

Wayne Stenehjem (admitted *pro hac vice*)
Attorney General
David Garner (admitted *pro hac vice*)
Hope Hogan (admitted *pro hac vice*)
Assistant Attorneys General
500 N. 9th Street
Bismarck, ND 58501
Phone: (701) 328-2925
ndag@nd.gov

Paul M. Seby (admitted *pro hac vice*)
Special Assistant Attorney General
Greenberg Traurig, LLP
1200 17th Street, Suite 2400
Denver, CO 80202
Phone: (303) 572-6584
Fax: (303) 572-6540
sebyp@gtlaw.com

Counsel for Petitioner-Intervenor State of North Dakota

Robert J. Walker (Wyo. Bar No. 7-4715)
Hickey & Evans, LLP
1800 Carey Street, Suite 700
Cheyenne, WY 82003
Phone: (307) 634-1525
Fax: (307) 638-7335
rwalker@hickeyevans.com

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

STATE OF WYOMING,)
STATE OF MONTANA, and)
STATE OF NORTH DAKOTA,)
)
Petitioners,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
THE INTERIOR; SALLY JEWELL, in her)
official capacity as Secretary of the Interior;)
UNITED STATES BUREAU OF LAND)
MANAGEMENT; and NEIL KORNZE, in)
his official capacity as Director of the)
Bureau of Land Management,)
)
Respondents.)

Case No. 16-cv-00285-SWS

NORTH DAKOTA’S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Federal Rule of Civil Procedure 65, the State of North Dakota respectfully requests the Court issue an order enjoining the November 18, 2016 final rulemaking of the Department of the Interior’s Bureau of Land Management (“BLM”) entitled “Waste Prevention, Production Subject to Royalties, and Resources Conservation: Final Rule.” 81 Fed. Reg. 83,008 (Nov. 18, 2016) (to be codified at 43 C.F.R. Parts 3100, 3160 and 3170) (“Final Rule”). The Final Rule infringes upon North Dakota’s comprehensive regulation of oil and gas activities—including oil and natural gas resource conservation—and air quality within its borders. If it is allowed to go into effect, the Final Rule will irreparably harm North Dakota’s sovereign interests and its economy during the pendency of this litigation. Moreover, North Dakota is likely to prevail on the merits of its Petition for Review because the Final Rule exceeds BLM’s statutory authority and therefore violates the Administrative Procedure Act (“APA”). *See* 5 U.S.C. § 706(2)(c). Both the balance of harms and the public interest favor the instant motion.

In support of its Motion, North Dakota submits its Memorandum in Support of North Dakota’s Motion for Preliminary Injunction, along with the following declarations: (1) Declaration of Lynn D. Helms, Director of the North Dakota Industrial Commission, Department of Mineral Resources; and (2) Declaration of L. David Glatt, Chief of the Environmental Health Section of the North Dakota Department of Health.

Additionally, North Dakota respectfully provides notice to the Court that it plans to call witnesses at oral argument on January 6, 2017. Having orally moved for additional argument time during the Court’s November 30th status conference—and the Court having granted North Dakota’s oral motion—North Dakota respectfully requests at least 45 minutes to argue its Motion, not to include time for cross examination. North Dakota also seeks to coordinate with the other petitioners to minimize overlap and delay in presenting argument.

Accordingly, for the reasons set forth herein and in the accompanying Memorandum, North Dakota respectfully moves the Court to grant its Motion for Preliminary Injunction pending the resolution of the Petitioners' challenges on the merits.

Respectfully submitted this 5th day of December, 2016.

/s/ Paul M. Seby

Paul M. Seby (admitted *pro hac vice*)
Special Assistant Attorney General
Greenberg Traurig, LLP
1200 17th Street, Suite 2400
Denver, CO 80202
Phone: (303) 572-6584
Fax: (303) 572-6540
sebyp@gtlaw.com

Wayne Stenehjem (admitted *pro hac vice*)
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Assistant Attorneys General
500 N. 9th Street Bismarck, ND 58501
Phone: (701) 328-2925
ndag@nd.gov

Robert J. Walker (Wyo. Bar No. 7-4715)
Hickey & Evans, LLP
1800 Carey Street, Suite 700
Cheyenne, WY 82003
Phone: (307) 634-1525
Fax: (307) 638-7335
rwalker@hickeyevans.com

**ATTORNEYS FOR PETITIONER-
INTERVENOR STATE OF NORTH DAKOTA**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of (1) State of North Dakota's Motion for Preliminary Injunction; (2) Memorandum in Support of State of North Dakota's Motion for Preliminary Injunction; (3) Declarations of Lynn D. Helms and L. David Glatt in Support of State of North Dakota's Motion for Preliminary Injunction; and (4) Proposed Order Granting North Dakota's Motion for Preliminary Injunction were served via CM/ECF to the parties listed below on December 5, 2016.

Erik Petersen
Senior Assistant Attorney General
Elizabeth Morrisseau
Assistant Attorney General
Wyoming Attorney General's Office
2320 Capitol Ave.
Cheyenne, Wyoming 82002
(307) 777-6946
erik.petersen@wyo.gov
elizabeth.morrisseau@wyo.gov
Counsel for the State of Wyoming

Brandon L. Jensen
Budd-Falen Law Offices, LLC
300 East 18th Street
P.O. Box 346
Cheyenne, Wyoming 82003-0346
(307) 632-5105
brandon@buddfalen.com

Timothy C. Fox, Montana Attorney General
Alan L. Joscelyn, Chief Deputy Attorney General
Tommy H. Butler, Deputy Attorney General
Montana Dept. of Justice
215 North Sanders
P.O. Box 201401
Helena, Montana 59620-1401
(406) 444-0662
timothyfox@mt.gov
alanjoscelyn@mt.gov
tommybutler@mt.gov
Counsel for the State of Montana

Clare M. Boronow
Marissa A. Piropato
United States Department of Justice
Environmental and Natural Resources Division
601 D Street NW
Washington, DC 20004
clare.boronow@usdoj.gov
marissa.piropato@usdoj.gov

C. Levi Martin
United States Attorney's Office
P.O. Box 668
Cheyenne, WY 82003-0668
Christopher.Martin@usdoj.gov
*Counsel for the United States Department
of the Interior, et al.*

/s/ Paul M. Seby
