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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE EASTERN DISTRICT OF CALIFORNIA

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 12 THE UNITED STATES OF AMERICA,
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Plaintiff,

v.

THE STATE OF CALIFORNIA; GAVIN C. NEWSOM, in his official capacity as Governor of the State of California; THE CALIFORNIA AIR RESOURCES BOARD; MARY D. NICHOLS, in her official capacity as Chair of the California Air Resources Board and as Vice Chair and a board member of the Western Climate Initiative, Inc.; WESTERN CLIMATE INITIATIVE, INC.; JARED BLUMENFELD, in his official capacity as Secretary for Environmental Protection and as a board member of the Western Climate Initiative, Inc.; KIP LIPPER, in his official capacity as a board member of the Western Climate Initiative, Inc., and RICHARD BLOOM, in his official capacity as a board member of the Western Climate Initiative, Inc.,

Defendants.

2:19-cv-02142-WBS-EFB

ANSWER TO AMENDED COMPLAINT BY DEFENDANTS:

- (1) STATE OF CALIFORNIA, BY AND THROUGH THE CALIFORNIA AIR RESOURCES BOARD;**
- (2) GAVIN C. NEWSOM, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF CALIFORNIA;**
- (3) THE CALIFORNIA AIR RESOURCES BOARD; AND**
- (4) MARY D. NICHOLS, IN HER OFFICIAL CAPACITY AS CHAIR OF THE CALIFORNIA AIR RESOURCES BOARD**

Courtroom: 5
 Judge: Hon. William B. Shubb

Action Filed: October 23, 2019
 Trial Date: Not Set

¹ The State Defendants are the State of California; Gavin C. Newsom, in his official capacity as Governor of the State of California; the California Air Resources Board; Mary D. Nichols, in her official capacity as Chair of the California Air Resources Board; and Jared Blumenfeld, in his official capacity as Secretary for Environmental Protection. This Answer is filed on behalf of all State Defendants except Secretary Blumenfeld.

ANSWER

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2 Defendants the State of California, by and through the California Air Resources Board
3 (“CARB”); Gavin C. Newsom, in his official capacity as Governor of the State of California;
4 CARB; and Mary D. Nichols, in her official capacity as Chair of CARB (collectively, the
5 “Answering Defendants”), by and through their attorneys, answer the Amended Complaint filed
6 November 19, 2019 by Plaintiff the United States of America as follows:

7 **NATURE OF ANSWER ON BEHALF OF STATE OF CALIFORNIA**

8 Defendant State of California answers the Amended Complaint by and through CARB
9 because CARB is the state agency that implements and enforces California’s cap-and-trade
10 program. *See State of California v. Superior Court*, 12 Cal. 3d 237, 255 (1974) (“Insofar as
11 [plaintiff] seeks a review of the Commission’s denial of its permit, only the Commission and its
12 members may set aside the decision” and “the petition contains no allegations establishing any
13 right to declaratory relief against the state (as distinguished from the Commission acting as its
14 agent) or against the Commission employees in this regard.”); *see also California By & Through*
15 *Brown v. Env’tl. Prot. Agency*, 940 F.3d 1342, 1350 n.1 (D.C. Cir. 2019) (noting that California,
16 and some other states, participated by and through designated state agencies and officials).

17 **ANSWER TO ALLEGATIONS IN AMENDED COMPLAINT**

18 1. The allegations in Paragraph 1 of the Amended Complaint are legal conclusions to which
19 no response is required. To the extent a response is warranted, the Answering Defendants deny
20 each and every allegation contained in Paragraph 1 of the Amended Complaint.

21 2. The allegations contained in Paragraph 2 purport to quote a court decision and state legal
22 conclusions, and therefore no response is required. To the extent a response is required, the
23 Answering Defendants answer that this court decision speaks for itself and deny any allegation
24 that goes beyond that court decision.

25 3. The allegations contained in Paragraph 3 purport to describe a document and state legal
26 conclusions, and therefore no response is required. To the extent a response is required, the
27 Answering Defendants answer that the document speaks for itself and deny any allegation that
28 goes beyond the document.

1 4. The allegations in Paragraph 4 of the Amended Complaint are legal conclusions to which
2 no response is required. To the extent a response is warranted, the Answering Defendants deny
3 each and every allegation contained in Paragraph 4 of the Amended Complaint.

4 5. The allegations in Paragraph 5 of the Amended Complaint are legal conclusions to which
5 no response is required. To the extent a response is warranted, the Answering Defendants deny
6 each and every allegation contained in Paragraph 5 of the Amended Complaint.

7 6. The Answering Defendants admit that Plaintiff's claims arise under the United States
8 Constitution, and Plaintiff is the United States of America. To the extent that Plaintiff alleges
9 anything further in this Paragraph, the remaining allegations in Paragraph 6 of the Amended
10 Complaint are legal conclusions to which no response is required. To the extent a response is
11 warranted, the Answering Defendants deny each and every remaining allegation contained in
12 Paragraph 6 of the Amended Complaint.

13 7. The Answering Defendants admit that defendants Newsom, CARB, and Nichols maintain
14 offices in this District. To the extent that Plaintiff alleges anything further in this Paragraph,
15 those allegations appear to be legal conclusions to which no response is required. To the extent
16 that Plaintiff alleges any further factual allegations in this Paragraph, the Answering Defendants
17 are unable to discern what Plaintiff means to allege, and on that basis deny all remaining
18 allegations in Paragraph 7.

19 8. The allegations in Paragraph 8 of the Amended Complaint are legal conclusions to which
20 no response is required. To the extent a response is warranted, the Answering Defendants deny
21 each and every allegation contained in Paragraph 8 of the Amended Complaint.

22 9. The allegations in Paragraph 9 of the Amended Complaint are legal conclusions to which
23 no response is required. To the extent a response is warranted, the Answering Defendants deny
24 each and every allegation contained in Paragraph 9 of the Amended Complaint.

25 10. The Answering Defendants admit the allegation contained in Paragraph 10 of the
26 Amended Complaint.

27 11. The Answering Defendants admit Gavin C. Newsom is the Governor of the State of
28 California. The remaining allegations in Paragraph 11 of the Amended Complaint are legal

1 conclusions to which no response is required. To the extent a response is warranted, the
2 Answering Defendants deny each and every allegation contained in Paragraph 11 of the Amended
3 Complaint.

4 12. The allegations in the second sentence of Paragraph 12 of the Amended Complaint are
5 legal conclusions to which no response is required. To the extent a response is warranted, the
6 Answering Defendants deny each and every allegation contained in the second sentence of
7 Paragraph 12 of the Amended Complaint. The Answering Defendants admit the remaining
8 allegations contained in Paragraph 12.

9 13. The Answering Defendants admit that Mary D. Nichols is chair of CARB and Vice Chair
10 and a voting board member of the Western Climate Initiative, Inc. The allegation in Paragraph 13
11 that Defendant Nichols is “sued in her official capacities” constitutes a legal conclusion to which
12 a response is not required and also reflects theories of liability for which Answering Defendants
13 also lack sufficient information and belief, and on those grounds, the Answering Defendants deny
14 said allegation.

15 14. The Answering Defendants admit that defendant Western Climate Initiative, Inc. is a non-
16 profit corporation formed pursuant to the General Corporation Law of the State of Delaware and
17 headquartered in Sacramento, California. Beyond these statements, the allegations contained in
18 Paragraph 14 purport to quote documents and state legal conclusions, and therefore no response is
19 required. To the extent a response is required, the Answering Defendants answer that these
20 documents speak for themselves and deny any allegation that goes beyond those documents.

21 15. The first sentence in Paragraph 15 states legal conclusions to which no response is
22 required. To the extent a response is required, the Answering Defendants deny those allegations.
23 The second and third sentences in Paragraph 15 purport to quote a document and state legal
24 conclusions, and therefore no response is required. To the extent a response is required, the
25 Answering Defendants answer that the document speaks for itself and deny any allegation that
26 goes beyond that document.

27 16. The allegation in Paragraph 16 that Defendant Blumenfeld is “sued in his official
28 capacities” constitutes a legal conclusion to which a response is not required and also reflects a

1 theory of liability for which Answering Defendants also lack sufficient information and belief,
2 and on those grounds, the Answering Defendants deny said allegation. The Answering
3 Defendants admit the remaining allegations contained in Paragraph 16.

4 17. The allegation in Paragraph 17 that Defendant Lipper is “sued in his official capacity”
5 constitutes a legal conclusion to which a response is not required and also reflects a theory of
6 liability for which Answering Defendants also lack sufficient information and belief, and on those
7 grounds, the Answering Defendants deny said allegation. The Answering Defendants admit the
8 remaining allegations contained in Paragraph 17.

9 18. The allegation in Paragraph 18 that Defendant Bloom is “sued in his official capacity”
10 constitutes a legal conclusion to which a response is not required and also reflects a theory of
11 liability for which Answering Defendants also lack sufficient information and belief, and on those
12 grounds, the Answering Defendants deny said allegation. The Answering Defendants admit the
13 remaining allegations contained in Paragraph 18.

14 19. Paragraph 19 explains the short form naming convention applied by Plaintiff in its
15 Amended Complaint and no response is required. To the extent a response is required, the
16 Answering Defendants deny any allegation that goes beyond Plaintiff’s attempt to apply a short
17 name collectively for all defendants.

18 20. The allegations contained in Paragraph 20 purport to quote the text of the United States
19 Constitution and state legal conclusions, and therefore no response is required. To the extent a
20 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
21 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
22 Constitution.

23 21. The allegations contained in Paragraph 21 purport to quote the text of the United States
24 Constitution and state legal conclusions, and therefore no response is required. To the extent a
25 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
26 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
27 Constitution.

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1 22. The allegations contained in Paragraph 22 purport to quote a court decision and state legal
2 conclusions, and therefore no response is required. To the extent a response is required, the
3 Answering Defendants answer that this court decision speaks for itself and deny any allegation
4 that goes beyond that court decision.

5 23. The allegations contained in Paragraph 23 purport to quote the text of the United States
6 Constitution and state legal conclusions, and therefore no response is required. To the extent a
7 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
8 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
9 Constitution.

10 24. The allegations contained in Paragraph 24 purport to quote the text of the United States
11 Constitution and state legal conclusions, and therefore no response is required. To the extent a
12 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
13 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
14 Constitution.

15 25. The allegations contained in Paragraph 25 purport to describe a court decision and state
16 legal conclusions, and therefore no response is required. To the extent a response is required, the
17 Answering Defendants answer that this court decision speaks for itself and deny any allegation
18 that goes beyond that court decision.

19 26. The allegations in Paragraph 26 of the Amended Complaint are legal conclusions to which
20 no response is required. To the extent a response is warranted, the Answering Defendants deny
21 each and every allegation contained in Paragraph 26 of the Amended Complaint.

22 27. The allegations contained in Paragraph 27 purport to quote the text of the United States
23 Constitution and state legal conclusions, and therefore no response is required. To the extent a
24 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
25 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
26 Constitution.

27 28. The allegations contained in Paragraph 28 purport to quote the text of the United States
28 Constitution and state legal conclusions, and therefore no response is required. To the extent a

1 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
2 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
3 Constitution.

4 29. The allegations contained in Paragraph 29 purport to quote the text of the United States
5 Constitution and state legal conclusions, and therefore no response is required. To the extent a
6 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
7 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
8 Constitution.

9 30. The allegations contained in Paragraph 30 purport to quote the text of the United States
10 Constitution and state legal conclusions, and therefore no response is required. To the extent a
11 response is required, the Answering Defendants answer that as to its text, the Constitution speaks
12 for itself, and the Answering Defendants deny any allegation that goes beyond the text of the
13 Constitution.

14 31. The allegations contained in Paragraph 31 purport to quote a court decision and state legal
15 conclusions, and therefore no response is required. To the extent a response is required, the
16 Answering Defendants answer that this court decision speaks for itself and deny any allegation
17 that goes beyond that court decision.

18 32. The allegations contained in Paragraph 32 purport to describe a court decision and state
19 legal conclusions, and therefore no response is required. To the extent a response is required, the
20 Answering Defendants answer that this court decision speaks for itself and deny any allegation
21 that goes beyond that court decision.

22 33. The allegations contained in Paragraph 33 purport to describe or quote court decisions and
23 state legal conclusions, and therefore no response is required. To the extent a response is
24 required, the Answering Defendants answer that the court decisions speak for themselves and
25 deny any allegation that goes beyond those court decisions.

26 34. The Answering Defendants admit that the President signed the UNFCCC, and the Senate
27 unanimously ratified the UNFCCC. The remaining allegations contained in Paragraph 34 purport
28 to describe a document and state legal conclusions, and therefore no response is required. To the

1 extent a response is required, the Answering Defendants answer that the document speaks for
2 itself and deny any allegation that goes beyond that document.

3 35. The allegations in Paragraph 35 of the Amended Complaint are legal conclusions to which
4 no response is required. To the extent a response is warranted, the Answering Defendants deny
5 each and every allegation contained in Paragraph 35 of the Amended Complaint.

6 36. The allegations contained in Paragraph 36 purport to describe a document and state legal
7 conclusions, and therefore no response is required. To the extent a response is required, the
8 Answering Defendants answer that the document speaks for itself and deny any allegation that
9 goes beyond that document.

10 37. The allegations contained in Paragraph 37 purport to describe a document and state legal
11 conclusions, and therefore no response is required. To the extent a response is required, the
12 Answering Defendants answer that the document speaks for itself and deny any allegation that
13 goes beyond that document.

14 38. The allegations contained in Paragraph 38 purport to describe a document and state legal
15 conclusions, and therefore no response is required. To the extent a response is required, the
16 Answering Defendants answer that the document speaks for itself and deny any allegation that
17 goes beyond that document.

18 39. The allegations contained in Paragraph 39 purport to describe a document and state legal
19 conclusions, and therefore no response is required. To the extent a response is required, the
20 Answering Defendants answer that the document speaks for itself and deny any allegation that
21 goes beyond that document.

22 40. The Answering Defendants admit that the President never submitted the Kyoto Protocol
23 for ratification, and the Senate unanimously passed S. Res. 98, 105th Cong. (1997). The
24 remaining allegations contained in Paragraph 40 purport to describe documents and state legal
25 conclusions, and therefore no response is required. To the extent a response is required, the
26 Answering Defendants answer that the documents speak for themselves and deny any allegation
27 that goes beyond those documents.
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1 41. The Answering Defendants admit that the parties to the UNFCCC agreed to the Paris
2 Climate Agreement by consensus on December 12, 2015. As to footnote 1, the footnote explains
3 the short form naming convention applied by Plaintiff in its Amended Complaint, and no
4 response is required.

5 42. The allegations contained in Paragraph 42 purport to describe a document and state legal
6 conclusions, and therefore no response is required. To the extent a response is required, the
7 Answering Defendants answer that the document speaks for itself and deny any allegation that
8 goes beyond that document.

9 43. The allegations contained in Paragraph 43 purport to describe a document and state legal
10 conclusions, and therefore no response is required. To the extent a response is required, the
11 Answering Defendants answer that the document speaks for itself and deny any allegation that
12 goes beyond that document.

13 44. The Answering Defendants admit that the President signed the Paris Climate Agreement
14 in September 2016. To the extent that Plaintiff alleges anything further in this Paragraph, the
15 Answering Defendants are unable to discern what Plaintiff means to allege, and on that basis
16 deny all remaining allegations in this Paragraph.

17 45. The Answering Defendants admit that the President signed Executive Order 13,783 on
18 March 28, 2017. The remaining allegations contained in Paragraph 45 purport to describe a
19 document and state legal conclusions, and therefore no response is required. To the extent a
20 response is required, the Answering Defendants answer that the document speaks for itself and
21 deny any allegation that goes beyond that document.

22 46. The allegations contained in Paragraph 46 purport to quote a document and state legal
23 conclusions, and therefore no response is required. To the extent a response is required, the
24 Answering Defendants answer that the document speaks for itself and deny any allegation that
25 goes beyond that document.

26 47. The Answering Defendants admit the President gave a statement concerning withdrawal
27 from the Paris Climate Agreement on June 1, 2017. The allegations contained in Paragraph 47
28 purport to describe that statement and state legal conclusions, and therefore no response is

1 required. To the extent a response is required, the Answering Defendants answer that the text of
2 the statement speaks for itself and deny any allegation that goes beyond that text.

3 48. The allegations contained in Paragraph 48 purport to describe a statement by the President
4 and state legal conclusions, and therefore no response is required. To the extent a response is
5 required, the Answering Defendants answer that the text of the statement speaks for itself and
6 deny any allegation that goes beyond that text.

7 49. The Answering Defendants admit the first sentence of Paragraph 49. The Answering
8 Defendants lack sufficient information and belief concerning events that have not yet occurred
9 and are not certain, and on that basis deny the second sentence of Paragraph 49.

10 50. The allegations contained in Paragraph 50 purport to describe a written statement by the
11 Secretary of State and state legal conclusions, and therefore no response is required. To the
12 extent a response is required, the Answering Defendants answer that the text of the statement
13 speaks for itself and deny any allegation that goes beyond that text.

14 51. The allegations contained in Paragraph 51, except the last sentence, purport to quote from
15 and describe documents, and therefore no response is required. To the extent a response is
16 required, the Answering Defendants answer that these documents speak for themselves and deny
17 any allegation that goes beyond those documents. The last sentence in Paragraph 51 of the
18 Amended Complaint states a legal conclusion to which no response is required. To the extent a
19 response is warranted, the Answering Defendants deny each and every allegation contained in the
20 last sentence of Paragraph 51 of the Amended Complaint.

21 52. The allegations contained in Paragraph 52 purport to describe a public statement and state
22 legal conclusions, and therefore no response is required. To the extent a response is required, the
23 Answering Defendants answer that the text of the statement speaks for itself and deny any
24 allegation that goes beyond that text.

25 53. The Answering Defendants admit that California, by and through one or more of the
26 Defendants, has reached several non-binding understandings with national and subnational
27 governments in China regarding or touching upon environmental issues after the President's
28 announcement of intent to withdraw from the Paris Climate Agreement. The remaining

1 allegations in Paragraph 53 of the Amended Complaint are legal conclusions to which no
2 response is required. To the extent a response is warranted, the Answering Defendants deny each
3 and every allegation contained in Paragraph 53 of the Amended Complaint.

4 54. The Answering Defendants admit that on June 6, 2017, the Governor of California met
5 with the President of the People’s Republic of China, and engaged in discussions that included
6 environmental issues. To the extent that Plaintiff alleges anything further in this Paragraph, the
7 Answering Defendants are unable to discern what Plaintiff means to allege, and on that basis
8 deny all remaining allegations in Paragraph 54.

9 55. The allegations contained in Paragraph 55 purport to describe a document and state legal
10 conclusions, and therefore no response is required. To the extent a response is required, the
11 Answering Defendants answer that the document speaks for itself and deny any allegation that
12 goes beyond that document. As to footnote 2, the footnote identifies a website and alleges that an
13 attached document “amalgamates text from” the website. The Answering Defendants admit that
14 the website exists, but lack sufficient information and belief concerning what Plaintiff means by
15 “amalgamates” and on that basis deny all remaining allegations in footnote 2.

16 56. The allegations contained in Paragraph 56 purport to describe a document and website and
17 state legal conclusions, and therefore no response is required. To the extent a response is
18 required, the Answering Defendants answer that the document and website speak for themselves
19 and deny any allegation that goes beyond that document and that website.

20 57. The allegations contained in Paragraph 57 purport to describe documents and state legal
21 conclusions, and therefore no response is required. To the extent a response is required, the
22 Answering Defendants answer that the documents speak for themselves and deny any allegation
23 that goes beyond those documents.

24 58. The allegations contained in Paragraph 58 purport to quote a statute and state legal
25 conclusions, and therefore no response is required. To the extent a response is required, the
26 Answering Defendants answer that this statute speaks for itself and deny any allegation that goes
27 beyond that statute.

28

1 59. The allegations in Paragraph 59 of the Amended Complaint are legal conclusions to which
2 no response is required. To the extent a response is warranted, the Answering Defendants deny
3 each and every allegation contained in Paragraph 59 of the Amended Complaint.

4 60. This Paragraph explains a naming convention applied by Plaintiff. No response is
5 required. To the extent that a response is required, the Answering Defendants deny that this is an
6 accurate or thorough description of California's Cap-and-Trade program. To the extent that
7 Plaintiff alleges anything further in this Paragraph, the Answering Defendants are unable to
8 discern what Plaintiff means to allege, and on that basis deny all remaining allegations in this
9 Paragraph.

10 61. The allegations contained in Paragraph 61 purport to describe regulations and state legal
11 conclusions, and therefore no response is required. To the extent a response is required, the
12 Answering Defendants answer that the regulations speak for themselves and deny any allegation
13 that goes beyond the regulations.

14 62. The allegations contained in Paragraph 62 purport to describe regulations and state legal
15 conclusions, and therefore no response is required. To the extent a response is required, the
16 Answering Defendants answer that the regulations speak for themselves and deny any allegation
17 that goes beyond the regulations.

18 63. The allegations contained in Paragraph 63 purport to describe regulations and state legal
19 conclusions, and therefore no response is required. As to the first sentence, to the extent a
20 response is required, the Answering Defendants answer that the regulations speak for themselves
21 and deny any allegation that goes beyond the regulations. As to the second sentence, the
22 statement is vague, ambiguous, and may be a legal conclusion to which no response is required.
23 To the extent that a response to the second sentence is required, the Answering Defendants deny
24 all allegations in the second sentence.

25 64. The allegations contained in Paragraph 64 purport to describe regulations and state legal
26 conclusions, and therefore no response is required. To the extent a response is required, the
27 Answering Defendants answer that the regulations speak for themselves and deny any allegation
28 that goes beyond the regulations.

1 65. The allegations contained in Paragraph 65 purport to describe regulations and state legal
2 conclusions, and therefore no response is required. To the extent a response is required, the
3 Answering Defendants answer that the regulations speak for themselves and deny any allegation
4 that goes beyond the regulations.

5 66. The allegations contained in Paragraph 66 purport to describe regulations and state legal
6 conclusions, and therefore no response is required. To the extent a response is required, the
7 Answering Defendants answer that the regulations speak for themselves and deny any allegation
8 that goes beyond the regulations.

9 67. The allegations contained in Paragraph 67 purport to describe regulations and state legal
10 conclusions, and therefore no response is required. To the extent a response is required, the
11 Answering Defendants answer that the regulations speak for themselves and deny any allegation
12 that goes beyond the regulations.

13 68. The allegations in Paragraph 68 of the Amended Complaint are legal conclusions to which
14 no response is required. The allegations in this Paragraph are also vague because they use terms
15 which appear to be terms of art, but are not defined. To the extent a response is warranted, the
16 Answering Defendants deny each and every allegation contained in Paragraph 68 of the Amended
17 Complaint.

18 69. The allegations in Paragraph 69 of the Amended Complaint are legal conclusions to which
19 no response is required. The allegations in this Paragraph are also vague because they use terms
20 which appear to be terms of art, but are not defined. To the extent a response is warranted, the
21 Answering Defendants deny each and every allegation contained in Paragraph 69 of the Amended
22 Complaint.

23 70. The allegations contained in Paragraph 70 purport to describe a document and state legal
24 conclusions, and therefore no response is required. To the extent a response is required, the
25 Answering Defendants answer that the document speaks for itself and deny any allegation that
26 goes beyond the document.

27 71. The allegations contained in Paragraph 71 purport to describe a document and state legal
28 conclusions, and therefore no response is required. To the extent a response is required, the

1 Answering Defendants answer that the document speaks for itself and deny any allegation that
2 goes beyond the document.

3 72. The allegations contained in Paragraph 72 purport to describe a document and state legal
4 conclusions, and therefore no response is required. To the extent a response is required, the
5 Answering Defendants answer that the document speaks for itself and deny any allegation that
6 goes beyond the document.

7 73. The allegations contained in Paragraph 73 purport to describe regulations and state legal
8 conclusions, and therefore no response is required. To the extent a response is required, the
9 Answering Defendants answer that the regulations speak for themselves and deny any allegation
10 that goes beyond the regulations.

11 74. The allegations contained in Paragraph 74 purport to describe regulations and state legal
12 conclusions, and therefore no response is required. To the extent a response is required, the
13 Answering Defendants answer that the regulations speak for themselves and deny any allegation
14 that goes beyond the regulations.

15 75. The allegations contained in Paragraph 75 purport to describe regulations and state legal
16 conclusions, and therefore no response is required. To the extent a response is required, the
17 Answering Defendants answer that the regulations speak for themselves and deny any allegation
18 that goes beyond the regulations.

19 76. The allegations contained in Paragraph 76 purport to describe regulations and state legal
20 conclusions, and therefore no response is required. To the extent a response is required, the
21 Answering Defendants answer that the regulations speak for themselves and deny any allegation
22 that goes beyond the regulations.

23 77. The allegations contained in Paragraph 77 purport to describe regulations and state legal
24 conclusions, and therefore no response is required. To the extent a response is required, the
25 Answering Defendants answer that the regulations speak for themselves and deny any allegation
26 that goes beyond the regulations.

27 78. The allegations contained in Paragraph 78 purport to describe regulations and state legal
28 conclusions, and therefore no response is required. To the extent a response is required, the

1 Answering Defendants answer that the regulations speak for themselves and deny any allegation
2 that goes beyond the regulations.

3 79. The allegations contained in Paragraph 79 purport to describe a document and state legal
4 conclusions, and therefore no response is required. To the extent a response is required, the
5 Answering Defendants answer that the document speaks for itself and deny any allegation that
6 goes beyond the document.

7 80. The Answering Defendants cannot discern Plaintiff's allegation with respect to the phrase
8 "reciprocal undertaking" in Paragraph 80, and on those grounds deny the allegations in said
9 sentence. In addition, the allegations contained in Paragraph 80 are legal conclusions to which no
10 response is required. To the extent a response is warranted, the Answering Defendants deny each
11 and every allegation contained in Paragraph 80 of the Amended Complaint.

12 81. The allegations contained in Paragraph 81 purport to describe a document and state legal
13 conclusions, and therefore no response is required. To the extent a response is required, the
14 Answering Defendants answer that the document speaks for itself and deny any allegation that
15 goes beyond the document.

16 82. The allegations contained in Paragraph 82 purport to describe a document and state legal
17 conclusions, and therefore no response is required. To the extent a response is required, the
18 Answering Defendants answer that the document speaks for itself and deny any allegation that
19 goes beyond the document.

20 83. The allegations in Paragraph 83 of the Amended Complaint are legal conclusions to which
21 no response is required. To the extent a response is warranted, the Answering Defendants deny
22 each and every allegation contained in Paragraph 83 of the Amended Complaint.

23 84. The allegations in Paragraph 84 of the Amended Complaint are legal conclusions applied
24 to hypothetical situations, to which no response is required. To the extent a response is
25 warranted, the Answering Defendants deny each and every allegation contained in Paragraph 84
26 of the Amended Complaint.

27 85. The allegations contained in Paragraph 85 purport to describe regulations and state legal
28 conclusions, and therefore no response is required. To the extent a response is required, the

1 Answering Defendants answer that the regulations speak for themselves and deny any allegation
2 that goes beyond the regulations.

3 86. The allegations contained in Paragraph 86 purport to describe a document and state legal
4 conclusions, and therefore no response is required. To the extent a response is required, the
5 Answering Defendants answer that the document speaks for itself and deny any allegation that
6 goes beyond the document.

7 87. The allegations in Paragraph 87 of the Amended Complaint are legal conclusions to which
8 no response is required. To the extent a response is warranted, the Answering Defendants deny
9 each and every allegation contained in Paragraph 87 of the Amended Complaint.

10 88. The allegations contained in Paragraph 88 purport to describe a document and state legal
11 conclusions, and therefore no response is required. To the extent a response is required, the
12 Answering Defendants answer that the document speaks for itself and deny any allegation that
13 goes beyond the document.

14 89. The allegations in Paragraph 89 of the Amended Complaint are legal conclusions to which
15 no response is required. The allegations in this Paragraph are also vague because they use terms
16 which appear to be terms of art, but are not defined. To the extent a response is warranted, the
17 Answering Defendants deny each and every allegation contained in Paragraph 89 of the Amended
18 Complaint.

19 90. The Answering Defendants deny that CARB's and Quebec's respective cap-and-trade
20 programs are governed by the referenced agreement. To the extent that Plaintiff alleges anything
21 further in Paragraph 90, the Answering Defendants are unable to discern what Plaintiff means to
22 allege, and on that basis no response is required. To the extent a response is warranted, the
23 Answering Defendants deny each and every allegation contained in Paragraph 90 of the Amended
24 Complaint.

25 91. The allegations contained in Paragraph 91 purport to describe a document, a statute, and a
26 regulation, and state legal conclusions, and therefore no response is required. To the extent a
27 response is required, the Answering Defendants answer that the document, statute, and regulation
28

1 speak for themselves and deny any allegation that goes beyond the document, statute, or
2 regulation.

3 92. The Answering Defendants admit that Quebec is currently the only jurisdiction apart from
4 California that can issue allowances and offsets that CARB will accept. The remaining
5 allegations in Paragraph 92 of the Amended Complaint are legal conclusions to which no
6 response is required. To the extent a response is warranted, the Answering Defendants deny each
7 and every allegation contained in the remaining sentences of Paragraph 92 of the Amended
8 Complaint.

9 93. The allegations in Paragraph 93 of the Amended Complaint purport to describe a
10 document and state legal conclusions, and therefore no response is required. To the extent a
11 response is required, the Answering Defendants answer that the document speaks for itself and
12 deny any allegation that goes beyond that document.

13 94. The allegations in Paragraph 94 of the Amended Complaint are legal conclusions to which
14 no response is required. To the extent a response is warranted, the Answering Defendants deny
15 each and every allegation contained in Paragraph 94 of the Amended Complaint.

16 95. The allegations in Paragraph 95 of the Amended Complaint are legal conclusions to which
17 no response is required. To the extent a response is warranted, the Answering Defendants deny
18 each and every allegation contained in Paragraph 95 of the Amended Complaint.

19 96. The allegations contained in Paragraph 96 purport to describe a document and state legal
20 conclusions, and therefore no response is required. To the extent a response is required, the
21 Answering Defendants answer that the document speaks for itself and deny any allegation that
22 goes beyond the document.

23 97. The Answering Defendants admit that CARB and Quebec have jointly auctioned
24 allowances and that as of August 20, 2019, twenty joint auctions had taken place. The Answering
25 Defendants deny the remaining allegations contained in the first sentence of Paragraph 97 of the
26 Amended Complaint. The allegations contained in the citation and second sentence of Paragraph
27 97 purport to describe a website, and therefore no response is required. To the extent a response
28 is required, the Answering Defendants answer that the website speaks for itself, and that it has

1 been updated since the date noted as the date it was last visited by Plaintiff, and deny any
2 allegation that goes beyond the content of the website.

3 98. The allegations contained in Paragraph 98 purport to describe a document and state legal
4 conclusions, and therefore no response is required. To the extent a response is required, the
5 Answering Defendants answer that the document speaks for itself and deny any allegation that
6 goes beyond the document.

7 99. The allegations in Paragraph 99 of the Amended Complaint are legal conclusions to which
8 no response is required. To the extent a response is warranted, the Answering Defendants deny
9 each and every allegation contained in Paragraph 99 of the Amended Complaint.

10 100. The allegations in Paragraph 100 of the Amended Complaint are legal conclusions
11 to which no response is required. To the extent a response is warranted, the Answering
12 Defendants deny each and every allegation contained in Paragraph 100 of the Amended
13 Complaint.

14 101. The allegations in Paragraph 101 of the Amended Complaint are legal conclusions
15 to which no response is required. To the extent a response is warranted, the Answering
16 Defendants deny each and every allegation contained in Paragraph 101 of the Amended
17 Complaint.

18 102. The allegations in Paragraph 102 of the Amended Complaint are legal conclusions
19 to which no response is required. To the extent a response is warranted, the Answering
20 Defendants deny each and every allegation contained in Paragraph 102 of the Amended
21 Complaint.

22 103. The allegations contained in Paragraph 103 purport to describe a document and
23 state legal conclusions, and therefore no response is required. To the extent a response is
24 required, the Answering Defendants answer that the document speaks for itself and deny any
25 allegation that goes beyond the document.

26 104. The Answering Defendants are unable to confirm what constitutes the beliefs of an
27 official sued in an official capacity, and on that basis deny the allegations in Paragraph 104. *Cf.*
28 *Kentucky v. Graham*, 473 U.S. 159, 166 (1985) (“[A]n official-capacity suit is, in all respects

1 other than name, to be treated as a suit against the entity. It is *not* a suit against the official
2 personally, for the real party in interest is the entity.” (citation omitted)), *Morongo Band of*
3 *Mission Indians v. California State Bd. of Equalization*, 858 F.2d 1376, 1382 n.5 (9th Cir. 1988).
4 The Answering Defendants also deny the allegations in paragraph 104 on the grounds that they
5 involve Plaintiff’s speculation about hypothetical counter-factual scenarios, and the Answering
6 Defendants lack sufficient information and belief about Plaintiff’s scenarios to develop beliefs
7 about how regulated parties would behave in those scenarios.

8 105. The Answering Defendants are unable to confirm what constitutes the beliefs of an
9 official sued in an official capacity or what it means for an official acting in an official capacity to
10 act consistently with a belief, and on that basis deny the allegations in Paragraph 105. *Cf.*
11 *Graham*, 473 U.S. at 166 (“[A]n official-capacity suit is, in all respects other than name, to be
12 treated as a suit against the entity. It is *not* a suit against the official personally, for the real party
13 in interest is the entity.” (citation omitted)), *Morongo Band of Mission Indians*, 858 F.2d at 1382
14 n.5. The Answering Defendants further deny the allegations in Paragraph 105 on the additional
15 grounds that they rely on Plaintiff’s incorrect legal conclusions regarding the Agreement—legal
16 conclusions that the Answering Defendants do not share.

17 106. The Answering Defendants are unable to confirm what constitutes the beliefs of an
18 official sued in an official capacity, and on that basis deny the allegations in Paragraph 106. *Cf.*
19 *Graham*, 473 U.S. at 166 (“[A]n official-capacity suit is, in all respects other than name, to be
20 treated as a suit against the entity. It is *not* a suit against the official personally, for the real party
21 in interest is the entity.” (citation omitted)), *Morongo Band of Mission Indians*, 858 F.2d at 1382
22 n.5. The Answering Defendants also deny the allegations in paragraph 106 on the grounds that
23 they involve Plaintiff’s speculation about hypothetical counter-factual scenarios, and the
24 Answering Defendants lack sufficient information and belief about Plaintiff’s scenarios to
25 develop beliefs about how regulated parties would behave in those scenarios.

26 107. The Answering Defendants are unable to confirm what constitutes the beliefs of an
27 official sued in an official capacity or what it means for an official acting in an official capacity to
28 act consistently with a belief, and on that basis deny the allegations in Paragraph 107. *Cf.*

1 *Graham*, 473 U.S. at 166 (“[A]n official-capacity suit is, in all respects other than name, to be
2 treated as a suit against the entity. It is *not* a suit against the official personally, for the real party
3 in interest is the entity.” (citation omitted)), *Morongo Band of Mission Indians*, 858 F.2d at 1382
4 n.5. The Answering Defendants further deny the allegations in Paragraph 107 on the additional
5 grounds that they rely on Plaintiff’s incorrect legal conclusions regarding the Agreement—legal
6 conclusions that the Answering Defendants do not share.

7 108. The allegations contained in Paragraph 108 purport to describe a document and
8 state legal conclusions, and therefore no response is required. To the extent a response is
9 required, the Answering Defendants answer that the document speaks for itself and deny any
10 allegation that goes beyond the document.

11 109. The allegations in Paragraph 109 of the Amended Complaint are legal conclusions
12 to which no response is required. To the extent a response is warranted, the Answering
13 Defendants deny each and every allegation contained in Paragraph 109 of the Amended
14 Complaint.

15 110. The allegations contained in Paragraph 110 purport to describe a document and
16 state legal conclusions, and therefore no response is required. To the extent a response is
17 required, the Answering Defendants answer that the document speaks for itself and deny any
18 allegation that goes beyond the document.

19 111. The allegations contained in Paragraph 111 purport to describe a document and
20 state legal conclusions, and therefore no response is required. To the extent a response is
21 required, the Answering Defendants answer that the document speaks for itself and deny any
22 allegation that goes beyond the document.

23 112. The allegations contained in Paragraph 112 purport to describe a document and
24 state legal conclusions, and therefore no response is required. To the extent a response is
25 required, the Answering Defendants answer that the document speaks for itself and deny any
26 allegation that goes beyond the document.

27 113. The allegations contained in Paragraph 113 purport to describe a document and
28 state legal conclusions, and therefore no response is required. To the extent a response is

1 required, the Answering Defendants answer that the document speaks for itself and deny any
2 allegation that goes beyond the document.

3 114. The allegations in Paragraph 114 of the Amended Complaint are legal conclusions
4 to which no response is required. To the extent a response is warranted, the Answering
5 Defendants deny each and every allegation contained in Paragraph 114 of the Amended
6 Complaint.

7 115. The allegations in Paragraph 115 of the Amended Complaint are legal conclusions
8 to which no response is required. To the extent a response is warranted, the Answering
9 Defendants deny each and every allegation contained in Paragraph 115 of the Amended
10 Complaint.

11 116. The allegations contained in Paragraph 116 purport to describe a document and
12 state legal conclusions, and therefore no response is required. To the extent a response is
13 required, the Answering Defendants answer that the document speaks for itself and deny any
14 allegation that goes beyond the document.

15 117. The allegations contained in Paragraph 117 purport to describe a regulation and
16 state legal conclusions, and therefore no response is required. To the extent a response is
17 required, the Answering Defendants answer that the regulation speaks for itself and deny any
18 allegation that goes beyond the regulation.

19 118. The Answering Defendants cannot discern Plaintiff's allegation with respect to the
20 phrase "made a reciprocal undertaking" in the first sentence of Paragraph 118, and on those
21 grounds deny the allegations in said sentence. To the extent that Plaintiff seeks to state a legal
22 conclusion with the phrase "make a reciprocal undertaking," no response is required. The
23 remaining allegations contained in Paragraph 118 purport to describe a regulation and state legal
24 conclusions, and therefore no response is required. To the extent a response is required, the
25 Answering Defendants answer that the regulation speaks for itself and deny any allegation that
26 goes beyond the regulation.

27 119. The allegations in Paragraph 119 of the Amended Complaint are legal conclusions
28 to which no response is required. To the extent a response is warranted, the Answering

1 Defendants deny each and every allegation contained in Paragraph 119 of the Amended
2 Complaint.

3 120. The allegations contained in Paragraph 120 purport to describe a document and
4 state legal conclusions, and therefore no response is required. To the extent a response is
5 required, the Answering Defendants answer that the document speaks for itself and deny any
6 allegation that goes beyond the document.

7 121. The Answering Defendants cannot discern Plaintiff's allegation with respect to the
8 phrase "made a reciprocal undertaking" in the first sentence of Paragraph 121, and on those
9 grounds deny the allegations in said sentence. To the extent that Plaintiff seeks to state a legal
10 conclusion with the phrase "reciprocal undertaking," no response is required. The remaining
11 allegations contained in Paragraph 121 purport to describe a document and state legal
12 conclusions, and therefore no response is required. To the extent a response is required, the
13 Answering Defendants answer that the document speaks for itself and deny any allegation that
14 goes beyond the document.

15 122. The allegations contained in Paragraph 122 purport to characterize a public
16 statement and state legal conclusions, and therefore no response is required. To the extent a
17 response is required, the Answering Defendants answer that Newsom and Nichols' public
18 statements speaks for themselves and deny any allegation that goes beyond the public statement.
19 To the extent that Plaintiff alleges intent in Paragraph 122, the Answering Defendants are unable
20 to confirm what constitutes the intent of officials sued in their official capacities, and on that basis
21 deny the allegations in Paragraph 122. *Cf. Graham*, 473 U.S. at 166 ("[A]n official-capacity suit
22 is, in all respects other than name, to be treated as a suit against the entity. It is *not* a suit against
23 the official personally, for the real party in interest is the entity." (citation omitted)), *Morongo*
24 *Band of Mission Indians*, 858 F.2d at 1382 n.5.

25 123. The allegations contained in Paragraph 123 purport to characterize public
26 statements and state legal conclusions, and therefore no response is required. To the extent a
27 response is required, the Answering Defendants answer that the public statements speaks for
28 themselves and deny any allegation that goes beyond the public statements.

1 124. The Answering Defendants are unable to confirm what constitutes the beliefs of an
2 official sued in an official capacity, and on that basis deny the allegations in Paragraph 124. *Cf.*
3 *Graham*, 473 U.S. at 166 (“[A]n official-capacity suit is, in all respects other than name, to be
4 treated as a suit against the entity. It is *not* a suit against the official personally, for the real party
5 in interest is the entity.” (citation omitted)), *Morongo Band of Mission Indians*, 858 F.2d at 1382
6 n.5. The Answering Defendants further deny the allegations in Paragraph 124 on the additional
7 grounds that they rely on Plaintiff’s incorrect legal conclusions regarding the Agreement—legal
8 conclusions that the Answering Defendants do not share.

9 125. The allegations contained in Paragraph 125 purport to characterize a public
10 statement and therefore no response is required. To the extent a response is required, the
11 Answering Defendants answer that the public statement speaks for itself and deny any allegation
12 that goes beyond the public statement.

13 126. The public statement referenced in Paragraph 126 speaks for itself, and therefore
14 no response is required. To the extent a response is warranted, the Answering Defendants are
15 unable to confirm what constitutes the beliefs of an official sued in an official capacity, and on
16 that basis deny the allegations in Paragraph 126. *Cf. Graham*, 473 U.S. at 166 (“[A]n official-
17 capacity suit is, in all respects other than name, to be treated as a suit against the entity. It is *not* a
18 suit against the official personally, for the real party in interest is the entity.” (citation omitted)),
19 *Morongo Band of Mission Indians*, 858 F.2d at 1382 n.5.

20 127. The Answering Defendants are unable to confirm what constitutes the beliefs or
21 intentions of an official sued in an official capacity, and on that basis deny the allegations in
22 Paragraph 127. *Cf. Graham*, 473 U.S. at 166 (“[A]n official-capacity suit is, in all respects other
23 than name, to be treated as a suit against the entity. It is *not* a suit against the official personally,
24 for the real party in interest is the entity.” (citation omitted)), *Morongo Band of Mission Indians*,
25 858 F.2d at 1382 n.5. The Answering Defendants further deny the allegations in Paragraph 127
26 on the additional grounds that they rely on Plaintiff’s incorrect legal conclusions regarding the
27 Agreement—legal conclusions that the Answering Defendants do not share.

1 128. The Answering Defendants admit that CARB is continuing to implement its cap-
2 and-trade program, in accord with the regulations that permit regulated entities within California
3 the use of Quebec-issued instruments for compliance. The Answering Defendants deny that
4 CARB and Quebec’s respective cap-and-trade programs are governed by the referenced
5 agreement. To the extent that Plaintiff alleges anything further in Paragraph 128, the Answering
6 Defendants are unable to discern what Plaintiff means to allege, and on that basis no response is
7 required. To the extent a response is warranted, the Answering Defendants deny each and every
8 remaining allegation contained in Paragraph 128 of the Amended Complaint.

9 129. The allegations contained in Paragraph 129 purport to describe a document and
10 state legal conclusions, and therefore no response is required. To the extent a response is
11 required, the Answering Defendants answer that the document speaks for itself and deny any
12 allegation that goes beyond the document.

13 130. The allegations contained in Paragraph 130 purport to describe a document and
14 state legal conclusions, and therefore no response is required. To the extent a response is
15 required, the Answering Defendants answer that the document speaks for itself and deny any
16 allegation that goes beyond the document.

17 131. The allegations in Paragraph 131 of the Amended Complaint are legal conclusions
18 to which no response is required. To the extent a response is warranted, the Answering
19 Defendants deny each and every allegation contained in Paragraph 131 of the Amended
20 Complaint.

21 132. The allegations in Paragraph 132 of the Amended Complaint are legal conclusions
22 to which no response is required. To the extent a response is warranted, the Answering
23 Defendants deny each and every allegation contained in Paragraph 132 of the Amended
24 Complaint.

25 133. The allegations contained in Paragraph 133 purport to describe a document and
26 state legal conclusions, and therefore no response is required. To the extent a response is
27 warranted, the Answering Defendants answer that the document speaks for itself and deny any
28 allegation that goes beyond the document.

1 134. The Answering Defendants lack sufficient information and belief to respond to the
2 allegations contained in Paragraph 134 of the Amended Complaint, and therefore deny said
3 allegations.

4 135. The allegations in Paragraph 135 of the Amended Complaint are legal conclusions
5 to which no response is required. To the extent a response is warranted, the Answering
6 Defendants deny each and every allegation contained in Paragraph 135 of the Amended
7 Complaint.

8 136. The allegations contained in Paragraph 136 purport to describe a document and
9 state legal conclusions, and therefore no response is required. To the extent a response is
10 required, the Answering Defendants answer that the document speaks for itself and deny any
11 allegation that goes beyond the document.

12 137. The allegations contained in Paragraph 137 purport to describe documents and
13 state legal conclusions, and therefore no response is required. Also, the Answering Defendants
14 lack sufficient information and belief to ascertain the purposes of governors and premiers in 2007,
15 and on that basis deny the allegations in the first sentence of Paragraph 137 concerning
16 “purpose.” To the extent a further response is required, the Answering Defendants answer that
17 the documents speak for themselves and deny any allegation that goes beyond the documents.

18 138. The allegations contained in Paragraph 138 purport to describe a document and
19 state legal conclusions, and therefore no response is required. To the extent a response is
20 required, Answering Defendants lack sufficient information and belief with respect to the
21 meaning of the phrase “California and its partners intended”, lack sufficient information and
22 belief to ascertain the intentions of governors and premiers in 2007, and respond that the
23 document referenced in the paragraph speaks for itself. On these grounds, the Answering
24 Defendants deny any allegation in Paragraph 138 that goes beyond the document.

25 139. The allegations contained in Paragraph 139 purport to describe a document and
26 state legal conclusions, and therefore no response is required. To the extent a response is
27 required, the Answering Defendants answer that the document speaks for itself and deny any
28 allegation that goes beyond the document.

1 140. The allegations contained in Paragraph 140 purport to describe a document and
2 state legal conclusions, and therefore no response is required. To the extent a response is
3 required, the Answering Defendants answer that the document speaks for itself and deny any
4 allegation that goes beyond the document.

5 141. The allegations contained in Paragraph 141 purport to describe documents and
6 state legal conclusions, and therefore no response is required. To the extent a response is
7 required, the Answering Defendants answer that the documents speak for themselves and deny
8 any allegation that goes beyond the documents.

9 142. The allegations contained in Paragraph 142 purport to describe a document and
10 state legal conclusions, and therefore no response is required. To the extent a response is
11 required, the Answering Defendants answer that the document speaks for itself and deny any
12 allegation that goes beyond the document.

13 143. The allegations in Paragraph 143 of the Amended Complaint are legal conclusions
14 to which no response is required. To the extent a response is warranted, the Answering
15 Defendants deny each and every allegation contained in Paragraph 143 of the Amended
16 Complaint.

17 144. The allegations in Paragraph 144 of the Amended Complaint are legal conclusions
18 to which no response is required. To the extent a response is warranted, the Answering
19 Defendants deny each and every allegation contained in Paragraph 144 of the Amended
20 Complaint.

21 145. The allegations contained in Paragraph 145 purport to describe a document and
22 state legal conclusions, and therefore no response is required. To the extent a response is
23 required, the Answering Defendants answer that the document speaks for itself and deny any
24 allegation that goes beyond the document.

25 146. The allegations contained in Paragraph 146 purport to describe a document and
26 state legal conclusions, and therefore no response is required. To the extent a response is
27 required, the Answering Defendants answer that the document speaks for itself and deny any
28 allegation that goes beyond the document.

1 147. The allegations contained in Paragraph 147 purport to describe documents and
2 state legal conclusions, and therefore no response is required. To the extent a response is
3 required, the Answering Defendants answer that the documents speak for themselves and deny
4 any allegation that goes beyond the documents.

5 148. The allegations in Paragraph 148 of the Amended Complaint are legal conclusions
6 to which no response is required. To the extent a response is warranted, the Answering
7 Defendants deny each and every allegation contained in Paragraph 148 of the Amended
8 Complaint.

9 149. The allegations in Paragraph 149 of the Amended Complaint are legal conclusions
10 to which no response is required. To the extent a response is warranted, the Answering
11 Defendants deny each and every allegation contained in Paragraph 149 of the Amended
12 Complaint.

13 150. The allegations in Paragraph 150 of the Amended Complaint are legal conclusions
14 to which no response is required. To the extent a response is warranted, the Answering
15 Defendants deny each and every allegation contained in Paragraph 150 of the Amended
16 Complaint.

17 151. The allegations contained in Paragraph 151 purport to describe a document and
18 state legal conclusions, and therefore no response is required. To the extent a response is
19 required, the Answering Defendants answer that the document speaks for itself and deny any
20 allegation that goes beyond the document.

21 152. Paragraph 152 of the Amended Complaint describes Plaintiff's attempt to
22 incorporate by reference previously stated allegations and no response is required. To the extent
23 a response is warranted, the Answering Defendants incorporate by reference all responses in the
24 preceding Paragraphs.

25 153. The allegations in Paragraph 153 of the Amended Complaint are legal conclusions
26 to which no response is required. To the extent a response is warranted, the Answering
27 Defendants deny each and every allegation contained in Paragraph 153 of the Amended
28 Complaint

1 154. The allegations in Paragraph 154 of the Amended Complaint are legal conclusions
2 to which no response is required. To the extent a response is warranted, the Answering
3 Defendants deny each and every allegation contained in Paragraph 154 of the Amended
4 Complaint.

5 155. The allegations in Paragraph 155 of the Amended Complaint are legal conclusions
6 to which no response is required. To the extent a response is warranted, the Answering
7 Defendants deny each and every allegation contained in Paragraph 155 of the Amended
8 Complaint.

9 156. Paragraph 156 of the Amended Complaint describes Plaintiff's attempt to
10 incorporate by reference previously stated allegations and no response is required. To the extent
11 a response is warranted, the Answering Defendants incorporate by reference all responses in the
12 preceding Paragraphs.

13 157. The allegations contained in Paragraph 157 purport to quote the text of the United
14 States Constitution and state legal conclusions, and therefore no response is required. To the
15 extent a response is required, the Answering Defendants answer that as to its text, the
16 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
17 beyond the text of the Constitution.

18 158. The allegations contained in Paragraph 158 purport to quote a court decision and
19 state legal conclusions, and therefore no response is required. To the extent a response is
20 required, the Answering Defendants answer that this court decision speaks for itself and deny any
21 allegation that goes beyond that court decision.

22 159. The allegations in Paragraph 159 of the Amended Complaint are legal conclusions
23 to which no response is required. To the extent a response is warranted, the Answering
24 Defendants deny each and every allegation contained in Paragraph 159 of the Amended
25 Complaint.

26 160. The allegations in Paragraph 160 of the Amended Complaint are legal conclusions
27 to which no response is required. To the extent a response is warranted, the Answering
28

1 Defendants deny each and every allegation contained in Paragraph 160 of the Amended
2 Complaint.

3 161. Paragraph 161 of the Amended Complaint describes Plaintiff's attempt to
4 incorporate by reference previously stated allegations and no response is required. To the extent
5 a response is warranted, the Answering Defendants incorporate by reference all responses in the
6 preceding Paragraphs.

7 162. The allegations contained in Paragraph 162 purport to quote the text of the United
8 States Constitution and state legal conclusions, and therefore no response is required. To the
9 extent a response is required, the Answering Defendants answer that as to its text, the
10 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
11 beyond the text of the Constitution.

12 163. The allegations in Paragraph 163 of the Amended Complaint are legal conclusions
13 to which no response is required. To the extent a response is warranted, the Answering
14 Defendants deny each and every allegation contained in Paragraph 163 of the Amended
15 Complaint.

16 164. The allegations in Paragraph 164 of the Amended Complaint are legal conclusions
17 to which no response is required. To the extent a response is warranted, the Answering
18 Defendants deny each and every allegation contained in Paragraph 164 of the Amended
19 Complaint.

20 165. Paragraph 165 of the Amended Complaint describes Plaintiff's attempt to
21 incorporate by reference previously stated allegations and no response is required. To the extent
22 a response is warranted, the Answering Defendants incorporate by reference all responses in the
23 preceding Paragraphs.

24 166. The allegations contained in Paragraph 166 purport to quote the text of the United
25 States Constitution and state legal conclusions, and therefore no response is required. To the
26 extent a response is required, the Answering Defendants answer that as to its text, the
27 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
28 beyond the text of the Constitution.

1 167. The allegations contained in Paragraph 167 purport to quote the text of the United
2 States Constitution and state legal conclusions, and therefore no response is required. To the
3 extent a response is required, the Answering Defendants answer that as to its text, the
4 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
5 beyond the text of the Constitution.

6 168. The allegations contained in Paragraph 168 purport to quote the text of the United
7 States Constitution and state legal conclusions, and therefore no response is required. To the
8 extent a response is required, the Answering Defendants answer that as to its text, the
9 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
10 beyond the text of the Constitution.

11 169. The allegations contained in Paragraph 169 purport to quote the text of the United
12 States Constitution and state legal conclusions, and therefore no response is required. To the
13 extent a response is required, the Answering Defendants answer that as to its text, the
14 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
15 beyond the text of the Constitution.

16 170. The allegations contained in Paragraph 170 purport to quote the text of the United
17 States Constitution and state legal conclusions, and therefore no response is required. To the
18 extent a response is required, the Answering Defendants answer that as to its text, the
19 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
20 beyond the text of the Constitution.

21 171. The allegations contained in Paragraph 171 purport to quote the text of the United
22 States Constitution and state legal conclusions, and therefore no response is required. To the
23 extent a response is required, the Answering Defendants answer that as to its text, the
24 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
25 beyond the text of the Constitution.

26 172. The allegations contained in Paragraph 172 purport to quote a court decision and
27 state legal conclusions, and therefore no response is required. To the extent a response is
28

1 required, the Answering Defendants answer that this court decision speaks for itself and deny any
2 allegation that goes beyond that court decision.

3 173. The allegations contained in Paragraph 173 purport to describe a court decision
4 and state legal conclusions, and therefore no response is required. To the extent a response is
5 required, the Answering Defendants answer that this court decision speaks for itself and deny any
6 allegation that goes beyond that court decision.

7 174. The allegations in Paragraph 174 of the Amended Complaint are legal conclusions
8 to which no response is required. To the extent a response is warranted, the Answering
9 Defendants deny each and every allegation contained in Paragraph 174 of the Amended
10 Complaint.

11 175. The allegations contained in Paragraph 175 purport to quote a document and state
12 legal conclusions, and therefore no response is required. To the extent a response is required, the
13 Answering Defendants answer that this document speaks for itself and deny any allegation that
14 goes beyond that document.

15 176. The allegations in Paragraph 176 of the Amended Complaint are legal conclusions
16 to which no response is required. To the extent a response is warranted, the Answering
17 Defendants deny each and every allegation contained in Paragraph 176 of the Amended
18 Complaint.

19 177. The allegations in Paragraph 177 of the Amended Complaint are legal conclusions
20 to which no response is required. To the extent a response is warranted, the Answering
21 Defendants deny each and every allegation contained in Paragraph 177 of the Amended
22 Complaint.

23 178. The allegations in Paragraph 178 of the Amended Complaint are legal conclusions
24 to which no response is required. To the extent a response is warranted, the Answering
25 Defendants deny each and every allegation contained in Paragraph 178 of the Amended
26 Complaint.

27 179. Paragraph 179 of the Amended Complaint describes Plaintiff's attempt to
28 incorporate by reference previously stated allegations and no response is required. To the extent

1 a response is warranted, the Answering Defendants incorporate by reference all responses in the
2 preceding Paragraphs.

3 180. The allegations contained in Paragraph 180 purport to quote the text of the United
4 States Constitution and state legal conclusions, and therefore no response is required. To the
5 extent a response is required, the Answering Defendants answer that as to its text, the
6 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
7 beyond the text of the Constitution.

8 181. The allegations contained in Paragraph 181 purport to quote the text of the United
9 States Constitution and state legal conclusions, and therefore no response is required. To the
10 extent a response is required, the Answering Defendants answer that as to its text, the
11 Constitution speaks for itself, and the Answering Defendants deny any allegation that goes
12 beyond the text of the Constitution.

13 182. The allegations contained in Paragraph 182 purport to describe a court decision
14 and state legal conclusions, and therefore no response is required. To the extent a response is
15 required, the Answering Defendants answer that this court decision speaks for itself and deny any
16 allegation that goes beyond that court decision.

17 183. The allegations in Paragraph 183 of the Amended Complaint are legal conclusions
18 to which no response is required. To the extent a response is warranted, the Answering
19 Defendants deny each and every allegation contained in Paragraph 183 of the Amended
20 Complaint.

21 184. The allegations in Paragraph 184 of the Amended Complaint purport to describe
22 regulations and documents, and state legal conclusions, and therefore no response is required. To
23 the extent a response is required, the Answering Defendants answer that the regulations and
24 documents speak for themselves and deny any allegation that goes beyond the regulations and
25 documents.

26 185. The allegations in Paragraph 185 of the Amended Complaint are legal conclusions
27 to which no response is required. To the extent a response is warranted, the Answering
28

1 Defendants deny each and every allegation contained in Paragraph 185 of the Amended
2 Complaint.

3 186. The allegations in Paragraph 186 of the Amended Complaint are legal conclusions
4 to which no response is required. To the extent a response is warranted, the Answering
5 Defendants deny each and every allegation contained in Paragraph 186 of the Amended
6 Complaint.

7 187. The allegations in Paragraph 187 of the Amended Complaint are legal conclusions
8 to which no response is required. To the extent a response is warranted, the Answering
9 Defendants deny each and every allegation contained in Paragraph 187 of the Amended
10 Complaint.

11 **AFFIRMATIVE DEFENSES**

12 1. Each of Plaintiff's Causes of Action, separately and conjunctively, are barred against each
13 answering Defendant for lack of Article III standing.

14 2. Each of Plaintiff's Causes of Action, separately and conjunctively, fail to state a claim
15 upon which relief can be granted.

16 3. Each of Plaintiff's Causes of Action, separately and conjunctively, are not justiciable
17 under the political question doctrine and entrusted to the political branches.

18 4. Each of Plaintiff's Causes of Action, separately and conjunctively, are barred against the
19 Answering Defendants by the doctrine of equitable estoppel.

20 5. Each of Plaintiff's Causes of Action, separately and conjunctively, are barred against the
21 Answering Defendants due to Congressional authorization, acquiescence, or implied consent.

22 **PRAYER FOR RELIEF**

23 The Answering Defendants pray that the Court enter judgment against Plaintiff and award
24 the following relief:

- 25 a. That Plaintiff take nothing by way of its Amended Complaint; or, in the alternative, that
26 b. The Court issue declaration that the Agreement (as defined in the Amended Complaint)
27 and related California law as applied do not violate the Constitution of the United States; and that
28 c. The Court award the Answering Defendants costs of suit; and that

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d. The Court grant such additional relief as the Court deems just and proper.

Dated: January 6, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MICHAEL P. CAYABAN
Supervising Deputy Attorney General

/s/ Michael S. Dorsi
MICHAEL S. DORSI
Deputy Attorney General
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