

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

WILDEARTH GUARDIANS, <i>et al.</i> ,	:		
	:		
Plaintiffs,	:	Civil Action No.:	21-175 (RC)
	:		
v.	:	Re Document No.:	15
	:		
DEB HAALAND, ¹ Secretary	:		
U.S. Department of Interior, <i>et al.</i> ,	:		
	:		
Defendants.	:		

MEMORANDUM & ORDER

GRANTING THE STATE OF WYOMING’S MOTION TO INTERVENE

I. INTRODUCTION

Plaintiffs in this matter challenge Defendants’ approval of 1,153 oil and gas leases on public lands in Colorado, New Mexico, Utah, and Wyoming. *See* Am. Compl. ¶ 1, ECF No. 13. Plaintiffs sued the Secretary of the United States Department of the Interior and the United States Bureau of Land Management—collectively, the Federal Defendants. Plaintiffs allege that, in approving the leases, Defendants violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321–4370h, and its implementing regulations, 40 C.F.R. §§ 1500.1–1518.4. *See* Am. Compl. ¶¶ 1–2. Plaintiffs bring this action seeking declaratory and injunctive relief. *See* Am. Compl. ¶ 15.

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Secretary of Interior Deb Haaland is automatically substituted for former Secretary David L. Bernhardt.

The State of Wyoming (“Wyoming”) moves to intervene as a defendant. Wyo.’s Mot. to Intervene, ECF No. 15. No existing parties oppose the intervention. Accordingly, for the reasons set for below, the Court grants Wyoming’s motion to intervene as a matter of right.²

II. LEGAL STANDARD

Federal Rule of Civil Procedure 24(a) provides that:

[o]n timely motion, the court must permit anyone to intervene who: claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest, unless existing parties adequately represent that interest.

Fed. R. Civ. P. 24(a)(2); *see also Roane v. Leonhart*, 741 F.3d 147, 151 (D.C. Cir. 2014) (“A district court must grant a timely motion to intervene that seeks to protect an interest that might be impaired by the action and that is not adequately represented by the parties”). According to the D.C. Circuit, Rule 24(a) requires four distinct elements to be satisfied when a party seeks to intervene as a matter of right: “(1) the application to intervene must be timely; (2) the applicant must demonstrate a legally protected interest in the action; (3) the action must threaten to impair that interest; and (4) no party to the action can be an adequate representative of the applicant’s interests.” *Karsner v. Lothian*, 532 F.3d 876, 885 (D.C. Cir. 2008) (internal quotations omitted).³

² Because the Court finds that Wyoming may intervene as a matter of right, it does not address Wyoming’s arguments for permissive intervention under Rule 24(b)(1)(B). *See* Mem. Supp. Wyo.’s Mot. to Intervene at 1–2, ECF No. 15-1.

³ While intervenors must demonstrate Article III standing, *see Deutsche Bank Nat. Trust Co. v. FDCI*, 717 F.3d 189, 193 (D.C. Cir. 2013), a putative “intervenor who satisfies Rule 24(a) will also have Article III standing.” *Akiachak Native Cmty. v. U.S. Dep’t of Interior*, 584 F. Supp. 2d 1, 7 (D.D.C. 2008). Thus, the Court does not separately analyze Wyoming’s standing.

III. ANALYSIS

Turning to the first element, to determine if a motion is timely, “courts should take into account (a) the time elapsed since the inception of the action, (b) the probability of prejudice to those already party to the proceedings, (c) the purpose for which intervention is sought, (d) the need for intervention as a means for preserving the putative intervenor’s rights.” *WildEarth Guardians v. Salazar*, 272 F.R.D. 4, 12 (D.D.C. 2010). Wyoming moved to intervene less than ten weeks after the initial complaint was filed. The Federal Defendants have not yet filed a responsive pleading or the administrative record on which this case will be decided, and the Court has yet to enter a scheduling order. No party has opposed Wyoming’s intervention in this proceeding and there is no indication of potential prejudice. Consequently, Wyoming’s intervention is timely. *See WildEarth Guardians v. Jewell*, 320 F.R.D. 1, 3 (D.D.C. 2017); *Roane*, 741 F.3d at 152 (“[I]n the absence of any indication that [the applicant’s] intervention would give rise to . . . prejudice, [the applicant’s] motion was timely”); *see also WildEarth*, 272 F.R.D. at 14; *Karsner*, 532 F.3d at 886.

Regarding elements two and three, the “putative intervenor must have a legally protected interest in the action,” *WildEarth*, 320 F.R.D. at 3 (quoting *WildEarth*, 272 F.R.D. at 12), and the action must impair the putative intervenor’s proffered interest in the action. *Karsner*, 532 F.3d at 885. This Court has previously recognized Wyoming’s economic, environmental, and regulatory interests in cases involving the development of federal minerals within the State. *See, e.g., Mem. & Order, WildEarth Guardians v. Bernhardt*, No. 20-cv-56 (D.D.C. May 7, 2020), ECF No. 25; *Order, WildEarth Guardians v. Bureau of Land Mgmt.*, No. 12-cv-708 (D.D.C. June 7, 2012), ECF No. 16. Wyoming benefits financially from federal oil and gas leases. Wyo.’s Mem. Supp. Mot. to Intervene at 10. Wyoming has millions of dollars at stake in the form of taxes, royalties,

and rental fees from the federal leases. *Id.* at 13. Furthermore, Wyoming's agencies collaborated with the Bureau of Land Management to develop the regulatory framework governing the leases. *Id.* at 10–11. Thus, Wyoming has a regulatory interest in the leases. *WildEarth*, 320 F.R.D. at 4. As such, if Plaintiffs prevail, Wyoming's economic and regulatory interests would be impaired. *Id.* Accordingly, the Court finds that Wyoming satisfies elements two and three.

Finally, Wyoming must show that existing parties do not adequately represent its interests. *See Karsner*, 532 F.3d at 885. But this burden is minimal. *See Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 735 (D.C. Cir. 2003). The Federal Defendants do not adequately represent Wyoming's interests because a state has unique sovereign interests not shared by the federal government. *See WildEarth*, 320 F.R.D. at 5 (finding that federal defendants do not adequately represent interests of states); *see also Akiachak*, 584 F. Supp. 2d at 7 (holding that federal defendants have no clear interest in protecting state sovereignty); *Guardians v. U.S. Bureau of Land Mgmt.*, No. 12-708, 2012 WL 12870488, at *1–2 (D.D.C. June 7, 2012). The Federal Defendants have no clear interest in protecting Wyoming's sovereign interests in managing its environmental resources or protecting its economy. Wyo.'s Mem. Supp. Mot. to Intervene at 13. Furthermore, Plaintiffs do not argue that Wyoming's interests are adequately represented by another party.

Wyoming satisfies the requirements of Federal Rule of Civil Procedure 24(a). Consequently, the Court must permit it to intervene and will grant the motion to intervene as a matter of right.

IV. CONCLUSION

For the foregoing reasons, the State of Wyoming's Motion to Intervene is hereby **GRANTED**.

It is **FURTHER ORDERED** that the caption in this case is amended to reflect the same.

It is **FURTHER ORDERED** that the State of Wyoming's proposed Answer attached to its Motion to Intervene, ECF No. 15-4, is hereby accepted as filed.

Dated: April 20, 2021

RUDOLPH CONTRERAS
United States District Judge