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

STATE OF WYOMING,)	
)	
Petitioner,)	Case No. 2:15-cv-00043-SWS
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
THE INTERIOR; SALLY JEWELL,)	
in her capacity as Secretary of the)	
Interior; BUREAU OF LAND)	
MANAGEMENT; and NEIL)	
KORNZE, in his capacity as Director,)	
Bureau of Land Management,)	
)	
Respondents.)	
)	

[PROPOSED] PETITION FOR REVIEW OF FINAL AGENCY ACTION

The State of North Dakota respectfully petitions the Court for review of final agency action under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706, and this Court’s Local Civil Rule 83.6. On March 26, 2015, the Bureau of Land Management (“BLM”) published in the Federal Register its final rule regulating hydraulic fracturing, entitled “Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands” (“Final Rule”). 80 Fed. Reg. 16128 (Mar. 26, 2015) (to be codified at 43 C.F.R. Part 3160).

1. The BLM’s issuance of the Final Rule constitutes a final agency action subject to review by this Court. 5 U.S.C. §§ 551(13), 704.

2. The Final Rule exceeds the statutory authority granted to the Department of the Interior (“DOI”) and the BLM under the Federal Land Policy and Management Act, 43 U.S.C. §§ 1701-84, and the Mineral Leasing Act, 30 U.S.C. §§ 181-287.

3. The Safe Drinking Water Act (“SDWA”) includes a comprehensive program for regulating underground injections (the “UIC Program”). 42 U.S.C. §§ 300h – 300h-8. This program is administered exclusively by the Environmental Protection Agency (“EPA”) and the states. 42 U.S.C. § 300h-1.

4. The 2005 Energy Policy Act prohibited the federal regulation of hydraulic fracturing under the SDWA’s UIC Program. 42 U.S.C. § 300h(d)(1)(B).

5. The Final Rule should be set aside as not in accordance with law and in excess of statutory jurisdiction. 5 U.S.C. § 706(2)(A), (C).

6. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 1331 (federal question) and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because DOI and BLM are departments of the United States government, Sally Jewell and Neil Kornze are officers of the United States, and the actions complained of relate to public lands located in the District of Wyoming and elsewhere.

Respectfully submitted this 1st day of April, 2015.

/s/ Andrew C. Emrich

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