

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR BIOLOGICAL DIVERSITY)
1411 K Street NW, Suite 1300)
Washington, D.C. 20005, and)

Case No. 1:22-cv-1716

WILDEARTH GUARDIANS)
301 N. Guadalupe Street, Suite 201)
Santa Fe, New Mexico 87501,)

Plaintiffs,)

v.)

U.S. DEPARTMENT OF THE INTERIOR)
1849 C Street N.W.)
Washington, D.C. 20240,)

DEBRA HAALAND, Secretary)
U.S. DEPARTMENT OF THE INTERIOR)
1849 C Street N.W.)
Washington, D.C. 20240,)

U.S. BUREAU OF LAND MANAGEMENT)
1849 C Street N.W.)
Washington, D.C. 20240, and)

TRACY STONE-MANNING, Director)
U.S. BUREAU OF LAND MANAGEMENT)
1849 C Street N.W.)
Washington, D.C. 20240,)

Defendants.)

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

1. Through this lawsuit, Plaintiffs Center for Biological Diversity and WildEarth Guardians (together “Conservation Groups”) challenge the approval by Defendants U.S.

Department of the Interior (“Interior”), Interior Secretary Debra Haaland, U.S. Bureau of Land Management (“BLM”), and BLM Director Tracy Stone-Manning (together “Federal Defendants”) of at least 3,535 applications for permit to drill (“APDs”) for oil and gas in New Mexico’s Permian Basin and Wyoming’s Powder River Basin in violation of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4370m-11, the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531-1544, and the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701-1787, and those statutes’ implementing regulations. A list of the challenged APDs is provided in Appendix A and Appendix B, attached below.

2. Climate change is driven primarily by the burning of fossil fuels for energy and transportation activities. In the United States, almost one quarter of all annual emissions are from fossil fuel resources extracted from public lands. Of that amount, according to the BLM’s own analyses, oil and gas production from public lands emits nine percent of greenhouse gas (“GHG”) emissions in the United States, and slightly over one percent of global emissions.

3. During the first sixteen months of the Biden administration, the BLM approved well over 3,500 APDs. The drilling of these oil and gas wells will likely emit 490-600 million metric tons of carbon dioxide equivalent (“CO₂e”) greenhouse gas pollution over the course of their lifespans, equivalent to the annual emissions of between 131-161 coal fired power plants. This is both a nationally and globally significant quantity of emissions.

4. In approving these APDs, BLM failed to evaluate the cumulative impacts of greenhouse gas emissions that will result from these approvals under NEPA, and failed to consider the impact of these emissions as they relate to BLM’s procedural and substantive obligations under the ESA and FLPMA. Instead, BLM myopically considered the localized impacts of a small subset of APD approvals, failed to take a hard look at cumulative impacts,

ignored the effects that additional greenhouse gas pollution would have on climate-imperiled species, and failed to prevent the unnecessary and undue degradation of public lands, as is the agency's duty.

5. An ever-growing body of scientific literature, which BLM acknowledges, demonstrates that increasing greenhouse gas emissions are causing irreparable damage to virtually every ecosystem on the planet. From rising temperatures, increased drought and wildfires, more chaotic and extreme weather, ocean acidification, loss of sea and land ice, to rising sea levels, the impacts of climate change are already being experienced virtually everywhere. By failing to consider and act on these impacts, BLM violated the law in four distinct ways.

6. First, BLM failed to consult with the U.S. Fish and Wildlife Service ("USFWS") and the National Marine Fisheries Service (together the "Services") on the effect that GHG emissions from the challenged wells will have on threatened and endangered species protected under the ESA. The consultation procedures of the ESA are designed to ensure that all federal agencies examine both the direct and indirect effects of their activities, even when those indirect effects are removed from the immediate footprint of the agency action, and minimize the harm to protected species that might result.

7. A large and growing number of U.S. endangered species are being pushed towards extinction primarily by climate change. In Plaintiffs' Notice of Intent to Sue for violations of the ESA, submitted to Federal Defendants prior to bringing this case and incorporated herein by reference, Plaintiffs identified approximately 150 animals and plants for which climate change is a primary driver of their decline. These species include coral reefs, Hawaiian songbirds, desert fish, mountaintop species, ice seals and polar bears, and species

found in low-lying areas like the Florida Keys. For biodiversity in the United States, the situation is the most dire in Hawaii. A scientific paper published in the spring of 2022 warns that three Hawaiian songbirds will be extinct in the wild in three to five years due to the uphill spread of mosquitos and avian malaria caused by climate change. At no point has the BLM ever considered the contribution from its fossil fuel program to the decline of these bird species, or for that matter any other climate-imperiled species being driven towards extinction by ever-increasing emissions. This failure violates the ESA.

8. Second, BLM violated FLPMA by failing to consider or take action to prevent the unnecessary and undue degradation of public lands resulting from ongoing oil and gas permitting. As the agency acknowledges, almost all ecosystems in the United States are unraveling as a result of climate change. The lands administered by the BLM are found predominantly in the western half of the nation and Alaska. In particular, lands in the western United States are experiencing a climate change-exacerbated megadrought, the likes of which have not been seen in 800 years, and unprecedented and severe wildfires. These and other climate impacts will occur more frequently and grow more severe as additional greenhouse gas pollution occurs, including the pollution from federal oil and gas permitting. Under FLPMA, the BLM has a duty to take action to prevent such unnecessary and undue degradation of the lands it administers. Yet the agency continues to authorize additional oil and gas development, including the over 3,500 oil and gas wells challenged here, without considering or taking action related to this substantive duty. The resulting greenhouse gas emissions exacerbate the climate crisis, causing unnecessary and undue degradation of almost every landscape BLM manages.

9. Third, the BLM has failed to take a hard look at cumulative GHG emissions and climate impacts under NEPA. Rather, BLM merely quantified projected GHG emissions from

the APD approvals and listed the percent increase or the fraction of regional or national GHG emissions they represent in a table. This does not satisfy BLM's obligation to take a hard look at cumulative GHG emissions and climate impacts. BLM must analyze and disclose reasonably foreseeable cumulative climate *impacts* of these GHG emissions, as well as provide some measure of the significance and severity of these emissions, from the challenged APD approvals and aggregated nationwide across the agency's fossil fuel program.

10. Fourth, the BLM has failed to take a hard look at environmental justice under NEPA. There are communities in New Mexico, Wyoming, and nationwide that are likely to experience disproportionate¹ and adverse effects from climate change, and from oil and gas development authorized by BLM. Yet nowhere in any of its NEPA documents for the challenged APDs does BLM even *mention* environmental justice—neither the term itself, nor any potential for disproportionate risks and impacts arising from the challenged APD approvals, BLM's fossil fuel program, or climate change. Moreover, BLM has failed to assess or acknowledge the contribution of its APD approvals and its fossil fuel program to environmental injustices associated with GHG emissions and climate change. Communities from Alaska to the Gulf of Mexico will see their lands disappear due to rising sea levels and worsening storms. Droughts and wildfires will increasingly displace and destroy communities in the West. People and communities already experiencing environmental, social, and structural inequities and injustices are likely to suffer the worst climate impacts.

¹ As used in Executive Order 12898 on environmental justice, a term used “to describe situations of concern where there exists significantly higher and more adverse health and environmental effects on minority populations, low-income populations or indigenous peoples.” See U.S. Environmental Protection Agency, “EJ 2020 Glossary,” available at: <https://www.epa.gov/environmentaljustice/ej-2020-glossary>.

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