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*Attorneys for Defendant-Intervenor  
NAH Utah, LLC*

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

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WILDEARTH GUARDIANS; and  
PHYSICIANS FOR SOCIAL  
RESPONSIBILITY,

Plaintiffs.

vs.

DEBRA A. HAALAND, Secretary, U.S.  
Department of the Interior; and U.S. BUREAU  
OF LAND MANAGEMENT,

Defendants,

and

STATE OF WYOMING; AMERICAN  
PETROLEUM INSTITUTE; NAH UTAH,  
LLC; and ANSCHUTZ EXPLORATION  
CORPORATION,

Defendant-Intervenors.

Case No. 1:21-cv-00175-RC

**NAH UTAH, LLC'S OPPOSITION TO  
BLM'S MOTION FOR REMAND  
WITHOUT VACATUR**

On July 30, 2021, Federal Defendants moved for a voluntary remand without vacatur (ECF No. 43) of all 1,153 oil and gas leases subject to Plaintiffs' challenge in this case, including the 24 leases purchased by NAH Utah, LLC as part of the September 2018 Utah lease sale (ECF 23-1, at 1 n.2). Intervenor-Defendants the State of Wyoming, American Petroleum Institute, and Anschutz Exploration Corporation each filed oppositions to the motion for voluntary remand. (ECF Nos. 51, 52, and 53, respectively). NAH Utah joins in the opposition of the other Intervenor-Defendants for the same reasons stated therein—namely, that the Court must first resolve the jurisdictional challenges raised in API's pending motion to dismiss before entertaining the Federal Defendants' motion for voluntary remand.

If, however, the Court entertains the Federal Defendants' motion for voluntary remand, NAH Utah opposes remand in any circumstance under which: (1) its leases are vacated; (2) its leases are suspended; (3) BLM does not retain full authority to grant APDs during the remand period; or (4) BLM uses the remand as justification for not processing completed APD packages. For purposes of helium development, in particular, lease vacatur, suspension, or delayed development would be unwarranted where (1) Plaintiffs' claims all relate to alleged failure to adequately account for downstream greenhouse gas ("GHG") emissions from fossil fuel combustion, and (2) NAH Utah's proposed helium development is not anticipated to result in GHG emissions from downstream fuel consumption because the reservoir targeted for production consists of 97% nitrogen and 3% helium. ECF 23-2 ¶ 7. Thus, even if this case proceeded through the merits and the Court found error in BLM's GHG impact analysis, a narrowly-tailored remedy would appropriately be limited to fossil fuel development, excepting helium and other development that would not result in the downstream GHG emissions of which Plaintiffs' complain. *Monsanto Co. v. Geertson Seed Farms*, 561 U.S. 139, 165 (2010) ("An

injunction is a drastic and extraordinary remedy, which should not be granted as a matter of course,” especially where “a less drastic remedy . . . [is] sufficient to redress [the plaintiffs’] injury.”) A remand foreclosing or delaying helium development and production at this stage, even before a decision on the merits, is unjustified. Moreover, helium has been designated by the Department of the Interior and recognized by the Biden Administration as a critical mineral important to our nation’s supply chain and national defense. ECF No. 23-1, at 2 n.3.

WHEREFORE, NAH Utah opposes the motion for voluntary remand on the same bases as the other Intervenor-Defendants.

Respectfully submitted this 13th day of August, 2021

*/s/ Hadassah M. Reimer*

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**CERTIFICATE OF SERVICE**

I certify that on August 13, 2021, I filed this document using the Court's electronic case-filing system, which will serve documents on all counsel of record.

*/s/ Hadassah M. Reimer*

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