

Mark S. Barron
L. Poe Leggette (Wyoming Bar No. 7-4652)
Alexander K. Obrecht (Wyoming Bar No. 7-5542)
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, Colorado 80202
Telephone: 303.861.0600
Facsimile: 303.861.7805
mbarron@bakerlaw.com
pleggette@bakerlaw.com
aobrecht@bakerlaw.com

*Attorneys for Petitioners Western Energy Alliance &
Petroleum Association of Wyoming*

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

WESTERN ENERGY ALLIANCE and)
PETROLEUM ASSOCIATION OF)
WYOMING,)
)
Petitioners,)
)
v.)
)
DEB HAALAND, in her official)
capacity as Secretary of the Interior,)
and UNITED STATES BUREAU)
OF LAND MANAGEMENT,)
)
Respondents.)
_____)

Civil Case No. 1:22-cv-252

PETITION FOR REVIEW OF GOVERNMENT ACTION

Petitioners Western Energy Alliance and the Petroleum Association of Wyoming (collectively, “Petitioners”) submit respectfully this petition for review of government action under Local Civil Rule 83.6. The Mineral Leasing Act, 30 U.S.C. §§ 181-287, mandates the frequency with which federal minerals must be made available for lease. “Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the

Secretary of the Interior determines such sales are necessary.” 30 U.S.C. § 226(b). The Bureau of Land Management (“BLM”) is the federal agency tasked with carrying out this mandate. But BLM has not conducted a lease sale for onshore oil and gas leases anywhere in the United States since June 2022. Nor has BLM provided the public any explanation for why it did not conduct lease sales in the third quarter of 2022 (let alone why BLM has conducted onshore lease sales only once in the two years since President Biden took office). BLM has further announced that it has no plans to conduct a lease sale in the fourth quarter of 2022 or the first quarter of 2023 and is instead preparing for sales no sooner than the second quarter 2023. Because BLM’s approach improperly treats statutory obligations as discretionary policy options, this Court should: (i) declare that BLM’s failure to conduct any sales in the third quarter of 2022 violates the express terms of the Mineral Leasing Act; and (ii) order BLM to immediately abandon all currently existing lease sale schedules that do not comply with the Mineral Leasing Act and to adopt promptly revised lease sale schedules that comply with the Secretary’s statutory obligations.

PARTIES

1. Western Energy Alliance represents over 200 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independent oil and natural gas producers, the majority of which are small businesses with an average of fourteen employees. The Alliance advocates for its members’ interests related to federal legislative, regulatory, environmental, and public lands policy issues. The Alliance often appears before Congress and federal agencies and in the judicial system to represent its members. Alliance members regularly nominate federal parcels for auction, participate in federal oil and gas lease sales, and acquire federal parcels through BLM’s sales.

2. The Petroleum Association of Wyoming represents companies involved in all aspects of responsible oil and gas development in Wyoming, including oil and gas production, midstream processing, pipeline transportation, oilfield service, and essential work such as legal services, accounting, consulting, and more. PAW advocates for oil and gas development that supports sustainable production of Wyoming's abundant resources; fosters mutually beneficial relationships with Wyoming's landowners, businesses, and communities; and upholds the values of science-based, environmental stewardship. PAW members regularly participate in federal land planning processes including the development of resource management plans and reviews conducted under the National Environmental Policy Act ("NEPA"). PAW members also regularly acquire oil and gas leases through federal oil and gas lease sales. PAW members support, service, and assist in the development of oil and gas resources on federal leases.

3. Defendant Deb Haaland is the Secretary of the United States Department of the Interior. Secretary Haaland is a cabinet-level officer of the United States government and named herein in her official capacity.

4. Defendant BLM is a sub-component of the United States Department of the Interior. BLM is the custodian of the federal mineral estate and is responsible for the administration and management of oil and gas development on federal lands.

JURISDICTION

5. This Court has jurisdiction over this action under 28 U.S.C. § 1331. The United States has waived its sovereign immunity under the Administrative Procedure Act, 5 U.S.C. § 702.

FACTUAL ALLEGATIONS

6. The United States owns more than 700 million subsurface acres of mineral estate. The Mineral Leasing Act establishes the framework under which the Secretary of the Interior leases and manages the development of these resources. The Secretary has delegated her statutory responsibilities associated with the administration of the oil and gas leasing program to BLM.

7. For administrative purposes, BLM is divided into twelve State Offices that exercise regional jurisdiction: (i) Alaska; (ii) Arizona; (iii) California; (iv) Colorado; (v) Eastern States; (vi) Idaho; (vii) Montana; (viii) Nevada; (ix) New Mexico; (x) Oregon; (xi) Utah; and (xii) Wyoming. The BLM State Offices are further divided into Field Offices within each State Office's geographic boundaries.

8. Select BLM State Offices exercise jurisdiction over lands in more than one actual state. The Eastern States Office exercises jurisdiction over Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all states east of the Mississippi River. The Montana State Office exercises jurisdiction over Montana, North Dakota, and South Dakota. The New Mexico State Office exercises jurisdiction over New Mexico, Kansas, Oklahoma, and Texas. The Oregon State Office exercises jurisdiction over Oregon and Washington. The Wyoming State Office exercises jurisdiction over Wyoming and Nebraska.

9. BLM administers the minerals found beneath: (i) the 258 million surface acres that BLM manages; (ii) 57 million surface acres where the minerals are federally owned but the surface is in non-federal (mostly private) ownership; and (iii) another 385 million acres on which federal agencies other than BLM manage the surface. BLM estimates that half of these 700 million subsurface acres contain oil and/or natural gas.

10. Not all of the minerals BLM manages are subject to leasing. National parks and monuments, lands in incorporated cities, towns, and villages, and most lands within the National Wilderness Preservation System are statutorily excluded from the leasing program. And while not expressly excluded, the Secretary may not lease any parcel within the National Forest System reserved from the public domain over the Secretary of Agriculture's objection. More than half of the federal mineral estate constitute lands on which federal agencies other than BLM manage the surface (e.g., lands under the control of the Fish & Wildlife Service or the Department of Defense) and are infrequently leased for mineral development.

11. In 2008, BLM determined that these lands contain an estimated 31 billion barrels of technically recoverable oil and 231 trillion cubic feet of technically recoverable natural gas. Since that time, technological innovations such as horizontal and directional drilling, in combination with hydraulic fracturing, have made previously uneconomic or unrecoverable reserves available. These technologies have opened a new supply of undeveloped oil and natural gas on BLM lands above and beyond the already substantial numbers identified in the 2008 study.

12. Approximately 26 million mineral acres – less than 4% of the federal mineral estate – is leased for oil and gas development. Of that amount, BLM characterizes only 12.9 million mineral acres – less than 2% of the federal mineral estate – as being in producing status. Yet in FY 2022, the onshore federal oil and gas program generated almost \$8.7 billion in the form of royalties, rents, bonuses, and other fees on federal and Indian leases. The amount of annual revenue that federal mineral development provides the U.S. Treasury is second only to that provided by the Internal Revenue Service.

13. Approximately half of all federal oil and gas royalty, rental fee, and bonus bid revenue is paid to the State in which the development occurred. In FY 2022, the State of Wyoming received more than \$785 million in disbursements from federal oil gas revenues.

The Federal Oil and Gas Leasing Process

14. The Mineral Leasing Act vests the Secretary of the Interior with discretion to determine which lands will be leased. The Secretary exercises this discretion through the land use planning and regulatory processes.

15. The Federal Land Policy and Management Act, 43 U.S.C. §§ 1701-87 (“FLPMA”) governs the planning process that precedes federal oil and gas leasing. Among other considerations, BLM must plan to: (i) protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values, *see* 43 U.S.C. § 1701(a)(8); *and* (ii) account for the Nation’s need for domestic sources of minerals, food, timber, and fiber from the public lands,⁷ *see* 43 U.S.C. § 1701(a)(12).

16. Resource management plans are prepared for all federal lands and resources, with each BLM field office preparing an environmental impact statement (“EIS”) analyzing management alternatives for the lands and resources within the field office’s boundaries. Applicable regulations require that the public must have a chance to become meaningfully involved in and comment on the preparation and amendment of resource management plans.

17. The resource management plans establish which areas within the field office’s boundaries are open to oil and gas leasing and which areas are closed. The resource management plans are used to determine whether a specific parcel may be offered at an oil and gas lease sale and under what conditions. For open areas, the applicable resource management plan analyzes impacts of reasonably foreseeable development and enumerates any stipulations needed to

provide extra protection for sensitive resources in the plan area. Approximately eight percent of the oil and ten percent of the natural gas in onshore federal lands are accessible for development under standard lease terms.

18. All subsequent activity on designated lands, including oil and gas development, must conform to the resource management plans.

19. The Mineral Leasing Act and its implementing regulations govern the next phase of federal oil and gas development – the leasing process at issue in this suit. Unlike FLPMA, the Secretary’s obligations under the Mineral Leasing Act do not involve weighing competing interests. Congress stated expressly that the Mineral Leasing Act’s purpose is “[t]o promote the mining of coal, phosphate, oil, oil shale, and sodium on the public domain.” Act of Feb. 25, 1920, ch. 85, § 32, 41 Stat. 437.

20. The Mineral Leasing Act mandates the frequency with which federal minerals must be made available for lease. “Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary.” 30 U.S.C. § 226(b). BLM’s regulations require that: “Each proper BLM State [sic] office shall hold sales at least quarterly if lands are available for competitive leasing.” 43 C.F.R. § 3120.1-2.

21. “Eligible” lands comprise all lands subject to leasing, i.e., lands not excluded from leasing by a statutory or regulatory prohibition. “Lands are “available” if open to leasing under the Mineral Leasing Act.

22. “Available” parcels in areas identified as open for leasing in a resource management plan may be nominated for leasing. Anyone can nominate lands by sending a written expression of interest to the BLM State Office having jurisdiction over the parcel. BLM

reviews each nomination to ensure that the parcels are, in fact, open to oil and gas leasing under the resource management plan and that stipulations specified in the resource management plan are attached before the lease is placed on sale. The identity of filers of expressions of interest is kept confidential. BLM's regulations provide those parcels which receive nominations "shall be included in a Notice of Competitive Lease Sale."

23. BLM must issue a public Notice of Competitive Lease Sale listing the lands to be auctioned at least forty-five days in advance of an oil and gas lease sale.

24. BLM regulations state that BLM may suspend the offering of a specific parcel while considering while considering a protest or appeal against the parcel's inclusion in a Notice of Competitive Lease Sale.

25. The potential environmental impacts of leasing the parcels listed in the competitive notice are also subjected to NEPA review.

26. The Department of the Interior has long understood "that the obligation to hold quarterly sales carries with it the responsibility to plan the activities necessary to have eligible lands available for sale."

Recent Lease Sales History

27. On January 27, 2021, President Biden issued Executive Order 14008, directing that:

[t]o the extent consistent with applicable law, the Secretary of the Interior shall pause new oil and natural gas leases on public lands or in offshore waters pending the completion of a comprehensive review and reconsideration of Federal oil and gas permitting and leasing practices in light of the Secretary of the Interior's broad stewardship responsibilities over the public lands and offshore waters, including potential climate and other impacts associated with oil and gas activities on public lands or in offshore waters.

28. BLM leadership interpreted Executive Order 14008 as requiring the agency to pause all new oil and gas leasing. Consistent with Executive Order 14008, BLM did not conduct any oil and gas lease sales in 2021.

29. In a series of coincidentally timed memoranda issued on the eve of BLM's regulatory deadline to post notice of first quarter 2021 lease sales, various Interior officials recommended that individual lease sales be cancelled so that BLM would have additional time to evaluate the NEPA analysis prepared for those sales against judicial decisions issued in 2020: (i) on February 11, 2021, the Utah State Director recommended that the first quarter Utah sale be postponed; (ii) on February 12, 2021, the Acting Deputy Solicitor recommended that the first quarter sales in Colorado, Montana/Dakotas, Utah, and Wyoming be postponed; and (iii) on February 12, 2021, the Eastern States Director recommended that the first quarter Eastern States sale be postponed. None of the memoranda offered any reason for delaying the sales other than the perceived need to re-evaluate the NEPA analysis that BLM had already prepared. None of the memoranda's conclusions or recommendations were communicated to the public.

30. Between January 27, 2021 and February 12, 2021, varying notations were added to the websites of BLM's State Offices indicating that all onshore oil and gas lease sales scheduled for the first quarter of 2021 had been cancelled. In virtually all cases, BLM's national leadership – not local State Office officials – personally oversaw and authorized these cancellations.

31. On April 21, 2021, BLM issued a press release advising that BLM “is exercising its discretion to not hold lease sales in the 2nd quarter of Calendar Year 2021.” As support for its decision to cancel second quarter lease sales, BLM's press release referenced the then-pending review of oil and gas development practices called for under Executive Order 14008. The press

release did not address the fact that parcels in areas open to oil and gas had been nominated through expressions of interest in many, if not all, states in which lease sales were canceled or identify any provision of Executive Order 14008 or other authority that allows oil and gas lease sales to be cancelled while President Biden’s review was being conducted.

32. On June 15, 2021, the United States District Court for the Western District of Louisiana granted a nationwide injunction that prohibited BLM from maintaining any “pause” of oil and gas lease sales. *See Louisiana v. Biden*, 543 F. Supp. 3d 388 (W.D. La. 2021) (“*Louisiana I*”). Despite the injunction order, BLM did not reinstate any cancelled oil and gas lease sales. To the contrary, on July 27, 2021, the Secretary of the Interior testified that, notwithstanding the Louisiana court’s order, the pause on federal leasing was still in effect. On August 24, 2021, the federal respondents in *Louisiana I* advised that court that BLM had no intention of reinstating or conducting the 2021 lease sales that had already been cancelled. The federal respondents represented instead that BLM State Offices had been directed “to finalize parcel lists for upcoming sales, in order to publicly post those parcel lists for NEPA scoping by August 31, 2021.” BLM explained that the agency anticipated publishing draft NEPA documents for public comment in October 2021, followed by a notice of sale published in December 2021.

33. On October 29, 2021, BLM announced that, “over the coming days,” BLM State Offices would “issue draft environmental assessments [“EAs”] . . . to solicit feedback from the public, Tribes, and state agencies regarding proposed oil and gas lease sales to be held in early 2022.” Between October 29 and December 8, 2021, BLM accepted public comments on the draft EAs.

34. On November 26, 2021 – the Friday after Thanksgiving – the Department of the Interior issued the report on oil and gas leasing contemplated in Executive Order 14008. The

report makes a series of generic recommendations, calling for: (i) modification of the financial terms of leases – specifically an increase to royalty rates, minimum bonus bids, and rental rates; (ii) enhanced bonding requirements; (iii) efforts to avoid nominating leasing of low potential lands; and (iv) pre-clearance of bidders on leases.

35. On February 11, 2022, in a separate challenge related to the federal government’s use of the social cost of carbon protocol in environmental reviews conducted under NEPA, the United States District Court for the Western District of Louisiana issued a preliminary injunction, precluding federal agencies from, among other restrictions, relying on the estimates and calculations of the Interagency Working Group (“IWG”) when monetizing the value of impacts from greenhouse gas emissions attributable to federal actions (the “February 11 Injunction”). *See Louisiana v. Biden*, No. 2:21-CV-01074, 2022 WL 438313 (W.D. La. Feb. 11, 2022) (“*Louisiana II*”).

36. On February 16, 2022, Respondents filed a motion for stay of the February 11 Injunction. In support of the motion, Respondents submitted the Declaration of Dominic J. Mancini, Deputy Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget – an office within the Executive Office of the President. Mancini’s declaration implied that the February 11 Injunction precluded BLM from finalizing environmental reviews that were prepared in association with the lease sales that BLM had represented would occur in the first quarter of 2022. More specifically, Mancini’s declaration suggests that, because BLM included social cost of carbon analyses incorporating the IWG estimates in the NEPA documents prepared for those lease sales, the NEPA documents for the lease sales could not be finalized at that time.

37. NEPA does not require the monetization of impacts. And federal courts have consistently rejected any attempt to characterize the application of the social cost of carbon protocol as an obligatory part of a federal agency's NEPA analysis.

38. BLM did not conduct any onshore oil and gas leases in the first quarter of 2022.

39. In June 2022, five BLM state offices conducted onshore oil and gas lease sales: Colorado, Montana/Dakotas, Nevada, New Mexico, and Wyoming.

40. An additional sale for one parcel in Alabama had also been noticed, but on April 19, 2022, the BLM Eastern States Office issued a decision record indicating that the Eastern States Director had decided not to offer the parcel. The Eastern States Director explained that his decision was based on the analysis of potential impacts evaluated in the Environmental Assessment BLM prepared in association with the anticipated sale.

41. An additional sale for one parcel in Utah had also been noticed, but on June 29, 2022, the BLM Utah State Office issued an amended notice explaining that the parcel was being withheld in response to a protest that a special interest group had filed objecting to the parcel's sale. The Utah State Director explained that his decision was based on the analysis of potential impacts evaluated in the Environmental Assessment BLM prepared in association with the anticipated sale.

42. BLM has not conducted an onshore oil and gas lease sale anywhere in the United States since June 2022.

43. On October 6, 2022, BLM issued a press release indicating that BLM would begin scoping for the next onshore oil and gas lease sales in New Mexico and Wyoming. The Press Release did not indicate when those upcoming sales would take place.

44. Documents on BLM's lease sales and e-planning websites suggest that the New Mexico sale is being considered for "May 2023." Documents on BLM's lease sales and e-planning websites suggest that the Wyoming sale is being considered for the "June 2023"

45. On November 21, 2022, the Department of the Interior issued a press release indicating that BLM would begin scoping for the next onshore oil and gas lease sales in Nevada and Utah. The Press Release did not indicate when those upcoming sales would take place.

46. Documents on BLM's lease sales and e-planning websites suggest that the Nevada sale is being considered for "July 2023." Documents on BLM's lease sales and e-planning websites do not specify when the Utah sale will be conducted, noting only that it is being considered for "2023."

47. BLM is not planning to conduct any onshore oil and gas lease sales in the first quarter of 2023.

Failure to Hold a Third Quarter 2022 Lease Sale

48. Lands that have not been excluded from leasing under any applicable statute or regulation and which are otherwise available for oil and gas leasing under the express terms of the Mineral Leasing Act exist within the jurisdictional territory of numerous BLM state offices. Upon information and belief, these state offices include, but are not limited to: Arizona, California, Colorado, Eastern States, Idaho, Montana-Dakotas, Nevada, New Mexico, Utah, and Wyoming. Expressions of interest for parcels under the jurisdiction of each of these state offices have been submitted and are pending presently before each of the respective state offices.

49. Western Energy Alliance members are among the companies that submitted expressions of interest for available parcels in, at least: Colorado, Montana, Nevada, New

Mexico, North Dakota, Utah, and Wyoming. Petroleum Association of Wyoming members are among the companies that submitted expressions of interest for available parcels in Wyoming.

50. Each of the Expressions of Interest that Western Energy Alliance and Petroleum Association of Wyoming members submitted involve parcels designated as open for oil and gas leasing under the applicable resource management plans.

51. Each of the BLM state offices that manage territory in which Western Energy Alliance and/or Petroleum Association of Wyoming members submitted expressions of interest is required to conduct four lease sales annually in “each State where eligible lands are available.”

52. BLM did not conduct any onshore oil and gas lease sales anywhere within the United States during the third quarter of 2022. BLM has not offered any explanation for why it did not conduct an oil and gas lease sale in the third quarter of 2022.

53. Having conducted lease sales in five state offices in June 2022 (and completed the NEPA analysis for lease sales in two other state offices originally scheduled for the same time), BLM has demonstrated conclusively that the agency is capable of completing all environmental reviews – under NEPA and otherwise – necessary to conduct an oil and gas lease sale.

54. Even if the second and third quarter 2023 lease sales occur in Nevada, New Mexico, Utah, and Wyoming, at least one year will have passed since any eligible, available parcels will have been offered for lease in any of those states. It is unclear when, if ever, any other BLM state office intends to conduct an oil and gas lease sale.

Impact on Development

55. BLM’s illegal administration of its leasing program has injured and will continue to injure individual Western Energy Alliance and Petroleum Association of Wyoming members. The failure to hold lease sales according to the Mineral Leasing Act’s mandate unnecessarily

delays – and can completely halt – development of federal, state, tribal, and private minerals. Petitioners’ members have had to wait years in many cases for eligible, available lands to be included in a Notice of Competitive Sale. The inability to bid on parcels that should be timely offered as a matter of law handicaps oil and natural gas operators’ efforts to engage in effective project planning. Many of Petitioners’ members have had projects stalled for years because of unnecessary and illegal delays at the leasing stage.

56. Among other impacts, leasing delays frequently: (i) prevent member companies from drilling wells on not just federal and Indian lands, but on state and fee leases that can only be accessed through the adjacent federal mineral estate or which are logically included in state drilling and spacing units; (ii) reduce member companies’ ability to plan projects so that waste is reduced and development is executed in the most environmentally sensitive manner; (iii) force member companies to miss deadlines and obligations that unitization agreements, joint operating agreements, other leases, and other authorizations and agreements impose (despite diligent and timely attempts to secure illegally delayed federal leases); (iv) deny member companies the ability to realize revenue from the development of stranded minerals; and (v) deny federal and state taxpayers the ability to receive royalty payments from the development of stranded minerals.

COUNT I

DECLARE FAILURE TO CONDUCT LEASE SALES IN THIRD QUARTER 2022 WAS CONTRARY TO LAW

57. Petitioners reassert and incorporate by reference the preceding paragraphs 1 to 56.

58. The Administrative Procedure Act provides persons suffering a legal wrong because of agency action a right to injunctive and declaratory relief.

59. The Mineral Leasing Act requires that: “Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary.” 30 U.S.C. § 226(b)(1)(A).

60. “Eligible” lands comprise all lands subject to leasing, i.e., lands not excluded from leasing by a statutory or regulatory prohibition. “Lands are “available” if open to leasing under the Mineral Leasing Act.

61. BLM’s regulations provide those available lands which have been nominated through the submittal of an expression of interest shall be included in a Notice of Competitive Leasing.

62. Western Energy Alliance members are among the companies that submitted expressions of interest for available parcels in, at least: Colorado, Montana, Nevada, New Mexico, North Dakota, Utah, and Wyoming. Petroleum Association of Wyoming members are among the companies that submitted expressions of interest for available parcels in Wyoming. Parcels that Petitioners’ members nominated remain pending before all these state offices during the third quarter of 2022.

63. Each of the Expressions of Interest that Western Energy Alliance and Petroleum Association of Wyoming members submitted involve parcels designated as open for oil and gas leasing under the applicable resource management plans.

64. Despite the existence of eligible, available parcels that had been nominated for leasing through an expression of interest, no BLM state office published a Notice of Competitive Leasing for a lease sale in the third quarter of 2022 or took any other step to conduct an oil and gas lease sale in the third quarter of 2022.

65. BLM did not offer any explanation for its failure to conduct any oil and gas lease sales in the third quarter of 2022. BLM was fully capable of taking each of the regulatory steps necessary to conduct an oil and gas lease sale in the third quarter of 2022, including the preparation of required environmental reviews under NEPA.

66. BLM's failure to conduct any onshore oil and gas lease sales in the third quarter of 2022 results in more than three months passing without any parcel under the jurisdiction of any state office being offered for lease. BLM schedules and conducts lease sales without consideration of whether eligible parcels located within each State are available for leasing.

67. BLM's failure to conduct any onshore oil and gas lease sales in the third quarter of 2022 violates the express terms of the Mineral Leasing Act.

68. BLM's failure to explain why BLM did not conduct any onshore oil and gas lease sales in the third quarter of 2022 makes the decision arbitrary and capricious.

COUNT II

AGENCY ACTION UNLAWFULLY WITHELD

69. Petitioners reassert and incorporate by reference the preceding paragraphs 1 to 68.

70. The Administrative Procedure Act empowers federal district courts to compel agency action unlawfully withheld or unreasonably delayed.

71. The Mineral Leasing Act requires that: "Lease sales shall be held for each State where eligible lands are available at least quarterly and more frequently if the Secretary of the Interior determines such sales are necessary." 30 U.S.C. § 226(b)(1)(A).

72. "Eligible" lands comprise all lands subject to leasing, i.e., lands not excluded from leasing by a statutory or regulatory prohibition. "Lands are "available" if open to leasing under the Mineral Leasing Act.

73. Where eligible lands are available, the duty to conduct quarterly oil and gas lease sales is a ministerial obligation that the Secretary of the Interior must fulfill.

74. BLM's regulations provide those available lands which have been nominated through the submittal of an expression of interest shall be included in a Notice of Competitive Leasing.

75. Western Energy Alliance members are among the companies that submitted expressions of interest for available parcels in, at least: Colorado, Montana, Nevada, New Mexico, North Dakota, Utah, and Wyoming. Petroleum Association of Wyoming members are among the companies that submitted expressions of interest for available parcels in Wyoming. Parcels that Petitioners' members nominated remain pending before all these state offices.

76. Each of the Expressions of Interest that Western Energy Alliance and Petroleum Association of Wyoming members submitted involve parcels designated as open for oil and gas leasing under the applicable resource management plans.

77. Despite the existence of eligible available parcels that had been nominated for leasing through an expression of interest, BLM has not taken any step to conduct an onshore oil and gas lease sale in any jurisdiction before at least the second quarter of 2023.

78. BLM has initiated scoping for BLM's Nevada, New Mexico, Utah, and Wyoming state offices to conduct potential lease sales during the second and third quarters of 2023. BLM has not announced a date for of these sales. BLM has not announced any effort to conduct any onshore oil and gas lease sale in other jurisdictions at any time.

79. The Secretary does not have the discretion to defer oil and gas lease sales indefinitely when eligible parcels are available. BLM has not offered any explanation why it has failed to meet this discrete, statutory duty.

80. BLM is fully capable of taking each of the regulatory steps necessary to immediately conduct an oil and gas lease sale, including the preparation of required environmental reviews under NEPA.

81. BLM State Offices frequently schedule, postpone, cancel, delay, or organize lease sales in a manner that results in more than three months passing without any parcel in an individual State being offered for lease. BLM schedules and conducts lease sales without consideration of whether parcels located within each State are available for leasing.

82. The way BLM is presently scheduling and administering onshore oil and gas lease sales is inconsistent with the Secretary's obligation to conduct quarterly lease sales under the Mineral Leasing Act.

83. The way BLM is presently scheduling and administering onshore oil and gas lease sales exceeds BLM's statutory authority.

84. BLM is presently scheduling and administering oil and gas lease sales without observance of procedure applicable law requires.

PRAYER FOR RELIEF

Petitioners request respectfully that the Court grant the following relief:

1. Declare that BLM's failure to conduct any onshore oil and gas lease sales in the third quarter of 2022 was contrary to law;
2. Require BLM to immediately abandon all currently existing lease sale schedules that do not comply with the Mineral Leasing Act and to adopt promptly revised lease sale schedules that comply with the terms of the Mineral Leasing Act;
3. All costs and attorneys' fees available under 28 U.S.C. § 2412 and other applicable law;

4. Such other further relief, in law and in equity, to which Petitioners may be entitled.

Submitted respectfully this 5th day of December, 2022,

/s/ Alexander K. Obrecht

Mark S. Barron
L. Poe Leggette
Alexander K. Obrecht
BAKER & HOSTETLER LLP
1801 California Street, Suite 4400
Denver, Colorado 80202
Telephone: 303.801.2700
Facsimile: 303.801.2777
Telephone: 303.861.0600
Facsimile: 303.861.7805
mbarron@bakerlaw.com
pleggette@bakerlaw.com
aobrecht@bakerlaw.com

*Attorneys for Western Energy Alliance & Petroleum
Association of Wyoming*

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Western Energy Alliance and Petroleum Association of Wyoming

(b) County of Residence of First Listed Plaintiff Denver County, Colorado (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark S. Barron, Alexander K. Obrecht, L. Poe Leggette Baker & Hostetler LLP, 1801 California Street, Suite 4400

DEFENDANTS

Deb Haaland, in her official capacity as Secretary of the Interior and United States Bureau of Land Management

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Personal Injury, Real Estate, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Mineral Leasing Act, 30 U.S.C. §§ 181-287. Brief description of cause: Petition for review of government action regarding of refusing to conduct lease sales for onshore oil and gas leases

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE The Honorable Scott W. Skavdahl DOCKET NUMBER 1:22-cv-00247-SWS

DATE December 5, 2022 SIGNATURE OF ATTORNEY OF RECORD

/s/ Alexander K. Obrecht

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE