

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

Scott W Skavdahl, United States District Judge

Lead Case No. 2:15-cv-043-SWS

Member Case No. 2:15-cv-041-SWS

State of Wyoming, et al.,

vs

United States Department of the Interior Secretary, et al.,

Darci Smith, Deputy Clerk
Anne Bowline, Court Reporter
Kelley Anderson, Law Clerk

June 23, 2015
Casper, Wyoming

State of Wyoming

Jeremy Gross, Michael J McGrady

Peter Michael

State of Colorado

Frederick R Yarger

Independent Petroleum Assoc. Of America and
Western Energy Alliance

Lyle Leggette, Mark Barron

& Alexander Obrecht

State of North Dakota, Intervener Petitioner

Andrew Emrich, Paul Seby and Wayne

Stenhjem

UTE Indian Tribe, Intervener Petitioner

Jeffrey Rasmussen and Scott Klosterman

Petitioners

v.

United States Department of Interior Sec.
U.S. Bureau of Land Management Director
U.S. Department of Interior
U.S. Bureau of Land Management
State of Utah

David Carson, Richard McNier and
Mark Klaassen, Stephen Terrell, William
Gerard
Daniel Frank and John Robinson, Jr

Sierra Club, Earthworks, Western
Resource Advocates, Wilderness Society,
Conservation Colorado Education Fund,
Southern Utah Wilderness Alliance

Michael Freeman, Nathan Maxon and
Benjamin Nelson

Intervener Respondents

Respondents

2:15-cv-043-SWS

[32] Motion for Preliminary Injunction filed by State of Wyoming and Colorado
[52] Motion for Preliminary Injunction filed by State of North Dakota

2:15-cv-41-SWS

[11] Motion for Preliminary Injunction filed by IPAA and Western Energy Alliance
[43] Motion for Preliminary Injunction filed by State of North Dakota

- 9:10 am The Court first heard from Scott Klosterman and Jeffrey Rasmussen on behalf of the UTE Tribe. Jeffrey Rasmussen conditionally approved for Pro Hac Vice. MR Rasmussen addressed the UTE Tribe's Motion for Temporary Restraining Order. Michael Freeman for the Intervener Respondants – Opposes the TRO as Untimely. William Gerrard for Federal Respondents also Opposes as Untimely. The Court will grant the request for intervention, but will only take under advisement the UTE Tribes' Motion for Temporary Restraining Order. They will not be able to argue their case today as parties have been unable to brief or respond. The Parties also discussed the lack of the Administrative. The time to file was extended to July 22nd.
- 9:18 am Argument from the State of Wyoming and the State of Colorado through Jeremy Gross.
- 9:47 am Argument for the State of North Dakota, through Paul Seby
- 9:56 am Direct Examination of Lynn Dale Helms, Director of the North Dakota Department of Mineral Resources, Mandan North Dakota by Andrew Emerich, counsel for the State of North Dakota. Exhibit 2 from Mr Helm's June 8, 2015 declaration used as an exhibit.
- 10:09 am Objection from Respondents', Foundation and Speculation – Overruled by the Court. Counsel reminded that the rules of evidence do not apply to preliminary injunction hearings pursuant to 10th Circuit precedent. Witness directed to answer the question. Direct Examination of Mr Helms continued by Mr Emerich.
- 10:14 pm The Court performed a brief voir dire of the witness.
- 10:15 pm Cross Examination of Mr Helms by the Federal Respondents through counsel Stephen R Terrell.
- 10:20 pm Objection by Mr Emerich sustained as to form. Cross Examination of Mr Helms continued by the Federal Respondents, through Mr Terrell.
- 10:37 pm Re-Direct of Mr Helms by Petitioner, North Dakota through Mr Emerich.
- 10:39 am Re-Cross of Mr Helms by Federal Respondent through Mr Terrell.

- 10:41 am Additional Argument heard from Petitioner, State of North Dakota through Mr Paul Seby.
- 10:51 am Court in recess
- 11:04 am Court in session, same participants in attendance.
- 11:05 am Argument from the State of Utah through John Robinson.
- 11:06 am Argument from the Intervener Petitioners, Independent Petroleum Association of America (IPAA) and Western Energy Alliance (WEA) through Mark Barron.
- 11:25 am Direct Examination of Daniel Thomas Naatz, Vice President of Government Relations for the IPAA, Rockville Maryland by Intervener Petitioners through counsel, Mr Mark Barron. Federal Respondents had no questions.
- 11:30 am Cross Examination of Mr Naatz by Intervener Respondents, through Mr Michael Freeman.
- 11:39 am Direct Examination of Kathleen Sgamma, Vice President of Government and Public Affairs for WEA, Denver, Colorado by Intervener Petitioners through Mr Barron.
- 11:43 am -
11:44 am Objection to the use of exhibits from Mr Freeman. Documents not supplied three days prior to the hearing - Objection Overruled. Documents may be utilized.
- 11:45 am Direct Examination of Kathleen Sgamma, continued by Intervener Petitioners, through Mr Barron.
- 11:55 am Cross Examination of Ms Sgamma by Federal Respondents, through Mr Terrell.
- 12:05 am Objection by Mr Barron, outside of scope – Overruled. Cross Examination of Ms Sgamma continued by Federal Respondents, through Mr Terrell.
Government Exhibit 1 – Descriptive Summary of Western Energy Alliance, from their website – Offered and Received
Government Exhibit 2 – “Peeling Back the Red Tape” Graphic from WEA – Offered and Received
Government Exhibit 3 - Congressional Research Service Article- Offered and Received.
Government Exhibit 4 - John Dunham and Associates Memorandum – Offered and Received.
- 12:31 am Cross Examination of Ms Sgamma by Intervener Respondents through Mr Michael Freeman. Witness released.

- 12:41 am Further Argument from the Independent Petroleum Association of America (IPAA) and Western Energy Alliance (WEA) through Mark Barron.
- 12:48 pm Court in recess.
- 2:05 pm Court in session, same participants in attendance. The parties asked the Court to admit the following exhibits. All Offered and Received.
Intervener Respondent Exhibit 1 – 2013 Profile of Independent Producers
Intervener Petitioner’s Exhibit 1 – Robert L Bayless Jr. Declaration
Intervener Petitioner’s Exhibit 2 – Breck Energy Corporation Declaration
Intervener Petitioner’s Exhibit 3 – BLM Colorado Slideshow Cover Page
Intervener Petitioner’s Exhibit 4 – BLM Colorado Mechanical Integrity Slide
Intervener Petitioner’s Exhibit 5 – BLM Colorado Regulation Changes Slide
Intervener Petitioner’s Exhibit 6 – Horizontal- Vertical Drilling
Intervener Petitioner’s Exhibit 7 – BLM N.M. Field Office HF Rule Questions
Intervener Petitioner’s Exhibit 8 – Michael Decker Declaration
- 2:07 pm Argument from the Federal Respondents through William Gerrard regarding the standard for Preliminary Injunction and the BLM’s authority to issue the Rule in question. Voir Dire by the Court throughout the argument.
- 2:26 pm Argument from the Federal Respondents through David Carson regarding the Safe Drinking Water Act. Voir Dire by the Court throughout the argument.
- 2:44 pm Argument from the Federal Respondents through William Gerrard regarding the drilling into federal minerals from private lands and the thee claims raised by the Industry Petitioners and the Administrative Record and the Preamble. Voir Dire by the Court throughout the argument.
- 2:57 pm Argument from the Federal Respondents through David Carson regarding the balance of harms. Voir Dire by the Court.
- 3:38 pm Court in recess
- 3:58 pm Court in session, same parties in attendance.
Argument from Intervener Respondents through Mr Michael Freeman. Voir Dire by the Court.
Intervener Respondent Exhibit 2 – Comments on BLMs Hydraulic Fracturing Rulemaking Proposal.
- 4:30 pm Rebuttal Argument from the State of Wyoming and the State of Colorado through Jeremy Gross. Voir Dire by the Court.
- 4:51 pm Rebuttal Argument from the State of Colorado through Frederick Yarger

- 4:53 pm Rebuttal Argument from the State of North Dakota through Paul Seby.
- 5:15 pm Rebuttal Argument from the Intervener Petitioners through Mark Barrons.
- 5:17 pm Exhibit from a BLM conference shown to the Court. Counsel for Intervener Respondent renewed objection to showing Exhibits not supplied three days in advance. Noted, Overruled by the Court.
Rebuttal Argument from the Intervener Petitioners through Mark Barrons.
- 5:36 pm Court in recess.
- 5:58 pm Court in session, same participants in attendance. The Court first congratulated parties on briefings and arguments. For reasons stated on the record and incorporated by reference, the Court shall STAY the effective date of the FINAL RULE pending the filing of the Administrative Record. Within 7 calendar days of the lodging of the Administrative Record, parties may file citations in support of their positions. The Court intends to issue a ruling within two weeks thereafter. Also Ordered: The Government must Respond to the Ute Tribe's Motion by July 1, and any Reply from the Ute Tribe is due on or before July 8th.
- 6:06 pm Court in recess.

Day's Witnesses

Lynn Dale Helms, Director of the North Dakota Department of Mineral Resources
Daniel Thomas Naatz, Vice President of Government Relations for the IPAA
Kathleen Sgamma, Vice President of Government and Public Affairs for WEA

Clerk's Note: Exhibits from the hearing shall be kept in an expando in the filing room and shall also be attached to the Minute Entry.