

1 David J. Lazerwitz, Esq. (CA Bar No. 221349)
 Matthew E. Bostick, Esq. (CA Bar No. 268563)
 2 Farella Braun + Martel LLP
 235 Montgomery Street, 17th Floor
 3 San Francisco, CA 94104
 Telephone: (415) 954-4400
 4 Facsimile: (415) 954-4480
 Email: dlazerwitz@fbm.com
 5 Email: mbostick@fbm.com

6 Robert B. Wiygul, Esq. (LA Bar No. 17411)
 Waltzer & Wiygul
 7 1011 Iberville Drive
 Ocean Springs, MS 39564
 8 Telephone: (228) 872-1125
 Facsimile: (228) 872-1128
 9 Email: robert@waltzerlaw.com

10 Sky C. Stanfield, Esq. (CA Bar No. 244966)
 Keyes, Fox & Wiedman LLP
 11 436 14th Street, Suite 1305
 Oakland, CA 94612
 12 Telephone: (510) 314-8204
 Facsimile: (510) 225-3848
 13 Email: sstanfield@kfwlaw.com

14 *Attorneys for Plaintiffs Alliance for Responsible Recreation, The
 Wilderness Society, Friends of Juniper Flats, Western San
 15 Bernardino Landowners Ass'n, California Native Plant Society,
 and Community ORV Watch*

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

21 CENTER FOR BIOLOGICAL
 DIVERSITY, *et al.*,

22 Plaintiffs,

23 vs.

24 U.S. BUREAU OF LAND
 25 MANAGEMENT, *et al.*,

26 Defendants.

Case No. 3:06 CV 04884 SI

**[PROPOSED] ORDER FOLLOWING
 SPECIAL STATUS CONFERENCE TO
 ADDRESS ENFORCEMENT OF
 REMEDIES ORDER**

Hearing Held: October 24, 2012
 Time: 1:00 p.m.
 Judge: Hon. Nandor J. Vadas

1 On September 28, 2009, Judge Illston entered an “Order re: Summary Judgment Motions”
2 finding that Defendants United States Bureau of Land Management, *et al.*, (“Federal
3 Defendants”) had violated the National Environmental Policy Act (“NEPA”) and the Federal
4 Land and Policy Management Act (“FLPMA”) when they adopted the Western Mojave
5 (“WEMO”) management plan amendment. *See* Doc. 169. In a subsequent order of January 29,
6 2011 (hereinafter referred to as the “Remedies Order”), Judge Illston addressed the appropriate
7 terms of injunctive relief directed at protecting public resources during the remand of the WEMO
8 Plan to the agency. *See* Doc. 243. The Court noted that “[t]he extensive evidence submitted by
9 plaintiffs shows that the BLM has not fully implemented the mitigation measures set out in the
10 WEMO Plan, and in many areas there are significant deficiencies,” and further that “the majority
11 of harms identified by plaintiffs are as a result of unauthorized OHV [“off-highway vehicle”] use,
12 that is, OHV vehicles traveling off of the designated OHV route.” Remedies Order, Doc. 243 at
13 13, 8. As a result, among other actions, Judge Illston ordered the Federal Defendants to do the
14 following:

15 Within 90 days of the Court’s order, the BLM shall provide the Court with a
16 monitoring plan to determine (a) compliance with route closures and (b) whether
17 new illegal routes are being created. The monitoring plan should demonstrate that
the effort will be adequate to determine compliance at a statistically significant
level.

18 Remedies Order, Doc. 243 at 14-15. By separate order, Judge Illston referred to a Magistrate
19 Judge of this Court consideration of reports required by the Remedies Order and resolution of any
20 disputes arising with regard to Defendant United States Bureau of Land Management’s (“BLM”)
21 implementation of mitigation measures during the remand period. *See* Doc. 244.

22 Plaintiffs the Alliance for Responsible Recreation, The Wilderness Society, Friends of
23 Juniper Flats, Western San Bernardino Landowners Association, California Native Plant Society,
24 and Community ORV Watch (“ARR Plaintiffs”) set forth specific concerns regarding the Federal
25 Defendants’ compliance with the Remedies Order in their May 31, 2012 Request for Special
26 Status Conference to Address Enforcement of Remedies Order (*see* Doc. 307) and in subsequent
27 meet and confer correspondence with counsel for BLM. After further meet and confer efforts, the
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1 Parties provided additional details on the remaining disputed issues regarding remedies
2 enforcement in an October 9, 2012 Joint Status Report Re: Enforcement of Remedies Order. *See*
3 Doc. 319.

4 On October 24, 2012, this Court heard argument and considered evidence on these issues
5 presented by counsel for the ARR Plaintiffs and Plaintiffs Center for Biological Diversity, *et al.*
6 (collectively “Plaintiffs”); counsel for BLM; and counsel for the American Motorcyclists
7 Association District 37, *et al.* (the “OHV Intervenors”). Upon consideration of the briefing
8 submitted by the Parties, the record, and the arguments of counsel and evidence submitted at the
9 hearing, the Court orders as follows:

- 10 1) BLM shall provide to Plaintiffs copies of a map or maps showing the locations of all
11 kiosks in the Western Mojave Planning Area by October 29, 2012;
- 12 2) BLM shall update the Parties and the Court by December 31, 2012, as to the
13 progress of its Barstow and Ridgecrest field offices in completing comprehensive
14 databases of legal and illegal OHV routes in the WEMO, and disclose details as to
15 how the database was developed and what specific information it captures;
- 16 3) BLM shall provide to Plaintiffs by November 30, 2012, a work order/plan for
17 analyzing route monitoring data to determine compliance at a “statistically
18 significant level;”
- 19 4) BLM shall also provide to Plaintiffs by November 30, 2012, a plan for monitoring
20 unauthorized vehicle use on limited-use routes (*e.g.*, quad vehicle use on
21 motorcycle-only routes);
- 22 5) BLM shall modify the monitoring results table presented in its Court-ordered
23 quarterly reports to the Parties and the Court to include additional data and details as
24 to both methodology and results; and
- 25 6) The Parties shall contact Judge Vadas’s Courtroom Deputy to arrange for a time for
26 the Court to conduct a site-visit of illustrative areas of the WEMO, to be identified
27 by the Parties, accompanied by representatives of Plaintiffs and BLM.

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If disputed issues regarding remedies enforcement remain after the above deadlines, the Parties shall schedule a hearing before Magistrate Vadas to be held in January 2013.

IT IS SO ORDERED.

Dated: October 31, 2012



NANDOR J. VADAS
United States Magistrate Judge