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Counsel for Proposed Intervenor-Respondents  
*Alterra Mountain Company, Aspen Skiing Company,  
Hunt to Eat, Roan Creek Ranch, Thistle Whistle Farm,  
and Western Spirit Cycling*

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

|   |   |                          |
|---|---|--------------------------|
| WESTERN ENERGY ALLIANCE, and                  | ) |                          |
| PETROLEUM ASSOCIATION OF WYOMING              | ) | Case No. 21-CV-00013-SWS |
|   | ) |                          |
| Petitioners,                                  | ) |                          |
|   | ) |                          |
| vs.   | ) |                          |
|   | ) |                          |
| JOSEPH R. BIDEN, Jr., in his official         | ) |                          |
| capacity as President of the United States,   | ) |                          |
| SCOTT DE LA VEGA, in his official             | ) |                          |
| capacity as Acting Secretary of the Interior, | ) |                          |
| and UNITED STATES BUREAU                      | ) |                          |
| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |

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**MOTION BY BUSINESS-COALITION TO INTERVENE AS RESPONDENTS**

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## INTRODUCTION

Alterra Mountain Company, Aspen Skiing Company, Hunt to Eat, Roan Creek Ranch, Thistle Whistle Farm, and Western Spirit Cycling (collectively, “Business-Coalition”) move to intervene as respondents. Petitioners Western Energy Alliance and the Petroleum Association of Wyoming have challenged the President’s January 27, 2021 Executive Order that directs the Secretary of Interior to temporarily pause the federal oil and gas leasing program (the “Pause”) while conducting a comprehensive review of the program. The Business-Coalition seeks to ensure that the Pause is upheld and remains in place to protect their businesses. The Business-Coalition satisfies the Rule 24(a)(2) standards for intervention as a right—the motion is timely, the Business-Coalition’s interests relate to the lawsuit’s subject matter, vacating the Pause will impair the Business-Coalition, and Respondents cannot adequately represent the Business-Coalition’s private, economic interests. Alternatively, intervention is proper under Rule 24(b).

In accordance with Local Rule 7.1(b)(1)(A), undersigned counsel has conferred with counsel for existing parties to determine their position on this Motion. Both Petitioners and Federal Respondents have reserved taking a position until they review the filed Motion.<sup>1</sup>

## BACKGROUND

### I. DEVELOPING OIL AND GAS RESOURCES ON FEDERAL PUBLIC LANDS

The U.S. Department of the Interior, through the U.S. Bureau of Land Management (BLM), manages oil and gas resources located within federal lands under the Mineral Leasing Act and Federal Land Policy and Management Act (FLPMA). The Mineral Leasing Act gives the BLM broad discretion to decide whether to lease lands for oil and gas development, when to

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<sup>1</sup> The Business-Coalition is not submitting an Answer or other responsive pleading with this Motion because, under Local Rule 83.6(b), none is required of Respondents.

do so, and for which parcels. 30 U.S.C. § 226(a); *see Western Energy All. v. Salazar*, 709 F.3d 1040, 1044 (10th Cir. 2013). FLPMA establishes a three-step approval process for BLM’s management of the federal oil and gas program: planning, leasing, and permitting. *New Mexico v. Richardson*, 565 F.3d 683, 689 n.1 (10th Cir. 2009) (describing process); *Pennaco Energy v. U.S. Dept. of Interior*, 377 F.3d 1147, 1151 (10th Cir. 2004).

Under FLPMA, BLM first prepares resource management plans (RMPs) for each unit of land within its jurisdiction. 43 U.S.C. § 1712(a); 43 C.F.R. § 1601.0-5(n). In this zoning-type plan, BLM identifies the uses that may occur within units it manages, including which areas are open for oil and gas development and which are closed. *New Mexico*, 565 F.3d at 689 n.1; *see Norton v. SUWA*, 542 U.S. 55, 59 (2004) (RMPs determine “allowable uses, goals for future condition of the land, and specific next steps” for particular areas). The second decision involves leasing parcels. For “competitive leasing,” companies may file an “expression of interest” about parcels open to oil and gas. *See* 43 C.F.R. § 3120.1-1(e). BLM then decides whether those lands are in fact available under the applicable RMP, *Pennaco Energy*, 377 F.3d at 1151, 43 U.S.C. §1732(a), 43 C.F.R. §§ 1610.5-3(a), 1601.0-5(b), and, if so, whether to make them available through a competitive leasing process. 43 U.S.C. § 1712(e). The last stage involves BLM’s review of an Application for Permit to Drill within the confines of the lease. 43 C.F.R. § 3162.3-1. Concurrent with each stage, BLM evaluates environmental impacts as required by the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4331 *et seq.* *See, e.g.*, 43 C.F.R. §§ 1601.0-6, 3162.5-1(a).

Leasing is a significant stage in this process because it conveys a right to develop federal resources on public lands. *Pennaco*, 377 F.3d at 1160; *Conner v. Burford*, 848 F.2d 1441, 1449-

50 (9th Cir. 1988).<sup>2</sup> BLM retains “considerable discretion” as to whether, where, and when to issue a lease. *Western Energy All.*, 709 F.3d at 1044 (holding “[t]he MLA, as amended by the Reform Act of 1987, continues to vest the Secretary with considerable discretion to determine which lands will be leased.”); *see* 30 U.S.C. § 226(a) (“All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits *may be leased* by the Secretary.” (emphasis added)). Quarterly lease sales occur when lands are eligible and available. 30 U.S.C. § 226(b)(1)(A); 43 C.F.R. § 3120.1-2(a).<sup>3</sup>

## II. THE EXECUTIVE ORDER AND ITS PAUSE ON OIL AND GAS LEASING

On January 27, 2021, President Biden issued Executive Order 14008 to address climate change. Published in the Federal Register a few days later, 86 Fed. Reg. 7619 (Feb. 1, 2021), section 201 of the Order acknowledges the country “face[s] a climate crisis that threatens our people and communities, public health and economy, and, starkly, our ability to live on planet Earth.” As detailed throughout the Order, the United States government and its federal agencies intend to take on a leadership role to combat climate change and mitigate its impacts.

Section 208 of the Order directs the Secretary of Interior to temporarily pause new oil and gas leasing on public lands until the Department of the Interior completes a comprehensive

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<sup>2</sup> However, BLM can attach stipulations (conditions) to a lease that restrict future development to protect certain resources. 43 C.F.R. §§ 3101.1-3. Once a lease is issued, BLM can only curtail development consistent with any lease stipulations, *id.*, or as may be required by other federal laws, *see Wyoming Outdoor Council v. Bosworth*, 284 F.Supp.2d 81, 91 (D.D.C. 2003) (holding species-related protections required by Endangered Species Act provisions can be imposed); *see also Pennaco Energy*, 377 F.3d at 1160 (suggesting leases must reserve authority for implementing other federal laws).

<sup>3</sup> “Eligible lands” are “those identified in 43 C.F.R. § 3100.0-3 as being subject to leasing, i.e., lands not excluded from leasing by a statutory or regulatory prohibition.” 43 C.F.R. § 3100.0-3 (identifying lands not eligible); BLM Manual 3120.11. “Available lands” are those “open to leasing in the applicable RMP...where all statutory requirements and reviews have been met, including compliance with NEPA.” *Id.*

review and reconsideration of the Federal oil and gas program. The pause on new leases does not impact valid, already-issued leases or constrain the Secretary’s permitting authority on those leases. The Secretary’s analysis, per the Order, must consider “potential climate and other impacts associated with oil and gas activities,” ask whether royalty rates for extracting fossil fuel resources should be increased to account for the costs resulting from climate change, and whether any “other appropriate action” should be taken.

On March 25, 2021, Interior held a public forum explaining the forthcoming process.<sup>4</sup> In her public remarks, Secretary Haaland emphasized “Interior’s commitment to robust engagement with external stakeholders, including Tribes, governors, and Members of Congress.”<sup>5</sup> The forum involved speakers representing tribes, industry, environmental groups, labor, racial equity, and academia. Information generated by the forum and from a public comment period will provide the foundation for an interim report due out in early summer 2021.

### III. THIS LAWSUIT

Petitioners filed suit on January 27, 2021, the same day President Biden issued the Executive Order, naming President Biden, the Secretary of Interior, and BLM as respondents. The Petition challenges the Pause, but not the comprehensive review of the federal oil and gas program. On February 23, 2021, an Amended Petition was filed, vaguely identifying “notations” on BLM’s website that allegedly announced postponed lease sales. While calling the Pause “arbitrary and capricious and contrary to law” and asking that it be “set aside,” presumably

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<sup>4</sup> The entire three-and-a-half-hour forum remains available for public viewing. <https://www.youtube.com/watch?v=KRlb-fzIqcY>. Notice of the forum was provided on March 18, 2021. <https://www.doi.gov/pressreleases/interior-department-announces-details-public-forum-federal-oil-and-gas-program>.

<sup>5</sup> <https://www.doi.gov/news/secretary-haaland-delivers-remarks-interiors-public-forum-federal-oil-and-gas-program>.

invoking the Administrative Procedure Act (APA), the Amended Petition does not identify any specific legal violations. A Second Amended Petition was filed on March 17, 2021, adding the Petroleum Association of Wyoming as a co-petitioner. It was served on March 19, 2021.

IV. THE SIX COMPANIES SEEKING TO INTERVENE

Alterra Mountain Company is a family of year-round ski-mountain destinations that include recreation, hospitality, real estate development, food and beverage, retail, and service businesses. Headquartered in Denver, Alterra operates Steamboat and Winter Park (Colorado), Squaw Valley-Alpine Meadows, Mammoth Mountain, June Mountain, and Big Bear Mountain (California), Stratton and Sugarbush (Vermont), Snowshoe (West Virginia), Crystal Mountain (Washington), and Deer Valley and Solitude Mountain (Utah). David Perry Decl. ¶ 1.

Aspen Skiing Company is a four-season resort in Aspen and Snowmass, Colorado that includes four hotels, four ski mountains, and 18 restaurants. Aspen employs 4,000 people in winter and is the largest employer in Colorado's Roaring Fork Valley and neighboring communities. It is part of the \$20 billion U.S. snow-sports economy. Auden Schendler Decl. ¶ 1.

Hunt To Eat is a hunting and fishing apparel and education business dedicated to building a community committed to protecting wild places, fish, and animals. It runs outdoor education and hunting and fishing camps on federal public lands. Mahting Putelis Decl. ¶¶ 2-3.

Roan Creek Ranch is a woman-owned, family-run ranch, raising British Park White Cattle for direct consumer sales. It relies on BLM permits to graze its cattle on allotments in the Roan Creek drainage north of Grand Junction, Colorado. Kathryn Bedell Decl. ¶¶ 2-3.

Thistle Whistle Farm is a farm located near Hotchkiss, Colorado and is surrounded by public lands. It grows vegetables, culinary and medicinal herbs, and small fruit while raising chickens, ducks, honeybees, and dairy goats. The farm hosts educational programs for students,

immigrant families, and local community members. Mark Waltermire Decl. ¶¶ 2-3.

Western Spirit Cycling is a multi-day biking outfitter headquartered in Moab, Utah. One of the largest holders of recreation permits on the public lands, it conducts trips in Arizona, Arkansas, California, Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, with 35 employees and customers from all over the country and world. Ashley Korenblat Decl. ¶¶ 2-3.

## ARGUMENT

### I. THE BUSINESS-COALITION IS ENTITLED TO INTERVENTION AS OF RIGHT

Movants can intervene in existing litigation when the following requirements are met: (1) the motion to intervene is timely; (2) the movant has an interest relating to the subject of the action; (3) the movant is situated such that the disposition of the action may, as a practical matter, impair or impede its ability to protect its interest; and (4) the movant's interests are not adequately represented by the existing parties. Fed. R. Civ. P. 24(a)(2). Courts construe intervention motions liberally and analyze these four factors in a practical manner. *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992, 995 (10th Cir. 2009).

#### A. The Motion Is Timely.

This element asks whether movant delayed seeking intervention such that it prejudices the parties. *Utah Ass'n of Counties v. Clinton*, 255 F.3d 1246, 1250-51 (10th Cir. 2001). This Motion has not been delayed. The case just began. After Western Energy Alliance filed its Petition on January 27, 2021, it was amended twice, mostly recently on March 17, 2021.

According to the docket sheet, the Court has set no deadlines and no motions have been filed. Because this is an APA case, Respondents must file the administrative record within ninety days of service and that deadline has not passed. No party will be prejudiced by the Motion's timing.

B. The Business-Coalition Has Interests In The Subject Matter Of This Litigation.

Movants must have an interest relating to the subject matter of the litigation. *Clinton*, 255 F.3d at 1152-53. A threat of economic injury is a sufficient interest. *WildEarth Guardians*, 573 F.3d at 996 (finding mine owner’s economic interest “undoubtedly gives a petitioner the requisite interest” in suit challenging mine’s operation); *Utahns for Better Transp. v. U.S. Dep’t of Transp.*, 295 F.3d 1111, 1115 (10th Cir. 2002) (same). And when litigation raises environmental-related, public concerns, “the requirements for intervention may be relaxed.” *San Juan County v. U.S.*, 503 F.3d 1163, 1201 (10th Cir. 2007); *WildEarth Guardians v. U.S. National Park Service*, 604 F.3d 1192, 1198 (10th Cir. 2010) (finding “‘indisputable’ that a prospective intervenor’s environmental concern is a legally protectable interest”).

These companies have economic interests related to the Pause—their use of public lands and the harms from oil and gas development. They rely on public lands for their business enterprises—for grazing cattle, Bedell Dec. ¶ 3, hunting and fishing, Putelis Dec. ¶¶ 4,5,7, and biking, Korenblat Dec. ¶ 2, 5—and oil and gas leasing and development lessen their ability to use these lands and burden their bottom lines, Bedell Dec. ¶ 4, Korenblat Dec. ¶¶ 4-5, Putelis Dec. ¶¶ 4, 5, 7, 11; see *Clinton*, 255 F.3d at 1152 (finding “economic stake” is sufficient interest). Similarly, the effects of oil and gas impacts their businesses’ health and profits: by destroying and fragmenting habitat used by big game, Putelis Dec. ¶¶ 7-11; polluting water sources used for crops, Waltermire Dec. ¶¶ 8-9, and cattle, Bedell Dec. ¶ 4; creating truck traffic on dirt roads used to manage livestock, *id.*, and for bike trips, Korenblat Dec. ¶ 5; and by contributing to climate change that reduces snowpack and requires capital investments in new snowmaking equipment, Perry Dec. ¶ 5, Schendler Dec. ¶¶ 3-4, puts water supplies at risk for irrigation, Waltermire Dec. ¶¶ 8-9, and snowmaking, Schendler Dec. ¶ 4, creates hotter and drier



climates that forces changes in farming practices, Waltermire Dec. ¶ 8, grazing management, Bedell Dec. ¶ 5, hunting and fishing opportunities, Putelis Dec. ¶¶ 8-10, and how bike trips are conducted and scheduled, Korenblat Dec. ¶ 5. And oil and gas leasing and development conflicts with Alterra, Aspen, Hunt To Eat, Thistle Whistle Farm, Western Spirit Cycling’s core missions—to conduct business in a manner that promotes a sustainable environment, Perry Dec. ¶¶ 2, 7, Schendler Dec. ¶¶ 2-3, Putelis Dec. ¶¶ 4-5, 7, Waltermire Dec. ¶¶ 4-7, Korenblat Dec. ¶ 4-6, which also shows an interest in the case’s subject matter. *See Clinton*, 255 F.3d at 1252; *see also WildEarth Guardians*, 604 F.3d at 1200-01.

C. The Case’s Outcome May Impair The Business-Coalition’s Interests.

The impairment requirement “presents a minimal burden.” *WildEarth Guardians*, 604 F.3d at 1199. The inquiry concerns the practical, not legal, effect of an adverse ruling. Fed. R. Civ. P. 24(a)(2); *San Juan County*, 503 F.3d at 1195 (“If an absentee would be substantially affected in a practical sense by the determination made in an action, he should, as a general rule, be entitled to intervene.”); *see, e.g., id.* at 1200 (noting plaintiffs’ success in lawsuit could trigger subsequent action by federal agency that may impair applicant).

Petitioners seek relief that would “set aside” the Pause on new oil and gas leasing on public lands. ECF Doc. 8 at 2; *see Utahns*, 295 F.3d at 1116 (analysis focuses on requested relief). Invalidating the Pause would harm the Business-Coalition because these companies would lose their ability to use certain public lands unencumbered by the effects of oil and gas. The resumption of leasing means more economic impacts, realized both on and also off public lands. Waltermire Dec. ¶ 7-9 Perry Dec. ¶¶ 3-7, Schendler Dec. ¶¶ 4-6. Even an unused leased parcel, which can remain that way for years, 43 C.F.R. §§ 3120.2-1, 3100.0-5, creates uncertainty about whether competing businesses can use those public lands. Korenblat Decl. ¶ 4.

D. Respondents Do Not Adequately Represent The Business-Coalition’s Interests.

This Rule 24(a) element “also presents a minimal burden.” *WildEarth Guardians*, 604 F.3d at 1200; *Clinton*, 255 F.3d at 1254 (“The possibility that the interests of the applicant and the parties may diverge need not be great” to meet inadequate representation element). “[T]he burden of showing inadequacy of representation is satisfied...[w]here a government agency may be placed in the position of defending both public and private interests.” *WildEarth Guardians*, 604 F.3d at 1200; *Clinton*, 255 F.3d at 1255-56 (noting Tenth Circuit does not assume government can adequately represent interests of private parties).

Federal Respondents cannot adequately represent the Business-Coalition. The Department of Interior and BLM cannot simultaneously represent the unique economic interests of the individual companies within the Business-Coalition along with a more general public interest. *See WildEarth Guardians*, 604 F.3d at 1200 (reiterating it is “on its face impossible” for government to “protect[] the public’s interest and the private interests of a prospective intervenor”); *Utahns*, 295 F.3d at 1117 (finding government unable to protect both public interest and that of trade association); *WEA v. Zinke*, 877 F.3d 1157, 1168-69 (10th Cir. 2017) (finding sufficient BLM’s “multiple objectives” and possible “shift” in positions to meet test). Although Respondents are likely to defend the Pause, their interest do not align entirely. While the government chose to pause *new* leasing, it did nothing to address pre-existing leases, *see* Waltermire Dec. ¶ 8-9, including those sitting idle and not being developed, Korenblat ¶ 4.

II. THE COURT SHOULD GRANT PERMISSIVE INTERVENTION

If the Court finds the Business-Coalition does not qualify for intervention as a matter of right, Rule 24(b) vests courts with discretion to permit intervention when an applicant has a “claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b). “In exercising its discretion, the court must consider whether the intervention will

unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). Courts may also consider such factors as whether (1) movant adds value to the case (2) movant's interests are adequately represented, and (3) adequate remedies exist elsewhere. *Lower Arkansas Valley Water Cons. Dist. v. U.S.*, 252 F.R.D. 687, 690-91 (D. Colo. 2008).

As noted above, this Motion is timely, will not delay the proceeding, and the existing parties do not adequately represent the Business-Coalition's interests. The Business-Coalition's defense will relate directly with Petitioners' claims; once Petitioners state their specific legal theories for setting aside the Pause, the Business-Coalition will respond to them. The Business-Coalition's participation will provide a perspective that existing parties lack, especially when it comes to relief: namely, the economic benefits to the business community resulting from the Pause. Accordingly, the Business-Coalition satisfies the standards for permissive intervention and the Court should award it intervenor status under Rule 24(b).

### CONCLUSION

For the foregoing reasons, the Motion should be granted allowing the Business-Coalition to intervene in all aspects of this litigation.

Respectfully submitted on April 19, 2021.

/s/ Bruce T. Moats

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Counsel for Proposed Intervenor-Respondents  
*Alterra Mountain Company, Aspen Skiing Company,  
Hunt to Eat, Roan Creek Ranch, Thistle Whistle Farm,  
and Western Spirit Cycling*

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2021, I electronically transmitted the attached above-document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to:

/s/ Bruce T. Moats  
Bruce T. Moats

**IN THE UNITED STATES DISTRICT COURT  
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| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |
| -   | ) |                          |

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**DECLARATION OF KATHRYN BEDELL IN SUPPORT OF MOTION TO  
INTERVENE**

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I, KATHRYN BEDELL, declare as follows:

1. I have personal knowledge of each of the facts set forth below, and if called upon to do so, could and would testify regarding the following.

2. Roan Creek Ranch is a woman-owned ranch raising British Park White Cattle for direct sales to consumers. It has always been a family run business currently run by myself and my two daughters. The ranch has contracted out any equipment work, including haying operations, to neighboring farmers.

3. In the past, Roan Creek Ranch had permits on the Bureau of Land Management grazing allotments in the Roan Creek drainage to the north of Grand Junction, Colorado. Recently, the ranch has partnered with other ranchers to graze on public lands in the same drainage, and on private land in Loma and Cimmaron, Colorado. Public lands managed and administered by the BLM provide grazing opportunities for the cattle while crops are raised on irrigated farm land to sustain the cattle through the winter. As a result, public lands are paramount to the operation of Roan Creek Ranch.

4. Oil and gas development on federal public lands harms Roan Creek Ranch and contributes to problems with my business. Roan Creek Ranch and its reputation depend on public lands, its wide open spaces, clean air and clean water. Oil and gas leasing and development contributes to air pollution and polluted water sources. Oil and gas exploration and development in the Roan Creek Area has increased traffic contributing to dust, noise and trespass issues. Road and pad development impacts grazing not only by spoiling acres within the permitted allotments, but also by distributing dust on nearby forage making it less palatable. Road building also disturbs wildlife making the domestic/wildlife interactions less predictable. Road building also increase motorized traffic in areas formerly only accessible by foot or horseback further impacting both cattle and wildlife. Human activity in these areas by oil and gas workers also results in increased trash, which is unfortunately attractive to cattle and wildlife and harms their health. Roan Creek Ranch is in a remote area and the open pits constructed at well sites are often unfenced, leaving them attractive and accessible to our livestock. Oil leakage at these sites can also attract and injure our cattle. This is a problem when you are trying to raise a “clean” product and maintain the health of the cattle.

5. Oil and gas development contributes to climate change, which is creating problems for Roan Creek Ranch. At the ranch, it has been getting hotter and drier over the years of operations. The cattle are stressed from heat and we ranchers sometimes find it necessary to haul water in to the animals or remove cattle from historical grazing areas. This impacts our ability to raise cattle as it impacts our profitability by increasing our expenses.

6. Roan Creek Ranch will benefit from the pause on new oil and gas leasing and programmatic review directed in Section 208 of President Biden's January 21, 2021 executive order titled "Executive Order on Tackling the Climate Crisis at Home and Abroad." The pause ensures that no new leases for oil and gas while the federal government is conducting its programmatic review. The review allows the government to assess where, when, and how our public lands should be managed for oil and gas.

7. If a court requires the pause to be lifted, Roan Creek Ranch will be harmed by additional oil and gas leasing on public lands.

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED: April 13, 2021

Kathryn Bedell  
Kathryn Bedell

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

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| WESTERN ENERGY ALLIANCE, and                  | ) |                          |
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| capacity as Acting Secretary of the Interior, | ) |                          |
| and UNITED STATES BUREAU                      | ) |                          |
| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |

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**DECLARATION OF ASHLEY KORENBLAT IN SUPPORT OF MOTION TO  
INTERVENE**

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I, ASHLEY KORENBLAT, declare as follows:

1. I have personal knowledge of each of the facts set forth below, and if called upon to do so, could and would testify regarding the following.

2. I am the owner and operator of Western Spirit Cycling. Western Spirit is one of the largest holders of recreation permits on the public land system, including lands managed by the Bureau of Land Management, the National Park Service, and U.S. Forest Service. Customers join us from around the county and the world for multi-day backcountry cycling trips. Our trips reconnect people to natural places as they travel under their own steam through lands owned by all Americans. Over 60% of our customers return year after year.



3. Our headquarters are in Moab, UT, we have 35 employees and are growing at year over year rate of 18 %. The company operates in Arizona, Arkansas, California, Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and has plans for 2022 in Minnesota, Vermont, and West Virginia.

4. Oil and gas leasing and development threatens Western Spirit Cycling's business operations in four primary ways:

(a) Developed well pads on multi-use lands detract from natural experiences via leaking methane, constant low-level noise, intermittent truck traffic, and viewshed disruption.

Generally, large producers develop oil and gas operations but as production declines on each well pad, sales to local operators often lead to less than best practices, making the operation even more disruptive to other public land users. Poorly funded operators degrade the overall region and often lead to orphaned wells making it extremely difficult or restore the land for other uses, such as outdoor recreation;

(b) Valid and existing leases on lands with low potential for profitable development are often acquired by oil and gas companies as a prospective investment. But these leases serve as a disincentive for investment in recreation assets, such as trails. Recreation assets bring both visitors (like Western Spirit Cycling customers) and quality of life companies seeking to locate themselves and their employees in communities with access to public land. However, communities adjacent to public lands with extensive undeveloped leases are less likely to invest in trail systems limiting growth opportunities for both Western Spirit Cycling and the communities themselves. And when the Bureau of Land Management (BLM) plans for resource allocations and conservation designations on federal public lands, the federal agency evaluates whether lands are leased for oil and

gas development. If lands are leased, even if development is not occurring, the BLM will frequently decline to designate lands for recreation or conservation purposes. Recreation assets on public lands bring economic benefits to Western Spirit Cycling as well as other outdoor recreation businesses that depend on healthy and available public lands. Leasing those lands for speculative future oil and gas development is a missed economic opportunity.

(c) Oil and gas auctions for new leases also exacerbate the problems described above.

Given that the public land system is not infinite, and with nearly 50% of existing leases undeveloped, by definition many of the parcels nominated today are on lands with extremely low potential for profitable oil and gas development, but that have a high potential for recreational use. This affects Western Spirit Cycling and many public land communities detrimentally as land managers will continually run oil and gas lease auctions when the growing public need is for more recreation assets and recreation management; and,

(d) bonding and reclamation efforts lack adequate protections and enforcement measures to ensure that areas are safely and swiftly cleaned-up after development and can be utilized as new recreation assets, like trail systems, that will bring economic development to the region and support Western Spirit by creating new places for customers to visit.

5. Oil and gas development on federal public lands harms Western Spirit Cycling. My company, its reputation, and its growth potential depend on public lands with un-impeded view sheds, natural soundscapes, and clean air and water. Oil and gas leasing and development contributes to regional air pollution, polluted water sources, and climate change, an existential threat to all of us, and to my business in particular. Extreme weather events are already causing

us to modify itineraries and cancel trips. Wildfires in particular are endangering our clients and forcing last minute trip cancellations, while salaries and overhead expenses have already been incurred. Climate change is raising temperatures, leading to increasingly extreme and hard to predict weather events, that endanger my customers and staff. Droughts throughout the west make trails and road impassable due to dry loose conditions. Maintaining the current oil and gas leasing systems created over the last 100 years will exacerbate all of these challenges for both my company and public land communities across the country. The current oil and gas leasing system is not able to accommodate today's changing public land needs.

6. Two parcels were nominated for oil and gas leasing on the Slickrock Bike Trail outside of Moab, Utah in 2020. The famous Slickrock Bike Trail is much more important to the Moab economy than any well pads. If these parcels had been allowed to go to auction, the purchaser would have had the right to develop the well pads and access roads, flare methane gas, and operate loud pumps, which would have harmed the bike trails we use as well as nearby campground we use for our customers. The local business community, including Western Spirit Cycling, successfully appealed to the Governor to ask the Secretary of Interior to defer the parcels.

7. Western Spirit Cycling, and the communities where we work, will benefit from the pause on new oil and gas leasing and programmatic review directed in Section 208 of President Biden's January 21, 2021 executive order titled "Executive Order on Tackling the Climate Crisis at Home and Abroad." The pause ensures that no new leases for oil and gas will be issued while the federal government is conducting its programmatic review. The review allows the government to assess where, when, and how our public lands should be managed for oil and gas to meet the changing needs of the public.

8. If a court requires the pause to be lifted, Western Spirit Cycling and the communities where we work, will face additional harm. New leasing will increase the amount of federal public lands subject to outdated rules and practices. New leasing will also enable additional future oil and gas development and its concomitant contributions to water pollution, air pollution and climate change, while simultaneously prohibiting public land communities from moving forward with sustainable economic development opportunities.

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED: April 17, 2021

  
Ashley Korenblat

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

|   |   |                          |
|---|---|--------------------------|
| WESTERN ENERGY ALLIANCE, and<br>PETROLEUM ASSOCIATION OF WYOMING  | ) | Case No. 21-CV-00013-SWS |
|   | ) |                          |
| Petitioners,  | ) |                          |
|   | ) |                          |
| vs.   | ) |                          |
|   | ) |                          |
| JOSEPH R. BIDEN, Jr., in his official<br>capacity as President of the United States,<br>SCOTT DE LA VEGA, in his official<br>capacity as Acting Secretary of the Interior,<br>and UNITED STATES BUREAU<br>OF LAND MANAGEMENT, | ) |                          |
|   | ) |                          |
| Respondents.  | ) |                          |
| _____   | ) |                          |

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**DECLARATION OF DAVID PERRY IN SUPPORT OF MOTION TO INTERVENE**

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I, David Perry, declare as follows:

1. I am employed by Alterra Mountain Company as Executive Vice President, ESG & Special Projects. Alterra Mountain Company is a family of 15 iconic year-round mountain destinations, offering the Ikon Pass, the globe's newest season pass that invites skiers and riders to seek the unique experiences offered by each mountain. The company owns and operates a range of recreation, hospitality, real estate development, food and beverage, retail, and service businesses. Headquartered in Denver, Colorado, with destinations across the continent, Alterra Mountain Company is rooted in the spirit of the mountains and united by a passion for outdoor adventure. Alterra Mountain Company's family of diverse playgrounds spans six U.S. states and three Canadian provinces: Steamboat and Winter Park in Colorado; Squaw Valley-Alpine Meadows, Mammoth Mountain, June Mountain and Big Bear Mountain Resort in California;

Stratton and Sugarbush Resort in Vermont; Snowshoe in West Virginia; Crystal Mountain in Washington; Deer Valley Resort and Solitude Mountain Resort in Utah, Tremblant in Quebec, Blue Mountain in Ontario and heli-skiing operations in British Columbia.

[www.alterramtnc.com](http://www.alterramtnc.com).

2. Climate change directly threatens the business model of Alterra Mountain Co. and the entire snow sports industry. In fact, the impacts of that warming are already occurring. The Lake Tahoe Basin, where two of our resorts are located (Squaw Valley-Alpine Meadows), could get as much as 9 degrees warmer on average in the coming decades due to human-caused global warming according to a recently published climate change vulnerability assessment<sup>1</sup> for the basin, which has about 65,000 residents and 10 million visitors annually, mostly from California and Nevada.

3. In Utah, where we the Deer Valley Resort and Solitude Mountain Resort, the EPA reported in 2016 that April snowpack has declined at most monitoring sites in Utah and the Upper Colorado River Basin between 1955 and 2013.<sup>2</sup> A report<sup>3</sup> on the impacts of climate change commissioned by the municipality of Park City predicted dire consequences from warming:

Our economic modeling results indicate that projected decreases in snowpack will have severe economic consequences for the region. By 2030, the estimated decrease in snowpack is estimated to result in \$120.0 million in lost output. This lost output is estimated to result in 1,137 lost jobs and \$20.4 million in lost earnings (or labor income). By 2050, the potential impacts range from \$160.4 million in lost output, \$27.2 million in lost earnings, and 1,520 lost jobs (low emissions scenarios) to \$392.3 million in lost output, \$66.6 million in lost earnings, and 3,717 lost jobs (high emissions scenario).

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<sup>1</sup> [https://tahoe.ca.gov/wp-content/uploads/sites/257/2020/04/Integrated-Vulnerability-Assessment-of-Climate-Change-in-the-Lake-Tahoe-Basin\\_2020.pdf](https://tahoe.ca.gov/wp-content/uploads/sites/257/2020/04/Integrated-Vulnerability-Assessment-of-Climate-Change-in-the-Lake-Tahoe-Basin_2020.pdf)

<sup>2</sup> <https://www.tempestryproject.com/wp-content/uploads/2019/07/climate-change-ut.pdf>

<sup>3</sup> <http://www.parkcitygreen.org/Documents/2009-Climate-Change-in-Park-City-Report.aspx>

4. Alterra Mountain Company is undertaking numerous operational adaptations due to the changing climate, warming and shorter winters, and threats of severe weather events including wildfires. The natural habitats where we work, live, and operate our businesses are essential to the local, largely rural economies nearby our mountain destinations.

5. Specifically, we continue to invest millions of dollars annually to upgrade our snowmaking systems to be more efficient while using less energy, and to enable our ski area operations make snow during the increasingly shorter windows of cold temperatures early in the winter season. This is needed for holiday-season operations, which is so critical for Alterra as well as the communities where we operate and the tourism businesses that depend on the ski areas to be open. In the past two years we have invested \$3.5M at Snowshoe Mountain, WV and are making similar investments at Winter Park, CO as well as other resorts from Mammoth, CA to Squaw Valley, CA to Deer Valley and Solitude, UT.

6. We continue to invest in and pursue options to reduce our energy use and transition from fossil fuel sources of energy to renewables. Some areas where we operate are already transitioning to renewable energy sources through community based Paid Power Agreements. Our Deer Valley, UT resort, which is part of the Park City, UT agreement with Rocky Mountain Power, is moving to 100% renewable sources of electricity. Similarly, our Squaw Valley, CA resort, along with the surrounding Lake Tahoe community, had developed and is executing a power sourcing agreement to provide 100% renewable electricity. Some of our resorts already operate in locations where the local power grid is shifting or is already established with renewable sources, like Stratton and Sugarbush, VT.

7. These investments by Alterra's resorts are directly related to the changing climate and our stated commitment to moving our operations to carbon-neutral sources of energy. The

adaptations to the climate are continuing with snowmaking systems being one of the most visible.

8. Because climate change is a global problem, national-scale policies—like how the United States approaches oil and gas leasing on public lands and offshore—are both necessary to address the problem and also of material impact to the snow-sports industry. According to a U.S. Geological Survey report in 2018, approximately 25 percent of U.S. greenhouse gas emissions result from development of federally owned fossil fuels. Bringing federal policy into alignment with climate goals may have a meaningful impact on climate change and the snow sports industry.

9. For that reason, Alterra Mountain Company supports President Biden’s suspension of new federal oil and gas leases while the Interior Department conducts a rigorous review of the national oil and gas program. This is a necessary and prudent step that will allow time for a review of the federal oil and gas program, while pausing the issuance of new leases that can be expected to result in the future extraction and combustion of fossil fuels that directly hamper the recreation economy in Colorado, Wyoming, Utah, California, Vermont, Washington, and the rest of the country by contributing to global warming in a large-scale, systemic fashion. On the other hand, the threat to our business from climate change may be exacerbated if Western Energy Alliance and the Petroleum Industry of Wyoming succeed in overturning the leasing suspension and requiring the Interior Department to offer additional oil and gas leases.

10. Further, federal leasing practices should properly value the public’s assets and also consider the impact of fossil fuel extraction on society and economies. Currently, that is not the case for much federal oil and gas leasing, where assets belonging to the American people are



given away for dimes on the dollar.<sup>4</sup> When combusted, the extracted hydrocarbons inflict harm on society as a whole and Alterra in particular that are not accounted for in the lease transaction. We believe that is why President Biden directed the Secretary of Interior to consider adjusting oil and gas royalty rates. We anticipate that the suspension and review will help correct this current royalty rate and ensure that oil and gas companies pay a fair rate for publicly owned minerals, a rate that includes the associated environmental externalities.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Executed on April 13, 2021

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David Perry  
Vice President, Sustainability & Special Projects  
Alterra Mountain Company

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<sup>4</sup> <https://www.americanprogress.org/issues/green/reports/2019/05/23/470140/backroom-deals/>.

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

|   |   |                          |
|---|---|--------------------------|
| WESTERN ENERGY ALLIANCE, and                  | ) |                          |
| PETROLEUM ASSOCIATION OF WYOMING              | ) | Case No. 21-CV-00013-SWS |
|   | ) |                          |
| Petitioners,                                  | ) |                          |
|   | ) |                          |
| vs.   | ) |                          |
|   | ) |                          |
| JOSEPH R. BIDEN, Jr., in his official         | ) |                          |
| capacity as President of the United States,   | ) |                          |
| SCOTT DE LA VEGA, in his official             | ) |                          |
| capacity as Acting Secretary of the Interior, | ) |                          |
| and UNITED STATES BUREAU                      | ) |                          |
| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |

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**DECLARATION OF MARTINS PUTELIS IN SUPPORT OF MOTION TO INTERVENE**

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I, MARTINS PUTELIS, declare as follows:

1. I have personal knowledge of each of the facts set forth below, and if called upon to do so, could and would testify regarding the following.
  
2. Hunt To Eat LLC is an apparel, education, and media platform business dedicated to building a diverse and educated community committed to protecting wild places and animals. I own this business enterprise, creating it in 2013. Hunt To Eat is based in Denver, Colorado. Hunt To Eat has developed a network made up of countless collaborators, contractors, over 35 ambassadors, and a handful of volunteers.

3. Hunt To Eat runs outdoor education programs and hunting and fishing camps throughout the United States. These programs and camps focus on species dependent upon habitat for critical life history activities, such as breeding and feeding, that are threatened by oil and gas activities on public lands. If public land habitats are irreversibly damaged, Hunt To Eat will lose both revenue and an important aspect of our business in the form of lost hunting and fishing camp activities. Without being able to host hunt camps on or near quality wildlife habitat on public lands, Hunt To Eat will lose profits. An erosion of the integrity of the public lands system and the long-term health of public lands and waters will also create a loss of hunting and fishing opportunities and contribute to an associated decline in Hunt To Eat's customer base. This is true throughout the country, including within Wyoming. In 2020, Wyoming Game and Fish researchers observed 11,193 pronghorn during classification surveys and Wyoming is home to the greatest concentration of both sage grouse and sagebrush habitat in the United States. But the International Union for the Conservation of Nature (IUCN) identifies oil and gas activities as a specific threat to sage grouse populations and Wyoming pronghorn populations are damaged by the habitat fragmentation that results from oil and gas activities.

4. To advance its business and economic interests, Hunt To Eat works to contribute to a national and global effort to conserve biodiversity and highlight the importance of respectful and sustainable use of public resources. Sustainable and renewable use of resources is a foundation of modern wildlife management and conservation and loss of public lands and waters represents an erosion of the well-established successes of the public lands model in safeguarding biodiversity and ecosystem health. Therefore, oil and gas activities on public lands would represent both direct economic and philosophical harms to Hunt To Eat.

5. Hunt To Eat exists and is successful because of the ongoing relationship between hunting and conservation. For hunting to maintain social license and for hunters to continue to enjoy a wide range of hunting opportunities, we need healthy wildlife and habitat. Therefore, my company and the reputation of the wider hunting industry depend on a robust system of effectively managed public lands, wide open spaces, clean air and clean water, and the associated ecosystem services that large, connected areas of habitat provide to all Americans. A large portion of the hunting community, including Hunt To Eat's customer base, rely on public lands as a way to participate in hunting and fishing. Oil and gas leasing removes access to public lands from the public. It effectively excludes many communities from enjoying America's landscapes, disproportionately impacting marginalized communities who do not have the ability to access private land hunting opportunities.

6. For instance, historical social and economic policies throughout the United States deliberately and systematically removed Indigenous communities from their traditional territories and created social situations in which Black and other People of Color have been restricted to unproductive and marginalized lands. Economic disparities throughout the United States disproportionately impact Black communities and People of Color, meaning that many of these communities can not afford to purchase large areas of private land for hunting opportunities. America's public land system provides hunting, fishing, and other outdoor recreation opportunities to all Americans and must be protected as an important measure of supporting reconciliation and addressing historic injustices that disproportionately impacted Black communities and People of Color. In addition, much of the public land across the United States is on the traditional territories of Indigenous Nations, much of the land remaining

unceded. Transferring public land to purposes such as oil and gas activities further removes it from access by Indigenous communities and degrades its quality, further inhibiting efforts at reconciliation and recognition of Indigenous rights.

7. Oil and gas development on federal public lands harms Hunt To Eat. Federal oil and gas leasing and development contributes to an erosion of the concept of public trust resources as a central principle of environmental and wildlife management in the United States and degrades the health of natural resources upon which Hunt To Eat's customers depend. Oil and gas leasing and development contributes to regional air pollution, polluted water sources, and fragmented habitat that impacts numerous wildlife species my company relies on. Further, Hunt To Eat actively promotes the creation of a hunting community based on principles of equity, healthy lifestyles, justice, and reconciliation with Indigenous peoples. Conceptually, oil and gas leasing sends the message that profit and economic interests are more important than principles of social and environmental justice. Therefore, oil and gas leasing will negatively impact Hunt To Eat's principles and profits by harming our ability to host educational Hunt Camps due to loss of wildlife habitat, shrinking our customers' ability to identify as public land hunters, and dissolving the trust we have worked hard to maintain with our customer base.

8. The link between oil and gas leasing, exploration, and development and increasing climate change have been irrefutably established. In addition to direct impacts to climate change through increased greenhouse gas emissions, oil and gas activities destroy mitigation opportunities. For example, oil and gas development removes habitat areas that serve as carbon sinks and storage, provides habitat for wildlife, and safeguards natural areas that buffer human well-being from the impacts of climate change and provide US\$125 trillion in ecosystem

services annually. Many of the most commonly hunted species rely on different types of habitat throughout their annual life cycle, including different types of habitats for breeding, post-breeding, bedding, and feeding. Therefore, successful, sustainable, and renewable hunting systems and opportunities rely on the maintenance of intact and healthy habitat across this range of needs for wildlife species. Further, wildlife requires corridors between different habitat types that facilitate safe travel and migration and protection from non-human predators. Much of the critical habitat for various hunted species occurs on public lands and the removal and degradation of these habitat areas will negatively impact hunting opportunities by potentially reducing wildlife population health and abundance.

9. Climate change also increases temperatures and changes precipitation and other localized weather patterns, which alter both terrestrial and aquatic wildlife habitat. Increases in mean annual temperature and associated decreases in winter snowfall lead to alterations in streamflow and watercourse characteristics, impacting both recreational and non-recreational angling species. Changes in annual temperature also cause changes in vegetation communities, particularly for species that are not drought-resistant, which reduces food supply and habitat for a wide range of species and impacts entire food webs. These habitat changes impact species commonly harvested by hunters, including waterfowl and ungulates. Declines in commonly harvested species and the potential for associated reductions in hunting opportunities will negatively impact Hunt To Eat's ability to run hunt and education camps, which are an important source of revenue for us.

10. Climate change increases the risk of wildfires that impact wildlife and consequently hunting opportunities. Abnormally warm and dry weather patterns across the West

have resulted in increased wildfire risks; climate change makes these warm, arid weather patterns more frequent and more severe. Large-scale wildfires negatively impact wildlife habitat in both their summer and winter ranges by temporarily removing or lowering the forage quality of large tracts of forest and sagebrush. Additionally, wildfires have negative impacts on streams, rivers, and other water sources. Scorched soil, unsupported by live tree and plant roots, erodes easily and decreases water quality within entire watersheds. This makes it difficult for plants to regenerate, wildlife to have access to clean water, and for aquatic wildlife to live. Because oil and gas activities contribute so much to climate change, the more wells that are drilled on leased areas of public lands, the more we can expect large-scale wildfires to rage across the West and the more wildlife habitat we can expect to decrease in quality.

11. Oil and gas activities are some of the most dramatic causes of habitat and landscape fragmentation. In 2020, world governments committed to enhanced global biodiversity conservation targets to protect 30% of land and water by 2030 to slow the rapid loss of global biodiversity. The world loses over 18 million acres of forest cover every year, a factor that has contributed to the extinction of 60% of terrestrial wildlife over the previous 50 years. The development of transportation and power corridors during oil and gas activities create physical barriers to wildlife migration and lead to behavioral disturbances for many species, particularly large mammals, interfering with wildlife migrations and hindering effective landscape conservation initiatives. Interfering with large mammal (e.g., elk, pronghorn, mule deer) movements negatively impacts hunting opportunities, reducing crucial income for both federal and state wildlife management agencies and private business, such as Hunt To Eat.

12. Hunt To Eat will benefit from the pause on new oil and gas leasing and programmatic review directed in Section 208 of President Biden’s January 21, 2021 executive order titled “Executive Order on Tackling the Climate Crisis at Home and Abroad.” The pause ensures that no new leases will be issued for oil and gas while the federal government is conducting its programmatic review. The review allows the government to assess where, when, and how our public lands should be managed for oil and gas. It is critical that the interests of the hunting, angling, and conservation community are considered in this review. Hunters and anglers provide a great deal of funding to conservation and fish and wildlife management and contribute critical data to wildlife research. The interests of hunters and anglers span all areas of public lands and waters and permeate all immediate and cumulative effects of oil and gas activities.

13. If a court requires the pause to be lifted, Hunt To Eat will be harmed by additional oil and gas leasing on public lands.

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED: 4/16/2021

DocuSigned by:  
*Martins Putelis*  
6FB7EED3F70E488...  
Martins Putelis



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

|   |   |                          |
|---|---|--------------------------|
| WESTERN ENERGY ALLIANCE, and                  | ) |                          |
| PETROLEUM ASSOCIATION OF WYOMING              | ) | Case No. 21-CV-00013-SWS |
|   | ) |                          |
| Petitioners,                                  | ) |                          |
|   | ) |                          |
| vs.   | ) |                          |
|   | ) |                          |
| JOSEPH R. BIDEN, Jr., in his official         | ) |                          |
| capacity as President of the United States,   | ) |                          |
| SCOTT DE LA VEGA, in his official             | ) |                          |
| capacity as Acting Secretary of the Interior, | ) |                          |
| and UNITED STATES BUREAU                      | ) |                          |
| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |

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**DECLARATION OF AUDEN SCHENDLER IN SUPPORT OF MOTION TO  
INTERVENE**

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I, Auden Schendler, declare as follows:

1. I am employed by Aspen Skiing Company as its senior vice president of sustainability. Aspen Skiing Company is a four-season resort in Aspen and Snowmass, Colorado. Our business owns and operates four hotels, four ski mountains, and 18 restaurants. We operate on 5,000 acres of public and private land, and we employ 4,000 people in winter. We are the largest employer in Colorado’s Roaring Fork Valley and neighboring communities, and part of the \$20 billion snow sports economy in the United States.

2. Aspen Ski Company has a longstanding commitment to sustainability that has been demonstrated for more than 20 years. For example, we pioneered the U.S. green building industry with one of the first LEED-certified building and later built five more; retrofitted most of our facilities to save energy; built region-leading, large-scale clean energy projects

(hydroelectric, solar, and coal mine methane capture) to power the resort; and lobby elected officials in Washington, D.C. to pass aggressive climate legislation. Our efforts toward a sustainable environment has been the subject of a Harvard Business School case study, which is taught internationally.

3. Aspen Ski Company is dedicated to promoting a sustainable environmental future, one in which the climate stabilizes, air pollution subsides, clean water is available for all, public lands and large landscapes are protected and provide recreation destinations and serve as mitigation opportunities (carbon sinks) for climate change. These company goals, however, are undermined substantially by continued and increased oil and gas development on public lands. In fact, using public lands for oil and gas leasing and development fundamentally conflicts with our mission. That is why Aspen Ski Company continues to move away from fossil fuels: we are electrifying the bulk of our hotel vehicle fleet with Audi e-trons; working with our utility to decarbonize the power supply entirely by 2030, and retrofitting old buildings and building new ones to run entirely on clean energy.

4. Climate change directly threatens Aspen Skiing Company's business enterprise and the entire snow sports industry. Snowpack in the western United States has declined 41 percent since the early 1980s, according to *Geophysical Research Letters*. As a result, the snow season has shrunk by 34 days<sup>1</sup> nationally, mirroring the Aspen area, which now sees a month fewer days of winter than in the early 20<sup>th</sup> century.<sup>2</sup>

5. Low snow years—three of Colorado's driest have occurred in the last decade—have a direct impact on Aspen Skiing Company's bottom line. Nationally, such dry years cost

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<sup>1</sup> <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2018GL079621>

<sup>2</sup> <https://www.cityofaspen.com/ArchiveCenter/ViewFile/Item/330>

the ski economy a billion dollars in lost revenue every time they occur.<sup>3</sup> Recent science suggests that warming will cause more frequent drought years in a row, a situation that can be catastrophic for an industry already facing weather dependency, high capital costs, and a consumer base that chooses to ski or not based on snowfall.<sup>4</sup>

6. The impacts of climate change are already occurring. After multiple drought years in a row, Aspen Skiing Company, like most large ski resorts, has been forced to invest millions of dollars into new snowmaking infrastructure. That spend will continue into the indefinite future, and represents capital dollars pulled away from more meaningful projects like housing, infrastructure improvements, or energy efficiency. At Snowmass Ski Area last year, our snowmaking water supply was hampered because low snowpack prevented our key reservoir, Ziegler Pond, from refilling fast enough. Snowmaking on Aspen Mountain largely depends on a municipal water agreement with the City of Aspen. In drought years, the City may totally or partially restrict delivery of snowmaking water in order to protect decreed minimum instream flow rights and for other environmental considerations. Absent a consistent and robust snowpack on the mountain and in the local watershed, our ability to make snow is jeopardized. And the inability to make snow on Aspen Mountain or Snowmass represents not just a loss of early season skiing, but also a threat to the viability of hotels, restaurants, wait staff, and workers in the service industry. In short, it affects our whole economy.

7. Largescale national policies are critical to address the climate change crisis. The United States should lead on the issue and take a programmatic approach where and when it can. President Biden's January 27, 2021 Executive Order and its provision addressing both oil and

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<sup>3</sup> <https://protectourwinters.org/wp-content/uploads/2019/12/POW-2018-economic-report.pdf>

<sup>4</sup> <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1029/2019GL083770>

gas leasing on public lands and offshore are both necessary to address the problem and also of material impact to the snow sports industry. As reported in 2018 by the U.S. Geological Survey, approximately 25 percent of U.S. greenhouse gas emissions result from development of federally owned fossil fuels. Bringing federal policy into alignment with climate goals may have a material impact on climate change and benefit the snow sports industry.

8. For that reason, Aspen Skiing Company supports President Biden's suspension of new federal oil and gas leasing while the Interior Department conducts a robust and comprehensive review of that program, which is long overdue. This is a necessary and prudent step that will allow time for a review of the federal oil and gas program, while pausing the issuance of new leases that can be expected to result in future extraction and combustion of fossil fuels that directly hamper the recreation economy in Colorado and the rest of the country by contributing to global warming in a large-scale, systemic fashion. On the other hand, the threat to our business from climate change may be exacerbated if Western Energy Alliance succeeds in overturning the leasing suspension and requiring the Interior Department to continue offering additional oil and gas leases.

9. Further, federal leasing practices should properly value the public's assets, and also consider the impact of fossil fuel extraction on society and economies. Currently, that is not the case for much federal oil and gas leasing, where assets belonging to the American people are given away for dimes on the dollar.<sup>5</sup> When combusted, the extracted hydrocarbons inflict harm on society not accounted for in the lease transaction. The suspension and review directed by President Biden's executive order will help correct this situation by ensuring that oil and gas companies pay a royalty rate that incorporates environmental externalities when extracting and

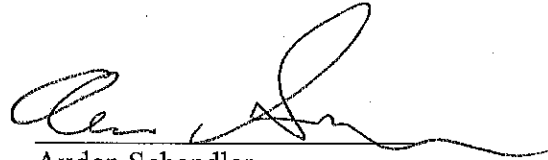
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<sup>5</sup> <https://www.americanprogress.org/issues/green/reports/2019/05/23/470140/backroom-deals/>

marketing oil and gas resources found on public lands.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on April 14, 2021

A handwritten signature in black ink, appearing to read "Auden Schendler", written over a horizontal line.

Auden Schendler  
SVP Sustainability  
Aspen Skiing Company

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

|   |   |                          |
|---|---|--------------------------|
| WESTERN ENERGY ALLIANCE, and                  | ) |                          |
| PETROLEUM ASSOCIATION OF WYOMING              | ) | Case No. 21-CV-00013-SWS |
|   | ) |                          |
| Petitioners,                                  | ) |                          |
|   | ) |                          |
| vs.   | ) |                          |
|   | ) |                          |
| JOSEPH R. BIDEN, Jr., in his official         | ) |                          |
| capacity as President of the United States,   | ) |                          |
| SCOTT DE LA VEGA, in his official             | ) |                          |
| capacity as Acting Secretary of the Interior, | ) |                          |
| and UNITED STATES BUREAU                      | ) |                          |
| OF LAND MANAGEMENT,                           | ) |                          |
|   | ) |                          |
| Respondents.                                  | ) |                          |
| _____   | ) |                          |

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**DECLARATION OF MARK WALTERMIRE IN SUPPORT OF MOTION TO  
INTERVENE**

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I, MARK WALTERMIRE, declare as follows:

1. I have personal knowledge of each of the facts set forth below, and if called upon to do so, could and would testify regarding the following.
2. I am the owner and operator of Thistle Whistle Farm outside of Hotchkiss, Colorado.
3. We started Thistle Whistle Farm in 2005 as a small, diversified, non-certified organic farm growing vegetables, culinary and medicinal herbs, and small fruit. We raise chickens, ducks, honey bees, and dairy goats. The farm also hosts educational programs for school groups of all ages, college students, immigrant families and members of the local community.

4. On behalf of Thistle Whistle Farm, I have participated in efforts to protect the air and water in this valley, the health of which makes my work possible. The North Fork Valley has a unique climate and relatively pristine growing conditions that result in particularly high-quality produce, and a commensurate reputation for quality. Thistle Whistle Farm relies on that reputation for our ability to market our produce, and for our ability to bring in groups and individuals interested in learning about the process of growing food on this scale.

5. As a representative of the farming community in the state, I have worked with the Colorado Oil and Gas Conservation Commission to help the COGCC incorporate my concerns into its rule-making. I have testified repeatedly to the importance of recognizing the needs of downstream water users and farming operations when considering rules pertaining to oil and gas development. My farm's reputation and its water, like those of my neighboring farms, depend on careful management of the lands surrounding and upstream of it. My comments reflect those needs, and I have advocated for a more precise and personalized notification process for incidents, better financial assurances to safeguard our farms from potential damages, and the inclusion of geologic hazards as a risk factor that needs to be considered when approving drilling permits and activities. A leasing pause gives the BLM time to consider the federal response to these needs, coordinating better with the state's responsibilities in these areas.

6. I have participated in Delta County's effort to rework its Master Plan, a document that will guide the county's land-use decisions. My involvement in this effort is as a member of the Oil and Gas Working Group, whose mission is to help guide the county's land-use policies that pertain to oil and gas, suggesting to the County Commissioners specific oil and gas activity regulations that would protect the interests of the county's residents including farmers in the

county. I was appointed as someone who holds mineral rights, as someone who actively farms in the county, and as a representative of the Valley Organic Growers Association (VOGA), representing 150 similar farming operations in the county along with associated businesses and individual supporters. I advocate for regulations that protect the interests of my farm, and my neighbor's farms and related businesses. This effort, too, will give the BLM information it needs to include in its oil and gas related decisions on lands where it leases fluid minerals. Our suggestions include ways to mitigate risks of oil and gas related trucking (accidents, spills, noise, and road damage), notification concerns for affected land-owners and water users, and ways of coordinating our county's concerns and responses with neighboring counties.

7. On the federal level and on behalf of my farm, I have a history of commenting on the federal Bureau of Land Management's (BLM) oil and gas leasing practices in my area, consistently opposed proposed BLM leases on public lands surrounding our valley expressing my objections that the leasing process did not take into consideration our needs and concerns, and expressed my opinion on the BLM's long-term vision and management of the land from which I draw my water. I have a history of participating in the process of establishing and reviewing regulations concerning oil and gas operations. I have a distinct and substantial interest in making the federal oil and gas leasing process more inclusive of the needs and concerns of farmers like me. I have commented on the BLM's proposed leases of lands surrounding our valley, including the 2018 proposed lease sales deferred by the BLM. The BLM has deferred its most recent proposed leases in the first quarter of 2021, for which I contributed to comments. I am prepared to continue my opposition if these deferrals are lifted. To represent my farm's interest in how public lands upstream of it are administered and how the farm's water and air are



protected, I have worked with a coalition of individuals to offer the BLM a plan alternative for the Uncompahgre Field Office's Resource Management Plan that reflects the needs and concerns of this farm, especially regarding oil and gas development. I have opposed the recently adopted Uncompahgre Field Office Resource Management Plan, recognizing that it fails to include our comments, fails to address our concerns, and it fails to protect our interests, especially in regards to oil and gas development. Our community alternative plan set restrictions on oil and gas leasing in sensitive areas that we saw, if leased and developed, would endanger our farms and livelihoods. A leasing pause gives us all an opportunity to put forward our needs and concerns, and it gives a respite from potential new leases until we have an opportunity to weigh in.

8. Oil and gas development on federal public lands, especially on those lands that sit above my farm and within our watershed, harms Thistle Whistle Farm. My farm, and its reputation, depend on clean water and a healthy, functional watershed. Federal oil and gas development reduces water resources, both groundwater and surface water. It can also pollute these resources, especially when subject to outdated, inadequate regulations. Oil and gas development also contributes to regional air pollution, which harms my livelihood, dependent as it is on clean air and soil, and on a reputation for a pristine growing environment. Finally, climate change hurts me via increased wildfire risk, reduced snowpack and water supply, hotter summer temperatures and less predictable growing-season weather. Federal oil and gas leasing and development contributes to this problem.

9. Leasing and drilling in Bull Mountain Unit in particular is causes us harm. We see significant truck traffic resulting in noise, congestion, and an increase in potential accidents on a poorly maintained, slide-prone, winding highway. We see degraded air from diesel exhaust,

ozone, and dust particulates. This increased industrial traffic will also affect tourism, with the bucolic, rural agricultural atmosphere of the valley displaced by heavy, industrial trucking. Water is being degraded and used in non-renewable ways for fracking activities, and the drilling and fracking again risks our domestic and irrigation water with produced water spills. Our reputation for clean, healthy food will suffer from even the appearance of these activities taking place in our watershed.

10. Thistle Whistle Farm benefits from the pause on new oil and gas leasing and programmatic review directed in Section 208 of President Biden’s January 21, 2021 executive order titled “Executive Order on Tackling the Climate Crisis at Home and Abroad.” The pause ensures that no new leases expand oil and gas developers’ property rights in my region while the federal government is conducting its programmatic review. The review allows the government to assess where, when, and how our public lands should be managed for oil and gas. Included in this assessment is an evaluation of how to protect critically important resources like clean water and air, and how to ameliorate or eliminate contributions to climate change.

11. If a court requires the pause to be lifted, Thistle Whistle Farm will face additional harms. New leasing will increase the amount of federal public lands subject to outdated rules and practices. New leasing will also enable additional future development and its concomitant risks of water and air pollution, degradation of soils, and contribution to climate change.

I declare, under penalty of perjury, that the foregoing is true and correct.

DATED: April 17, 2021



Mark Waltermire