

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

DAKOTA RESOURCE COUNCIL)
720 Burnt Boat Dr., Suite 104)
Bismarck, ND 58503,)

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

CITIZENS FOR A HEALTHY COMMUNITY)
211 Grand Avenue, Suite 118)
Paonia, CO 81428,)

LIVING RIVERS & COLORADO RIVERKEEPER)
120 Arbor Drive)
Moab, UT 84532,)

Case No. 1:22-cv-1853

MONTANA ENVIRONMENTAL INFORMATION)
CENTER)
107 West Lawrence St., Suite N6)
Helena, MT 59601,)

RIO GRANDE RIVERKEEPER)
301 N. Guadalupe St., Suite 201)
Santa Fe, NM 87501,)

SIERRA CLUB)
2101 Webster Street, Suite 1300)
Oakland, CA 94612,)

WATERKEEPER ALLIANCE)
180 Maiden Lane, Suite 603)
New York, NY 10038,)

WESTERN WATERSHEDS PROJECT)
126 South Main Street, Suite B-4)
Hailey, ID 83333,)

WILDEARTH GUARDIANS)
301 N. Guadalupe Street, Suite 201)
Santa Fe, NM 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. Plaintiffs Dakota Resource Council, Center for Biological Diversity, Citizens for a Healthy Community, Living Rivers and Colorado Riverkeeper, Montana Environmental Information Center, Rio Grande Waterkeeper, Sierra Club, Waterkeeper Alliance, Western Watersheds Project, and WildEarth Guardians (collectively, “Conservation Groups”) hereby challenge Federal Defendants’ decision to approve the sale of 173 oil and gas lease parcels, encompassing 144,000 acres of public lands across eight western states, through an analysis contained in seven separate environmental assessments (“EAs”) for violation of the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321 *et seq.*, and its implementing regulations,¹ and the Federal Land Policy and Management Act (“FLPMA”), 43 U.S.C. §§ 1701

¹ On July 16, 2020, the Council on Environmental Quality (“CEQ”) published in the Federal Register its final rule to revise the NEPA implementing regulations, which went into effect on

et seq. A list of the challenged lease parcels is included as Appendix A at the end of this Complaint.

2. Global climate change is the greatest threat that humanity has ever faced. The scientific consensus is clear: as a result of greenhouse gas (“GHG”) emissions, the global climate is rapidly destabilizing with increasingly catastrophic results. An ever-growing body of scientific literature, which Federal Defendants acknowledge, demonstrates that increasing GHG 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.

3. Federal Defendants acknowledge the fundamentally incremental nature of the climate crisis and the small and shrinking window that remains to avoid the most catastrophic effects of climate change. Federal Defendants also admit that their Federal Oil and Gas Leasing Program contributes significantly to the global climate crisis, and that the Lease Sales at issue here will collectively cause billions of dollars in social and environmental harm to people and the planet. Federal Defendants nonetheless determined to hold the challenged Lease Sales and issue seven separate EAs, each of which issued a finding of no significant impact (“FONSI”) to the environment from the perpetuation of fossil fuel exploitation on federal public lands, a

September 14, 2020 (the “2020 Rule”). The 2020 Rule is the subject of litigation, and CEQ is in the process of reviewing and updating the NEPA regulations pursuant to Executive Order 13990 (Jan. 20, 2021). On April 16, 2021, the Department of Interior directed its agencies to “not apply the 2020 Rule in a manner that would change the application or level of NEPA that would have been applied to a proposed action before the 2020 Rule went into effect.” Moreover, on May 20, 2022, the CEQ published its final Phase 1 NEPA Rule to amend the 2020 Rule, restoring core regulatory provisions and directing agencies to apply the same meaning as corresponding provisions in effect from 1978. 87 Fed. Reg. 23453 (April 20, 2022). Therefore, in this Complaint, all citations to NEPA’s implementing regulations are to the pre-2020 CEQ Regulations.

finding at odds with the voluminous body of scientific evidence discussed in in each of the challenged EAs.

4. In January 2021, within days of President Biden taking office, the U.S. Department of the Interior (“Interior”) suspended the authority of its bureaus and offices to take a number of actions without approval by Interior leadership, including the authority of the Bureau of Land Management (“BLM”) to take action to implement the Leasing Program, including actions to issue any onshore or offshore fossil fuel authorization.

5. One week later, President Biden issued Executive Order 14008, which directed Interior to “pause” new oil and gas leases:

pending completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices in light of the Secretary of the Interior’s broad stewardship responsibilities over the public lands and in offshore waters, including potential climate and other impacts associated with oil and gas activities on public lands or in offshore waters.

6. In response to litigation filed by pro-fossil fuel interests, the U.S. District Court for the Western District of Louisiana enjoined the implementation of the nationwide “pause” contemplated by Executive Order 14008. *Louisiana v. Biden*, 543 F. Supp. 3d 388, 410 (W.D. La. 2021). In response, Interior ordered BLM to proceed with the Lease Sales.

7. On November 27, 2021, Interior released its “Report on the Federal Oil and Gas Leasing Program Prepared in Response to Executive Order 14008” (the “Interior Oil and Gas Leasing Report”). Interior characterized the Report as “complet[ing] the review of the federal oil and gas programs called for in Executive Order 14008.” While the Report recommended a number of fiscal reforms, it failed to provide any analysis of the Leasing Program’s climate impacts.

8. On April 18, 2022, BLM posted lease sale notices for the challenged Lease Sales. On June 28, 2022, BLM posted the Decision Record and Protest Decision for the Wyoming lease sale.

9. BLM's approval of the Lease Sales is driven by Interior's decision to proceed with implementation of its Leasing Program, and each of these sales is plainly part of a larger national initiative that must be collectively analyzed under NEPA.

10. Federal public lands used for fossil fuel extraction contribute 24% of the United States' GHG emissions. If federal lands were their own country, their GHG emissions would be ranked fifth globally. Moreover, future development of unleased federal minerals represents a "carbon bomb" that would likely push global climate change to catastrophic levels with incalculable consequences for the American people, the rest of humanity, and the global environment. Opening new areas to development is in no way consistent with a carbon budget aimed at restraining warming below critical thresholds, or with meeting the United States' commitments to international agreements such as the Paris Accord.

11. BLM manages the majority – nearly 700 million acres – of public minerals. About half of this federal mineral estate contains oil and/or natural gas, and over 26 million acres of federally managed lands are currently leased to private companies for oil and gas development. The BLM's Leasing Program contributes vast amounts of GHG pollution to the atmosphere. As the agency acknowledges, almost all ecosystems in the United States are unraveling as a result of climate change, including the lands administered by the BLM. These lands are found predominantly in the western half of the continental United States and Alaska. In particular, lands in the western United States are experiencing a climate change-exacerbated mega-drought, the likes of which have not been seen in at least 1,200 years, and unprecedented and severe wildfires.

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