

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

CENTER FOR BIOLOGICAL DIVERSITY,
et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR,
et al.,

Defendants,

and

FRANKLIN MOUNTAIN ENERGY, LLC,

Proposed Defendant-Intervenor.

Case No. 1:22-cv-1716-TSC

**MEMORANDUM IN SUPPORT OF FRANKLIN MOUNTAIN ENERGY, LLC'S
MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT**

As explained in Chevron U.S.A. Inc.'s Motion to Dismiss the Amended Complaint ("Chevron's Motion") (Dkt. 70), Plaintiffs lack standing to challenge the decisions of the U.S. Bureau of Land Management ("BLM") to issue drilling permits to Intervenor-Defendants on lands in the Permian Basin in 2021 and 2022. In particular, Plaintiffs fail to establish standing with respect to each particular application for permit to drill ("APD") challenged in this lawsuit because, among other problems, Plaintiffs fail to allege facts establishing organizational standing or demonstrating that any particular organization member has an interest in lands associated with each challenged Permian Basin APD, and Plaintiffs likewise fail to allege any particularized or concrete injury caused by the issuance of the challenged Permian Basin APDs.

To avoid duplication of briefing of the issues addressed in Chevron's Motion, FME fully adopts and incorporates by reference here the arguments and authorities set forth by Chevron in

support of its Motion, and FME does not raise any additional or different arguments in support of dismissal. Instead, FME states herein only the separate factual background information relevant to FME that is not provided in Chevron's Motion, which makes clear that a dismissal of Plaintiffs' claims on the grounds articulated by Chevron would necessarily require dismissal of Plaintiffs' claims as to FME's APDs.

FACTUAL BACKGROUND

FME is a Denver-based energy company that exclusively has oil operations in the Permian Basin, specifically in Lea County, New Mexico. Overbey Decl. (Dkt. 53-1) ¶ 2. FME is the lessee of oil and gas leases issued by the BLM that authorize FME to explore for, develop, and produce federally owned oil and natural gas. *Id.*

As relevant here, FME applied for and the BLM approved 82 APDs that are among those challenged in this lawsuit ("Challenged Permits"). *Id.* ¶ 3. FME has also applied to the BLM for additional drilling permits that BLM has not yet approved, and FME is in the process of submitting yet additional applications for permits to drill. *Id.* ¶ 5. All of the leases for which FME holds drilling permits or has applied for drilling permits are located in Lea County, New Mexico. *Id.* ¶ 2. FME has invested hundreds of millions of dollars to obtain the Challenged Permits and the associated leases, drill and complete wells authorized by the Challenged Permits, and otherwise work towards production of the oil and gas interests leased by the federal government to FME in New Mexico. *Id.* ¶¶ 6-8.

CONCLUSION

Because FME's challenged APDs are exclusively located in the Permian Basin in New Mexico, FME is similarly situated to Chevron with respect to the arguments articulated in Chevron's Motion—in particular, that Plaintiffs have failed to allege facts establishing standing with respect to any particular APD in the Permian Basin. Accordingly, for the reasons articulated in Chevron's Motion and adopted and incorporated here by reference, this Motion and Chevron's Motion should be granted and Plaintiffs' amended complaint should be dismissed as to the Permian Basin APDs, including FME's APDs.

DATED: November 4, 2022

Respectfully submitted,

DAVIS GRAHAM & STUBBS LLP

/s/ Mark Champoux

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of November, 2022, I caused a true and correct copy of the foregoing **MEMORANDUM IN SUPPORT OF FRANKLIN MOUNTAIN ENERGY, LLC'S MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT** to be filed with the Court electronically and served by the Court's CM/ECF system upon all counsel of record.

/s/ Paige Finnell _____