UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION

STATE OF NORTH DAKOTA, et al., Plaintiffs, v. THE UNITED STATES DEPARTMENT OF INTERIOR, et al., Defendants, and CONSERVATION LANDS FOUNDATION, SOUTHERN UTAH WILDERNESS ALLIANCE, and THE WILDERNESS SOCIETY, Applicant-Intervenor-Defendants.	Case No. 1:24-cv-124-DMT-CRH

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

INTRODUCTION

The Conservation Lands Foundation (CLF), Southern Utah Wilderness Alliance, and The Wilderness Society (collectively, the CLF Intervenors) respectfully move to intervene as defendants in this action pursuant to Federal Rule of Civil Procedure (Fed. R. Civ. P.) 24.

Plaintiffs are challenging the Bureau of Land Management's (BLM) Conservation and Landscape Health Rule (the Public Lands Rule or the Rule), claiming that BLM's issuance of the Rule violates the Federal Land Policy and Management Act (FLPMA), the Congressional Review Act, the National Environmental Policy Act (NEPA), the Administrative Procedure Act (APA), and the Mineral Leasing Act (MLA). *See* Complaint ¶¶ 84–110, ECF No. 1. On May 9, 2024, BLM finalized the Rule after an extensive notice and comment rulemaking process,

including an extended 90-day comment period, in-person and virtual public meetings, and review of roughly 200,000 public comments overwhelmingly in support of the Rule.

The Public Lands Rule advances and confirms BLM's longstanding authority to conserve intact, healthy ecosystems and restore degraded public lands under FLPMA's multiple use and sustained yield mandates. *See* 43 U.S.C. § 1702(c), (h). Specifically, the Rule "establishes the policy for the BLM to build and maintain the resilience of ecosystems on public lands in three primary ways: (1) protecting the most intact, functioning landscapes; (2) restoring degraded habitat and ecosystems; and (3) using science and data as the foundation for management decisions across all plans and programs." 89 Fed. Reg. 40,308, 40,308 (May 9, 2024) (footnote omitted). The Rule establishes administrative and procedural measures in furtherance of BLM's objectives, including the objective to build and maintain ecosystem resilience, and ensures conservation is a use on equal footing with other uses of public lands under FLPMA. For instance, the Rule directs BLM to develop watershed and land health standards and incorporate them into future land management decisions for BLM-managed lands. 43 C.F.R. § 6103.1–.2. The Rule establishes a process for mitigation and restoration leasing to restore degraded landscapes and mitigate the impact of other uses of public lands. *Id* § 6102.4. The Rule also updates BLM's process for designating management protections for significant historic, cultural, scenic, and other natural resources in the form of Areas of Critical Environmental Concern (ACECs). *Id*. § 1610.7-2.

The CLF Intervenors have worked for decades to conserve remaining wild places in North Dakota, Idaho, Montana, and across the western United States by engaging with BLM's various decision-making processes and advocating for the preservation, protection, and restoration of public lands, including many of the policies that BLM included in the Public Lands

Rule. Each organization expended significant resources and time participating in BLM's rulemaking process, including submitting timely comments in support of the Rule and urging their members and supporters to do the same, meeting with local, state, and federal officials, and other forms of advocacy, such as opposing federal legislative action intended to repeal the Rule. *See* Declaration of Charlotte Overby ¶¶ 28–36 (attached as Ex. 1); Declaration of Rob Mason ¶¶ 9–13 (attached as Ex. 2). The Rule will aid in the CLF Intervenors' conservation efforts because it provides a consistent framework for achieving and enhancing conservation and confirms BLM's clear authority and obligations to treat conservation of public lands as equal to other uses in accordance with FLPMA.

Plaintiffs' legal challenge to the Public Lands Rule threatens and would harm the CLF Intervenors' (1) longstanding missions and interests in achieving significant conservation for public lands across the western United States; (2) ability to advocate for BLM to use the tools provided in the Rule to achieve land conservation; and (3) the conservation, recreation, aesthetic, and economic interests of the CLF Intervenors and their members. No other party in this proceeding adequately represents the CLF Intervenors' interests. Thus, the CLF Intervenors' involvement in this proceeding is critical to protecting their interests in the conservation of public lands, and they satisfy both the requirements to intervene as of right and permissively under Fed. R. Civ. P. 24.

ARGUMENT

I. The CLF Intervenors are entitled to intervention as of right under Fed. R. Civ. P. 24(a).

Under Fed. R. Civ. P. 24(a)(2), a movant is entitled to intervene as of right if: (1) the motion to intervene is timely; (2) the movant claims an interest in the property or transaction that is the subject of the action; (3) the movant's interest may "as a practical matter" be impaired by

the litigation; and (4) the movant's interest is not adequately represented by existing parties. *See Nat'l Parks Conservation Ass'n v. U.S. Env't Prot. Agency,* 759 F.3d 969, 975 (8th Cir. 2014). Fed. R. Civ. P. 24 "should be construed liberally, with all doubts resolved in favor of the proposed intervenor." *Id.* (internal quotation marks omitted).

In the Eighth Circuit, conservation groups have regularly been granted intervention to defend the interests of their organizations and members, including challenges to BLM actions affecting public lands. *See* Order Granting Motion to Intervene, *North Dakota v. U.S. Dep't of Interior*, No. 1:21-cv-148 (D.N.D. Nov. 15, 2021), ECF No. 31 (granting conservation groups' motion to intervene in litigation related to federal oil and gas leases); *see also Iowa v. Council on Env't Quality*, No. 1:24-cv-089, 2024 U.S. Dist. LEXIS 135737 (D.N.D. July 31, 2024) (finding groups' interests in environmental conservation sufficient to warrant intervention in defense of NEPA regulation); *see also Mausolf v. Babbitt*, 85 F.3d 1295, 1302 (8th Cir. 1996) (finding that federal agencies could not adequately represent groups' conservation interests defending snowmobile regulations in a national park). Consistent with those decisions, the CLF Intervenors satisfy each of the Rule 24(a) requirements and are entitled to intervene as of right.[1]

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[1] This Court has held that under Fed. R. Civ. P. 24, a prospective intervenor does not need to separately establish standing where they do not seek relief different from that sought by existing parties. *See West Virginia v. U.S. Env't Prot. Agency*, No. 3:23-cv-32, 2023 U.S. Dist. LEXIS 92885, at *20 n.2 (D.N.D. Mar. 31, 2023). Here, the CLF Intervenors do not seek relief that is different from the relief sought by Federal Defendants and do not need to separately establish standing. Nevertheless, the CLF Intervenors have standing because their legally protectable interests and their members' interests are threatened and would be harmed by the remedy Plaintiffs seek in this proceeding. *See* Overby Decl. ¶ 37; Mason Decl. ¶ 22; ¶ Declaration of Andy Blair ¶ 11 (attached as Ex. 3); Declaration of Ray Bloxham ¶ 19 (attached as Ex. 4); Declaration of Lauren Wood ¶ 21 (attached as Ex. 5). A ruling dismissing or otherwise rejecting Plaintiffs' claims and upholding the Rule would prevent and redress the CLF Intervenors' injuries. *See Nat'l Parks Conservation Ass'n*, 759 F.3d at 974–75 (proposed intervenor-defendant's injury would be redressed by successfully defending lawsuit).

A. The CLF Intervenors' Motion to Intervene is timely.

The CLF Intervenors' Motion to Intervene is timely and would not prejudice any parties. The CLF Intervenors have filed their Motion to Intervene less than two weeks after Federal Defendants filed their answer to Plaintiffs' complaint and two weeks before the initial pretrial scheduling/discovery conference scheduled for October 3, 2024. *See* Federal Defs.' Answer, ECF No. 11; Order for Rule 26(f) Planning Meeting and for Rule 16(b) Scheduling Conference, and Order Regarding Discovery Disputes, ECF No. 12 (Scheduling Order). The administrative record has not yet been filed, and merits briefing has not yet been scheduled, let alone commenced. Because this case is at an early stage and the Court has made no substantive rulings, the CLF Intervenors' Motion is timely, and the CLF Intervenors have satisfied the first requirement under Fed. R. Civ. P. 24(a). *See United States v. Union Elec. Co.*, 64 F.3d 1152, 1159 (8th Cir. 1995) (finding timeliness where motion was filed "slightly more than four months" after the suit was filed and "the litigation had progressed little"); *see also Am. Med. Ass'n v. Stenehjem*, No. 1:19-CV-125, 2019 U.S. Dist. LEXIS 234220, at *14 (D.N.D. Nov. 26, 2019) (granting intervention where the motion was filed "at a time when the litigation has consisted only of Plaintiffs' complaint, Defendants' answers, and briefing on Plaintiffs' motion for preliminary injunction").

B. The CLF Intervenors have a substantial, legally protectable interest in the conservation of BLM-managed public lands.

Fed. R. Civ. P. 24(a)(2) requires the movant to demonstrate an interest related to the property or transaction in dispute. The CLF Intervenors have "direct, substantial, and legally protectable" interests in the Public Lands Rule and this litigation. *Union Elec. Co.*, 64 F.3d at 1161. The CLF Intervenors have engaged in longstanding work to promote conservation on public lands, including advocacy in support of the Public Lands Rule, and they intend to

advocate for robust implementation of the Rule's provisions to protect their organizations' and their members' interests. In addition, the interests of the CLF Intervenors' members in the use and enjoyment of healthy and resilient public lands are directly affected by the Public Lands Rule and threatened by Plaintiffs' attempt in this litigation to invalidate the Rule. These interests entitle the CLF Intervenors to intervene as of right.

First, the CLF Intervenors' conservation interest in the Public Lands Rule is a legally protectable interest warranting intervention as of right under Fed. R. Civ. P. 24(a)(2). In *Mausolf*, the Eighth Circuit determined that conservation groups' interests in "vindicating a conservationist vision," "consistently demonstrated" through hard work over the years, was sufficient to warrant intervention. 85 F.3d at 1302–03; *see also Iowa,* 2024 U.S. Dist. LEXIS 135737, at *10 ("The Eighth Circuit has recognized that an interest in environmental conservation is sufficient to warrant intervention."). Other circuits have also determined that an organization's "demonstrated concern" for damage to public lands and work to prevent such damage constitutes a legally protectable interest sufficient to warrant intervention. *See W. Energy All. v. Zinke,* 877 F.3d 1157, 1165–66 (10th Cir. 2017).

The CLF Intervenors demonstrate a significant interest in the Public Lands Rule challenged in this proceeding and have an extensive record of advocating for the conservation of public lands in North Dakota, Idaho, Montana, and across the western United States, including BLM-managed public lands that will benefit from the Rule's conservation framework. *See* Overby Decl. ¶¶ 17–36; Mason Decl. ¶¶ 3, 5–18; Bloxham Decl. ¶¶ 6–15; Blair Decl. ¶ 3; Wood Decl. ¶ 14. For decades, the CLF Intervenors have promoted and defended conservation of BLM-managed public lands by engaging at every level of BLM's decision-making, from rulemakings, to land management planning, to site-specific permitting. *See* Bloxham Decl.

¶¶ 12–15; Overby Decl. ¶¶ 17–36; Mason Decl. ¶¶ 3, 5–18; Blair Decl. ¶ 3. This engagement includes, but is not limited to, submitting detailed public comments containing unique information from extensive on-the-ground field work and science produced in-house, meeting directly with agency staff, and, when necessary, litigating either in support of or against BLM's ultimate decisions. *See* Bloxham Decl. ¶¶ 12–15; Overby Decl. ¶¶ 17–27; Mason Decl. ¶¶ 9–12, 14, 16, 18; Blair Decl. ¶ 3; Wood Decl. ¶ 14.

The CLF Intervenors work to preserve, protect, and restore public lands and to prevent, minimize, and mitigate human-caused degradation through the responsible management of, for example, motorized vehicle use and extractive development on public lands. *See* Bloxham Decl. ¶¶ 12–15; Overby Decl. ¶ 20; Mason Decl. ¶¶ 9, 14, 16, 18. The CLF Intervenors have detailed plans for how they will use the tools articulated under the Public Lands Rule to further their conservation advocacy. *See* Mason Decl. ¶¶ 13, 21; Bloxham Decl. ¶ 19; Overby Decl. ¶¶ 33–36; Wood Decl. ¶ 16. All told, the sweep of the CLF Intervenors' advocacy is comprehensive.

Second, the CLF Intervenors have a legally protectable interest arising from their extensive advocacy and engagement in the administrative process that led to the Public Lands Rule's publication. This interest justifies intervention. The Eighth Circuit recognizes prior advocacy can establish a protectable interest for purposes of intervention. *See Mausolf*, 85 F.3d at 1302 (noting that organization "consistently demonstrated" its conservation interest and "worked hard over the years, in various proceedings, to protect that interest" in support of determination that intervention was warranted); *see also Little Rock Sch. Dist. v. N. Little Rock Sch. Dist.*, 378 F.3d 774, 780 (8th Cir. 2004) (finding sufficient interest where movant "has expended resources to pursue [advocacy goals]" and "ability to continue to advocate such action is therefore dependent upon the outcome of [the underlying] proceedings"); *see also W. Energy*

All., 877 F.3d at 1167 ("We conclude that the conservation groups not only have an environmental interest in the lawsuit, but also an interest in preserving the [BLM] Policy that they worked to develop and implement.").

Here, the CLF Intervenors prepared and submitted detailed technical comments on the proposed Public Lands Rule, encouraged partners and members to submit comments, testified before state legislators about the Rule, disseminated public education materials, published editorial writings in support of the Rule, and conducted other outreach efforts to educate key stakeholders about the Rule and the importance of conservation of public lands. Mason Decl. ¶¶ 10-11; Bloxham Decl. ¶ 14; Overby Decl. ¶¶ 29-32. The CLF Intervenors also worked to vigorously defend the Public Lands Rule from legislative attacks. Mason Decl. ¶ 12. Because of the CLF Intervenors' extensive engagement in advocacy efforts related to BLM's development of the Public Lands Rule, they "may properly intervene as of right in a subsequent judicial challenge to the resulting [Rule]." *Aventure Commc'ns Tech., LLC v. Iowa Util. Bd.*, 734 F. Supp. 2d 636, 650 (N.D. Iowa 2010) (citing numerous decisions to support this point).

Third, the CLF Intervenors' staff and members' use and enjoyment of public lands that will benefit from the Rule are legally protectable interests warranting intervention. *See Mausolf v. Babbitt*, 158 F.R.D. 143, 146 (D. Minn. 1994) (holding "aesthetic, scientific and recreational" interests are "adequate, for intervention purposes"), *aff'd in relevant part*, 85 F.3d at 1302. The CLF Intervenors' staff and members frequently visit BLM-managed lands across the western United States for their livelihood and for recreation, hunting, wildlife viewing, cultural and aesthetic appreciation, and other uses. Mason Decl. ¶¶ 15, 19–20; Blair Decl. ¶¶ 7–8; Overby Decl. ¶¶ 5–16; Bloxham Decl. ¶¶ 4–5, 16–18. Their livelihoods, as well as their use and enjoyment of these public lands, depends on healthy, intact landscapes and functioning

ecosystems supported by the Rule. *See* Bloxham Decl. ¶¶ 4, 16–18; Overby Decl. ¶¶ 6, 10–11; Mason Decl. ¶ 19; Blair Decl. ¶¶ 6–8. For instance, Conservation Lands Foundation is unique as a nonprofit dedicated specifically to safeguarding the National Landscape Conservation System, which comprises protected areas subject to BLM's administration under FLPMA. Overby Decl. ¶ 17. The CLF Intervenors' staff and members' long-standing and frequent personal and professional use and enjoyment of these lands is a legally protectable interest warranting intervention.

Fourth, the CLF Intervenors' members have "direct financial interests" dependent on healthy and resilient ecosystems supported by the Rule, including clean water, wildlife and fish, recreational opportunities, and scenic values. *Nat'l Parks Conservation Ass'n*, 759 F.3d at 976 (citing *Utahns for Better Transp. v. Dep't of Transp.*, 295 F.3d 1111, 1115 (10th Cir. 2002) ("The threat of economic injury from the outcome of litigation undoubtedly gives a petitioner the requisite interest.")). The CLF Intervenors have members who make a living off of BLM-managed public lands that are supported by the Rule. *See* Wood Decl. ¶¶ 5–6, 9–14; Blair Decl. ¶¶ 5–6. For example, Southern Utah Wilderness Alliance business member Holiday River Expeditions, Inc. (Holiday River) offers guided rafting and mountain biking tours through BLM-managed public lands in the western United States. Wood Decl. ¶¶ 4–6, 8. Holiday River's economic success depends upon the existence of remote and relatively intact BLM-managed landscapes that offer a visitors a unique experience unmarred by industrial development. *Id.* ¶¶ 9–14.

There is a direct relationship between the CLF Intervenors' substantial and legally protectable interests in public lands and the outcome of this litigation satisfying the requirements of Fed. R. Civ. P. 24(a)(2).

C. The CLF Intervenors' interests may be impaired as a result of this litigation.

The CLF Intervenors' interests may be impaired if Plaintiffs succeed in this lawsuit.

Under Fed. R. Civ. P. 24(a)(2), the CLF Intervenors must demonstrate that their interests "may as a practical matter be impaired by the present litigation." *See Union Elec. Co.*, 64 F.3d at 1167. The CLF Intervenors are required only to demonstrate that this litigation *may* impair their interests; they do not need to show with "certainty that their interests *will* be impaired in the ongoing action." *Little Rock Sch. Dist. v. Pulaski Cnty. Special Sch. Dist. No. 1*, 738 F.2d 82, 84 (8th Cir. 1984). In evaluating intervention, courts should "assume the plaintiff will receive the relief it seeks." *Nat'l Parks Conservation Ass'n*, 759 F.3d at 973.

Here, the CLF Intervenors' ability to achieve the conservation—and its staff and members' enjoyment—of public lands may be impaired if the Court reverses, vacates, sets aside, or enjoins the Public Lands Rule. A ruling in Plaintiffs' favor would harm the CLF Intervenors by eliminating tools for which they advocated and which they intend to use to achieve protection and restoration of public lands. *See* Bloxham Decl. ¶ 19; Overby Decl. ¶¶ 28–37; Mason Decl. ¶¶ 13–14, 18, 21–22; Blair Decl. ¶ 11; Wood Decl. ¶ 21. For example, BLM would no longer be directed to maintain an inventory of landscape intactness and incorporate that value into upcoming planning and management decisions. *See* 43 C.F.R. § 6102.2. In turn, the CLF Intervenors would not be able to use the inventories to advocate for greater protections for intact ecosystems when they participate in BLM's subsequent decision making. Likewise, if the Rule were eliminated, the forthcoming "fundamentals of land health," which will be designed to improve habitat conditions such as watershed function, ecological processes, water quality, and wildlife habitat, would not be applied broadly across all public lands. *See id.* §§ 6103.1, 6103.1.1. As a result, the CLF Intervenors would be unable to use these benchmarks to urge BLM to protect and restore public lands. *Id.* § 6103.1.2. Nor would the CLF Intervenors be able

to use the Public Lands Rule to encourage BLM to prioritize the designation of ACECs to protect their significant values, including their contribution to ecosystem resilience. *See id.* § 1610.7-2(d)(2); Bloxham Decl. ¶ 13(c) (explaining that the Southern Utah Wilderness Alliance has nominated areas for ACEC designation, but BLM has not yet evaluated those nominations); Mason Decl. ¶¶ 11, 17, 21; Blair Decl. ¶ 11. Further, as described above, the CLF Intervenors' staff and members' interest in the use and enjoyment of public lands and financial interests depend on healthy, intact landscapes and functioning ecosystems supported by the Rule. *Supra* pp. 8–9; *see also* Bloxham Decl. ¶¶ 4, 16–18; Overby Decl. ¶¶ 6, 10–11; Mason Decl. ¶ 19; Blair Decl. ¶¶ 6–8; Wood Decl. ¶¶ 9–14.

A decision by the Court to vacate, enjoin, set aside, or modify the Public Lands Rule would harm the CLF Intervenors' ability to advocate for the conservation and protection of public lands and the CLF Intervenors' staff and members' enjoyment of public lands and financial interests. The harms to the CLF Intervenors' interests would not occur if the Court upholds the Rule.

D. The CLF Intervenors' interests are not adequately represented by Federal Defendants.

The CLF Intervenors also satisfy Fed. R. Civ. P. 24(a)(2)'s final requirement that their interests are not adequately represented by the existing parties, which is a "minimal burden." *Mille Lacs Band of Chippewa Indians v. Minnesota*, 989 F.2d 994, 999 (8th Cir. 1993). While there is a presumption of adequate representation when one of the parties is a government entity charged with representing its citizens' interests, that presumption does not apply where the proposed intervenor's interests are narrower than the government's interests. *See id.* at 1000–01; *see also South Dakota ex rel. Barnett v. U.S. Dep't of Interior*, 317 F.3d 783, 785–86 (8th Cir. 2003) (movants can overcome presumption by "showing that its interests actually differ or

conflict with the government's interests"). This is because "the government must represent the interests of all of its citizens, which often requires the government to weigh competing interests and favor one interest over another." *South Dakota v. Ubbelohde,* 330 F.3d 1014, 1025 (8th Cir. 2003) (citing *Mausolf*, 85 F.3d at 1303).

The presumption is rebutted here. The CLF Intervenors' interests are far narrower than—and often in conflict with—BLM's legal duty to manage a broad range of competing uses of public lands. *See Nat'l Parks Conservation Ass'n*, 759 F.3d at 977 (8th Cir. 2014) (finding power plant operator's financial interests were narrower than the federal government's "much broader responsibility" under the federal Clean Air Act). Here, Federal Defendants may not adequately represent the CLF Intervenors' unique and long-standing interests in achieving significant conservation of public lands. Under FLPMA, BLM is legally required to balance a multitude of competing uses of public lands across the country, including "recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values." 43 U.S.C. §§ 1702(c), 1712(c)(1). By contrast, unlike BLM, the CLF Intervenors are focused exclusively on the conservation and protection of wild and intact public lands across the western United States. *See* Bloxham Decl. ¶ 8; Overby Decl. ¶¶ 17–27; Mason Decl. ¶¶ 3, 8–9, 13, 21. Indeed, the CLF Intervenors often find themselves at odds with BLM, both in terms of *which* lands should be protected from human-caused degradation, and *how* BLM should achieve that protection. *See* Bloxham Decl. ¶¶ 12–13; Overby Decl. ¶ 24; Mason Decl. ¶¶ 11, 13; Wood Decl. ¶ 15.

The record here demonstrates that Federal Defendants are not fully aligned with the CLF Intervenors in this case. BLM did not adopt many of the CLF Intervenors' various comments and proposals to strengthen the Public Lands Rule. For example, BLM did not adopt The

Wilderness Society's requested changes to the proposed Public Lands Rule, including that the final Rule: (a) require BLM to identify and protect old-growth emphasis areas and habitat connectivity areas; (b) provide additional direction on managing for climate resilience; (c) provide direction on the wilderness resource, including through identification and protection of Lands with Wilderness Characteristics; (d) further strengthen priority management direction and removal requirements for ACECs; and (e) strengthen the definition of preventing unnecessary or undue degradation. *See* Mason Decl. ¶ 11. The differences in the interests of the CLF Intervenors and Federal Defendants, as well as their differing positions on the Rule, satisfy the CLF Intervenors' "minimal burden" to show inadequate representation by demonstrating a mere possibility that their interests and the government's interests "may diverge." *Mille Lacs,* 989 F.2d at 1001. This standard is easily met because such a divergence has already occurred.

In addition, there is no guarantee that Federal Defendants' position regarding the Public Lands Rule will not shift during litigation. The chances of a shift in agency policy are higher in a case like this one where the rule was adopted in an election year. *See W. Energy All.*, 877 F.3d at 1169 (noting that a change in presidential administration also changed BLM's position in litigation involving a regulation promulgated by the previous administration). The CLF Intervenors cannot rely on Federal Defendants to represent their focused conservation interests and should be allowed to intervene. *See Nat'l Parks Conservation Ass'n*, 759 F.3d at 977 (noting there is no assurance that a defendant agency's position "will remain static or unaffected by unanticipated policy shifts" (quoting *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 974 (3d Cir. 1998)).

Finally, the CLF Intervenors have special subject matter expertise related to public lands and may provide arguments that Federal Defendants are unwilling or unable to make. For

example, CLF Intervenors' membership includes numerous individuals whose livelihoods and recreational interests depend upon healthy public lands ecosystems. Overby Decl. ¶¶ 5–6, 10–11; Mason Decl. ¶¶ 5–8, 15–21; Blair Decl. ¶¶ 6–8; Wood Decl. ¶¶ 5–7, 9–14; Bloxham Decl. ¶¶ 7, 16–18. The CLF Intervenors are poised to provide a unique perspective on the equitable impact that vacatur or an injunction of the Public Lands Rule would have for such individuals.

II. Alternatively, this Court should grant the CLF Intervenors permissive intervention under Fed. R. Civ. P. 24(b).

The CLF Intervenors also satisfy Fed. R. Civ. P. 24(b)'s requirements for permissive intervention. Permissive intervention is appropriate when (1) a movant files a timely motion; (2) the prospective intervenor has a claim or defense that shares a common question of law or fact with the main action; and (3) intervention will not unduly delay or prejudice existing parties. Fed. R. Civ. P. 24(b). The CLF Intervenors satisfy the permissive intervention standard. First, as discussed above, the CLF Intervenors' Motion to Intervene is timely. *See supra* Part I.A. Second, the CLF Intervenors seek to defend the Rule; as demonstrated in the proposed Answer accompanying the Motion to Intervene, the CLF Intervenors' proposed defense shares common questions of law and fact with the main action. Third, intervention at this early stage in the proceeding will not cause delay and will not prejudice the existing parties, as also discussed above. *See supra* Part I.A. Accordingly, if the court denies intervention as of right, permissive intervention is warranted.

CONCLUSION

For the reasons stated above, the CLF Intervenors respectfully request that the Court grant their Motion to Intervene.

Respectfully submitted this 19th day of September, 2024.

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