 purport to characterize the FEIS for the
12 Project and a press release, which speaks for themselves and provide the best evidence
13 of their contents. Any allegations contrary to their plain meaning, language, and
14 context are denied.
15

16 211. The allegations in the first sentence of Paragraph 211 purport to
17 characterize the FEIS for the Project, which speaks for itself and provides the best
18 evidence of its contents. Any allegations contrary to its plain meaning, language, and
19 context are denied. The allegations in the second sentence purport to characterize
20 FWS's Greater Sage-grouse Conservation Objectives: Final Report (Feb. 2013), which
21 speaks for itself and provides the best evidence of its contents. Any allegations
22 contrary to its plain meaning, language, and context are denied.
23

24 212. Federal Defendants deny the allegations in the first sentence of
25 Paragraph 212. The allegations in the second, third, and fourth sentences of
26
27
28

1 Paragraph 212 purport to characterize the FEIS for the Project, which speaks for itself
2 and provides the best evidence of its contents. Any allegations contrary to its plain
3 meaning, language, and context are denied.
4

5 213. The allegations in Paragraph 213 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 213 further purport to characterize NEPA and 43
8 C.F.R. §§ 1502.14(f) and 1502.16(h), which speak for themselves and provide the best
9 evidence of their contents. Any allegations contrary to their plain meaning, language,
10 and context are denied.
11

12 214. The allegations in Paragraph 214 constitute legal conclusions to which no
13 response is required. To the extent that a response is required, the allegations are
14 denied. The allegations in Paragraph 214 further purport to characterize NEPA, its
15 implementing regulations, and a judicial decision in in *Great Basin Resource Watch v.*
16 *BLM*, 844 F.3d at 1107, which speak for themselves and provide the best evidence of
17 their contents. Any allegations contrary to their plain meaning, language, and context
18 are denied.
19
20

21 215. The allegations in Paragraph 215 constitute legal conclusions to which no
22 response is required. To the extent that a response is required, the allegations are
23 denied. The allegations in Paragraph 215 further purport to characterize FLPMA and a
24 document published in the Federal Register, 65 Fed. Reg. 69,998, 70,053 (Nov. 21,
25 2000), which speaks for themselves and provide the best evidence of their contents.
26 Federal Defendants aver that the quoted material actually appears on page 70,052 of
27
28

1 the document published in the Federal Register, 65 Fed. Reg. 69,998, 70,053 (Nov. 21,
2 2000), which also speaks for itself and provides the best evidence of its contents. Any
3 allegations contrary to their plain meaning, language, and context are denied.
4

5 216. The allegations in Paragraph 216 constitute legal conclusions to which no
6 response is required. To the extent that a response is required, the allegations are
7 denied. The allegations in Paragraph 216 further purport to characterize the ROD and
8 FEIS for the Project, which speak for themselves and provide the best evidence of their
9 contents. Any allegations contrary to their plain meaning, language, and context are
10 denied.
11

12 217. The allegations in Paragraph 217 purport to characterize the January 4,
13 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
14 of its contents. Any allegations contrary to its plain meaning, language, and context are
15 denied.
16

17 218. The allegations in Paragraph 218 purport to characterize the January 4,
18 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
19 of its contents. Any allegations contrary to its plain meaning, language, and context are
20 denied.
21

22 219. The allegations in Paragraph 219 purport to characterize the January 4,
23 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
24 of its contents. Any allegations contrary to its plain meaning, language, and context are
25 denied.
26
27
28

1 220. The allegations in Paragraph 220 purport to characterize the January 4,
2 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
3 of its contents. Any allegations contrary to its plain meaning, language, and context are
4 denied.
5

6 221. The allegations in Paragraph 221 purport to characterize the FEIS for the
7 Project, which speaks for itself and provides the best evidence of its contents. Any
8 allegations contrary to its plain meaning, language, and context are denied.
9

10 222. The allegations in Paragraph 222 constitute legal conclusions to which no
11 response is required. To the extent that a response is required, the allegations are
12 denied. The allegations in Paragraph 222 further purport to characterize NEPA and a
13 judicial decision in in *Great Basin Resource Watch*, 844 F.3d at 1107, which speak for
14 themselves and provide the best evidence of their contents. Any allegations contrary to
15 their plain meaning, language, and context are denied.
16

17 223. The allegations in Paragraph 223 purport to characterize the January 4,
18 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
19 of its contents. Any allegations contrary to its plain meaning, language, and context are
20 denied.
21

22 224. The allegations in Paragraph 224 purport to characterize the FEIS for the
23 Project, which speaks for itself and provides the best evidence of its contents. Any
24 allegations contrary to its plain meaning, language, and context are denied.
25

26 225. The allegations in Paragraph 225 constitute legal conclusions to which no
27 response is required. To the extent that a response is required, the allegations are
28

1 denied. The allegations in Paragraph 225 further purport to characterize the ROD for
2 the Project and “BLM’s FLPMA mining regulations,” which speak for themselves and
3 provide the best evidence of their contents. Any allegations contrary to their plain
4 meaning, language, and context are denied.
5

6 226. The allegations in Paragraph 226 constitute legal conclusions to which no
7 response is required. To the extent that a response is required, the allegations are
8 denied. The allegations in Paragraph 226 further purport to characterize 43 C.F.R.
9 § 3809.552(a), which speak for themselves and provide the best evidence of their
10 contents. Any allegations contrary to their plain meaning, language, and context are
11 denied.
12

13 227. The allegations in Paragraph 227 constitute legal conclusions to which no
14 response is required. To the extent that a response is required, the allegations are
15 denied. The allegations in Paragraph 227 further purport to characterize 43 C.F.R. §§
16 3809.554 and 3809.555(a)-(f), which speak for themselves and provide the best
17 evidence of their contents. Any allegations contrary to their plain meaning, language,
18 and context are denied.
19
20

21 228. The allegations in Paragraph 228 purport to characterize BLM’s Surface
22 Management Bond Processing Handbook, H-3809-2, which speaks for itself and
23 provides the best evidence of its contents. Any allegations contrary to its plain
24 meaning, language, and context are denied.
25

26 229. The allegations in Paragraph 229 purport to characterize BLM’s Surface
27 Management Handbook, H-3809-1, which speaks for itself and provides the best
28

1 evidence of its contents. Any allegations contrary to its plain meaning, language, and
2 context are denied.

3 230. The allegations in Paragraph 230 constitute legal conclusions to which no
4 response is required. To the extent that a response is required, the allegations are
5 denied. The allegations in Paragraph 230 further purport to characterize the FEIS for
6 the Project, BLM's "Guidelines for Establishing a Long-Term Funding Mechanism"
7 and 43 C.F.R. § 3809.552(c), which speak for themselves and provide the best
8 evidence of their contents. Any allegations contrary to their plain meaning, language,
9 and context are denied.
10

11 231. The allegations in Paragraph 231 constitute legal conclusions to which no
12 response is required. To the extent that a response is required, the allegations are
13 denied. The allegations in Paragraph 231 further purport to characterize the ROD for
14 the Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language, and context are denied.
16

17 232. The allegations in Paragraph 232 purport to characterize the ROD and
18 FEIS for the Project, which speak for themselves and provide the best evidence of their
19 contents. Any allegations contrary to their plain meaning, language, and context are
20 denied.
21

22 233. The allegations in Paragraph 233 purport to characterize the FEIS for the
23 Project, which speaks for itself and provides the best evidence of its contents. Any
24 allegations contrary to its plain meaning, language, and context are denied.
25
26
27
28

1 234. The allegations in the first sentence of Paragraph 234 purport to
2 characterize “the Decision approving the Prospect Mountain Mine Project southwest of
3 Eureka,” which speaks for itself and provides the best evidence of its contents. Any
4 allegations contrary to its plain meaning, language, and context are denied. The
5 allegations in the second sentence of Paragraph 234 purport to characterize the “July
6 12, 2019 ‘Decision, Plan of Operations Approval, Determination of Required Financial
7 Guarantee Amount [Prospect Mountain Project],’” which speaks for itself and provides
8 the best evidence of its contents. Any allegations contrary to its plain meaning,
9 language and context are denied.

10
11
12 235. The allegations in Paragraph 235 constitute legal conclusions to which no
13 response is required. To the extent that a response is required, the allegations are
14 denied.

15
16 236. The allegations in Paragraph 236 purport to characterize the “BLM Mount
17 Hope 2012 ROD,” which speaks for itself and provides the best evidence of its
18 contents. Any allegations contrary to its plain meaning, language, and context are
19 denied.

20
21 237. The allegations in Paragraph 237 purport to characterize the “BLM 2012
22 ROD for the Mount Hope Project,” which speaks for itself and provides the best
23 evidence of its contents. Any allegations contrary to its plain meaning, language, and
24 context are denied.

25
26 238. The allegations in Paragraph 238 purport to characterize the ROD and
27 FEIS for the Project, which speak for themselves and provide the best evidence of their
28

1 contents. Any allegations contrary to their plain meaning, language, and context are
2 denied.

3 239. The allegations in Paragraph 239 purport to characterize the January 4,
4 2021, letter from EPA to BLM, which speaks for itself and provides the best evidence
5 of its contents. Any allegations contrary to its plain meaning, language, and context are
6 denied.
7

8 240. The allegations in Paragraph 240 purport to characterize the January 4,
9 2021, letter from EPA to the BLM, which speaks for itself and provides the best
10 evidence of its contents. Any allegations contrary to its plain meaning, language, and
11 context are denied.
12

13 241. The allegations in Paragraph 241 purport to characterize the ROD for the
14 Project, which speaks for itself and provides the best evidence of its contents. Any
15 allegations contrary to its plain meaning, language, and context are denied.
16

17 242. The allegations in Paragraph 242 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied.
20

21 **FIRST CLAIM FOR RELIEF**

22 243. Federal Defendants incorporate by reference their responses in the
23 preceding paragraphs.
24

25 244. The allegations in the first sentence of Paragraph 244 constitute legal
26 conclusions to which no response is required. To the extent that a response is required,
27 the allegations are denied. The allegations in the second sentence purport to
28

1 characterize the ROD for the Project, which speaks for itself and provides the best
2 evidence of its contents. Any allegations contrary to its plain meaning, language, and
3 context are denied.

4
5 245. Federal Defendants deny the allegations in Paragraph 245 and deny any
6 violation of law.

7
8 246. Federal Defendants deny the allegations in Paragraph 246 and deny any
9 violations of law.

10 **SECOND CLAIM FOR RELIEF**

11 247. Federal Defendants incorporate by reference their responses in the
12 preceding paragraphs.

13 248. The allegations in Paragraph 248 constitute legal conclusions to which no
14 response is required. To the extent that a response is required, the allegations are
15 denied.

16
17 249. The allegations in Paragraph 249 constitute legal conclusions to which no
18 response is required. To the extent that a response is required, the allegations are
19 denied.

20
21 250. Federal Defendants deny the allegations in Paragraph 250 and deny any
22 violations of law.

23 251. Federal Defendants deny the allegations in Paragraph 251 and deny any
24 violations of law.
25
26
27
28

THIRD CLAIM FOR RELIEF

252. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

253. Federal Defendants deny the allegations in Paragraph 253 and deny any violations of law.

254. Federal Defendants deny the allegations in Paragraph 254 and deny any violations of law.

FOURTH CLAIM FOR RELIEF

255. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

256. Federal Defendants deny the allegations in Paragraph 256 and deny any violations of law.

257. Federal Defendants deny the allegations in Paragraph 257 and deny any violations of law.

FIFTH CLAIM FOR RELIEF

258. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

259. Federal Defendants deny the allegations in Paragraph 259 and deny any violations of law.

260. Federal Defendants deny the allegations in Paragraph 260 and deny any violations of law.

SIXTH CLAIM FOR RELIEF

261. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

262. Federal Defendants deny the allegations in Paragraph 262 and deny any violations of law.

263. Federal Defendants deny the allegations in Paragraph 263 and deny any violations of law.

SEVENTH CLAIM FOR RELIEF

264. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

265. Federal Defendants deny the allegations in Paragraph 265 and deny any violations of law.

266. Federal Defendants deny the allegations in Paragraph 266 and deny any violations of law.

EIGHTH CLAIM FOR RELIEF

267. Federal Defendants incorporate by reference their responses in the preceding paragraphs.

268. Federal Defendants deny the allegations in Paragraph 268 and deny any violations of law.

269. Federal Defendants deny the allegations in Paragraph 269 and deny any violations of law.

1 270. Federal Defendants deny the allegations in Paragraph 270 and deny any
2 violations of law.

3 **NINTH CLAIM FOR RELIEF**

4
5 271. Federal Defendants incorporate by reference their responses in the preceding
6 paragraphs.

7 272. Federal Defendants deny the allegations in Paragraph 272 and deny any
8 violations of law.

9
10 273. Federal Defendants deny the allegations in Paragraph 273 and deny any
11 violations of law.

12 274. Federal Defendants deny the allegations in Paragraph 274 and deny any
13 violations of law.

14 **PRAYER FOR RELIEF**

15
16 The remainder of Plaintiffs' Complaint constitutes Plaintiffs' request for relief
17 and legal conclusions, to which no response is required. To the extent that a response is
18 required, Federal Defendants deny that Plaintiffs are entitled to the relief sought or any
19 relief whatsoever.

20 **GENERAL DENIAL**

21
22 Federal Defendants deny any allegations in Plaintiffs' Complaint, whether
23 express or implied, that are not specifically admitted, denied, or qualified herein.
24
25
26
27
28

AFFIRMATIVE AND OTHER DEFENSES

1. The Court may lack subject matter jurisdiction to review some or all of Plaintiffs' claims.

2. Plaintiffs may lack standing to bring some or all of their claims.

3. Plaintiffs fail to state a claim upon which relief may be granted.

4. Plaintiffs may have failed to exhaust their administrative remedies.

WHEREFORE, Federal Defendants respectfully pray that this Court deny in all respects Plaintiffs' Prayer for Relief, dismiss Plaintiffs' Complaint, enter judgment for Federal Defendants, and grant to Federal Defendants such other relief as may be appropriate.

Respectfully submitted this 7th day of May, 2021.

JEAN E. WILLIAMS
Acting Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Div.

/s/ Arwyn Carroll
ARWYN CARROLL
Trial Attorney, Natural Resources Section
Massachusetts Bar No. 675926
P.O. Box 7611
Washington, D.C. 20044-7611
Phone: 202-305-0465
Fax: 202-305-0506
arwyn.carroll@usdoj.gov

Attorneys for Federal Defendants

Certificate of Service

I hereby certify that on May 7, 2021 I electronically filed and served the foregoing with the Clerk of the Court for the United States District Court for the District of Nevada using the CM/ECF system.

/s/ Arwyn Carroll
Arwyn Carroll