

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

POWDER RIVER BASIN RESOURCE
COUNCIL and WESTERN WATERSHEDS
PROJECT,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR and
U.S. BUREAU OF LAND MANAGEMENT,

Defendants,

and

STATE OF WYOMING, et al.,

Defendant-Intervenors.

Case No. 1:22-cv-2696-TSC

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure Rule 65 and Local Civil Rule 65.1, Plaintiffs Powder River Basin Resource Council and Western Watersheds Project hereby move this Court for a preliminary injunction to prevent further development of the Converse County Oil and Gas Development Project pending final judgment in this case. Ground disturbance, construction, drilling, and fracking has already begun and the irreversible damage from this Project may be substantially complete before this case can be decided on the merits.

Specifically, in order to preserve this Court's ability to award effective relief, Plaintiffs ask for a preliminary injunction that: (a) prohibits Defendants U.S. Department of Interior and Bureau of Land Management (BLM) from approving new Applications for Permits to Drill (APDs) within the Converse County Project area pending final judgment, and (b) orders BLM to

suspend the existing APD approvals challenged in this case, *see* First Amended Complaint, Appendix A (ECF No. 44), and prohibit new ground-disturbing activity, drilling, and construction on them. At this preliminary stage, Plaintiffs do not seek interim relief as to Project wells that are already in production or where drilling has commenced. However, Plaintiffs do intend to seek relief as to existing Project development upon a final determination on the merits.

This Motion for Preliminary Injunction is supported by the First Amended Complaint on file in this matter (ECF No. 44); the accompanying Memorandum of Points and Authorities in Support of Plaintiffs' Motion For Preliminary Injunction; the accompanying Declarations of Plaintiffs' members Shannon Anderson, Maria Katherman, Leland Turner, Erik Molvar, and Donal O'Toole; Exhibits 6 to 19 (copies of the challenged decisions and other agency documents) and accompanying Declaration of Chris Johnson; and by such other and further matters as may be presented to the Court prior to a decision on this motion. As these materials demonstrate, Plaintiffs satisfy the requirements for obtaining the requested injunctive relief: (1) they are likely to succeed on the merits; (2) Plaintiffs and many others will be irreparably harmed if an injunction is not granted; (3) the balance of harms tips in their favor; and (4) injunctive relief is in the public interest.

Plaintiffs' counsel conferred with counsel for Federal Defendants beginning on December 5, 2022, by telephone and email correspondence, to inquire about BLM's plans for continued APD processing while the case is pending and to propose a voluntary pause of new permitting. Federal Defendants declined the request. Plaintiffs' counsel separately conferred with counsel for Federal Defendants and Intervenor about this motion for preliminary injunction. Federal Defendants and Intervenor oppose the motion.

Given the public interest nature of this litigation and Plaintiffs' nonprofit status, they respectfully request that the Court impose a nominal injunction bond no greater than \$100 pursuant to Fed. R. Civ. P. 65(c). *See, e.g., Citizen's Alert Regarding Env't v. U.S. DOJ*, No. 95-cv-1702 (GK), 1995 WL 748246, at *12 n.10 (D.D.C. Dec. 8, 1995) (\$100 bond); *Sierra Club v. Block*, 614 F. Supp. 488, 494 (D.D.C. 1985) (\$20 bond); *NRDC v. Morton*, 337 F. Supp. 167, 168–69 (D.D.C. 1971) (\$100 bond); *Cal. ex rel. Van De Kamp v. Tahoe Reg'l Planning Agency*, 766 F.2d 1319, 1325 (9th Cir. 1985) (no bond); *Davis v. Mineta*, 302 F.3d 1104, 1126 (10th Cir. 2002) (“Ordinarily . . . a minimal bond amount should be considered” in NEPA suits).

Respectfully submitted this 13th day of March 2023.

/s/ Sarah Stellberg

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