



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Montana State Office  
5001 Southgate Drive  
Billings, Montana 59101-4669  
<http://www.blm.gov/mt>

In Reply Refer To:

3100 (MT9220.JB)

MTM 98927

April 1, 2009

April 14, 2009 Competitive Oil & Gas Lease Sale

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Twila N. Ketterman  
718 Knollwood Drive  
San Dimas, California 91773-3617

Dear Ms. Ketterman:

On March 16, 2009, we received your protest (Enclosure 1). While you did not specify which parcel you protested on the April 2009 lease sale, we believe that you are protesting parcel MT 04-09-37 because you and your sister, Ms. Connie Dolin, own a portion of that 40-acre parcel. We will also address your general concerns. We apologize that we did not directly contact your sister in our original mailing. The source we are using for records on surface owners did not include her address. After receiving your letter with her address, we mailed her a copy of the notice.

As noted, records indicate that you and your sister own a portion of the NWNW Sec. 32, T. 36 N., R. 58 E., which is parcel MT 04-09-37 on our April sale. That parcel is located in Sheridan County, Montana. We have enclosed a copy of the original patent conveying title to the NWNW of Sec. 32 to the State of Montana on November 6, 1958. We have highlighted the portion that indicates the oil and gas and coal were reserved by the United States at the time of patent issuance (Enclosure 2).

Our records indicate that the 40 acre parcel has been leased for oil and gas twice in the last 25 years with the latest lease expiring on October 31, 2006. We have enclosed serial register pages for both leases for your information (Enclosures 3 and 4). While there was no physical production from the parcel, it is on the border of the Goose Lake Field which is a large, productive oil field. There are four shut-in wells, one abandoned well and one producing oil well within Section 32. There is also one permitted injection well within the boundaries of the section. All the wells are fee wells (the NWNW Section 32 contains the only federally-owned oil and gas in the section).

The governing Bureau of Land Management (BLM) land use plan for this area is the Big Dry Resource Management Plan (RMP) approved in April 1996. Stipulations required by the RMP were attached to the proposed lease parcel and would be included with any lease issued. Land use plans form the basis for all decisions the BLM makes concerning public lands and minerals, and that is where the leasing process starts. A land use plan, or RMP, includes an environmental impact statement (EIS) and normally takes several years to complete. Preparation for this RMP began in 1989 with public notices that the BLM intended to prepare the plan. In early 1990, the BLM held public meetings to secure comments. These meetings were held in nine towns throughout the planning area. The draft RMP was distributed in February 1993 for public review, and additional public meetings were held in the same nine communities in May of that year. Based on the results of the review of the draft RMP, a proposed final RMP was released in 1995. The Record of Decision (ROD) was then approved in 1996.

When the BLM receives lease nominations, we determine what stipulations should be placed on each parcel based on the applicable RMP. These are noted in the sale notice you were mailed. Stipulations restrict activity on the surface, the time the activity can take place, or both. For example, if an area covers winter range for wildlife, a “timing” stipulation can ban activity during the winter. If an area has important surface features that need to be preserved, a “no-surface-occupancy (NSO)” stipulation can prevent any use of the surface and force a company to drill directionally from another location.

After parcels are reviewed for stipulations, the parcels are offered for sale at a competitive oil and gas sale, such as the one scheduled for April. The minimum bonus bid is \$2.00 per acre by law. However, at our last competitive oil and gas lease sale on January 27, 2009, the average bonus bid was \$522.44 per acre. The highest bid per acre at that sale was \$3,500.00. Lessees pay an annual rental on the lease until it expires or until oil or gas is produced when the annual rental is replaced by a 12.5 percent royalty on the sale price of any oil and gas production. The state receives a portion of the bonus bids, rental fees, and royalties paid on federal leases.

If there is any development of oil/gas on the parcel in question, the lessee/operator must negotiate for permission to gain access with the affected surface owners. Also, prior to our approval of any applications for permit to drill within the 40-acre tract, we would:

- require the lessee/operator to certify that a good faith effort has been made to negotiate a surface use agreement with the surface owners;
- invite the surface owners to participate in the pre-drilling onsite inspection/meeting, and seek the surface owner’s input on development and reclamation issues; and
- carefully consider the surface owner’s views and the effects on the surface owner’s uses of the land before determining mitigation requirements and approving operations.

In your letter, you indicate that you are basing your protest on the environmental impact of selling oil and gas leases. You make general remarks about environmental impacts of developing oil and gas and suggest that the government should be protecting land from development rather than encouraging the burning of fossil fuels. You believe that the government should be encouraging the development of renewable energy sources. However, you have not provided sufficient justification for the BLM to withdraw the parcel from the sale. The BLM believes that the terms and conditions under which a lease would be issued are sufficient to protect environmental values.

**Decision:** For the reasons stated above, your protest is dismissed. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 (Enclosure 5) and the enclosed Form 1842-1 (Enclosure 6). If an appeal is taken, the Notice of Appeal must be filed in the Montana State Office at the above address within 30 days from receipt of this Decision. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file a petition for a stay pursuant to 43 CFR Part 4, Subpart B § 4.21, during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay must show sufficient justification based on the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Copies of the Notice of Appeal, Petition for Stay, and any statement of reasons, written arguments or briefs must also be submitted to the Office of the Solicitor at the address shown on Form 1842-1 at the same time the original documents are filed in this office.

If we receive an offer to lease the protested parcel at the sale or after the sale and issue the lease, we will notify you of the identity of the lessee. In case of appeal, the lessee must also be served.

/s/ Gene R. Terland

Gene R. Terland  
State Director

Enclosures

- 1-Letter of March 12, 2009 (2 pp)
- 2-Patent (7 pp)
- 3-Serial Register Page Lease MTM 063226 (2 pp)
- 4-Serial Register Page Lease MTM 085775 (1 p)
- 5-Form 1842-1 (1 p)
- 6-5-43 CFR 4.21(a) (2 pp)

cc: (w/encls.)

Ms. Connie Dolin, P.O. Box 802, Kent, WA 98035-0802  
Miles City Field Office

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