



A New Tenant on Federal Lands: Court Orders BLM to Consider Climate Impacts in Approving Energy Leases

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By: Stacey H. Mitchell, Kenneth J. Markowitz

Under NEPA, federal agencies must conduct environmental assessments that consider the environmental consequences, both direct and indirect, of proposed major federal actions to determine whether the agency must conduct a more comprehensive analysis through an environmental impact statement.³

In *Wildearth Guardians*, the court ruled that BLM's environmental assessment was inadequate. As a result, BLM must expand its analysis by:

- Quantifying and forecasting greenhouse gas (GHG) emissions related to oil and gas drilling.
- Considering GHG emissions from the downstream use of oil and gas produced from leased federal lands.
- Comparing GHG emissions to state, regional and national emissions forecasts, as well as to other foreseeable regional and national BLM projects.⁴

Until BLM bolsters its analysis, it may not authorize new drilling on the leased Wyoming parcels.⁵ As a result, this decision effectively expands NEPA's reach to require more robust climate-related analyses. Although the court did not go so far as to require BLM to consider the social cost of carbon or global carbon budget protocols, this decision—if upheld on appeal—could have significant impacts on a variety of large energy projects.⁶

Looking ahead, observers can expect to see further litigation in this area, as the parties to the *Wildearth Guardians* suit plan to submit forthcoming briefs on BLM’s oil and gas leasing decisions in Utah and Colorado, with similar results expected if Judge Contreras also rules on these matters.⁷ Following the district court proceedings, the parties will also almost certainly seek review from the Court of Appeals for the D.C. Circuit, though it remains to be seen whether other courts will follow suit.

¹ *Wildearth Guardians, v. Jewell, et al.*, Civil Action No. 2016-1724 (D.D.C. 2019).

² *Id.* at 56.

³ *See id.* (citing *EarthReports, Inc. v. FERC*, 828 F.3d 949, 953 (D.C. Cir 2016); 40 C.F.R. §§ 1508.9, 1508.25(c)).

⁴ *Id.* at 56.

⁵ *Id.* at 59.

⁶ *Id.* at 57.

⁷ *Id.* at 8.

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