

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 29 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CITIZENS FOR CLEAN ENERGY; et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF THE INTERIOR;
et al.,

Defendants,

STATE OF WYOMING; STATE OF
MONTANA,

Intervenor-Defendants,

and

NATIONAL MINING ASSOCIATION,

Intervenor-Defendant-
Appellant.

No. 22-35789

D.C. Nos. 4:17-cv-00030-BMM

4:17-cv-00042-BMM

District of Montana, Great Falls

ORDER

CITIZENS FOR CLEAN ENERGY; et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF THE INTERIOR;
et al.,

Defendants,

No. 22-35790

D.C. Nos. 4:17-cv-00030-BMM

4:17-cv-00042-BMM

NATIONAL MINING ASSOCIATION,

Intervenor-Defendant,

and

STATE OF WYOMING; STATE OF
MONTANA,

Intervenor-Defendants-
Appellants.

Before: TASHIMA, S.R. THOMAS, and KOH, Circuit Judges.

The motions to dismiss these appeals for lack of jurisdiction (Docket Entry No. 10 in No. 22-35789; Docket Entry No. 11 in No. 22-35790) are denied without prejudice to renewing the arguments in the answering briefs. *See Nat'l Indus. v. Republic Nat'l Life Ins. Co.*, 677 F.2d 1258, 1262 (9th Cir. 1982) (noting that merits panel may consider appellate jurisdiction despite earlier denial of motion to dismiss).

The opening briefs and excerpts of record are due May 3, 2023. The answering briefs are due June 2, 2023. The optional reply briefs are due within 21 days after service of the last-served answering brief. The parties are reminded of the court's preference for joint briefing. *See* 9th Cir. R. 32-2 circuit advisory committee note.