

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

WILDEARTH GUARDIANS, and)
PHYSICIANS FOR SOCIAL RESPONSIBILITY)

Plaintiffs,)

v.)

Case No. 1:16-cv-01724-RC

DAVID BERNHARDT, BRIAN STEED, and)
U.S. BUREAU OF LAND MANAGEMENT)

Defendants,)

WESTERN ENERGY ALLIANCE,)
PETROLEUM ASSOCIATION OF WYOMING,)
AMERICAN PETROLEUM INSTITUTE,)
STATE OF COLORADO, STATE OF UTAH, and)
STATE OF WYOMING.)

Defendant-Intervenors.)

**PLAINTIFFS’ REPLY IN SUPPORT OF
MOTION TO AMEND JUDGMENT**

Federal Defendants argue that Plaintiffs have not made the case for clear error or manifest injustice sufficient to support amendment of the Court’s May 28, 2019, Minute Order (Dkt. 107) granting remand of the Utah and Colorado lease sales. Federal Defendants’ Response (“Resp.”) at 1 (Dkt. 110).¹ Plaintiffs’ argument is for consistency between the remedies ordered. The order addressing the Wyoming leases is premised on the belief that allowing the Bureau of Land Management (“BLM”) to conduct open-ended remand proceedings, without enjoining new drilling authorizations during the pendency of the remand, would result in a paperwork exercise

¹ Intervenor-Defendants American Petroleum Institute and Western Energy Alliance filed responses joining Federal Defendants’ Response in Opposition to the Motion to Amend Judgment. Dkts. 111, 112.

devoid of meaningful analysis. Motion at 8 (Dkt. 108) (citing Merits Opinion (Dkt. 99) for Wyoming leases at 59-60). A prohibition on new drilling approvals and retention of jurisdiction to review the new NEPA analyses provides a needed check on that possibility. A similar approach is appropriate for the Utah and Colorado leases. It would encourage the agency to undertake meaningful analyses of leasing impacts consistent with the letter and spirit of NEPA and in accord with the Court's guidance in the Wyoming Merits Opinion. It would also hold BLM accountable and ensure that bureaucratic momentum which favors rapid development, at the expense of thorough environmental analyses of impacts, is avoided.

Federal Defendants assert that there is no clear error or manifest injustice here because they addressed Plaintiffs' concerns with the scope of the voluntary remand in the Motion for Voluntary Remand. Resp. at 2 (citing Motion for Voluntary Remand at 5 (Dkt. 107)). However, Plaintiffs did not have the opportunity to respond to Federal Defendants' arguments against enlarging the scope of the voluntary remand. And Federal Defendants expressed Plaintiffs' position in a single sentence devoid of any broader context. Absent this opportunity, Plaintiffs have provided adequate support for amendment of the remand order in their Motion to mend Judgment.

CONCLUSION

Plaintiffs respectfully request that the Court amend its Minute Order for the Utah and Colorado leases should impose the same remedies for those remands as it did for the Wyoming leases, as stated in Plaintiffs' proposed order attached to their Motion.

Respectfully submitted on the 19th day of June 2019,

/s/ Samantha Ruscavage-Barz

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(admitted *Pro Hac Vice*)

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2019 I electronically filed the foregoing REPLY IN SUPPORT OF PLAINTIFFS' MOTION TO AMEND JUDGMENT with the Clerk of the Court via the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Samantha Ruscavage-Barz

Counsel for Plaintiffs