UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILDEARTH GUARDIANS, *et al.*,	:		
	:		
Plaintiffs,	:	Civil Action No.:	21-175 (RC)
	:		
v.	:	Re Document No.:	20
	:		
DEB HAALAND,[1] Secretary	:		
U.S. Department of Interior, *et al.*,	:		
	:		
Defendants.	:		

MEMORANDUM & ORDER

GRANTING THE AMERICAN PETROLEUM INSTITUTE'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.

The American Petroleum Institute ("API") moves to intervene as a defendant. API's Mot. to Intervene, ECF No. 20. API is the "primary national trade association of the oil and natural gas industry, representing approximately 600 companies" involved in various aspects of

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

that industry. *Id.* at 2. No existing parties oppose the intervention. Accordingly, for the reasons set for below, the Court grants API'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) (noting that "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 API may intervene as a matter of right, it does not address API's arguments for permissive intervention under Rule 24(b)(1)(B). *See* API's Mot. to Intervene at 12.

[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 API'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, and (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). API moved to intervene less than ten weeks after the initial complaint was filed. The Federal Defendants have not filed a responsive pleading and the Court has yet to enter a scheduling order. No party has opposed the intervention and no party argues that API's participation would be prejudicial. Because there is no indication of potential prejudice, the Court concludes that intervention by the movant 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.

With respect to 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, *see Karsner*, 532 F.3d at 885. Where an agency's "decision below was favorable to [the proposed intervenor], and the present action is a direct attack" on that decision, this Court has found that the present action threatens to impair the intervenor's protected interests. *WildEarth*, 272 F.R.D. at 14; *see also Cty. Of San Miguel v. MacDonald*, 244 F.R.D. 36, 44 (D.D.C. 2007). "API members include leaseholders that have expended significant sums to obtain leases from the Government for the opportunity to explore and develop valuable oil and gas resources." API's

Mot. to Intervene at 4–5. Additionally, "[a]t least one API member holds leases directly challenged by Plaintiffs in this action." *Id.* at 5. If the Federal Defendants are enjoined from issuing permits to drill on existing leases, API's interests would be impaired. Furthermore, Plaintiffs have not suggested that API does not have an interest in the outcome of this case. Accordingly, the Court finds that API satisfies elements two and three. *See WildEarth Guardians v. National Park Service*, 604 F.3d 1192, 1199 (10th Cir. 2010) (recognizing that "the interest of a prospective defendant-intervenor may be impaired where a decision in the plaintiff's favor would return the issue to the administrative decision-making process, notwithstanding the prospective intervenor's ability to participate in formulating any revised rule or plan"); *see also Cty. Of San Miguel*, 244 F.R.D. at 44.

Finally, API must show that the 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). Because the government has an obligation to represent the interests of all citizens, the government generally does not adequately represent the more specific interests of an intervenor. *See id.* at 736–37. Here, API represents the interests of its specific members whereas the Federal Defendants must consider the interests of the American people. Accordingly, the Federal Defendants do not adequately represent API. Plaintiffs do not argue that the Federal Defendants would adequately represent API. Therefore, the Court finds that API satisfies the fourth element.

Because API satisfies the requirements of Federal Rule of Civil Procedure 24(a), the Court must permit it to intervene and will grant the motion for intervention as a matter of right. *See* Mem. & Order, *WildEarth Guardians v. Bernhardt*, No. 20-cv-56 (D.D.C. May 14, 2020), ECF No. 27 (concluding in predecessor case that API may intervene as a matter of right).

IV. CONCLUSION

For the foregoing reasons, the American Petroleum Institute'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 American Petroleum Institute's proposed Answer attached to its Motion to Intervene, ECF No. 20-1, is hereby accepted as filed.

Dated: April 20, 2021

RUDOLPH CONTRERAS
United States District Judge