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12 **UNITED STATES DISTRICT COURT**

13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14 NICOLETTE HAHN NIMAN, WILLIAM  
15 NIMAN, DAVID EVANS, and CLAIRE  
16 HERMINJARD

17 Plaintiffs,

18 v.

18 UNITED STATES DEPARTMENT OF  
19 INTERIOR, DOUG BURGUM, in his capacity  
20 as Secretary of the United States Department of  
21 the Interior, UNITED STATES NATIONAL  
22 PARK SERVICE, and JESSICA BOWRIN, in  
23 her capacity as Acting Director of the National  
24 Park Service,

25 Defendants.

Case No. 3:25-cv-01976-MMC

**RESOURCE RENEWAL INSTITUTE,  
CENTER FOR BIOLOGICAL  
DIVERSITY, AND WESTERN  
WATERSHEDS PROJECT'S NOTICE  
OF MOTION, MOTION TO  
INTERVENE, AND MEMORANDUM  
IN SUPPORT OF MOTION**

**Date: June 20, 2025**

**Time: 9:00 AM**

**Courtroom 7 (19th Floor)**

**Honorable Maxine M. Chesney**

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1 **NOTICE OF MOTION**

2 Pursuant to Civil Local Rule 7-2 and Fed. R. Civ. P. 24(a), NOTICE is given that on June  
3 20, 2025, at 9:00 AM, or as soon thereafter as the matter may be heard, in the courtroom of  
4 Honorable Maxine M. Chesney, at the San Francisco Courthouse, Courtroom 7, 19th Floor, 450  
5 Golden Gate Avenue, San Francisco, CA 94102, the Center for Biological Diversity, Resource  
6 Renewal Institute, and Western Watersheds Project (“Conservation Organizations”), by counsel,  
7 will move the Court for leave to intervene as defendant-intervenors in the above captioned case.

8 **MOTION**

9 Proposed Intervenors move for leave to intervene as a matter of right in this action or, in  
10 the alternative, permission to intervene, for the purposes of defending against Plaintiffs’ lawsuit.  
11 Proposed Intervenors conferred with counsel for Plaintiffs, and Plaintiffs’ counsel stated their  
12 intention to oppose this Motion; and counsel for Federal Defendants, but Federal Defendants’  
13 counsel stated that they did not yet have a position to provide.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Conservation Organizations move to intervene in this litigation to defend the National  
4 Park Service’s (“NPS”) issuance of the 2025 Revised Record of Decision (“2025 Revised  
5 ROD”), which responded to the voluntary decisions of ranchers to close their operations by  
6 rezoning former ranchland for public purposes. Conservation Organizations have a strong  
7 interest in defending NPS’s decision because it furthers their long-term goal of sunseting  
8 private, commercial ranching across the National Seashore in order to further Congress’s  
9 intention that these lands be used for “public recreation, benefit, and inspiration.” 16 U.S.C.  
10 § 459c (the “Point Reyes Act”).

11 Conservation Organizations and their members and supporters have a deep and  
12 longstanding interest in protecting the wildlife, water quality, native ecosystems, and public  
13 lands at Point Reyes National Seashore from the harmful effects of commercial ranching. To that  
14 end, they spent many years participating in NPS’s public planning processes for these public  
15 lands and educating the public about the harm caused by commercial ranching there. The 2025  
16 Revised ROD recognizes that harm and aligns with the outcome sought by well over 90% of the  
17 people who commented during the years-long public process that preceded NPS’s decision.  
18 Conservation Organizations seek to defend that decision and ensure that this litigation does not  
19 derail the settlement agreement reached in related litigation, *Resource Renewal Institute v. NPS*,  
20 3:22-cv-00145-MMC, ECF No. 164 (N.D. Cal. Jan. 8, 2025) (“*RRI v. NPS IP*”).

21 Plaintiffs directly attack the 2025 Revised ROD but ignore key facts and the applicable  
22 law in several major ways. First, Plaintiffs falsely state that NPS failed to study an alternative  
23 that would lease lands “to others” after a ranch closure; in its 2020 Environmental Impact  
24 Statement (“EIS”), NPS actually studied *three* alternatives that prioritized leasing to other  
25  
26  
27

1 ranchers like the Nimans in the event of a ranch closure. EIS at 58; Draft Succession Policy at 2.<sup>1</sup>  
2 NPS then spent several years providing notice and accepting public comment on those and other  
3 alternatives; those public comments revealed that over 90% of the interested public supported  
4 ending private ranching on these public lands, which is at odds with the outcome that Plaintiffs  
5 seek. Declaration of Chance Cutrano ¶¶ 14–15 (“Cutrano Decl.”). Plaintiffs also incorrectly state  
6 that “NPS currently has no plan for how to manage tule elk to ensure their preservation” — NPS  
7 has actually adopted *three* different management plans to manage and protect tule elk: the 2025  
8 Revised ROD, the 2024 Tomales Point Plan, and the 1998 Tule Elk management plan.<sup>2</sup> Finally,  
9 NPS engaged with the California Coastal Commission extensively to address the Commission’s  
10 serious concerns about the negative impacts of ranching and dairying on coastal resources as  
11 proposed in the 2020 EIS and then-proposed GMPA. Cutrano Decl. ¶¶ 16–17. During this  
12 process, Conservation Groups’ public education efforts spurred nearly 45,000 comments to the  
13 Coastal Commission—the largest response to a single issue in the Commission’s history—with  
14 99.95% of commenters opposed to NPS’s proposal to continue and expand private ranching at  
15 the National Seashore. Cutrano Decl. ¶¶ 16–17; Declaration of Jeff Miller (“Miller Decl.”) ¶ 15;  
16 Declaration of Erik Molvar (“Molvar Decl.”) ¶ 11. Conservation Groups’ deep knowledge from  
17 its longstanding advocacy will help ensure that the Court has an accurate and complete  
18 understanding of these issues.

19 Conservation Organizations’ interests are not fully aligned with NPS, which has a  
20 responsibility to the public as a whole and has been adverse to their interests in litigation and  
21 advocacy for around a decade. Allowing Conservation Organizations to intervene early in this

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22 <sup>1</sup> NPS’s EIS and Draft Succession Policy are available on NPS’s website:

23 [https://www.nps.gov/pore/getinvolved/planning\\_gmp\\_amendment\\_feis.htm](https://www.nps.gov/pore/getinvolved/planning_gmp_amendment_feis.htm) (last visited May 16,  
24 2025). The Court may take judicial notice of the agency websites cited throughout this brief.  
*EVO Brands, LLC v. Al Khalifa Grp. LLC*, 657 F. Supp. 3d 1312, 1322 (C.D. Cal. 2023).

25 <sup>2</sup> NPS’s Tomales Point Plan and Tule Elk Management Plan are available on NPS’s website:  
26 <https://www.nps.gov/pore/getinvolved/planning-tomales-point-area-plan.htm> (last visited May  
27 16, 2025); <https://www.nps.gov/pore/getinvolved/planning-tomales-point-area-plan.htm> (last  
visited May 16, 2025).

1 litigation would not be prejudicial to any existing parties because NPS has yet to file an answer  
2 to Plaintiffs' complaint, and the Court has yet to establish a litigation schedule.

3 Accordingly, Conservation Organizations satisfy all of the intervention factors and  
4 should be granted intervention as of right under Federal Rule of Civil Procedure 24(a), or  
5 permissive intervention under Federal Rule of Civil Procedure 24(b).

## 6 BACKGROUND

### 7 I. Longstanding Conflict Over Commercial Grazing at Point Reyes National Seashore.

8 Since NPS bought private ranchland in the 1970s to create Point Reyes National  
9 Seashore, the agency has allowed private, commercial beef and dairy ranching to continue on  
10 public lands, initially under life estates or reservations of use and occupancy, and once those  
11 expired, through discretionary leases. For more than two decades, NPS issued those leases  
12 without updating its 1980 General Management Plan ("1980 GMP") to allow such leases, as  
13 required under the National Park Service's Organic Act, or without conducting an environmental  
14 analysis, as required under the National Environmental Policy Act ("NEPA").

15 In 2016, Conservation Organizations sued NPS for these longstanding violations of the  
16 Organic Act and NEPA, and the Point Reyes Enabling Act. *Resource Renewal Institute v.*  
17 *National Park Service*, No. 3:16-cv-00688-SBA, ECF No. 1 (N.D. Cal. Feb. 10, 2016) ("*RRI v.*  
18 *NPS I*"). After most of the ranchers intervened, the parties reached a settlement that required  
19 NPS to prepare the long-overdue EIS, update its 1980 GMP, and consider alternative  
20 management scenarios for the approximately 28,000 acres of public land leased at that time for  
21 commercial ranching. *Id.* at ECF No. 143 (July 14, 2017) (adopting settlement agreement).

22 During the next four years, NPS completed an extensive public planning process that  
23 sought public comment on management alternatives that would continue, reduce, or eliminate  
24 commercial ranching. Amended Complaint ¶¶ 26–28. NPS received thousands of comments  
25 from a wide range of stakeholders, more than 90% of which supported alternatives that  
26 eliminated ranching. Cutrano Decl. ¶ 15, Molvar Decl. ¶ 10. NPS's EIS found that ranching  
27 adversely impacts water quality, perpetuates invasive species issues, harms native wildlife, and

1 impedes public access to public lands. EIS at 128–129, 132, 163–168, 193. Nevertheless, NPS’s  
2 2021 ROD adopted an alternative as the GMPA that would worsen these issues by expanding the  
3 land zoned for commercial ranching; allowing ranches to add new commercial activities;  
4 requiring lethal removal of native tule elk to benefit ranches; and imposing weak mitigation to  
5 protect natural resources. 2021 ROD at 6, 9–11, 30–31, 36–37.<sup>3</sup>

## 6 **II. Historic Settlement to Resolve Longstanding Conflicts at the National Seashore.**

7 In January 2022, Conservation Organizations filed a new lawsuit challenging NPS’s EIS  
8 and 2021 ROD on the grounds that it violated NEPA, NPS’s Organic Act, the Point Reyes  
9 Enabling Act, and the Clean Water Act. *RRI v. NPS II*, No. 3:22-cv-145-MMC, ECF No. 1 (N.D.  
10 Cal. Jan. 1, 2022). Most of the ranchers quickly intervened, and the parties entered into  
11 mediation. *Id.* at ECF No. 55 (June 24, 2022). After more than two years of confidential  
12 mediation, the parties announced an historic settlement to resolve this longstanding conflict: the  
13 intervening ranchers at Point Reyes National Seashore voluntarily agreed to cease operations  
14 pursuant to independent agreements with The Nature Conservancy (“TNC”), and NPS issued the  
15 2025 Revised ROD that responded to those voluntary decisions. *Id.* at ECF No. 164 (Jan. 8,  
16 2025).<sup>4</sup>

17 The 2025 Revised ROD adopted a GMPA that provided the framework for those  
18 retirements and rezoned retired lands into a Scenic Landscape zone. 2025 Revised ROD at 8.  
19 The Revised ROD prohibited commercial ranching in the Scenic Landscape zone and dairying  
20 on all public lands at the Seashore and imposed stronger mitigation on remaining ranches. *Id.* at  
21 12, 26–45. The 2025 Revised ROD benefited remaining ranchers by offering long-term, 20-year  
22 leases and the ability to “diversify” ranch operations through new commercial activities. *Id.* at  
23

24  
25 <sup>3</sup> The 2021 ROD is available on NPS’s website:  
<https://parkplanning.nps.gov/document.cfm?documentID=115101> (last visited May 1, 2025).

26 <sup>4</sup> The 2025 Revised ROD is available on NPS’s website:  
27 <https://www.nps.gov/pore/learn/news/newsreleases-20250108-gmp-amendment-revised-rod-and-settlement-agreement.htm> (last visited May 1, 2025).

1 26, 40–43. The 2025 Revised ROD also allowed tule elk to roam free by prohibiting NPS from  
2 using lethal removal or harassment tools to benefit ranchers. *Id.* at 50–52.

### 3 **III. Plaintiffs’ Challenge to the Revised ROD.**

4 Plaintiffs’ complaint in this new case raises four claims. Plaintiffs directly attack the 2025  
5 Revised ROD by arguing that NPS violated NEPA by failing to study reasonable alternatives and  
6 NPS regulations by failing to provide notice and comment before issuing the Revised ROD.  
7 Amended Complaint ¶¶ 54–70. Plaintiffs’ third claim argues that NPS violated the 1976 Tule Elk  
8 Law by failing to develop a management plan for tule elk. *Id.* ¶¶ 71–84. Plaintiffs’ final claim is  
9 that NPS violated the Coastal Zone Management Act by failing to consult with the California  
10 Coastal Commission before adopting the Revised ROD. *Id.* ¶¶ 85–94.

## 11 **ARGUMENT**

12 The Court should grant Conservation Organizations’ Motion to Intervene as Defendants  
13 in this case for two independent reasons. First, Conservation Organizations are entitled to  
14 intervene as of right under Federal Rule of Civil Procedure 24(a). Second, regardless of whether  
15 Conservation Organizations are entitled to intervene as of right, they should be permitted to  
16 intervene under Federal Rule of Civil Procedure 24(b).

### 17 **I. Conservation Organizations Are Entitled to Intervene as of Right.**

18 Conservation Organizations seek to intervene in this matter to protect their interests in  
19 wildlife, water quality, native ecosystems, and public lands within Point Reyes National  
20 Seashore. Federal Rule of Civil Procedure 24(a)(2) requires a court to grant intervention as of  
21 right to anyone who (1) submits a timely motion; (2) has an interest relating to the property or  
22 transaction at issue (3); may, as a practical matter, have their ability to protect their interest be  
23 impaired or impeded by disposition of the case; and (4) is not adequately represented by the  
24 existing parties. Fed. R. Civ. P. 24(a)(2); *see also Citizens for Balanced Use v. Mont. Wilderness*  
25 *Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011). In evaluating whether a proposed intervenor meets  
26 those requirements, a court “normally follow[s] practical and equitable considerations and  
27 construe[s] the Rule broadly in favor of proposed intervenors,” because a “liberal policy in favor

1 of intervention serves both efficient resolution of issues and broadened access to the courts.”  
2 *Wilderness Soc. v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc) (internal  
3 quotation marks and citations omitted). Conservation Organizations meet Rule 24(a)(2)’s criteria  
4 to intervene as of right in this case.

5 **A. The Motion to Intervene is Timely.**

6 Timeliness is determined in light of three factors: “(1) the stage of the proceeding at  
7 which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for  
8 and length of the delay.” *United States v. Alisal Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004)  
9 (quoting *Cal. Dep’t of Toxic Substances Control v. Commercial Realty Projects*, 309 F.3d 1113,  
10 1119 (9th Cir. 2002)). A motion made “at an early stage of the proceedings,” will neither  
11 prejudice other parties nor delay the proceedings. *Citizens for Balanced Use*, 647 F.3d at 897.  
12 This case was filed just a few months ago, Defendants have not yet filed a responsive pleading,  
13 and the case management conference has not yet occurred. The case is in its nascent stages and  
14 Conservation Organization’s intervention will not prejudice any party. Thus, the motion is  
15 timely. *Id.* (finding that a motion filed within a few months of a complaint was timely).

16 **B. Conservation Organizations and Their Members Have a Significant,  
17 Protectable Interest in Defending the 2025 Revised ROD.**

18 Conservation Organizations and their members have significant, protectable interests in  
19 the public lands and natural resources affected by the 2025 Revised ROD that is attacked in this  
20 case. An applicant for intervention has an interest in an action if (1) “the interest is protectable  
21 under some law” and (2) “there is a relationship between the legally protected interest and the  
22 claims at issue.” *Wilderness Soc.*, 630 F.3d at 1176 (internal quotation marks and citation  
23 omitted). Whether an applicant demonstrates sufficient interest in a case is a practical, threshold  
24 inquiry, and the applicant does not have to establish a specific legal or equitable interest. *Citizens  
25 for Balanced Use*, 647 F.3d at 897.

26 Here, Conservation Organizations and their members have long-standing interests in the  
27 protection of the natural resources, values, and wildlife within Point Reyes. *See Miller Decl.* ¶¶

1 9, 18–20; *see* Molvar Decl. ¶¶ 3–13; and *see* Cutrano Decl. ¶¶ 5–6, 20–22. Conservation  
2 Organizations have long advocated for NPS to reduce and eliminate the impacts of private,  
3 commercial ranching on wildlife, water quality, native ecosystems, and public recreation within  
4 Point Reyes. Miller Decl. ¶¶ 10–17; Molvar Decl. ¶¶ 8–11, 15; Cutrano Decl. ¶¶ 11–19.

5 Conservation Organizations’ interests in prioritizing public uses above private,  
6 commercial activities are protected by the enabling legislation for Point Reyes National  
7 Seashore, which Congress established “to save and preserve, for purposes of *public* recreation,  
8 benefit, and inspiration...” 16 U.S.C. § 459c (emphasis added). Congress also required NPS to  
9 ensure the “maximum protection, restoration and preservation of the natural environment” of the  
10 Seashore, thereby prioritizing this duty above all other uses of these public lands, including  
11 ranching. 16 U.S.C. § 459c-6(a). NPS must also administer these lands in accordance with the  
12 Organic Act, which requires conservation and non-impairment of park resources and values for  
13 “the enjoyment of future generations.” 54 U.S.C. § 100101(a). NPS is also required to timely  
14 update its GMP, *id.* § 100502, and to comply with NEPA when doing so. 42 U.S.C. § 4332.  
15 These laws protect Conservation Organization’s interests that are at stake in this litigation.

16 To protect their interests, Conservation Organizations have invested considerable  
17 resources in public education, community organizing, administrative advocacy, and litigation.  
18 *See* Miller Decl. ¶¶ 9–17; Molvar Decl. ¶¶ 8–11, 14–15; Cutrano Decl. ¶¶ 11–19. Their first  
19 lawsuit, *RRI v. NPS I*, forced NPS to prepare an EIS and an amendment to the GMP in order to  
20 determine whether ranching should continue, which required a years-long public planning  
21 process. Conservation Organizations engaged heavily in that process and helped garner support  
22 for phasing out ranching from more than 100 organizations representing millions of members.  
23 Cutrano Decl. ¶¶ 14–15. When NPS issued the 2021 ROD that was inconsistent with its legal  
24 duties and at odds with the outcome sought by the vast majority of commenters during the  
25 planning process, Plaintiffs filed *RRI v. NPS II*. Their litigation resulted in the mediation process  
26 that spurred many ranchers to voluntarily retire and NPS to issue the 2025 Revised ROD that is  
27 challenged in this case. Their longstanding work that led to the 2025 Revised ROD is a sufficient

1 interest to support intervention in this matter. *See Idaho Farm Bureau Fed'n v. Babbitt*, 58 F.3d  
2 1392, 1397 (9th Cir. 1995) (citations omitted) (“A public interest group is entitled as a matter of  
3 right to intervene in an action challenging the legality of a measure it has supported.”);  
4 *Sagebrush Rebellion v. Watt*, 713 F.2d 525, 527–28 (9th Cir. 1983) (finding “no serious dispute  
5 concerning ... the existence of a protectable interest on the part of” an environmental group that  
6 sought to intervene in an action challenging the creation of a conservation area it had supported).

7 Moreover, the 2025 Revised ROD conferred substantial benefits on Conservation  
8 Organizations by adopting portions of the no dairying and ranching alternatives that they and the  
9 vast majority of the public supported during the planning process for the GMPA. Miller Decl. ¶  
10 17 (explaining that benefits include “an end to water pollution, erosion, habitat damage, and  
11 spread of invasive species caused by excessive livestock grazing, and an improved management  
12 approach that ends decades of conflict over competing interests of private dairying and cattle  
13 ranching with wildlife management”); Cutrano Decl. ¶¶ 19, 23; Molvar Decl. ¶ 15. Plaintiffs’  
14 attempt to invalidate the 2025 Revised ROD threatens these benefits, so Conservation  
15 Organizations have a significant protectable interest at stake in this litigation. *See California ex*  
16 *rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006) (finding that beneficiaries of a  
17 law had a significant protectable interest in a case that challenged that law).

18 **C. The Disposition of this Case May Impair Conservation Organizations’ and**  
19 **their Members’ Abilities to Protect Their Interests.**

20 Intervention is necessary for Conservation Organizations and their members to protect  
21 their interests in preserving natural resources at Point Reyes from the impacts of commercial  
22 ranching. Rule 24(a) requires intervenors to show that “disposing of the action may as a practical  
23 matter impair or impede the movant’s ability to protect its interest.” Fed. R. Civ. P. 24(a)(2).  
24 “Rule 24 refers to impairment as a practical matter. Thus, the court is not limited to  
25 consequences of a strictly legal nature.” *Forest Conservation Council v. U.S. Forest Serv.*, 66  
26 F.3d 1489, 1498 (9th Cir. 1995) (internal quotation marks and citation omitted), *abrogated on*  
27 *other grounds by Wilderness Soc.*, 630 F.3d at 1177–78, 1180. As with the other intervention

1 prongs, the Ninth Circuit interprets this test liberally in favor of intervention. *See, e.g., Lockyer,*  
2 450 F.3d at 442 (“Having found that appellants have a significant protectable interest, we have  
3 little difficulty concluding that the disposition of this case may, as a practical matter, affect it.”).

4 If Plaintiffs succeed in overturning the 2025 Revised ROD, Conservation Organizations’  
5 interest in protecting Point Reyes from commercial ranching will be impaired. *See Amended*  
6 *Complaint* at 21–22 (seeking, among other relief, that the Court set aside the 2025 Revised ROD  
7 for Point Reyes). Vacatur of the 2025 Revised ROD would eliminate the substantial benefits that  
8 Conservation Organizations obtained due to their longstanding advocacy.

9 For example, the 2025 Revised ROD requires NPS to manage tule elk as a single herd  
10 without lethal removal to benefit ranchers, which will allow the species to expand and thrive at  
11 the Seashore. 2025 Revised ROD at 50–52. In contrast, the 2021 GMPA required NPS to kill  
12 tule elk to benefit ranchers once the population reaches an arbitrary and low cap. 2021 ROD at  
13 36–37. The loss of these new protections for tule elk would be devastating to Conservation  
14 Organizations, who have long sought to protect these animals. Miller Decl. ¶¶ 11, 22. The 2025  
15 Revised ROD includes other protective management standards that benefit Conservation  
16 Organizations but would be lost if Plaintiffs are successful in this case. Cutrano Decl. ¶¶ 19, 23.  
17 This would, in turn, harm Conservation Organizations and their members that use and enjoy  
18 Point Reyes for its natural values and resources. *See* Miller Decl. ¶¶ 22; Molvar Decl. ¶ 15;  
19 Cutrano Decl. ¶ 23. *See Citizens for Balanced Use*, 647 F.3d at 897 (finding that if the plaintiff  
20 prevailed in enjoining restrictions on harmful activities in a wilderness area, the proposed  
21 intervenors’ “interest in conserving and enjoying wilderness in the [area] may, as a practical  
22 matter, be impaired”).

23 Moreover, vacatur of the 2025 Revised ROD may threaten the agreements between  
24 retiring ranchers and TNC. The 2025 Revised ROD provides the framework for these and related  
25 agreements like short-term lease amendments that allow ranchers to continue while they close  
26 their operations, wind-down agreements for ranchers with NPS and TNC, and a cooperative  
27 agreement between TNC and NPS for restoring former ranchlands. 2025 Revised ROD at 12,

1 26–27, 46–47. If the voluntary ranch retirements unravel, and NPS is forced to allow commercial  
2 ranching at the Seashore on lands currently slated for retirement, Conservation Organizations’  
3 interests would be seriously harmed. *See* Miller Decl. ¶¶ 22; Molvar Decl. ¶ 15; Cutrano Decl. ¶  
4 23. Thus, Plaintiffs’ potential success in this case threatens to impair Conservation  
5 Organizations’ ability to protect their interests in stopping the harm that commercial ranching  
6 causes to natural resources at Point Reyes. *See Sagebrush Rebellion*, 713 F.2d at 528 (affirming  
7 intervention where an adverse decision would “impair” a group’s “interest in the preservation of  
8 birds and their habitats.”).

9 For these reasons, Conservation Organizations have satisfied this third requirement for  
10 intervention as of right.

11 **D. Conservation Organizations’ Interests Are Not Adequately Represented by**  
12 **Existing Parties.**

13 None of the existing parties adequately represent the interests of Conservation  
14 Organizations, so the fourth and final Rule 24(a) requirement is met and Conservation  
15 Organizations are entitled to intervene as of right. Courts consider three factors to determine if a  
16 proposed intervenor’s interests are adequately represented by existing parties: “(1) whether the  
17 interest of a present party is such that it will undoubtedly make all of a proposed intervenor’s  
18 arguments; (2) whether the present party is capable and willing to make such arguments; and (3)  
19 whether a proposed intervenor would offer any necessary elements to the proceeding that other  
20 parties would neglect.” *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003).

21 “The burden of showing inadequacy of representation is ‘minimal’ and satisfied if the  
22 applicant can demonstrate that representation of its interests ‘may be’ inadequate.” *Citizens for*  
23 *Balanced Use*, 647 F.3d at 898 (quoting *Arakaki*, 324 F.3d at 1086). The most important factor is  
24 how the applicant’s interests compare with the interests of existing parties. *Id.* An applicant  
25 makes a compelling showing of inadequacy by establishing that the existing parties “will not  
26 undoubtedly make all of the proposed intervenor’s arguments.” *W. Watersheds Project v.*  
27 *Haaland*, 22 F.4th 828, 841 (9th Cir. 2022) (cleaned up).

1 Conservation Organizations are dedicated to the preservation and conservation of natural  
2 resources, wildlife, and public lands, and are the only parties narrowly focused on these issues  
3 and reducing impacts from ranching operations and restoring natural ecosystems at Point Reyes  
4 National Seashore. *See* Miller Decl. ¶¶ 5–6, 9–17, 21; Molvar Decl. ¶¶ 5–11, 15–17; Cutrano  
5 Decl. ¶¶ 4–6, 11–19, 24.

6 While NPS and Conservation Organizations may share some objectives in defending the  
7 Revised ROD, Conservation Organizations’ interests do not “overlap fully.” *Berger v. N.C. State*  
8 *Conf. of the NAACP*, 597 U.S. 179, 199 (2022). Conservation Organizations have advocated for  
9 NPS to phase out ranching entirely, but NPS has not chosen to do so. Indeed, the 2025 Revised  
10 ROD does not *require* any ranchers to close their operations but instead responds to *some*  
11 ranchers’ voluntary decisions to do so. Conservation Organizations’ defense of the 2025 Revised  
12 ROD’s framework for the voluntary retirements may be more vigorous because NPS is in a  
13 neutral position regarding the closure of those ranches. *See* 2025 Revised ROD at 26, 50  
14 (explaining the retirements are pursuant to non-federal agreements and non-federal actions).  
15 Similarly, NPS’s decision not to lease retired ranchlands to other ranchers for new ranching  
16 operations is far narrower than Conservation Organizations’ longstanding position that all  
17 ranching should be phased out. *See Citizens for Balanced Use*, 647 F.3d at 899 (finding that  
18 proposed intervenors’ interests in “secur[ing] the broadest possible restrictions” on recreation  
19 within public lands and a federal agency’s position that “much narrower restrictions would  
20 suffice” were “fundamentally different points of view”). Because the agency “is required to  
21 represent a broader view than the more narrow, parochial interest of” Conservation  
22 Organizations and their members, the agency cannot adequately represent their interests here.  
23 *Forest Conservation Council*, 66 F.3d at 1499.

24 Moreover, the history of adversarial proceedings between Conservation Organizations  
25 and NPS demonstrates the inadequacy of representation here. The interests of Conservation  
26 Organizations and NPS have diverged for many years and were directly adverse in *RRI v. NPS I*  
27 and *RRI v. NPS II* despite the ultimate settlements there. *See* Miller Decl. ¶ 21, Cutrano Decl.

¶ 24, Molvar Decl. ¶¶ 16–18 (all explaining how their interests have frequently diverged from those of NPS). Indeed, NPS only agreed to update the GMP *after* Plaintiffs sued and defeated a motion to dismiss. *RRI v. NPS I*, 2016 WL 11673179, at \*5 (N.D. Cal. July 15, 2016) (finding that NPS did have a mandatory statutory duty to timely revise its GMPs). And NPS only issued the 2025 Revised ROD after Plaintiffs sued over the agency’s initial, unlawful amendment to the GMP through the 2021 ROD in *RRI v. NPS II*. See *Idaho Farm Bureau Fed’n*, 58 F.3d at 1398 (finding federal agency would not adequately represent an environmental group where the challenged agency decision was compelled by that group’s prior litigation); *Cnty. of Fresno v. Andrus*, 622 F.2d 436, 439 (9th Cir. 1980) (finding “further reason to doubt” that the Department of Interior would protect intervenor’s interest in a rulemaking because “the Department began its rulemaking only reluctantly after [the proposed intervenor] brought a lawsuit against it”).

Because the existing parties have divergent interests from the Conservation Organizations with regard to this lawsuit, Conservation Organizations have made the “minimal showing” required that their interests are not adequately represented by existing parties. *Forest Conservation Council*, 66 F.3d at 1499.

## **II. Alternatively, Proposed Intervenors Should Be Granted Permissive Intervention.**

Regardless whether Conservation Organizations meet the requirements for intervention as of right, they meet the requirements for permissive intervention under Federal Rule of Civil Procedure 24(b) and should be allowed to intervene. Rule 24(b) allows a court to permit anyone to intervene who “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). It also requires courts to “consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” Fed. R. Civ. P. 24(b)(3). Courts apply two other threshold requirements for permissive intervention, requiring a proposed intervenor to also (1) demonstrate an independent ground for jurisdiction and (2) file a timely motion. *Blum v. Merrill Lynch Pierce Fenner & Smith Inc.*, 712 F.3d 1349, 1353 (9th Cir. 2013). Conservation Organizations meet each of these requirements.

1 First, Conservation Organizations present defenses that share common questions of law  
2 and fact with the main action. *See, e.g.*, Proposed Answer. Conservation Groups seek to defend  
3 the 2025 Revised ROD against Plaintiffs’ baseless claims on many grounds, including that the  
4 2025 Revised ROD adopted a blend of the alternatives studied in the EIS. *See Kootenai Tribe of*  
5 *Idaho v. Veneman*, 313 F.3d 1094, 1110–1111 (9th Cir. 2002) (upholding a grant of permissive  
6 intervention where proposed intervenors’ defenses of the government decision “squarely respond  
7 to the challenges made by plaintiffs”), *abrogated on other grounds by Wilderness Soc.*, 630 F.3d  
8 1173; *John Muir Project of Earth Island Inst. v. U.S. Forest Serv.*, No. 2:24-CV-00909-TLN-  
9 JDP, 2024 WL 4753930, at \*3 (E.D. Cal. Nov. 12, 2024) (finding defenses that shared common  
10 questions of fact and law in a proposed answer supported grant of permissive intervention).

11 Second, Conservation Organizations’ motion is timely and will not prejudice the existing  
12 parties, as explained above. *See supra* at 8; Fed. R. Civ. P. 24(b)(3).

13 Third, Conservation Organizations need not establish an independent ground for  
14 jurisdiction, because they seek to intervene for the purposes of defending claims that arise under  
15 this Court’s federal-question jurisdiction and do not seek to bring new claims. *See Freedom from*  
16 *Religion Found., Inc. v. Geithner*, 644 F.3d 836, 844 (9th Cir. 2011) (clarifying “that the  
17 independent jurisdictional grounds requirement does not apply to proposed intervenors in  
18 federal-question cases when the proposed intervenor is not raising new claims”); *John Muir*  
19 *Project*, 2024 WL 4753930, at \*3 (finding requirement did not apply in a NEPA case).

20 In addition to these threshold requirements, courts consider other factors, including “the  
21 nature and extent” of the proposed intervenors’ interests and whether they “will significantly  
22 contribute to full development of the underlying factual issues in the suit and to the just and  
23 equitable adjudication of the legal questions presented.” *Spangler v. Pasadena City Bd. of Educ.*,  
24 552 F.2d 1326, 1329 (9th Cir. 1977) (footnotes omitted).

25 Here, the Court should allow Conservation Organizations to intervene due to their long-  
26 standing interests in protecting Point Reyes National Seashore from commercial ranching  
27 impacts. Conservation Organizations have developed a deep familiarity with the facts and laws at

1 issue through their work to secure and participate in NPS’s planning process for the EIS and  
2 GMPA. Moreover, Conservation Organizations have a strong interest in defending the 2025  
3 Revised ROD, which was spurred by the mediation and settlement of their litigation, *RRI v. NPS*  
4 *II*. Plaintiffs’ case threatens the extraordinary resolution of this long-running public lands  
5 conflict, and thus would benefit from Conservation Organizations’ perspectives about why the  
6 2025 Revised ROD is lawful and furthers the public interest in that historic settlement. Given  
7 Conservation Organizations’ central role in this issue of substantial public interest, the Court  
8 should exercise its decision to allow intervention under Rule 24(b). *See Kootenai Tribe of Id.*,  
9 313 F.3d at 1111 (upholding grant of permissive intervention where environmental groups would  
10 contribute to the “equitable resolution” of a case given its “magnitude”).

11 **CONCLUSION**

12 For the foregoing reasons, the Court should grant Proposed Intervenors’ motion to  
13 intervene as of right under Rule 24(a), or alternatively pursuant to Rule 24(b).

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Respectfully submitted,

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