

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

THE STATES OF MISSOURI, ARIZONA,  
ARKANSAS, INDIANA, KANSAS,  
MONTANA, NEBRASKA, OHIO,  
OKLAHOMA, SOUTH CAROLINA,  
TENNESSEE, and UTAH,

*Plaintiffs,*

v.

No. \_\_\_\_\_

JOSEPH R. BIDEN, JR.,  
in his official capacity as the President of  
the United States of America;  
ROBERT FAIRWEATHER, in his official  
capacity as Acting Director of the Office of  
Management and Budget;  
CECILIA ROUSE, in her official capacity  
as Chair of the Council of Economic  
Advisers;  
KEI KOIZUMI, in his official capacity as  
Acting Director of the Office of Science  
and Technology Policy;  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY;  
JANE NISHIDA, in her official capacity as  
Acting Administrator of the Environmental  
Protection Agency  
U.S. DEPARTMENT OF ENERGY;  
JENNIFER GRANHOLM, in her official  
capacity as Secretary of Energy;  
FEDERAL ENERGY REGULATORY  
COMMISSION;  
RICHARD GLICK, in his official capacity  
as the Chairman of the Federal Energy  
Regulatory Commission;  
U.S. DEPARTMENT OF  
TRANSPORTATION;  
PETER BUTTIGIEG, in his official  
capacity as Secretary of Transportation;  
U.S. DEPARTMENT OF  
AGRICULTURE;

TOM VILSACK, in his official capacity as  
Secretary of Agriculture;  
U.S. DEPARTMENT OF THE INTERIOR;  
SCOTT DE LA VEGA, in his official  
capacity as Acting Secretary of the Interior;  
U.S. BUREAU OF LAND  
MANAGEMENT;  
NADA CULVER, in her official capacity as  
acting director of the U.S. Bureau of Land  
Management; and  
INTERAGENCY WORKING GROUP ON  
SOCIAL COST OF GREENHOUSE  
GASES, UNITED STATES  
GOVERNMENT,

*Defendants.*

### NATURE OF THE ACTION

1. Plaintiffs, the States of Missouri, Arizona, Arkansas, Indiana, Kansas, Montana, Nebraska, Ohio, Oklahoma, South Carolina, Tennessee, and Utah, bring this action to vindicate the structural separation of powers in the federal government, the most fundamental bulwark of our liberty. “Frequently,” a threat to the separation of powers “will come before the Court clad, so to speak, in sheep’s clothing.... But this wolf comes as a wolf.” *Morrison v. Olson*, 487 U.S. 654, 699 (1988) (Scalia, J., dissenting).

2. Through Section 5 of Executive Order 13990, President Joseph R. Biden, Jr., has arrogated to the Executive Branch the unilateral power to dictate specific values for the “social costs” of greenhouse gases in virtually every regulatory program administered by the federal government. He has done so without any statutory or constitutional authority.

3. Setting the “social cost” of greenhouse gases is an inherently speculative, policy-laden, and indeterminate task, which involves attempting to predict such unknowable contingencies as future human migrations, international conflicts, and global catastrophes for hundreds of years into the

future. Assigning such values is a quintessentially legislative action that falls within Congress's exclusive authority under Article I, Section 1 of the Constitution.

4. This quintessentially legislative policy has enormous consequences for America's economy and people. In theory, the Biden Administration's calculation of "social costs" would justify imposing trillions of dollars in regulatory costs on the American economy every year to offset these supposed costs.

5. In practice, President Biden's order directs federal agencies to use this enormous figure to justify an equally enormous expansion of federal regulatory power that will intrude into every aspect of Americans' lives—from their cars, to their refrigerators and homes, to their grocery and electric bills. If the Executive Order stands, it will inflict hundreds of billions or trillions of dollars of damage to the U.S. economy for decades to come. It will destroy jobs, stifle energy production, strangle America's energy independence, suppress agriculture, deter innovation, and impoverish working families. It undermines the sovereignty of the States and tears at the fabric of liberty.

6. The Biden Administration's calculation of such "social costs" of gases such as carbon dioxide and methane is also arbitrary and capricious. Affordable and reliable methods of agricultural and energy production—which these actions would stifle—have global benefits that the Biden Administration studiously ignores. Affordable food and energy production lift millions of people out of poverty, eliminate hunger, promote economic development and opportunity, create millions of jobs, enable innovation and entrepreneurship, encourage industry and manufacturing, promote America's energy independence, and create the conditions for liberty to flourish. These benefits enrich the entire world, and yet the Biden Administration gave them little or no weight in its calculation of the "social cost" of carbon dioxide, methane, and nitrous oxide.

7. The Biden Administration's actions violate the separation of powers by encroaching on the legislative power that is exclusively vested in Congress through Article I, Section 1 of the U.S. Constitution. The power to regulate is the power to destroy, and our Constitution does not vest in the President the unilateral authority to regulate virtually every aspect of the American economy.

## **PARTIES**

8. Plaintiff State of Missouri is a sovereign State of the United States of America. Missouri sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

9. Eric S. Schmitt is the 43rd Attorney General of the State of Missouri. Attorney General Schmitt is authorized to bring actions on behalf of Missouri that are "necessary to protect the rights and interests of the state, and enforce any and all rights, interests, or claims any and all persons, firms or corporations in whatever court or jurisdiction such action may be necessary." Mo. Rev. Stat. § 270.060.

10. Plaintiff State of Arizona is a sovereign State of the United States of America. Arizona sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

11. Mark Brnovich is the Attorney General of Arizona. Attorney General Brnovich has authority to "[r]epresent the state [of Arizona] in any action in a federal court." A.R.S. §41-193(A)(3).

12. Plaintiff State of Arkansas is a sovereign State of the United States of America. Arkansas sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

13. Leslie Rutledge is the Attorney General of Arkansas. Attorney General Rutledge is authorized to bring legal actions on behalf of the State of Arkansas and its citizens.

14. Plaintiff State of Indiana is a sovereign State of the United States of America. Indiana sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

15. Theodore E. Rokita is the Attorney General of Indiana. Attorney General Rokita is authorized to bring legal actions on behalf of the State of Indiana and its citizens.

16. Plaintiff State of Kansas is a sovereign State of the United States of America. Kansas sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

17. Derek Schmidt is the duly elected and sworn 44th Attorney General of the State of Kansas. Attorney General Schmidt is authorized to “prosecute and defend any and all actions and proceedings, civil or criminal, ... in all federal courts, in which the state shall be interested or a party, and shall, when so appearing, control the state’s prosecution or defense.” K.S.A. 75-702.

18. Plaintiff State of Montana is a sovereign State of the United States of America. Montana sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

19. Austin Knudsen is the Attorney General of Montana. Attorney General Knudsen is authorized to bring legal actions on behalf of the State of Montana and its citizens.

20. Plaintiff State of Nebraska is a sovereign State of the United States of America. Nebraska sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

21. Douglas J. Peterson is the Attorney General of Nebraska. Attorney General Peterson is authorized to bring legal actions on behalf of the State of Nebraska and its citizens.

22. Plaintiff State of Ohio is a sovereign State of the United States of America. Ohio sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

23. Dave Yost is the Attorney General of Ohio. Attorney General Yost is authorized to bring legal actions on behalf of the State of Ohio and its citizens.

24. Plaintiff State of Oklahoma is a sovereign State of the United States of America. Oklahoma sues to vindicate its sovereign, quasi-sovereign, and proprietary interests.

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