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

WESTERN ENERGY ALLIANCE and
PETROLEUM ASSOCIATION OF WYOMING,

Petitioners,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the
United States; DEB HAALAND, in her official capacity as
Secretary of the Interior; and THE UNITED STATES BUREAU OF
LAND MANAGEMENT,

Respondents, and

**No. 21-CV-13-SWS
(Lead Case)**

CENTER FOR BIOLOGICAL DIVERSITY, et al ("Conservation Groups"), and ALTERRA MOUNTAIN COMPANY, et al ("Business Coalition"),

Intervenor-Respondents.

STATE OF WYOMING,

Petitioners,

v.

THE UNITED STATES DEPARTMENT OF INTERIOR; DEBRA ANNE HAALAND, in her official capacity as Secretary of the Interior; THE BUREAU OF LAND MANAGEMENT; NADA CULVER, in her official capacity as Acting Director of the Bureau of Land Management; and KIM LIEBHAUSER, in her official capacity as the Acting Director of the Wyoming State Bureau of Land Management,

Respondents, and

CENTER FOR BIOLOGICAL DIVERSITY, et al ("Conservation Groups"), and ALTERRA MOUNTAIN COMPANY, et al ("Business Coalition"),

Intervenor-Respondents.

**No. 21-CV-56-SWS
(Joined Case)**

**RESPONDENTS' BRIEF IN RESPONSE TO ORDER FOR LIMITED BRIEFING ON
STAY OF PROCEEDINGS**

Federal Respondents submit this brief in response to the Court’s Order for Limited Briefing on Stay of Proceedings, ECF No. 55, No. 21-cv-13-SWS. The recent ruling in *Louisiana v. Biden*, No. 2:21-cv-778, --- F. Supp. 3d. ---, 2021 WL 2446010 (W.D. La. June 15, 2021), does not justify a stay of proceedings in this consolidated litigation for three reasons.

First, the *Louisiana* court did not directly address the propriety of deferring onshore lease sales based on compliance with the National Environmental Policy Act (NEPA), which was the rationale for most of the challenged leasing deferrals here. *See* Respondents’ Combined Opp’n to Mots. For Prelim. Inj., at 10–11, ECF No. 52, No. 21-cv-13-SWS (Opp’n). Rather, the *Louisiana* court stated that deferrals based on compliance with NEPA would “need to be explored on the merits.” *Id.* at 16. Accordingly, live disputes remain for this Court to resolve.

Second, the differing factual record before this Court on irreparable harm also counsels against a stay. This Court has been squarely presented with substantial criticisms of Timothy Considine’s core well spudding model, based on the Declaration of James Tichenor analyzing BLM’s recent well spudding data, Opp’n 42–43, and the Declaration of Laura Zachary, ECF No. 50-2, No. 21-cv-13-SWS. Although much of that information was also provided to the *Louisiana* court, through supplemental¹ and amicus² filings, the *Louisiana* court did not mention any of that evidence in its decision. *See* 2021 WL 2446010, at *21. Because that evidence goes to the core of the irreparable harm dispute, a thorough evaluation of the competing evidence would further the interests of justice.

Third, unlike the *Louisiana* plaintiffs, Petitioners raise challenges under the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA).

¹ *Louisiana v. Biden*, No. 2:21-cv-778, ECF Nos. 130, 134 (W.D. La. June 7–8, 2021).

² *Louisiana v. Biden*, No. 2:21-cv-778, ECF No. 123-2 (W.D. La. May 20, 2021).

Because the *Louisiana* court did not evaluate such challenges, Petitioners' FLPMA and NEPA claims remain live disputes the Court can and should resolve.

Moreover, nationwide injunctions are generally disfavored, in part because they “prevent[] legal questions from percolating through the federal courts.” *See Trump v. Hawaii*, 138 S. Ct. 2392, 2425, 2429 (2018) (Thomas, J., concurring). A stay here could have that negative effect.

For the foregoing reasons, Respondents respectfully request that the Court not enter a stay of proceedings. Should the Court be inclined to enter a stay, however, Respondents respectfully request that the Court stay only the preliminary injunction portion of the proceedings, thereby allowing the litigation to proceed to a decision on the merits.

Submitted respectfully this 23rd day of June, 2021,

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CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2021, a copy of the foregoing was served by electronic means on all counsel of record by the Court's CM/ECF system.

/s/ Michael S. Sawyer
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