

February 16th, 2016

2016 FEB 19 PM 12:08

VIA FAX (505) 954-2010 and U.S. Mail

Amy Leuders,
Director Bureau of Land Management
New Mexico State Office
301 Dinosaur Trail
Santa Fe, New Mexico 87508

Bureau of Land Management
New Mexico Office
P.O. Box 27115
Santa Fe, New Mexico 87502-0115

Re: Protest of April 20, 2016 Lease Sale

City of The Colony, Texas protests pursuant to 43 C.F.R. § 3120.1-3 the proposed auction by Bureau of Land Management ("BLM") of Parcel NM-201604-044 comprising approximately 259 acres in and adjacent to Lewisville Lake, Denton County, Texas (the "Lewisville Lake Property")

PROTEST

1. Protesting Party: Contact Information and Interests:

This Protest is filed on behalf of: City of The Colony, Texas

Troy Powell
6800 Main Street
972-624-3100
cm@thecolonytx.gov

Statement of Interest & Reasons as to Why the Proposed Lease Sale Is Unlawful



Statement of Interest & Reasons as to Why the Proposed Lease Sale Is Unlawful

Dear Ms. Lueders:

I am the City Manager for The Colony, Texas, a municipality with approximately 40,000 residents located adjacent to Lewisville Lake. We are a wholesale customer of the Dallas Water Utility who along with several other communities in the area relies on Lewisville Lake as the primary source of water for our residents. Oil and gas production at the Lewisville Lake Property poses a significant risk to surface water quality in and around the land proposed to be auctioned.

As a result, any spills or releases of oil and gas waste and their hazardous components have the potential to impact the drinking water of The Colony residents. These direct impacts from oil and gas activities have not been adequately studied in BLM's Environmental Assessment for the lease sale and represent an unacceptable level of risk to the residents of The Colony. Hydraulic fracturing beneath the lake could also induce earthquakes and exacerbate the dam's existing structural integrity problems. According to the U.S. Army Corps of Engineers, the dam is already at "high risk" of failure in an extreme event. A breach of the dam could cause enormous property loss and risk the lives of many communities downstream from the dam, including the life and property of The Colony residents. Of equal concern is the potential impact and risk of contamination to the Woodbine, Paluxy and Trinity aquifers of which The Colony has invested four water wells to draw water from as a secondary water source.

Neither the local governments surrounding Lewisville Lake nor the water-consuming public have had an adequate opportunity to review and consider the potential impacts of the BLM auction of the Lewisville Lake Property. BLM did not provide the Colony notice of the proposed sale, and we only learned of the proposed auction on February 11th, 2016 from a local newspaper article. It is our understanding that the only notice BLM provided of the proposed auction is on its New Mexico website. For these reasons, the City of The Colony requests that the BLM withdraw the Lewisville Lake Property from its April 20, 2016 auction.

Leasing Act for Acquired Lands prohibits mineral leasing of federally acquired lands within incorporated cities, towns and villages:

[A]ll deposits of coal, phosphate, oil, oil shale, gas, sodium, potassium, and sulfur which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States (*exclusive of such deposits in such acquired lands as are (a) situated within incorporated cities, towns and villages, national parks or monuments, (b) set apart for military or naval purposes, or (c) tidelands or submerged lands*) may be leased by the Secretary under the same conditions as contained in the leasing provisions of the mineral leasing laws, subject to the provision hereof.

30 U.S.C. § 352 (emphasis added). The Mineral Leasing Act sets forth a similar prohibition for lands within the public domain. *See* 30 U.S.C. § 181; 43 C.F.R. 3100.0-3(a)(2)(iii). Public domain lands are those that were “never in state or private ownership,” in contrast to acquired lands, which the United States acquired from a state or private party. *See Watt v. Alaska*, 451 U.S. 259, 264 n.7 (1981).

Presumably, Parcel 43 overlies acquired lands. *See* BLM Sale Notice at 11-14 (listing Parcel 43 under “Texas Acquired” heading). In any case, BLM cannot offer municipally incorporated areas for oil and gas leasing, whether acquired or public domain. Parcel 43 falls within the City of Corinth, Town of Hickory Creek, and the City of Highland Village. Each of these cities are incorporated municipalities.¹ BLM must withdraw Parcel 43, or at minimum carve out those areas that fall within incorporated city limits.

Sincerely,



Troy C. Powell
City Manager
City of The Colony

CC:

Joe McCourry,	Mayor, City of The Colony
Kirk Mikulec,	Councilman Place 1, City of The Colony
Richard Boyer,	Councilman Place 2, City of The Colony
Brian Wade,	Councilman Place 3, City of The Colony
David Terre,	Councilman Place 4, City of The Colony
Perry Schrag,	Councilman, Place 5, City of The Colony
Joel Marks,	Councilman, Place 6, City of The Colony
Christie Wilson,	City Secretary, City of The Colony

¹ *See* City of Corinth Home Rule Charter, available at <https://www.cityofcorinth.com/documentcenter/view/1099>; *see also* Texas Sesquicentennial Corinth, Corinth Yesterday and Today: A Brief History of Our Town (1986), available at <https://www.cityofcorinth.com/DocumentCenter/View/5225>; City of Highland Village Charter, available at <http://z2.franklinlegal.net/franklin/Z2Browser2.html?showset=highlandvillageset>; *Hickory Creek*, available at <http://z2.franklinlegal.net/franklin/Z2Browser2.html?showset=hickorycreekset>.