

Exhibit A

Declaration of Matthew Lee-Ashley

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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

ALASKA COMMUNITY ACTION ON TOXICS, et al.,

Plaintiffs,

v.

COUNCIL ON ENVIRONMENTAL QUALITY, and BRENDA MALLORY, in her official capacity as Chair of the council on Environmental Quality,¹

Defendants.

Case No. 3:20-cv-05199-RS

**DECLARATION OF
MATTHEW LEE-ASHLEY**

I, Matthew Lee-Ashley, declare as follows:

¹ Pursuant to Fed. R. Civ. P. 25(d), Brenda Mallory is automatically substituted for Mary Neumayr as Chair of the Council on Environmental Quality.

- 1 1. I serve as the Chief of Staff at the Council on Environmental Quality (CEQ). I was
2 appointed to this position on April 11, 2021.
- 3 2. I submit this declaration in support of Defendants' request for a stay in the June 3, 2021
4 joint status report in the above captioned case.
- 5 3. On July 16, 2020, CEQ under the Trump Administration issued the rulemaking entitled
6 Update to the Regulations Implementing the Procedural Provisions of the National
7 Environmental Policy Act, 85 Fed. Reg. 43,304 (July 16, 2020) (2020 Rule) to undertake
8 whole-sale amendments to longstanding regulations implementing the National
9 Environmental Policy Act (NEPA). As described below, the Biden Administration's CEQ
10 has substantial concerns about the effects of the 2020 Rule on public health, the nation's
11 land, water, and air quality, communities that have been historically marginalized and
12 overburdened by pollution, the ability of citizens to have their voices heard in federal
13 decision-making processes, and other issues, including the process by which the 2020
14 Rule was promulgated and the lawfulness of aspects of the 2020 Rule. CEQ is in the
15 process of reconsidering the 2020 Rule and will take appropriate steps to engage
16 stakeholders and the public in that process.
- 17 4. The CEQ's reconsideration of the 2020 Rule responds to direction from President Biden.
- 18 5. On January 20, 2021, President Biden signed Executive Order 13990 on Protecting
19 Public Health and the Environment and Restoring Science to Tackle the Climate Crisis
20 (EO 13990) to declare the Administration's policy "to listen to the science; to improve
21 public health and protect our environment; to ensure access to clean air and water; to
22 limit exposure to dangerous chemicals and pesticides; to hold polluters accountable,
23 including those who disproportionately harm communities of color and low-income
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1 communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of
2 climate change; to restore and expand our national treasures and monuments; and to
3 prioritize both environmental justice and the creation of the well-paying union jobs
4 necessary to deliver on these goals.” EO 13990 directs federal agencies to “immediately
5 review and, as appropriate and consistent with applicable law, take action to address the
6 promulgation of Federal regulations and other actions during the last 4 years that conflict
7 with these important national objectives, and to immediately commence work to confront
8 the climate crisis.” A White House fact sheet published on January 20, 2021 to
9 accompany EO 13990 directs CEQ to review the 2020 Rule. EO 13990 further directs the
10 Council on Environmental Quality to rescind its 2019 draft guidance “Draft National
11 Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions.”
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14 6. On January 27, 2021, President Biden signed Executive Order 14008 on Tackling the
15 Climate Crisis at Home and Abroad (EO 14008) to declare the Administration’s policy
16 “that climate considerations shall be an essential element of United States foreign policy
17 and national security,” and to “move quickly to build resilience, both at home and abroad,
18 against the impacts of climate change that are already manifest and will continue to
19 intensify according to current trajectories.”
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22 7. On February 19, 2021, CEQ took its first formal step to implement EO 13900 and 14008
23 and revoked its “Draft National Environmental Policy Act Guidance on Consideration of
24 Greenhouse Gas Emissions.” 86 Fed. Reg. 10,252.
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1 8. CEQ has commenced a comprehensive reconsideration of the 2020 Rule to evaluate its
2 legal basis, policy orientation, and conformance with Administration priorities, including
3 the Administration's commitment to addressing climate change and environmental
4 justice. During this process, CEQ will consider the full array of questions and substantial
5 concerns connected to the 2020 Rule. Some of the questions that CEQ will consider that
6 are directly relevant to this litigation include:
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- 8 a. Whether the 2020 Rule may adversely affect environmental justice or impair
9 participation by environmental justice communities in the NEPA process;
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11 b. Whether the 2020 Rule may adversely affect climate change, climate resilience,
12 or environmental quality generally;
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14 c. Whether the 2020 Rule is consistent with administrative law principles or unduly
15 restricts public and community participation, including participation by
16 environmental justice communities and their members, or has the foreseeable
17 effect of unduly restricting such participation;
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19 d. Whether the 2020 Rule improperly or unlawfully circumscribes the range of
20 alternatives, long recognized by regulation and caselaw to be the heart of an
21 Environmental Impact Statement, or has the foreseeable effect of leading agencies
22 to consider an improperly narrow range of alternatives;
23
24 e. Whether the 2020 Rule improperly or unlawfully circumscribes the environmental
25 effects, including climate change effects, to be evaluated by federal agencies, or
26 has the foreseeable effect of leading agencies to improperly circumscribe the
27 environmental effects considered;
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1 f. Whether the 2020 Rule improperly or unlawfully excludes certain actions from
2 the definition of “major federal action” for purposes of NEPA’s applicability, or
3 has the foreseeable effect of improperly excluding certain federal actions from
4 review under NEPA.
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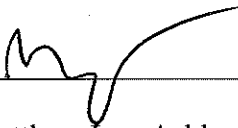
6 9. CEQ is actively working to decide how to address the questions and concerns described
7 in paragraph 8, including whether to propose to amend or repeal the 2020 Rule, in whole
8 or in part.

9 10. CEQ is committed to ensuring that its regulations enable agencies to respond effectively
10 to the climate crisis and the need to transition to a clean energy economy; identify and
11 elevate the pressing and critical considerations of environmental justice; provide the
12 public, and particularly environmental justice communities, with full and fair
13 opportunities to inform federal decision making; and provide for sustainable economic
14 development and job creation, including by facilitating the development and restoration
15 of critical infrastructure and climate resilient projects. CEQ is also committed to ensuring
16 that its regulations conform to all legal requirements and are consistent with NEPA’s
17 purposes set forth by Congress.
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19 20 11. CEQ will initiate rulemaking to propose amendments to the 2020 Rule to revise the
21 NEPA implementing regulations to comply with the statute’s text and goals; provide
22 regulatory certainty to stakeholders; promote better decision making consistent with
23 NEPA’s statutory requirements; ensure appropriate coordination among Federal agencies,
24 and State, Tribal, and local governments during the environmental review process; and
25 meet environmental, climate change, and environmental justice objectives.
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1 12. The Office of Management and Budget's Office of Information and Regulatory Affairs'
2 forthcoming Spring 2021 Unified Agenda of Regulatory Actions will include additional
3 details regarding CEQ's planned regulatory actions.
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6 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
7 correct. Executed this 2nd day of June, 2021.
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11 Matthew Lee-Ashley

12 Chief of Staff

13 Council on Environmental Quality
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