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November 3, 2016

Sally Jewell  
Secretary  
U.S. Department of the Interior  
1849 C St. NW  
Washington, D.C. 20240

Neil Kornze  
Director  
U.S. Bureau of Land Management  
1849 C St., NW, Rm. 5665  
Washington, D.C. 20240

**Re: Protecting the Climate is not Illegal**

Dear Secretary Jewell and Director Kornze:

We are writing out of deep concern over recent moves that the U.S. Department of the Interior and Bureau of Land Management have taken and are taking to hinder and now apparently criminalize Americans who are exercising their rights to free speech and peaceful assembly. We urge you to stop obstructing public protest and take responsibility for combating climate change.

Concerned for our climate, Americans have been increasingly speaking out against your management of publicly owned fossil fuels. These concerns are more than reasonable considering that by authorizing more oil, gas, and coal development, the administration is effectively condoning more greenhouse gas emissions and directly undermining meaningful efforts to halt the worse impacts of global warming. In doing so, you are fueling an environmental and health crisis that is displacing and threatening billions of people, disrupting our economy, jeopardizing our national security, driving fish and wildlife to extinction, and undermining the future for all of our children and grand children.

Concerns have justifiably manifested in the form of constitutionally protected speech and demonstration. Over the last year, thousands of people have joined in protests over the Department of Interior's decisions to approve more fossil fuel development. The administration's decisions to auction off millions of acres of our public lands and waters for oil and gas drilling and fracking have been especially charged, drawing hundreds to speak out and peacefully assemble.

Disturbingly, the Department of the Interior and the Bureau of Land Management are moving in the wrong direction. The administration has sought and is seeking to limit, hinder, and now outright criminalize climate speech and demonstration. The administration's actions can only be understood as favoring corporate rights to pollute over our citizens' rights to health and a livable planet.

In the last year, the Department of Interior and Bureau of Land Management have taken clear and deliberate steps to avoid and stymie public discourse over the climate impacts of oil and gas leasing, including:

- **Treating activists as criminals.** As recent reports have revealed, peaceful climate protestors have faced unreasonable levels of law enforcement scrutiny and resistance in response to protests of oil and gas lease sales.<sup>1</sup> Law enforcement officers have colluded with state and local law enforcement in an effort to target peaceful demonstrations with surveillance and intimidation and undermine their First, Fourth and Fourteenth Amendment rights. In doing so, you have sent the message that free speech, protest, and demonstration around the climate is a law enforcement concern, rather than a legitimate, reasonable, and protected form of traditional American discourse.
- **Moving the location of lease sales to stymie protest.** As we have learned, in an attempt to avoid public scrutiny and righteous critique, the location of oil and gas lease sales have been changed on multiple occasions. In New Mexico, the State Office abruptly changed the location of a planned oil and gas lease sale this past July, apparently at the urging of law enforcement staff who recommended a new location in order to minimize protest. Rather than face the public in Santa Fe, New Mexico, where protests over oil and gas leasing occurred in April, the location was moved to Roswell, New Mexico to avoid a large demonstration, switching the venue to an oil and gas friendly location.<sup>2</sup>
- **Moving oil and gas lease sales online to avoid public scrutiny.** Most recently, the administration announced that all onshore oil and gas lease sales will now be held online. As oil and gas industry applause has shown, the move seems clearly calculated to further avoid public examination and pressure by limiting the transparency of the leasing process and eliminating in-person oil and gas lease sales as forums for peaceable assembly. It is notable that you approved online oil and gas leasing through a rulemaking that involved no public notice, no opportunity for public comment, and no legitimate deliberation.<sup>3</sup>
- **Barring First Amendment protected speech and assembly around the climate.** Perhaps the most distressing proposal is in Colorado, where the Bureau of Land Management is moving to unconstitutionally restrict speech that is deemed to be “disruptive” or “offensive.”<sup>4</sup> This far-reaching proposed rule, which provides no exceptions for free speech or peaceful assembly, seems to have come in direct response to climate protests in Colorado and elsewhere.

What is most alarming overall is that it seems apparent the Department of Interior is putting the purported success of the oil and gas management program above the climate, above public discourse, and above the Constitutional rights of Americans. This is shameful, unlawful, and it must stop.

There seems an inherent conflict between statements by President Obama that promise to “lead global efforts to address the threat of climate change” and the policies being implemented on the ground by the Department of Interior, which exacerbate not only the threat but accelerate the consequences of climate change. As you are aware and the President warns, “Children, the elderly, and the poor are most vulnerable to a range of climate-related health effects, including those related to heat stress, air pollution, extreme weather events, and diseases carried by food, water, and insects.”<sup>5</sup> It is imperative that the Department of Interior immediately take necessary action to resolve this discrepancy between words and deeds.

To this end, we are calling on you to take immediate steps to set a new course. We urge you to do the following to restore trust and integrity among all Americans, protect our constitutional rights, and most importantly, demonstrate a commitment to safeguarding the climate:

- Immediately impose a moratorium on new onshore and offshore oil and gas leasing;
- Develop and implement reforms to ensure the federal oil and gas program is managed in a way that fully safeguards the climate;
- Order your law enforcement staff to stop hindering free speech and peaceable assembly and to stop treating climate activists as criminals. To this end, we call on you to withdraw the proposed rule in Colorado that would criminalize climate speech and assembly; and
- Establish a clear and direct policy of promoting and accommodating free speech and peaceable assembly that allows all Americans the space to publicly scrutinize your actions and advocate for change and a better world for us all.

Please, seize the opportunity to usher in a new energy economy and transition to renewables as quickly as possible, and do better for the American public and for our climate. Thank you.

Sincerely,

**Counselor Chapter**

Samuel Sage, Community Coordinator  
Navajo Nation / Counselor, New Mexico

**Diné Citizens Against Ruining our Environment**

Carol J. Davis, Coordinator  
Navajo Nation / Winslow, AZ

**Dooda Desert Rock**

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**Dooda Fracking**

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**InterTribal Territories Recovery  
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**Wagon Mound Development  
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**Frack Free Four Corners**

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**New Mexico Story Power**

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**Northern New Mexico Climate Activists**

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**SEEDs of SW New Mexico, Securing Economic and Energy Democracy**

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**Stop the Frack Attack Advisory Council**

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**U.S. Climate Plan**

Evan Weber, Executive Director  
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**WildEarth Guardians**

Jeremy Nichols, Climate & Energy  
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<sup>1</sup> See Fang, L. and S. Horn, "Federal agents went undercover to spy on anti-fracking movements, emails reveal," *The Intercept* (July 19, 2016), available at <https://theintercept.com/2016/07/19/blm-fracking-protests/>.

<sup>2</sup> Documents obtained under the Freedom of Information Act ("FOIA") that detail the Bureau of Land Management's rationale for moving the New Mexico lease sale location are available in an online folder at <https://www.dropbox.com/sh/266if4i1vce7tjw/AABbRCbDaC9V9-A60tgU-cja?dl=0>

<sup>3</sup> See 81 Fed. Reg. 59,902 (Aug. 31, 2016).

<sup>4</sup> See 81 Fed. Reg. 69,019 (Oct. 5, 2016).

<sup>5</sup> See President Obama, "Statement by the President on the Paris Climate Agreement," (December 12, 2015), available at <https://www.whitehouse.gov/president-obama-climate-action-plan>.