

Shannon Anderson, Wyo. Bar No. 6-4402
 Powder River Basin Resource Council
 934 N. Main St.,
 Sheridan, WY 82801
 (307) 672-5809
 sanderson@powderriverbasin.org

Counsel for Respondent-Intervenors Center for Biological Diversity, et al.
(Additional counsel listed on signature page)

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

WESTERN ENERGY ALLIANCE and)	
PETROLEUM ASSOCIATION OF WYOMING,)	
Petitioners,)	Case No. 0:21-cv-00013-SWS
)	[Lead Case]
vs.)	
)	
JOSEPH R. BIDEN, Jr., <i>et al.</i> ,)	
Federal Respondents,)	
)	
CENTER FOR BIOLOGICAL DIVERSITY, <i>et al.</i>)	
(Conservation Groups), and ALTERRA MOUNTAIN)	
COMPANY, <i>et al.</i> (Business Coalition),)	
Intervenor-Respondents,)	

STATE OF WYOMING,)	
Petitioners,)	
vs.)	Case No. 0:21-cv-00056-SWS
)	
UNITED STATES DEPARTMENT OF)	
INTERIOR, <i>et al.</i> ,)	
Federal Respondents,)	
)	
CENTER FOR BIOLOGICAL DIVERSITY, <i>et al.</i>)	
(Conservation Groups), and ALTERRA MOUNTAIN)	
COMPANY, <i>et al.</i> (Business Coalition),)	
Intervenor-Respondents,)	

**CONSERVATION GROUPS’ SUPPLEMENTAL MEMORANDUM REGARDING STAY
 OF PROCEEDINGS**

Respondent-Intervenors Center for Biological Diversity, et al. (collectively, the Conservation Groups) respectfully submit this supplemental memorandum regarding a stay of proceedings in these consolidated cases, pursuant to the Court's June 16, 2021 Order. ECF No. 55.

Following the June 15, 2021 preliminary injunction entered by the Western District of Louisiana, Petitioners Western Energy Alliance and Petroleum Association of Wyoming (collectively, WEA) and the State of Wyoming do not face any imminent threat of alleged irreparable harm. See Louisiana v. Biden, No. 2:21-cv-00778, 2021 WL 2446010 (W.D. La. June 15, 2021) (the Louisiana Order). The Conservation Groups therefore propose that this Court hold in abeyance WEA's and Wyoming's pending motions for preliminary injunction.¹ However, the Court should not stay this entire litigation. Instead, the parties should be directed to submit a proposed scheduling order that will allow for a prompt decision on the merits of this litigation, which were not resolved by the Louisiana Order.

DISCUSSION

The U.S. District Court for the Western District of Louisiana on June 15, 2021 entered a nationwide injunction enjoining Respondent U.S. Department of the Interior, as well as its bureaus, directors and Secretary, from "implementing the Pause of new oil and natural gas leases on public lands or in offshore waters as set forth in Section 208 of Executive Order 14008." Louisiana Order, 2021 WL 2446010 at *22. The Louisiana court's nationwide injunction covers Wyoming, Colorado, and every other state in which Petitioners in this litigation may claim an interest. The Louisiana Order also appears to cover the same actions and inaction challenged by

¹ Alternatively, the Court could deny the preliminary injunction motions without prejudice to their refiling if the Louisiana Order is reversed or lifted, or if a material change in circumstances arises.

WEA and Wyoming in this litigation. See No. 21-cv-56, ECF No. 45 at 1 (Wyoming preliminary injunction motion challenges Interior Department and Bureau of Land Management’s “act[ing] on the Executive Order” by canceling “all planned quarterly lease sales”); compare ECF No. 41 at 7-11 with Louisiana Order, 2021 WL 2446010 at *16 (Louisiana Order addresses same canceled lease sales as WEA preliminary injunction motion). In short, the Louisiana Order—extending nationwide and encompassing both offshore and onshore leasing—is broader in scope than the relief requested by the WEA and Wyoming motions, and a similar injunction issued by this Court would be duplicative.

Following issuance of the Louisiana Order, WEA and Wyoming do not face any imminent threat of alleged irreparable harm that could warrant a preliminary injunction.² Executive Order 14008’s direction to pause new leasing is at the heart of both WEA’s and Wyoming’s complaints, and the Louisiana Order has now enjoined the Federal Respondents from implementing that pause. It is thus unclear what additional benefit could be achieved (or irreparable harm prevented) from this Court entering a second preliminary injunction. Moreover, even if WEA or Wyoming were to identify some additional or different requirements they want imposed on the Federal Respondents, such an order from this Court would create its own problems by subjecting the government to two different and potentially inconsistent injunctions. While the Conservation Groups believe the Louisiana Order is deeply flawed and that its rulings on the injunction factors and other legal issues should not be followed, this Court need not wade into those questions for the sake of deciding a duplicative request for injunctive relief. Given the

² Even before the Louisiana Order, WEA and Wyoming had not shown a threat of irreparable harm, or any entitlement to a preliminary injunction. See ECF No. 50 (Conservation Groups’ opposition brief).

absence of an imminent threat of irreparable harm to WEA and Wyoming, and for judicial efficiency, the motions for preliminary injunction should be held in abeyance.

The Court should not, however, stay this entire litigation. The Court should instead proceed promptly to the merits. The consolidated cases here present several claims not raised in Louisiana, including claims under the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA). See Complaint ¶¶ 127-176, ECF No. 1, No. 2:21-cv-00778 (W.D. La.) (claims for relief). With respect to this Court's consideration of claims that overlap, such as under the Mineral Leasing Act, those claims would benefit from full merits briefing and a review of the administrative record. Moreover, WEA's and Wyoming's argument regarding the Mineral Leasing Act is central to implementation of the federal onshore oil and gas program. That legal question warrants a full review by this Court, independent of the Louisiana case which is focused largely on offshore oil and gas issues.

Merits proceedings can occur on a prompt schedule to allow for expeditious final resolution of this matter.

CONCLUSION

The WEA and Wyoming motions for preliminary injunction should be held in abeyance or, in the alternative, denied without prejudice, and the parties should be directed to submit a proposed scheduling order for merits proceedings pursuant to L.R. 83.6.

Respectfully submitted this 23rd day of June, 2021,

/s/ Kyle Tisdel

Kyle Tisdel (*admitted pro hac vice*)
Western Environmental Law Center
208 Paseo del Pueblo Sur, Unit 602
Taos, NM 87571
(575) 613-8050
tisdel@westernlaw.org

Melissa Hornbein (*admitted pro hac vice*)
Western Environmental Law Center
103 Reader's Alley
Helena, MT 59601
(406) 708-3058
hornbein@westernlaw.org

*Counsel for Center for Biological Diversity,
Citizens for a Healthy Community, Diné
Citizens Against Ruining Our Environment,
Earthworks, Food & Water Watch, Indian
People's Action, Montana Environmental
Information Center, Powder River Basin
Resource Council, Western Organization of
Resource Councils, WildEarth Guardians*

Shannon Anderson (Wyo. Bar No. 6-4402)
Powder River Basin Resource Council
934 N. Main St.,
Sheridan, WY 82801
(307) 672-5809
sanderson@powderriverbasin.org

Local Counsel

/s/ Michael Freeman

Michael Freeman (*admitted pro hac vice*)
Robin Cooley (*admitted pro hac vice*)
Thomas Delehanty (*admitted pro hac vice*)
Earthjustice
633 17th Street, Suite 1600
Denver, CO 80202
(303) 996-9615 (M. Freeman)
(303) 996-9611 (R. Cooley)
(303) 996-9628 (T. Delehanty)
mfreeman@earthjustice.org
rcooley@earthjustice.org
tdelehanty@earthjustice.org

*Counsel for Conservation Colorado, Friends of
the Earth, Great Old Broads for Wilderness,
National Parks Conservation Association,
Sierra Club, Southern Utah Wilderness
Alliance, The Wilderness Society, Valley
Organic Growers Association, Western
Colorado Alliance, Western Watersheds
Project, Wilderness Workshop*

CERTIFICATE OF SERVICE (CM/ECF)

I hereby certify that on June 23, 2021, I electronically filed the foregoing
**CONSERVATION GROUPS' SUPPLEMENTAL MEMORANDUM REGARDING STAY
OF PROCEEDINGS** with the Clerk of the Court via the CM/ECF system, which will send
notification of such filing to other participants in this case.

/s/ Michael Freeman