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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, by and through XAVIER BECERRA, ATTORNEY GENERAL; CALIFORNIA AIR RESOURCES BOARD; and STATE OF NEW MEXICO, by and through HECTOR BALDERAS, ATTORNEY GENERAL,

Plaintiffs,

v.

RYAN ZINKE, in his official capacity as Secretary of Interior; BUREAU OF LAND MANAGEMENT; and KATHARINE S. MACGREGOR, in her official capacity as Acting Assistant Secretary for Land and Minerals Management, United States Department of the Interior;

Defendants.

AND RELATED ACTIONS.

Case No. 3:17-cv-07186-LB

PROPOSED-INTERVENORS WESTERN ENERGY ALLIANCE'S AND INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA'S MOTION TO INTERVENE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

[Filed Concurrently with Declaration of Kathleen M. Sgamma In Support Thereof; [PROPOSED] Order Thereon]

REQUESTED Hearing Date: February 1, 2018
REQUESTED Hearing Time: 9:30 a.m.
Courtroom: C, 15th Floor

[The Hon. Magistrate Judge Laurel Beeler]

Trial Date: None Set

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NOTICE OF MOTION AND MOTION TO INTERVENE

TO THE COURT, AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on February 1, 2017 at 9:30 a.m. in Courtroom C, 15th Floor, 450 Golden Gate Avenue, San Francisco, California 94102, of the above-titled Court, Western Energy Alliance (Alliance) and the Independent Petroleum Association of America (IPAA) (collectively, the Proposed-Intervenors), will and hereby do move this Court for an Order granting the Proposed-Intervenors' Motion to Intervene in the above-titled action.

The Motion to Intervene is made pursuant to Federal Rule of Civil Procedure 24, on the ground that the Proposed-Intervenors have an interest in this action that will not be adequately represented by the named Defendants, and that this interest is sufficient to warrant intervention as a matter of right under Rule 24(a), or, alternatively, by permissive intervention under Rule 24(b).

The Motion to Intervene is based on this Notice; the following Memorandum of Points and Authorities; the Declaration of Kathleen Sgamma and the [Proposed] Order filed concurrently herewith; all pleadings and papers filed in this action; and such oral argument and other evidence properly presented to the Court at a hearing on the Motion.

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DATED: December 22, 2017

HOLLAND & HART LLP

By: /s/ Eric P. Waeckerlin
ERIC P. WAECKERLIN
Attorneys for PROPOSED-INTERVENORS WESTERN ENERGY ALLIANCE and the INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

DATED: December 22, 2017

DAVIS GRAHAM & STUBBS LLP

By: /s/ Kathleen Schroder
KATHLEEN SCHRODER
Attorneys for PROPOSED-INTERVENORS WESTERN ENERGY ALLIANCE and the INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

DATED: December 22, 2017

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By: /s/ Emil A. Macasinag
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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF ISSUES TO BE DECIDED

Whether Proposed-Intervenors Western Energy Alliance (Alliance) and Independent Petroleum Association of America (IPAA) (collectively, the Proposed-Intervenors) meet the requirements of Federal Rule of Civil Procedure 24 to intervene in this lawsuit.

STATEMENT OF RELEVANT FACTS

On November 2016, the Bureau of Land Management (BLM) finalized a rule that purported to update the agency's standards to reduce venting and flaring of oil and gas production on public lands (the "Venting and Flaring Rule"). 81 Fed. Reg. 83,008 (Nov. 18, 2016). Although the Venting and Flaring Rule took effect on January 17, 2017, it did not require compliance with several significant provisions until January 17, 2018.

On November 23, 2016, the Alliance and IPAA filed a motion for a preliminary injunction against BLM in the United States District Court for the District of Wyoming seeking to enjoin BLM from implementing the Venting and Flaring Rule because it exceeds BLM's authority by comprehensively regulating air quality and because it is arbitrary and capricious. The Alliance and IPAA motion included arguments that requiring oil and gas operators to comply with the Venting and Flaring Rule would impose significant immediate and irretrievable costs with no meaningful benefits. Shortly thereafter, the States of Wyoming and Montana filed a motion for preliminary injunction in a separate case seeking to enjoin BLM from implementing the Venting and Flaring Rule. The States of North Dakota and Texas later intervened in the respective cases as petitioners and also filed a motion for a preliminary injunction. The two cases were subsequently consolidated. Plaintiffs in the present action, along with a coalition of environmental groups, intervened as defendants in support of the Venting and Flaring Rule in the Wyoming litigation.

On January 16, 2017, the Wyoming district court ruled on the pending motions for preliminary injunction. The Wyoming district court observed that the "[Venting and Flaring Rule] upends the [Clean Air Act's] cooperative federalism framework and usurps the authority Congress expressly delegated under the [Clean Air Act] to the [Environmental Protection Agency], states,

and tribes to manage air quality." Nonetheless, the Wyoming district court ultimately denied the motions for a preliminary injunction, finding it could not conclude at that time the Venting and Flaring Rule exceeded BLM's authority or it was arbitrary and capricious. The court explained the petitioners had not established all factors required for issuance of a preliminary injunction. Since then, opening briefs and responses on the merits have been filed. Thus, the Alliance and IPAA are in the midst of ongoing litigation related to the Venting and Flaring Rule.

On June 15, 2017, pursuant to Administrative Procedure Act § 705, BLM postponed the provisions of the Venting and Flaring Rule set to take effect on January 17, 2018. 82 Fed. Reg. 27,430 (June 15, 2017) ("Postponement Notice"). The Postponement Notice stated these future compliance dates were postponed "pending judicial review." *Id.* On July 5, 2017, the Plaintiffs in the current action sued BLM, the Department of the Interior, and other defendants in this Court, alleging the Postponement Notice was unlawful. A coalition of seventeen conservation and tribal citizen groups filed a related action on July 10, 2017. These two cases were consolidated on July 24, 2017. Plaintiffs then moved for summary judgment. *See California v. U.S. Bureau of Land Mgmt.*, No. 3:17-cv-03804-EDL (N.D. Cal. July 26, 2017) (Dkt. 11); *Sierra Club v. Zinke*, No. 3:17-cv-03885-EDL (N.D. Cal. July 27, 2017) (Dkt. 37).

Soon after, the Alliance and IPAA filed a motion to intervene. *California v. U.S. Bureau of Land Mgmt.*, No. 3:17-cv-03804-EDL (N.D. Cal. July 26, 2017) (Dkt. 43). On August 28, 2017, the Court granted the motion to intervene, finding the proposed conditions of intervention were reasonable and necessary in the interests of judicial economy, sound case management, and avoiding delay. *Id.* (Dkt. 57 at 2).

On October 4, 2017, the Court granted Plaintiffs' summary judgment motions and vacated the Postponement Notice, concluding BLM's attempt to postpone compliance dates under the Venting and Flaring Rule without a full notice and comment period was not authorized under § 705 of the Administrative Procedure Act (APA) and was otherwise arbitrary and capricious. *California v. U.S. Bureau of Land Mgmt.*, No. 3:17-cv-03804-EDL (N.D. Cal. July 26, 2017) (Dkt.

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95). This decision had the effect of reinstating the January 17, 2018 deadlines for compliance with various provisions of the Venting and Flaring Rule that had been postponed since June 15, 2017.

On October 5, 2017, BLM issued a proposed rule to suspend certain provisions of the Venting and Flaring Rule and offered a 30-day notice and comment period on this proposed rule pursuant to § 553 of the APA. On December 8, 2017, BLM issued a final rule suspending certain provisions of the Venting and Flaring Rule ("Suspension Rule"). 82 Fed. Reg. at 58,050 (Dec. 8, 2017). For provisions of the Venting and Flaring Rule that were set to take effect in January 2018, the Suspension Rule "temporarily postpone[s] the implementation dates until January 17, 2019, or for one year." *Id.* For certain provisions of the Rule that had already taken effect, the Suspension Rule "temporarily suspend[s] their effectiveness until January 17, 2019." *Id.* Some provisions of the Venting and Flaring Rule, however, will remain in effect during the one-year suspension period. 82 Fed. Reg. at 58,051–52. BLM notes that it "has attempted to tailor [the Suspension Rule] to target the requirements of the [Venting and Flaring Rule] for which immediate relief is particularly justified" and left those provisions in place where the "burdens associated . . . are not substantial." 82 Fed. Reg. at 58,051.

On December 19, 2017, the Plaintiffs again sued BLM, the Department of the Interior, and other defendants in this Court, this time claiming the Suspension Rule violates the APA and seeking a preliminary injunction of the Suspension Rule. In a related action filed that same day, the coalition of seventeen conservation and tribal citizen groups alleged similar claims against Defendants. *See Sierra Club v. Zinke*, 3:17-cv-07187-MEJ (N.D. Cal. Dec. 19, 2017) (Dkt. 1). These actions have not yet been consolidated.

Plaintiffs' complaint in the present action expressly references the involvement of the Alliance and IPAA in the litigation surrounding the Venting and Flaring Rule. *See, e.g.*, 3:17-cv-07186 at Dkt. 1 at 13–14 ("The [Venting and Flaring] Rule was immediately challenged by two industry groups and the States of Wyoming and Montana . . . in federal district court in Wyoming, on the alleged basis that BLM did not have statutory authority to regulate air pollution and that the [Venting and Flaring] Rule was arbitrary and capricious.") (citing *W. Energy Alliance v. Jewell*,

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No. 2:16-cv-00280-SWS (D. Wyo. Nov. 16, 2016) and *Wyoming v. Jewell*, No. 2:16-cv-00285-SWS (D. Wyo. Nov. 16, 2016)).

Proposed-Intervenors now seek to participate in this latest litigation associated with the Venting and Flaring Rule, for the reasons outlined below. Further, this motion is supported by the Declaration of Kathleen Sgamma, the President of the Alliance.

ARGUMENT

I. Legal Standard

Rule 24(a) allows for intervention of right, whereby on timely motion, the Court must permit intervention by anyone 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). Alternatively, Rule 24(b) allows permissive intervention by anyone who "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(2).

II. Proposed-Intervenors are Entitled to Intervene as a Matter of Right

A Court is required to permit intervention if "(1) the motion is timely; (2) the applicant [claims] a 'significantly protectable' interest relating to the property or transaction that is the subject of the action; (3) the applicant [is] so situated that the disposition of the action may as a practical matter impair or impede its ability to protect that interest; and (4) the applicant's interest [is] inadequately represented by the parties to the action." *Wilderness Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc); *Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 896-97 (9th Cir. 2011). The Ninth Circuit interprets the requirements for intervention broadly in favor of intervention, guided by practical considerations, not technical distinctions. *United States v. Aerojet Gen. Corp.*, 606 F.3d 1142, 1148 (9th Cir. 2010); *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001).

The Proposed-Intervenors are entitled to intervene because their motion is timely; they have significant protectable interests related to the subject of the action, i.e., the Venting and

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Flaring Rule and the Suspension Rule; the disposition of the action may impair their ability to protect those interests; and the named parties cannot adequately represent the interests of the Proposed-Intervenors.

a. Proposed-Intervenors' Motion is Timely.

The Proposed-Intervenors' motion is timely because it was filed at an early litigation stage and no delay occurred to prejudice the other parties. The Ninth Circuit considers three factors when determining timeliness: "(1) the stage of the proceedings; (2) the prejudice to other parties; and (3) the reason for and length of the delay." *Day v. Apoliona*, 505 F.3d 963, 965 (9th Cir. 2007) (internal quotations omitted). This determination is construed broadly in favor of intervention. *Citizens for Balanced Use*, 647 F.3d at 897. Moreover, "[t]imeliness is to be determined from all circumstances." *U.S. ex rel. McGough v. Covington Tech. Co.*, 967 F.2d 1391, 1395 (9th Cir. 1992).

The Proposed-Intervenors seek to intervene at an early stage of the proceedings. Plaintiffs filed their complaint and motion for preliminary injunction on December 19, 2017, and at the time of this filing, no responsive pleadings have been filed. Courts have found motions to intervene were timely when they were filed before any defendant responded to the complaint or any dispositive motions had been filed, *see Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.*, 162 F. Supp.3d 1053, 1056 (C.D. Cal. 2014), before the court decided any dispositive motions, *see People's Legislature v. Miller*, 2012 WL 3536767, at *3 (D. Nev. Aug. 15, 2012), and even after a defendant filed a response to the complaint, *see, e.g., Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011); *PEST Comm. v. Miller*, 648 F. Supp.2d 1202, 1212 (D. Nev. 2009). The Ninth Circuit has even found post-judgment motions to intervene to be timely. *See McGough*, 967 F.2d at 1395.

Given this early stage of the litigation, no prejudice will result to the other parties if the Proposed-Intervenors participate in this lawsuit. Because no Defendant has responded to the complaint, the practical effect of involving another defendant is negligible, i.e., no different than had Plaintiffs sued the Proposed-Intervenors initially. Moreover, given that this motion was filed

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mere days after Plaintiffs' filed their complaint, Plaintiffs cannot convincingly argue this motion is delayed. *See United States v. California*, 538 F. App'x 759, 761 (9th Cir. 2013) ("A party seeking to intervene must act as soon as he knows or has reason to know that his interests might be adversely affected by the outcome of the litigation.").

b. The Proposed-Intervenors Have a Legally Protectable Interest Relating to the Subject of This Action.

The Proposed-Intervenors have a legally protectable interest in the Suspension Rule that is the exact subject of this litigation. An applicant for intervention has a "significant protectable interest" in an action if: (1) it asserts an interest that is protected under some law, and (2) there is a "relationship" between its legally protected interest and the plaintiff's claims. 644 F.2d 836, 843 (9th Cir. 2011); *Arakaki v. Cayetano*, 324 F.3d 1078, 1084 (9th Cir. 2003).

A prospective intervenor "has a sufficient interest for intervention purposes if it will suffer a practical impairment of its interests as a result of the pending litigation." *City of Emeryville v. Robinson*, 621 F.3d 1251, 1259 (9th Cir. 2010) (internal quotations omitted). The purpose of this element is to "involv[e] as many apparently concerned persons as is compatible with efficiency and due process." *Wilderness Soc'y*, 630 F.3d at 1179 (internal quotations omitted). In the context of injunctive relief, an applicant demonstrates a "significantly protectable interest" when "the injunctive relief sought by the plaintiffs will have direct, immediate, and harmful effects upon a third party's legally protectable interests." *Sw. Ctr. for Biological Diversity*, 268 F.3d at 822.

The Proposed-Intervenors' interest in this case relates to the issues raised by Plaintiffs', including their claim for injunctive relief. This relationship and Proposed-Intervenors' interest is demonstrated by the ongoing Wyoming litigation involving the Proposed-Intervenors regarding this exact subject: BLM's Venting and Flaring Rule and the subsequent Suspension Rule. The Suspension Rule, and Plaintiffs' challenge to it, raises issues directly related to Proposed-Intervenors' interests in the Wyoming litigation. These include BLM's lack of statutory authority for major provisions of the Venting and Flaring Rule, the Venting and Flaring Rule's impacts on small operators and existing sources, the Venting and Flaring Rule's assessment of costs and

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benefits, BLM's use of its waste authority, and the Venting and Flaring Rule's estimated impacts on royalties, among others.

Moreover, if the Suspension Rule is temporarily or permanently enjoined, the Proposed-Intervenors' member companies would need to divert significant financial and operational resources to comply with a rule that is beyond BLM's statutory authority and the subject of continuing litigation. Furthermore, if the Suspension Rule is temporarily or permanently enjoined, the Proposed-Intervenors' member companies may be required to immediately comply with the Venting and Flaring Rule, including the most burdensome and costly January 17, 2018 compliance deadlines. Therefore, if Plaintiffs were to succeed in obtaining injunctive relief, there would be a risk of direct, immediate, and harmful effect upon the Proposed-Intervenors, and the Proposed-Intervenors would lose rights afforded to them by the Suspension Rule. Thus, the Proposed-Intervenors have a legally protected interest that relates directly to the claims at issue in this action.

c. Absent Intervention, the Proposed-Intervenors' Ability to Protect Their Legal Interests Will be Impaired.

The continuation of this lawsuit and the possibility of an injunction, without the Proposed-Intervenors' participation, would seriously undermine the Proposed-Intervenors' ability to protect their interests in the Venting and Flaring Rule. The Ninth Circuit has held, "If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene." *Sw. Ctr. for Biological Diversity*, 268 F.3d at 822 (following the Rule 24 Advisory Committee Notes); *see also United States v. City of L.A.*, 288 F.3d 391, 398 (9th Cir. 2002) (courts consider and give weight to the "*practical* interest in the outcome of a particular case") (emphasis in original).

Here, the Proposed-Intervenors are petitioners in ongoing litigation in which they argue BLM has no statutory authority to enact the Venting and Flaring Rule and it is arbitrary and capricious. Their interest in enjoining enforcement of the Venting and Flaring Rule directly conflicts with Plaintiffs' goal of enforcing the Venting and Flaring Rule (by enjoining the

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suspension of the Venting and Flaring Rule's future compliance dates). Thus, to protect their legal interest in the Suspension Rule, the Proposed-Intervenors must be able to participate in this lawsuit to defend against Plaintiffs' demanded injunctive relief.

d. The Proposed-Intervenors' Interests Are Not Adequately Represented by Defendants.

The Proposed-Intervenors' interests do not align with the named Defendants. In determining whether another party will adequately represent the interests of a prospective intervenor, the Ninth Court considers: "(1) whether the interest of a present party is such that it will undoubtedly make all of the intervenor's arguments; (2) whether the present party is capable and willing to make those arguments; and (3) whether the would-be intervenor would offer any necessary elements to the proceedings that other parties would neglect." *Sw. Ctr. for Biological Diversity*, 268 F.3d at 822. A prospective intervenor must show that that the present parties' representation *may* be inadequate. *Sw. Ctr. for Biological Diversity*, 268 F.3d at 822; *see also Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538–39 n.10 (1972). The burden for the prospective intervenor is "minimal." *Sw. Ctr. for Biological Diversity*, 268 F.3d at 823. It is sufficient for an applicant to show that, because of the difference in their interests, it is likely that the existing parties will not advance the same arguments as applicants. *Id*. at 823-24.

Here, the Proposed-Intervenors have an interest in the Suspension Rule that is not adequately represented by the existing parties. Though BLM has an interest in the Suspension Rule taking effect, its long-term goals in relation to the Venting and Flaring Rule do not align with the Proposed-Intervenors. Specifically, its long-term goals relate to revising or rescinding the Venting and Flaring Rule. The Suspension Rule is a step in that process. Industry-Intervenors' long term-goal is not incurring compliance costs associated with an unlawful agency rule. The divergence of BLM's and the Proposed Intervenors' goals is best illustrated by the fact BLM has developed a proposal to revise or rescind the Venting and Flaring Rule, but has left the Venting and Flaring Rule intact and only postponed certain compliance dates by a year.

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Moreover, if the Suspension is enjoined and the Venting and Flaring Rule's 2018 compliance dates take effect, the Proposed-Intervenors' members would suffer significant financial and operational burdens to comply with the suspended provisions of the Venting and Flaring Rule. The uncertainty created by this litigation combined with BLM's efforts to revise or rescind the Venting and Flaring Rule only intensifies the harm that will befall Industry-Intervenors' member companies—if the Suspension Rule is enjoined, industry may expend significant resources to comply with a rule that could very well change. Proposed-Intervenors therefore have a significant interest in preserving the regulatory status quo effected by the Suspension Rule, and ultimately in not incurring compliance burdens to comply with a rule that is unlawful. The agency has no such interests. Accordingly, the Proposed-Intervenors have a legally protectable, substantial economic interest in this litigation that is distinct from BLM's interest in defending the Suspension Rule.

III. Alternatively, the Proposed-Intervenors Should be Granted Permissive Intervention

If the Proposed-Intervenors' request for intervention as of right is denied, they have at the very least fulfilled the requirements for permissive intervention. Rule 24(b) allows permissive intervention by anyone who "has a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b) . A court may grant permissive intervention when: (1) the applicant's claim or defense shares a common question of law or fact with the main action; (2) the motion is timely; and (3) there is an independent ground for jurisdiction. *Freedom from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 843 (9th Cir. 2011); *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1110-11 (9th Cir. 2002), *abrogated on other grounds by Wilderness Soc'y*, 630 F.3d at 1180. The Court must also determine whether intervention would unduly delay the main action or unfairly prejudice existing parties. Fed. R. Civ. P. 24(b)(3). The Proposed-Intervenors' interests in both the Venting and Flaring Rule and efforts to delay its deadlines have been recognized by Magistrate Judge Elizabeth Laporte in this judicial district when she allowed

the Proposed-Intervenors to intervene in the litigation challenging the Postponement Notice. *See* No. 3:17-cv-03804-EDL (N.D. Cal. July 26, 2017) (Dkt. 57).

a. There are Common Questions of Law and Fact

It is undeniable the defense of the Proposed-Intervenors shares a common question of both law and fact with this lawsuit: that is, the enforcement of the Venting and Flaring Rule, or the lack thereof through suspension of the Venting and Flaring Rule's future compliance dates. Unlike intervention of right under Rule 24(a), Rule 24(b) "dispenses with any requirement that the intervenor shall have a direct personal or pecuniary interest in the subject of the litigation." *Kootenai Tribe*, 313 F.3d 1094 at 1108. For example, in *PEST Committee*, the district court found the proposed-intervenors sought to defend the constitutionality of two statutes, "the precise claim at issue in Plaintiffs' Motion for Partial Summary Judgment[.]" 648 F. Supp.2d at 1214. As a result, the court held the proposed-intervenors demonstrated they shared a common question of law or fact with the main action. *Id.* Similarly, in this case, Plaintiffs seek to defend the enforceability of the Venting and Flaring Rule by enjoining the Suspension Rule, the exact Suspension Rule the Proposed-Intervenors seek to defend. Thus, there are common question of both law and fact allowing for permissive intervention.

b. The Motion to Intervene is Timely

As with intervention of right, courts determine timeliness for permissive intervention from all the circumstances, including the stage of the proceedings, prejudice to the existing parties, and the length of, and reason for, the delay. *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1308 (9th Cir. 1997). As explained above, the Proposed-Intervenors have filed this motion at an early stage of the proceedings—before answers have been filed and before any dispositive motion has been filed—and have not delayed in filing such motion. Due to the early stage of the filing and the lack of delay, no party is prejudiced by the intervention of the Alliance and IPAA. Additionally, intervention would neither unduly delay the main action not unfairly prejudice the main parties.

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c. An Independent Ground for Jurisdiction is Not Necessary Because This is a Federal Question Case

"Where the proposed intervenor in a federal-question case brings no new claims, the jurisdictional concern drops away." *Freedom from Religion Found., Inc.*, 644 F.3d at 844. Thus, the jurisdictional element is irrelevant in the Proposed-Intervenors' motion to intervene because this is a federal question case and the Proposed-Intervenors do not see to introduce any state law counterclaims or cross-claims. Accordingly, the Proposed-Intervenors need not make any further showing under this element.

STATEMENT OF PARTIES' POSITIONS

The undersigned counsel have conferred with counsel for the parties to the litigation. The Federal Defendants **do not oppose** this motion. The Plaintiffs **oppose** this motion.

CONCLUSION

The Proposed-Intervenors' interests in the Suspension Rule are reflected by its status as a petitioner challenging the Venting and Flaring Rule in the District of Wyoming and as its status as a Defendant-Intervenor in the prior litigation challenging the Postponement Notice in this judicial district. For the reasons stated above, the Proposed-Intervenors respectfully request that this Court enter an order granting them intervention as of right under Fed. R. Civ. P. 24(a). In the alternative, the Proposed-Intervenors respectfully request that this Court enter an order granting them permission to intervene under Fed. R. Civ. P. 24(b).

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DATED: December 22, 2017

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By: /s/ Eric P. Waeckerlin
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DATED: December 22, 2017

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 10960 Wilshire Boulevard, 18th Floor, Los Angeles, CA 90024-3804.

On December 22, 2017, I served the following document(s) described **PROPOSED-INTERVENORS WESTERN ENERGY ALLIANCE'S AND INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA'S MOTION TO INTERVENE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** on the interested parties in this action as follows:

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 22, 2017, at Los Angeles, California.

/s/ Sita Joanna Dyriam
Sita Joanna Dyriam

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