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

CENTER FOR BIOLOGICAL
DIVERSITY, et al.,

Plaintiffs,

v.

ANDREW R. WHEELER, in his official
capacity as the Administrator of the United
States Environmental Protection Agency,

Defendant.

Case No. 3:19-cv-02782-EMC

~~[PROPOSED]~~ ORDER

The Court, having considered Plaintiffs Center for Biological Diversity’s and Center for Environmental Health’s Motion for Summary Judgment (Dkt. No. 24), Defendant Andrew R. Wheeler’s, in his official capacity as Administrator of the United States Environmental Protection Agency (hereinafter, “EPA”), Cross-Motion for Summary Judgment (Dkt. No. 26), all parties’ memoranda in opposition and replies thereto, and otherwise being sufficiently advised, hereby **GRANTS IN PART** and **DENIES IN PART** Plaintiffs’ Motion for Summary Judgment and **GRANTS IN PART** and **DENIES IN PART** EPA’s Cross-Motion for Summary Judgment as to Remedy.

IT IS FURTHER ORDERED that:

1. EPA shall sign a notice of final rulemaking to approve, disapprove, conditionally approve, or approve in part and conditionally approve or disapprove in part, certain nonattainment State implementation plan submissions pursuant to 42 U.S.C. § 7410(k)(2)-(4), for the following areas and elements no later than ~~[insert date within twelve months of this order, but no earlier than February 28, 2021]~~: **March 1, 2021.**

1 a. the Contingency Measures element¹ for the Plumas County (part)
2 nonattainment area for the 2012 fine particulate matter, or “PM_{2.5},” National Ambient Air
3 Quality Standards (“NAAQS”), *see* 40 C.F.R. § 81.305);

4 b. the Contingency Measures, RFP Moderate Area Plan for VOC and NO_x,
5 Moderate Ozone Attainment Demonstration, RACT Non-CTG VOC for Major Sources, and
6 RACT NO_x for Major Sources elements and the RACT CTG documents² listed in the attached
7 Table A for the Maricopa County portion of the Phoenix-Mesa nonattainment area for the 2008
8 ozone NAAQS, *see* 40 C.F.R. § 81.303; and

9 c. the Serious Area Contingency Measures element³ for the Ventura County
10 Serious nonattainment area for the 2008 ozone NAAQS, *see* 40 C.F.R. § 81.305.

11 2. EPA shall, within 15 business days of signature, send the rulemaking package for
12 each action taken pursuant to Paragraph 1 to the Office of the Federal Register for review and
13 publication in the *Federal Register*.

14 3. If a lapse in EPA appropriations occurs within one hundred and twenty (120)
15 days prior to a deadline in Paragraph 1, that deadline shall be extended automatically one day
16 for each day of the lapse in appropriations.

17 4. The deadlines set forth in Paragraph 1 may be extended (a) by written stipulation
18 of Plaintiffs and EPA with notice to the Court, or (b) by the Court upon motion of EPA for good
19 cause shown pursuant to the Federal Rules of Civil Procedure and upon consideration of any
20 response by Plaintiffs and any reply by EPA. Any other provision of this Order may be
21 modified by the Court following motion of a party or parties for good cause shown pursuant to
22 the Federal Rules of Civil Procedure and upon consideration of any response by the non-moving
23 party or parties, and any reply.

24 5. The deadline for filing a motion for costs of litigation (including attorney fees)
25 for activities performed prior to entry of this order is hereby extended until ninety (90) days
26

27 ¹ As described and defined in EPA’s Cross-Motion for Summary Judgment at 7.

28 ² *Id.* at 7-10.

³ *Id.* at 7-10.

1 after entry of this order. During this period, the Parties shall seek to resolve any claim for costs
2 of litigation (including attorney fees), and if they cannot, Plaintiffs will file a motion for costs of
3 litigation (including attorney fees) or a stipulation or motion to extend the deadline to file such a
4 motion. EPA reserves the right to oppose any such request. The Court shall retain jurisdiction
5 to resolve any requests for costs of litigation, including attorney fees.

6 6. Within 30 calendar days of publication in the *Federal Register* of all actions
7 taken pursuant to Paragraph 1 and the resolution of the claim for costs of litigation, EPA shall
8 file a notice of compliance. Such notice shall terminate the Court's Order.

9
10 **IT IS SO ORDERED.**

11 DATED this 19th day of February, 2020.

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EDWARD M. CHEN
UNITED STATES DISTRICT JUDGE