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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

| | | |
|------------------------------------|---|--------------------------------|
| WESTERN WATERSHEDS PROJECT; et al. |) | Case No.: 3:21-cv-0103-MMD-CLB |
| |) | |
| Plaintiffs, |) | |
| v. |) | |
| |) | JOINT MOTION AND |
| UNITED STATES DEPARTMENT OF THE |) | STIPULATION RE: BRIEFING |
| INTERIOR; et al. |) | SCHEDULE FOR PLAINTIFFS’ |
| |) | MOTION FOR PRELIMINARY |
| Defendants, |) | INJUNCTION AND ORDER |
| and |) | THEREON |
| |) | (FIRST REQUEST) |
| LITHIUM NEVADA CORPORATION, |) | |
| |) | |
| <u>Intervenor-Defendant.</u> |) | |

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2 Plaintiffs, the Federal Defendants, and Defendant-Intervenor Lithium Nevada Corp.
3 (Lithium Nevada), jointly move to extend existing deadlines and propose the following schedule
4 to govern briefing and this Court’s consideration of Plaintiffs’ Motion for a Preliminary
5 Injunction (ECF #22).

6 WHEREAS, Plaintiffs filed their Complaint in this matter on February 26, 2021,
7 challenging “the Record of Decision (ROD) approving [Lithium Nevada’s] two Plans of
8 Operation (PoOs): (1) for the [Thacker Pass Lithium Mine]... and (2) for the “North/South
9 Exploration Project”” as well as “the Final Environmental Impact Statement (FEIS) BLM
10 prepared for the mine and exploration projects.” Compl. ¶ 4 (ECF #1).

11 WHEREAS, Plaintiffs requested relief including that the Court “set aside and Vacate the
12 ROD, FEIS, and Project approvals” and “[e]njoin Defendants, their agents, servants, employees,
13 and all others acting in concert with them, or subject to their authority or control, from
14 proceeding with any aspect of the Thacker Pass Project.” Compl. Request for Relief at pp. 69.

15 WHEREAS, on April 16, 2021, Lithium Nevada submitted its unopposed Motion to
16 Intervene (ECF #15), which this Court granted on May 12, 2021 (ECF #18).

17 WHEREAS, on May 7, 2021, the Federal Defendants filed their Answer to Plaintiffs’
18 Complaint (ECF #17).

19 WHEREAS, shortly after the filing of Plaintiffs’ Complaint, Plaintiffs informed counsel
20 for Federal Defendants and Lithium Nevada that Plaintiffs intended on filing a Motion for
21 Temporary Restraining Order (TRO) or Preliminary Injunction to enjoin any ground disturbance
22 and operations associated with any aspect of the Thacker Pass Project (including both the mining
23 and exploration projects) including those reviewed by the FEIS and authorized by the challenged
24 Bureau of Land Management’s (BLM) Record of Decision (ROD) which approved the Thacker
25 Pass Lithium Project’s plans of operations on federal lands (for both mining and exploration
26 operations).
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2 WHEREAS, on March 25, 2021 attorneys for all parties held a video conference call to
3 discuss Plaintiffs' intention to move for preliminary relief and ways to avoid the need for such
4 motion practice.

5 WHEREAS, Lithium Nevada, during that call, informed Plaintiffs and Federal
6 Defendants that Lithium Nevada did not anticipate conducting any major ground disturbance
7 associated with the Thacker Pass Project (both mining and exploration) for approximately six to
8 seven months and the parties discussed potentially identifying a list of other pre-construction
9 activities that might not be objectionable to the Plaintiffs.

10 WHEREAS, on April 12, 2021, Lithium Nevada advised Plaintiffs and Federal
11 Defendants that it anticipated conducting biological surveys and cultural resource mitigation
12 work, and the parties discussed via email Plaintiffs' position that they would object to any
13 ground disturbance.

14 WHEREAS, on May 13, 2021, Lithium Nevada represented to Plaintiffs that Lithium
15 Nevada intended to begin ground disturbance on June 23, 2021, consisting of initial excavations
16 and digging associated with the unreleased "Historical Properties Treatment Plan."

17 WHEREAS, on May 26, 2021 Lithium Nevada informed Plaintiffs of the parameters of
18 this intended ground disturbance.

19 WHEREAS, Federal Defendants have informed the parties that the ROD and FEIS
20 challenged in this action do not authorize activities by BLM.

21 WHEREAS, on May 27, 2021, Plaintiffs filed a Motion for Preliminary Injunction, ECF
22 #23, to prevent any ground disturbance associated with the Project from occurring until this
23 Court has ruled on the merits.

24 WHEREAS, on May 27, 2021, Plaintiffs also filed a Motion to File Excess Pages, ECF
25 #22, to extend the 24-page limit for motions by 15 pages for their Motion for Preliminary
26 Injunction and represented therein that they would not oppose a reasonable and commensurate
27 page limit expansion for opposing parties.
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2 WHEREAS, Federal Defendants’ and Lithium Nevada’s oppositions to both motions are
3 due on June 10, 2021.

4 WHEREAS, Federal Defendants and Lithium Nevada have requested a fourteen-day
5 extension until June 24, 2021 to file their respective response briefs to Plaintiffs’ Motion for
6 Preliminary Injunction.

7 WHEREAS, Plaintiffs do not oppose Federal Defendants’ and Lithium Nevada’s request
8 for a two-week extension to file their respective response briefs to Plaintiffs’ Motion for
9 Preliminary Injunction so long as Federal Defendants and Lithium Nevada will formally stipulate
10 that no Project area ground disturbance activities challenged in Plaintiffs’ Complaint will occur
11 before July 29, 2021.

12 THEREFORE, the Parties agree and stipulate:

- 13 1. Neither Lithium Nevada nor Federal Defendants will conduct any ground disturbance
14 activities in the Project area in connection with the Thacker Pass Project as challenged in
15 Plaintiffs’ Complaint before July 29, 2021.
16 2. This agreement does not limit BLM’s authority to manage public lands in accordance
17 with any authorizing statute or implementing regulation.

18 FURTHER, the Parties respectfully jointly request that:

- 19 1. The Court set a briefing deadline for June 24, 2021 for BLM and Lithium Nevada to file
20 response briefs to Plaintiffs’ Motion for Preliminary Injunction.
21 2. The Court grant BLM and Lithium Nevada leave to file 15 excess pages for their
22 response briefs to Plaintiffs’ Motion for Preliminary Injunction.
23 3. The Court grant Plaintiffs leave to file a combined reply brief on July 1, 2021 to BLM’s
24 and Lithium Nevada’s response briefs, not to exceed 24 pages.
25 4. The Court schedule this matter with enough time for the Court to rule on the Motion
26 before July 29, 2021. The parties are available for appearances any time before the 29th
27 of July except for July 2, 5 and 12-16.
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1 STIPULATED AND AGREED this 8th day of June, 2021:
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4 Acting Assistant Attorney General
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12 IT IS SO ORDERED

13 _____
14 United States District Judge

15 _____
16 Date

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