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Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MONTANA ENVIRONMENTAL)
INFORMATION CENTER, *et al.*,)
)
Plaintiffs,)
)
v.)
)
UNITED STATES BUREAU OF)
LAND MANAGEMENT, *et al.*,)
)
Defendants.)
)
INDEPENDENT PETROLEUM)
ASSOCIATION OF MOUNTAIN)
STATES,)
)
Defendant-Intervenor)
_____)

Case No. 08-178-M-DWM

**JOINT MOTION TO DISMISS
WITH PREJUDICE**

JOINT MOTION TO DISMISS WITH PREJUDICE

Plaintiffs Montana Environmental Information Center, the Oil and Gas Accountability Project, a project of Earthworks, and Wild Earth Guardians (collectively “Plaintiffs”), and Federal Defendants the U.S. Bureau of Land Management (“BLM”), Ken Salazar, in his official capacity as Secretary of the Department of the Interior, and Gene R. Terland, in his official capacity as State Director of the Bureau of Land Management in Montana (collectively “Federal Defendants”), by and through their undersigned counsel, hereby file this Motion to Dismiss with Prejudice the above-captioned lawsuit pursuant to Federal Rule of Civil Procedure 41(a)(2). In support thereof, Plaintiffs and Federal Defendants state as follows:

1. Plaintiffs and Federal Defendants have reached settlement on all issues raised in the above-captioned case, as reflected in the Settlement Agreement attached hereto as Exhibit A.

2. Plaintiffs and Federal Defendants respectfully request that the Court enter the Proposed Order, attached hereto as Exhibit B, which incorporates the terms of the Settlement Agreement and dismisses the case with prejudice.

3. Plaintiffs and Federal Defendants have conferred with the Independent Petroleum Association of Mountain States (“Intervenor-Defendants”). Specifically, Federal Defendants shared the terms of the Settlement Agreement with Intervenor-Defendant on March 3, 2010, and met with Intervenor-Defendant

JOINT MOTION TO DISMISS WITH PREJUDICE

in person on March 8, 2010, to further discuss the Agreement as well as the instant proposed Motion to Dismiss. Intervenor-Defendant submits the following statement on the instant Motion:

Considering that Intervenor-Defendant, Independent Petroleum Association of Mountain States, recently learned of the substance of the proposed Settlement Agreement, Intervenor-Defendant cannot take a position at this time with regard to the Motion to Dismiss and proposed Settlement Agreement. Thus, Intervenor-Defendant reserves the right to file an opposition to the Motion to Dismiss and proposed Settlement Agreement pursuant to Local Rule 7.1. At a minimum, Intervenor-Defendant reserves the right to challenge the implementation of the Settlement Agreement should BLM unreasonably delay completion of the environmental analyses contemplated by the proposed Settlement Agreement.

4. For the foregoing reasons, Plaintiffs and Federal Defendants respectfully request that the Court dismiss this case with prejudice.

Dated: March 12, 2010

/s/ Erik Schlenker-Goodrich
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Counsel for Citizen Group Plaintiffs

Dated: March 12, 2010

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JOINT MOTION TO DISMISS WITH PREJUDICE

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FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

MONTANA ENVIRONMENTAL)	Case No. 08-178-M-DWM
INFORMATION CENTER, <i>et al.</i> ,)	
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Plaintiffs,)	
)	SETTLEMENT AGREEMENT
v.)	
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UNITED STATES BUREAU OF)	
LAND MANAGEMENT, <i>et al.</i> ,)	
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Defendants.)	
)	
INDEPENDENT PETROLEUM)	
ASSOCIATION OF MOUNTAIN)	
STATES,)	
)	
Defendant-Intervenors)	
_____)	

For purposes of settling the above-captioned lawsuit without further judicial proceedings, the U.S. Bureau of Land Management (“BLM”), Ken Salazar, in his official capacity as Secretary of the Department of the Interior, and Gene R. Terland, in his official capacity as State Director of the Bureau of Land Management in Montana (collectively “Defendants”), and Montana Environmental Information Center, the Oil and Gas Accountability Project, a project of Earthworks, and Wild Earth Guardians (collectively “Plaintiffs”) hereby state as follows:

WHEREAS, on January 15, 2009, Plaintiffs filed a First Amended Complaint (“Complaint”) for declaratory and injunctive relief against Defendants.

WHEREAS, Plaintiffs’ Complaint challenges the BLM’s issuance of 61 federal oil and gas leases, and alleges that the decisions underlying BLM’s issuance of those leases violate the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 et seq., the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701 et seq., the Mineral Leasing Act (“MLA”), 30 U.S.C. §§ 181 et seq., as amended, and the Department of the Interior’s Secretarial Order 3226 (January 19, 2001).

WHEREAS, Plaintiffs and Defendants (collectively the “Settling Parties”), through their authorized representatives, and without any admission or final

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adjudication of issues relating to Plaintiffs' claims, have reached a settlement of the above-captioned litigation, as set forth in this Settlement Agreement.

WHEREAS, the Settling Parties have provided Defendant-Intervenors, the Independent Petroleum Association of Mountain States, with a copy of this Settlement Agreement.

THEREFORE, the Settling Parties hereby stipulate and agree to the following terms in settlement of any and all claims relating in any way to the above-captioned litigation:

1. The Settling Parties agree that all negotiations leading up to this Settlement Agreement are confidential, and, other than between the Settling Parties and their attorneys, will not be disclosed except as may be required by law.
2. This Agreement is not to be construed as an admission or concession by either party as to the validity of any fact or legal position concerning the claims or defenses in the above-captioned case.
3. This Agreement has no precedential value and shall not be used as evidence in any other proceeding.
4. The Settling Parties agree that the above-captioned case should be dismissed with prejudice – subject to the conditions in paragraph 7 – and that the Settling Parties shall file with the District Court a joint motion for dismissal of this action pursuant to Federal Rule of Civil Procedure 41(a)(2) that attaches this

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Settlement Agreement. If the District Court does not grant the motion to dismiss the above-captioned case, this Agreement will be void and the Settling Parties will have no further obligations under this Agreement.

5. The Settling Parties agree that the joint motion will request dismissal pursuant to the terms of this Settlement Agreement and, accordingly, will request that the terms of this Settlement Agreement be incorporated into the order dismissing this case.

6. BLM will suspend the following leases, to the extent the leases remain active, pursuant to its authority under 30 U.S.C. §§ 209 and 226(i), within 90 days of the dismissal of the above-captioned case: MTM97819, MTM97820, MTM97821, MTM97822, MTM97823, MTM97824, MTM97825, MTM97826, MTM97827, MTM97828, MTM98054, MTM98055, MTM98056, MTM98057, MTM98058, MTM98059, MTM98060, MTM98061, MTM98062, MTM98063, MTM98064, MTM98065, MTM98066, MTM98067, MTM98068, MTM98069, MTM98070, MTM98072, MTM98073, MTM98074, MTM98075, MTM98077, MTM98335, MTM98336, MTM98337, MTM98338, MTM98343, MTM98344, MTM98345, MTM98346, MTM98347, MTM98348, MTM98349, MTM98350, MTM98528, MTM98529, MTM98530, MTM98531, MTM98532, MTM98533, MTM98534, MTM98535, MTM98536, MTM98537, MTM98538, MTM98539, MTM98540, MTM98541, MTM98542, MTM98543, and MTM98544. BLM

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will notify the Plaintiffs upon completing the suspensions called for in this Paragraph.

7. The Settling Parties agree that any failure by BLM to suspend the leases within 90 days of dismissal constitutes grounds for rescission of this Agreement, and would entitle Plaintiffs to reopen their lawsuit.

8. The Settling Parties agree that the purpose of the suspensions is to allow the BLM to conduct further review of the leases under NEPA. Such review will, in accordance with 40 C.F.R. § 1500.2(c), integrate other environmental review procedures to the extent required by other federal statutes, regulations, and agency policies and procedures, including FLPMA, the MLA, and Secretarial Order 3226. The leases will remain suspended pending the completion of BLM's review process. BLM retains the authority to void or terminate any lease, or to lift the suspension on any lease, if it determines upon review that such an action is appropriate. Public notice of BLM's review process, including notice of the completion of that process, will be governed by applicable law including 40 C.F.R. Part 1500 and 43 C.F.R. §§ 1610.2, 3100.4, and BLM guidance, such as BLM Manual Handbook H-1790-1 at 6.9.1, and IM No. MT-2007-045.

9. The Settling Parties agree that Plaintiffs' sole recourse for any alleged breach of Paragraph 8 of this Agreement is to challenge BLM's issuance of a final decision document upon completion of BLM's review process. Such a challenge

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must be pursued in a new administrative proceeding under procedures provided by the Department of the Interior or in a lawsuit under the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Plaintiffs retain the right to assert all claims in, and Defendants retain the right to assert all defenses to, any such administrative proceeding or lawsuit.

10. Defendants agree to pay Plaintiffs 50 percent of all documented and reasonably incurred fees, costs, and expenses incurred in connection with this action through March 12, 2010 within the meaning of 28 U.S.C. § 2412(d)(1)(A) (hereinafter “fees”). This payment will constitute full and complete satisfaction of any and all claims, demands, rights, or causes of action pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and/or any other statute and/or common law theory. The Settling Parties agree to employ good faith efforts to reach an expeditious negotiated resolution as to the amount of such reasonably accrued fees. If a negotiated resolution cannot be reached despite the Settling Parties’ good faith negotiations, Plaintiffs shall file an application with the Court for their claimed attorney fees. Plaintiffs agree that such application would seek no more than 50 percent of the fees they allege to have reasonably accrued in the course of this litigation as of March 12, 2010. The 50 percent limitation, however, will not apply to fees Plaintiffs allege to have reasonably accrued after March 12, 2010. The deadline for any such an application will be governed by 28 U.S.C. §

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2412. By this agreement, Defendants do not waive any right to contest any fees claimed by Plaintiffs, including the hourly rates used to calculate those fees or the reasonableness of the number of hours accrued.

11. Nothing in this Settlement Agreement shall be construed to require the Defendants to take any action inconsistent with applicable federal, state, or local law.

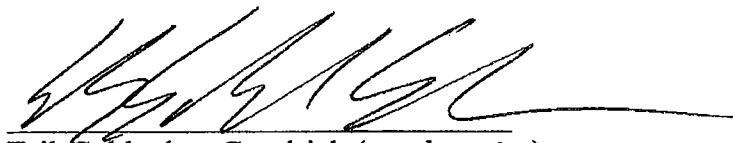
12. No provision of this Agreement shall be interpreted as or constitute a commitment or requirement that Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other law or regulation.

13. Nothing in this Settlement Agreement shall be interpreted as imposing obligations on any federal agency that is not a signatory to the Agreement.

14. The undersigned representatives of each party certify that they are fully authorized by the parties they represent to execute this agreement.

IT IS HEREBY AGREED.

Dated: March 11, 2010



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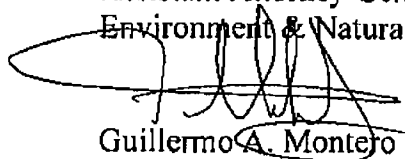
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Case No. 08-178-M-DWM

**[PROPOSED] ORDER
GRANTING JOINT MOTION TO
DISMISS WITH PREJUDICE**

EXHIBIT B

This matter comes before the Court on the Plaintiffs' and Federal Defendants' Joint Motion to Dismiss with Prejudice pursuant to Federal Rules of Civil Procedure 41(a)(2). The Court, having considered the Joint Motion, and finding that the terms of the Settlement Agreement on which it is based are fair and just, hereby ORDERS that this action is DISMISSED with prejudice. The terms and conditions of the Settlement Agreement are incorporated by reference into this Order.

DATED this ____ day of _____, 2010.

Donald W. Molloy, District Judge
United States District Court

EXHIBIT B