

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

ANTHONY LOOK, *et al.*,

Plaintiffs,

vs.

YGRENE ENERGY FUND, INC. *et al.*,

Defendants.

Case No. 3:17-cv-01258

**STIPULATED ESI DISCOVERY  
PROTOCOL**

1 Plaintiffs and Defendants, by and through their undersigned counsel, hereby stipulate and  
2 agree to this ESI Protocol (“Protocol”) setting forth the specifications that shall govern document  
3 production.

4 **1. PURPOSE AND SCOPE**

5 This Order will govern discovery of electronically stored information (“ESI”) in this case  
6 as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery  
7 of Electronically Stored Information, and any other applicable orders and rules.

8 Nothing herein shall alter the parties’ respective rights or obligations under the Federal  
9 Rules of Civil Procedure. Nothing in this Protocol establishes any agreement regarding the  
10 subject matter or scope of discovery in this action, or the relevance or admissibility of any ESI or  
11 other document or thing. Nothing in this Protocol shall affect, in any way, a producing party’s  
12 right under the Federal Rules of Civil Procedure to seek or oppose reimbursement for costs  
13 associated with collection, review, and/or production of ESI. Nothing in this Protocol shall be  
14 interpreted to require disclosure of irrelevant information or ESI protected from discovery by the  
15 attorney-client privilege, work product doctrine, or any other applicable privilege or immunity.

16 **2. COOPERATION**

17 The parties are aware of the importance the Court places on cooperation and commit to  
18 cooperate in good faith throughout the matter consistent with this Court’s Guidelines for the  
19 Discovery of ESI.

20 **3. PRESERVATION**

21 The parties have discussed their preservation obligations and needs and agree that  
22 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the costs  
23 and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

- 24 a) Only ESI created or received between January 1, 2010 and the present will be  
25 preserved;
- 26 b) The parties have agreed on the types of ESI they believe should be preserved.
- 27 c) The parties have agreed that the total number of custodians per side for whom ESI  
28 will be preserved is 10, respectively. Custodians will be selected as follows:

1 1) Custodians of Defendants' ESI: Defendants have already identified five  
2 custodians for whom they believe ESI should be preserved. The parties will  
3 identify up to five more custodians of Defendants' ESI for whom ESI should be  
4 preserved during the pendency of discovery. These additional five custodians will  
5 be identified no later than April 1, 2018 or three (3) months after Ygrene begins its  
6 rolling production of ESI, whichever is later.

7 2) Custodians of Plaintiffs' ESI: Each Plaintiff will preserve ESI in accordance  
8 with this stipulation. The parties will identify up to four more custodians of  
9 Plaintiffs' ESI for whom ESI should be preserved during the pendency of  
10 discovery. These additional four custodians will be identified no later than April 1,  
11 2018.

12 d) These data sources are not reasonably accessible because of undue burden or cost  
13 pursuant to Fed. R. Civ. P. 26(b)(2)(B) and ESI from these sources will be preserved but  
14 not searched, reviewed, or produced: backup media or other systems no longer in use that  
15 can no longer reasonably be accessed;

16 e) Among the sources of data the parties agree are not reasonably accessible, the  
17 parties agree not to preserve the following: NONE.

18 f) In addition to the agreements above, the parties agree data from these sources (a)  
19 could contain relevant information but (b) under the proportionality factors, should not be  
20 preserved: NONE.

21 **4. SEARCH**

22 The parties shall meet and confer and reach agreement as to the method of searching, and  
23 the words, terms, and phrases to be used to locate and identify potentially responsive ESI. The  
24 parties shall also agree on the timing and conditions of any additional searches that may become  
25 necessary in the normal course of discovery. In lieu of identifying responsive ESI using the search  
26 terms and custodians/electronic systems as described above, a party may use a technology assisted  
27 review platform to identify potentially relevant documents and ESI.  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

documents identified by the producing party and simultaneously delete all copies thereof.

c) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate.

**7. MODIFICATION**

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

**IT IS SO STIPULATED**, through Counsel of Record.

Dated: January 30, 2018 /s/ Jeffrey D. Kaliel  
\_\_\_\_\_  
Counsel for Plaintiff

Dated: January 30, 2018 /s/ Fredrick S. Levin  
\_\_\_\_\_  
Counsel for Defendant

**IT IS ORDERED** that the forgoing Agreement is approved.

Dated: February 8, 2018   
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE