

# ENVIRONMENTAL COURT CASES ACROSS THE WORLD

## Climate Change

## FRIENDS OF THE EARTH V. HAALAND

Federal District Court for the District of Columbia  
Filed: August 31, 2021, Decided: January 27, 2022

### U.S. COURT VACATES OFFSHORE OIL AND GAS LEASE SALES DUE TO INADEQUATE CONSIDERATION OF RELATED GREENHOUSE GAS EMISSIONS

#### Parties

**Plaintiffs:** Four non-governmental organisations (Friends of the Earth, Healthy Gulf, Sierra Club, and Center for Biological Diversity)  
**Defendants:** Secretary of the Interior, Assistant Secretary of the Interior for Land and Minerals Management, U.S. Department of the Interior, and Bureau of Ocean Energy Management

#### Key Facts

In January 2021, the Trump Administration announced a lease sale for oil and gas production and development in the Gulf of Mexico. When President Biden took office, the new administration rescinded this lease sale. However, in August 2021, the Biden administration then reinstated the lease sale by implementing a new Determination of NEPA (National Environmental Policy Act) Adequacy based on the same NEPA analysis that the Trump administration used.

The plaintiffs filed a suit alleging violations of NEPA and the Administrative Procedure Act (APA), highlighting the absurdity of the claims that burning the, up to, 1.12 billion barrels of oil and 4.4 trillion cubic feet of natural gas that would result from the lease sale "will not contribute to climate change" and will instead "reduce greenhouse gas emissions" compared to the "no-go" alternative. The plaintiffs alleged that the foreign substitution effect (that foreign sources would replace U.S. sources if the lease sale does not take place) on which the analysis relies was not supported by available factual information. Further, the plaintiffs argued that the NEPA analysis, which was nearly five years old, must be updated to include new available information that additional oil and gas leasing will exacerbate the climate crisis to an extent that was not considered in the previous NEPA analysis.

#### The Court's Decisions and Reasoning

On January 27, 2022, the court vacated the lease sale in a memorandum opinion granting partial summary judgment. The court held that the Bureau of Ocean Energy Management (BOEM) had arbitrarily decided not to consider foreign oil consumption in its evaluation of GHG emissions of the no action alternative. The court noted that BOEM's determination was based on the same NEPA analysis that the Trump administration used, which both the Ninth Circuit and the federal district court for the District of Alaska had previously concluded was arbitrary and capricious for its "counterintuitive conclusion" that total GHG emissions would be higher if the lease sales took place (even though the model predicted a decrease in foreign oil consumption if the lease sales did not take place).

The court held that BOEM either needed to provide a quantitative estimate of downstream greenhouse gas emissions resulting from the reduced foreign consumption or to provide a more specific explanation of why it could not do so. The court ultimately decided that the lease sale approval must be vacated.

The court rejected the plaintiffs' argument that BOEM was required to consider new information on climate change, including the counterproductive role of oil and gas leasing to reaching the 1.5 degree warming limit goal.



## What now?

Because the court vacated the approval of the lease sale as an unlawful agency action, if the Department of the Interior and Bureau of Ocean Energy Management wish to conduct a future sale of these leases, the departments must undertake a new NEPA analysis and prepare a new environmental impact statement, among other administrative procedures prior to the approval of a future lease sale. As the court stated in its opinion, in its analysis BOEM must either provide a quantitative estimate of downstream greenhouse gas emissions resulting from the reduced foreign consumption or provide a specific explanation of why it cannot do so.

## International Impact

This court decision has an impact on the future of offshore oil and gas drilling in the United States, as the licensing agencies must now consider the climate change impacts, including associated foreign greenhouse gas emissions, of offshore oil and gas development activities. As scientists paint an increasingly dire picture of the climate crisis, it will be increasingly difficult for regulating and licensing agencies to justify these kinds of offshore oil and gas extractive projects or to reconcile these projects with international climate commitments. Beyond the more stringent analysis that this judgment will require agencies to undertake in the future, the invalidation of these particular leases is also notable. Not only was the now-voided lease sale the largest in U.S. history at 37.4 million offshore hectares, but because the U.S. is one of the worst global greenhouse gas emitters, the invalidation of this lease sale necessarily has an international impact.

## Key Issues

Offshore oil and gas development, environmental impact assessment, foreign emissions calculations, no action or "no-go" alternatives, downstream emissions

## Laws and Agreements Cited

**International:**  
Paris Agreement (as cited in U.S. case law)  
**Domestic:**  
National Environmental Policy Act  
Administrative Procedure Act

## References & Further Reading

### Case Documents

[Plaintiffs' Complaint](#)  
[Memorandum Opinion Partially Granting Summary Judgment](#)

### Further Reading

[Al Jazeera - US judge annuls major oil lease sale over climate effect](#)  
[Washington Post - Judge throws out massive Gulf of Mexico oil and gas lease sale](#)  
[New York Times - Court Revokes Oil and Gas Leases, Citing Climate Change](#)  
[Reuters - Analysis: Biden gets climate win with court loss on Gulf of Mexico oil leases](#)  
[U.S. News & World Report - Federal Judge Throws Out Oil Lease Sale in Gulf of Mexico](#)  
[The Guardian - US judge blocks sale of Gulf of Mexico drilling leases over climate concerns](#)

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