September 14, 2026

EXPLANATION IN SUPPORT OF DECISION TO DENY OHIO ENVIRONMENTAL COUNCIL'S PROTEST

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SEPTEMBER 15, 2026 COMPETITIVE OIL AND GAS LEASE SALE PROTEST OF 41 PARCELS, WAYNE NATIONAL FOREST

PROTEST DENIED

On August 13, 2026, the BLM Eastern States received a protest letter from the Ohio Environmental Council (OEC) and other signing parties (OEC Protest Letter). The OEC Protest Letter described failings that the signing parties allege preclude this decision from moving forward, specifically the decision to offer federal minerals underlying 41 parcels of public land within the Wayne National Forest (WNF) totaling approximately 2,840.1 acres for oil and gas leasing at a competitive lease sale to be held on September 15, 2026 (September Lease Sale). The specific parcels being protested are all of the parcels listed in the July 17, 2026, Notice of Competitive Oil and Gas Internet Lease Sale as available for lease at the upcoming September Lease Sale.

In a Decision letter dated September 14, 2026, the BLM Eastern States notified parties protesting via the BLM's Public Inputs & Actions webpage that the WNF parcels that protests are denied and provided information about the rights of the Protesting Parties to appeal the BLM's Decision within 30 days.[1] As noted in the Decision letter, the following is the detailed Explanation in Support of Decision in response to the specific protest submitted by you as the Protesting Party.

BACKGROUND

The BLM Eastern States, Northeastern States District Office (NSDO) produced the environmental analysis documentation compliant with the National Environmental Policy Act (NEPA), specifically a Determination of NEPA Adequacy (DNA),[2] as part of the September Lease Sale process. This DNA relied on an Environmental Assessment completed in 2016 (2016

[1] The instructions for appealing the BLM's Decision are also included at the end of this Explanation in Support of Decision, although, as the BLM's Decision states, the 30-day appeals period begins upon receipt of the BLM Decision and not this supporting Explanation in Support of Decision.

[2] See https://eplanning.blm.gov/Project-Home/?id=798D6BF4-A7F2-F011-8407-001DD80BCF93

EA)[3] and a Supplemental Environmental Assessment completed in 2025 (2025 SEA).[4] The 2025 SEA was ordered after a federal court found the 2016 EA to be deficient in the analysis of surface-area disturbance, cumulative impacts to the Indiana bat (*Myotis sodalis*) and the Little Muskingum River and other local water sources, and impacts on air quality, and remanded it to the BLM. The 2016 EA and 2025 SEA include analysis of numerous parcels within the WNF, including the 41 nominated parcels that are the subject of the September Lease Sale. The DNA documented the NSDO's review of the 2016 EA and 2025 SEA for sufficiency. The 2016 EA and 2025 SEA utilized an interdisciplinary team to analyze potential oil and gas leasing for conformity with the current land use decisions for the planning areas and compliance with NEPA. The BLM and U.S. Forest Service (USFS) reviewed the 2016 EA, and within the 2025 SEA specifically analyzed and addressed the surface-area disturbance, cumulative impacts to the Indiana bat (*Myotis sodalis*) and the Little Muskingum River and other local water sources for compliance with the applicable land use plan and associated NEPA analysis and found the analyses contained within to sufficiently disclose the potential environmental effects of the same proposed action described in the DNA. Specifically, the SEA describes how the BLM will not allow any water withdrawals from the Little Muskingum River. The applicable land use plan, the USFS Wayne National Forest 2006 Land and Resource Management Plan,[5] provided decisions for the offering of mineral resources within the WNF and identified the need to coordinate with the BLM to lease those minerals. The DNA described the Proposed Action, which mirrored alternatives analyzed in the 2016 EA and the 2025 SEA with nearly identical environmental effects.

The draft parcel list, maps showing the spatial location of the parcels for the September Lease Sale, and a draft of the DNA were made publicly available online from December 15, 2025, to January 16, 2026, during a public scoping period on the project's ePlanning site. During this scoping period, the BLM received a scoping letter from the Center for Biological Diversity (CBD), a named party at the center of this protest, outlining 28 issues and sub-issues that identified deficiencies in the 2016 EA and 2025 SEA which CBD concluded made a DNA unusable.

The same materials for the September Lease Sale were made publicly available online from May 18 through June 17, 2026, for a public review and comment period. During this comment period, the CBD resubmitted their comments from the scoping period as an attachment and described how the issues raised in their scoping comments confirmed that the BLM did not make the necessary improvements to the 2016 EA in the 2025 SEA, leading the BLM's leasing preference analysis to be arbitrary and capricious and their NEPA duties remaining unfulfilled.

On July 17, 2026, the BLM publicly posted the Sale Notice and revised DNA, initiating a protest period from July 17 to August 17, 2026. On July 31, 2026, the BLM publicly posted an erratum

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[3] See https://eplanning.blm.gov/Project-Home/?id=ee9bf989-a7f2-f011-8406-001dd802fdea

[4] See https://eplanning.blm.gov/Project-Home/?id=3efaeeda-a7f2-f011-8407-001dd80db62a

[5] See https://www.fs.usda.gov/r09/wayne/planning/forest-plan

to clarify the deadline to submit protests.[6] The Sale Notice identified 41 parcels[7] that would be offered for competitive lease and described the procedures for filing a formal protest. On August 13, 2026, BLM received the OEC Protest Letter via postal mail. The OEC Protest Letter was deemed compliant with all of the protest submittal requirements described in the Sale Notice and as such has been analyzed and responded to in this letter. It should be noted the OEC Protest Letter was submitted as the protest representation of multiple groups as indicated by their respective authorized representatives signing the letter. The signatory organizations of the OEC Protest Letter are:

- Ohio Environmental Council (OEC)
- Center for Biological Diversity (CBD)
- Heartwood
- Sierra Club
- Ohio Valley Allies
- Buckey Environmental Network

STATEMENT OF REASONS

The following responses by the BLM address the Protesting Parties' (collectively referred to as "OEC") statement of reasons[8] related to the 41 parcels protested. The BLM has reviewed the OEC's statement of reasons in its entirety. OEC provides 13 overarching issues (listed as I through VI below, exactly how they are formatted in the OEC Protest Letter). Each of OEC's protest issues is listed in bold below, followed by a summary of its arguments. The BLM's response to each of OEC's issues follows.

I. BLM cannot hold this lease sale because the underlying RMP never went into effect.

OEC claims that the WNF 2006 Land and Resource Management Plan (2006 LRMP) was never transmitted to Congress and the Comptroller General in the form of a report as it should have been. They argue that the Congressional Review Act (CRA) requires all rules[9] to be submitted to Congress and the Comptroller General for review before a rule becomes effective. OEC submits multiple Government Accountability Office (GAO) reports that have found past BLM Resource Management Plans (RMPs) as rules subject to CRA review. They provide their own analysis to assert that the 2006 LRMP is substantively similar to these BLM RMPs and therefore is

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[6] The original Sale Notice stated that the protest period concluded on August 15. The errata clarified that the period concluded on August 17. See https://eplanning.blm.gov/Documents/?id=798d6bf4-a7f2-f011-8407-001dd80bcf93&spid=ab5fd097-a8f2-f011-8406-001dd802fdea#, Section titled "September 2026 Eastern States Lease Sale Notice and Final DNA with Attachments"

[7] On August 13, 2026, BLM published errata 2. This erratum removed OH-2026-09-1626 (EOI ES00002915L) from the list of offered parcels due to a need for further review of the parcel. This parcel has been deferred to a subsequent potential lease sale, and this lease sale now addresses 40 parcels totaling 2,776.84 acres. For purposes of maintaining consistency with OEC's submitted protest letter, this protest response letter will respond by citing all 41 parcels and 2,840.1 acres. See id.

[8] See https://eplanning.blm.gov/Project-Home/?id=798D6BF4-A7F2-F011-8407-001DD80BCF93, Section "Protest Letters"

[9] A 2025 Government Accountability Office classified land use plans as "rules" subject to Congressional Review Act review. See https://www.gao.gov/products/b-338306.

considered to be a rule. They conclude by stating that since the 2006 LRMP was never submitted for CRA review, it never became effective. Since it never became effective, the BLM may not utilize it as the governing land use plan, thus making any utilization of the 2006 LRMP a violation of the Federal Land Policy and Management Act (FLPMA).

BLM Response: Administratively, the GAO reports that OEC cites reference BLM RMPs, a bureau which falls under the Department of the Interior (DOI). The USFS 2006 LRMP was created by a bureau that falls under the Department of Agriculture (USDA). No reports cited by OEC, nor any that the BLM was able to locate refer to the application of CRA review to USDA-governed agency land use plans. As such, there is no confirmation that the 2006 LRMP would be considered eligible for CRA review and therefore still eligible for its reliance by the BLM for this project.

Whether the 2006 LRMP is a rule or "effective" under the Congressional Review Act, 5 U.S.C. 801-808, is a case-by-case determination based on the specific provisions of the resource management plan (RMP) at issue and is a question reserved to the executive and legislative branches under the terms of that Act. *See* 5 U.S.C. 805; *Kan Natural Res. Coalition v. United States DOI*, 971 F.3d 1222 (10^{th} Cir. 2020); 5 U.S.C. 802(a) (providing for a resolution of disapproval of one rule at a time). Indeed, Congress has made case-by-case determinations that some Department of Interior RMP decisions are rules under the CRA, *see* Pub. L. No. 119-48 (2025) (Miles City RMP Amendment); Pub. L. No. 119-39 (2025) (North Dakota RMP Revision); Pub. L. No. 119-50 (2025) (Central Yukon RMP Revision); Pub. L. No. 119-51 (Buffalo RMP Amendment), but not others. See H.R. Res. 96 (2017-2018) (Eastern Interior RMP; not enacted). Further, Congress and the President follow the same constitutionally required processes when disapproving a rule under the Congressional Review Act and when enacting a bill into federal law. Though Congress may follow different internal procedures when disapproving a rule and when enacting a bill, because Congress is the final arbiter of compliance with its own procedures, U.S. Const., art. I, § 5, cl. 2, any claims that Congressional process was not properly adhered to are not justiciable. Congress has not indicated the 2006 Forest Plan is subject to the CRA, nor has it passed a law invalidating it, which it could do, at any time, regardless of the procedures detailed in the CRA.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

II. Even assuming the RMP is valid and in effect, it is inadequate to support leasing.

OEC claims that the BLM Land Use Planning (LUP) Handbook requires that all LUPs must be evaluated and updated at least every five years. Since the 2006 LRMP has not been updated since its original publication, it is out-of-date and therefore cannot be used. At a minimum, OEC asserts that all parcels being proposed for leasing under the 2006 LRMP must be deferred until the plan can be evaluated and updated to the most recent and up-to-date information available.

BLM Response: The 2006 LRMP is neither subject to a BLM-imposed rule, nor is there a BLM requirement to update a plan at least every five years. The 2006 LRMP is a plan developed by the USFS, not the BLM. As such, it is not bound by any guidance, policy, or requirements imposed by a BLM handbook. Further, the version of the BLM LUP Handbook that OEC cites is out of date. The BLM requirement comes from a 2005 Handbook whereas the BLM most recently updated the BLM LUP Handbook in 2025. In that update, the BLM edited the updating of LUPs from being "required" to being "strongly advised." As such, the authorized officer retains discretion in determining the appropriateness and applicability of a plan for reliance.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

III. The BLM may not rely on the 2025 SEA or 2016 EA NEPA documents to determine NEPA adequacy for the September Lease Sale.

OEC describes how in 2021, a U.S. District Court judge found the 2016 EA and Finding of No Significant Impact (FONSI) to be inadequate and ordered the BLM and USFS to rectify these deficiencies before moving forward with any leasing of the parcels or drilling within the WNF. OEC further cites that no confirmation of sufficiency has been made for the 2025 SEA. They claim that this means the BLM is moving forward with leasing using inadequate NEPA analysis that a judge has not deemed sufficient, in violation of NEPA. OEC describes multiple failings of the 2016 EA and 2025 SEA in detail below that they claim leave the "hard look" requirements of NEPA unfulfilled. Each individual claim is described below with a response specific to that claim provided.

It should be noted, however, that the BLM has complied with the court's orders and judgment, and no administrative or court orders have issued to halt the September Lease Sale or enjoin BLM's 2025 SEA FONSI and DR. In April 2025, the BLM completed the 2025 SEA, which expressly considered the deficiencies in the 2016 EA identified in the court's summary judgment and remedy orders. No further court instructions or injunction for stay have been ordered. Therefore, the BLM may move forward with the leasing process.

a. The FSEA failed to assess impacts resulting from drilling in Washington County.

OEC claims that BLM completely excluded all parcels and acreages within Washington County from its projected well development scenarios, despite Washington County containing half of the project area and half of the Expressions of Interest (EOIs) for the project. They claim there is no explanation provided for why all anticipated wells would be assumed to be found within the neighboring Monroe and Noble Counties. By not including Washington County, BLM did not address the effects on the entire affected environment, making the 2025 SEA insufficient.

BLM Response: Based on the past review of well drilling in the Marietta Unit, most drilling and production has occurred in Monroe and Noble County. The lack of projected wells in the 2020 Reasonably Foreseeable Development Scenario (RFDS) does not render the SEA as deficient for purposes of offering leases in Washington County as BLM still assessed the potential impacts from oil and gas leasing and development across the full project area plus a four-mile buffer. The BLM does not say that zero exploration may happen in Washington County, but the RFDS recognizes that few to no wells have been drilled in Washington County in recent history (see page 24 of the RFDS). In the last 2 years, only Monroe and Perry Counties had exploration wells drilled. Producing wells were drilled in this same thirteen-year period in all WNF Counties, except Scioto County. Monroe, Noble and Morgan counties had the most producing wells drilled over this thirteen-year period. In the years 2017 and 2018, only Hocking, Monroe, Noble and Perry Counties had producing wells drilled. BLM considered potential impacts to all resources from the potential for leasing and subsequent development, but development was not reasonably foreseeable. Exploratory drilling may still occur if the lands are bid upon, and a lease is issued.

The 2025 SEA discusses what different pollutants are expected to be emitted from this project, the effects the levels of those pollutants may imply, and identifies that parts of Washington County are maintenance areas where future development must comply with applicable Clean Air Act and permitting requirements (Section 3.3, 3.4, and Appendix I). For the majority of resource categories in the 2025 SEA, including air quality resources, the Cumulative Impact Analysis Area (CIAA) includes the Marietta Unit of the WNF, including all parcels proposed for leasing at the September Lease Sale, and a 4-mile buffer surrounding the unit, excluding West Virginia, plus an additional 0.5-mile buffer (SEA, p. 3-48); this area includes Washington County. Thus, simply because Washington County was not specifically called out within the 2025 SEA does not mean that the parcels that fall within the county were not analyzed.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

b. The FSEA failed to take a hard look at impacts to surface water and aquatic species from dewatering.

OEC makes claims that the 2025 SEA does not adequately assess the effects the water withdrawals have on rivers and streams within the Marietta Unit of WNF as well as the effects they will have upon ten federally listed aquatic species[10] and two aquatic species that are proposed for listing.[11] OEC goes on to cite sections of the SEA that state that withdrawals could lead to water levels dropping below minimum flow rates and other thresholds. OEC assumes that, as a response to these potential harms, BLM developed and drafted Aquatic Avoidance and Mitigation Measure 5 (AMM 5) which prohibits water withdrawal from happening in waterways containing federally listed or proposed species. OEC then presents six reasons why this leaves the 2025 SEA deficient:

1) The mitigation measures proposed, including AMM 5, are tentative, not guaranteed. This undermines guarantees of resource protection that BLM makes in the 2025 SEA.

2) AMM 5's prohibition of water withdrawals from the Little Muskingham River will simply shift the onus of these withdrawals on to other nearby streams, tributaries, and headwaters, impacting the sensitive species that reside in those streams. This effect must be analyzed.

3) BLM must address how withdrawing water from tributaries and headwaters, which feed the Little Muskingham River, will affect the flow of the Little Muskingham River.

4) BLM claims they will address the specific water withdrawal effects at the application for permit to drill (APD) stage of the process. However, historically the BLM has failed to adequately address those issues at the APD stage, instead relying on their leasing NEPA to disclose effects. This is an obfuscation of their NEPA analysis duties at this stage.

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[10] Species: Clubshell mussel, fanshell mussel, Northern riffleshell mussel, pink mucket mussel, longsolid mussel, purple cat's paw mussel, round hickory nut mussel, sheepnose mussel, snuffbox mussel, and rabbitsfoot mussel.

[11] Salamander mussel and Eastern hellbender.

5) Wherever water withdrawals occur, they present the risk to fish critical to mussel larval development. Neither the 2025 SEA nor the Biological Assessment (BA) drafted in concurrence with the 2025 SEA address this effect.

6) The project does not make any assurance that harm to listed aquatic species will be avoided. This is due to BLM not requiring stream surveys for listed species.

BLM Response: While the mitigation measures within the 2025 SEA are not stipulations that would be applied to the leases, the BLM has full authority to attach them as Conditions of Approval at the APD stage with sufficient site-specific environmental review. Should a party be issued a lease, they must ensure that their activities, from exploratory activities all the way through the final well being drilled, adhere to these conditions and comply with all Federal laws, rules and regulations as applicable. If at any time a party is found to not be in compliance with any of the Conditions of Approval or lease terms, the BLM and the USFS may take action up to and including the revocation of a lease. These penalties as well as all other subsequent penalties can be avoided with the implementation of mitigation measures, including AMM 5. However, a party may conversely devise a different method of operating that would not necessitate the inclusion of the mitigation measure. Thus, the potential future mitigation measures are designed to avoid locking a party into a particular method of operating when a less environmentally harmful one may exist but rather alert them to potential mitigation that BLM may require at the APD stage should development be proposed, and in consideration of any resources which may exist at the location, at that point in time, and the actual proposal.

OEC is correct in asserting that the 2025 SEA, as described in Appendix G, Section 2.6.1.2 and Appendix F, for all leases issued under the Proposed Action, the BLM will prohibit water withdrawals from the Little Muskingum River, Muskingum River, and any other Group 2 and 4 streams that may be identified in the future or additional hellbender streams that may be identified in the future. Additional protections for water resources are reflected in the 2006 LRMP, which contains a guideline allowing USFS to prevent water withdrawals from waterways or groundwater on NFS lands if that activity were proposed as part of a special-use permit request associated with oil and gas development (Appendix F, Reference Number GFW-WSH-1). This guideline states that water should not be diverted from streams, lakes, or springs when instream flow needs or water-level assessments indicate that diversion would impact stream processes, aquatic and riparian habitats and communities, or recreation and aesthetic values (SEA, p. 3-100).

BLM relies on the 2020 RFDS in determining the effects associated with several resources, including water withdrawals. Section 3.6.2.2 of the 2025 SEA provides a detailed explanation of potential impacts from likely sources of water withdrawals and estimated amounts of water withdrawals based on the 2020 RFDS (Appendix D of the 2025 SEA). The BA thoroughly addresses water withdrawals and can be found in Appendix G of the 2025 SEA. The BA describes the consultation process that the BLM would undertake with the U.S. Fish and Wildlife Service (USFWS) prior to approval of leases or any future APD. If an APD is received, additional consultation with the USFWS will occur. Mitigation measures, designed to limit impacts to the watershed, will be implemented at the APD stage when more information is known about the water source location and amount of water needed, and the conditions that may exist at that time.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

c. The FSEA failed to take a hard look at listed bats and tri-colored bats.

OEC claims that the BA's conclusion that the project "may affect, is not likely to adversely affect" the Indiana Bat and the Northern long-eared bat (NLEB) is not supported by the 2025 SEA nor the best available information. They cite four flawed assumptions of the BLM that incorrectly led the agency to make these determinations:

1) The BLM drastically underestimates the amount of forest clearing that is required, on a per-well basis, for oil and gas leasing operations. They describe that unconventional oil and gas drilling (including fracking) may require wider pipelines which in turn require wider rights of way, potentially leading to far larger amounts of forest clearing.

2) BLM's findings are based on the assumption that habitat loss only occurs from direct habitat loss. They discount the effects of habitat fragmentation and other indirect causes of habitat loss.

3) The finding is based on an unsupported assumption that there is substantial "suitable habitat" that remains in other part of WNF for the bats, making suitable habitat not a "limiting factor." In reality, this is only *potentially* suitable habitat and so making this claim on unconfirmed habitat is erroneous.

4) The BLM's effects analysis separates out development of private surface that is interconnected with this project, describing them only as cumulative effects.

BLM Response: BLM consulted the USFWS in May 2026 about this project and was described in Section D.4 of the final DNA. The consultation was done in compliance will all requirements for consultation under the Endangered Species Act (ESA) and NEPA, and the findings were published in the resultant BA. The BA (Appendix G of the 2025 SEA) describes the consultation process that the BLM would undertake with the USFWS prior to approval of leases or any future APDs.

The BLM's estimates for certain factors are based on the reasonably foreseeable effects of the action as information is available. Metrics such as acres of forest clearing are determined based on historical recordings of similar actions that demonstrate the expected effect of the proposed action. This also concerns the amount of remaining habitat. NEPA is designed to disclose the potential effects of a proposed action. Framing the remaining habitat a species may be able to inhabit falls within these parameters.

Potential impacts of the proposed action to Threatened, Endangered, and Candidate terrestrial wildlife species, including the anticipated magnitude and effect of habitat fragmentation, were described in Section 4.3.8.1 of the 2016 EA and in Section 3.8 of the 2025 SEA. It is emphasized that the use of horizontal drilling, the primary method of development in this proposed action, would greatly reduce the resultant habitat fragmentation compared to conventional (vertical) drilling. 2025 SEA 3.8.2.

Finally, the BLM is limited in its jurisdiction of what development may occur on the private surface lands mentioned by OEC. This proposed leasing action only authorizes those lands which are governed by the USFS within the WNF. Development operations on private surface lands may occur, but that is at the prerogative of the surface owner themselves. This makes the effects of that development something that is not reasonably foreseeable at this stage and is dependent upon third-party decision making. At the APD stage, should private development be connected and reasonably foreseeable for a given area, it would be more appropriate for that analysis to occur at that stage, time, and place.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

d. The FSEA failed to take a hard look at air resources.

OEC claims that the 2025 SEA and DNA are arbitrary and capricious in violation of the Administrative Procedures Act (APA) for failing to address air quality impacts at all, let alone to a sufficient level of analysis. They assert that the BLM simply produced quantitative estimates of certain pollutants that are expected to be emitted over the life of the project with no comparison or analysis of what those numbers mean. OEC further claims that had BLM done their due diligence and offered these comparisons, it would show that the effects were indeed significant, warranting this action to be analyzed in an environmental impact statement (EIS).

OEC then claims that the BLM is acting arbitrarily by not using air quality modeling as a means to assess the impacts to air quality for this project and does so without substantiation. They make three primary claims in support of this argument:

1) BLM refuses to use air quality modeling because they claim that this project is "an EA-level" lease project, presupposing the level of NEPA required when it could just as easily be an EIS.

2) BLM incorrectly claims that meaningful modeling and prediction cannot be done at the leasing stage. The information that it claims is lacking in order to complete air quality modeling is used earlier in the 2025 SEA to estimate the number of wells and equipment that the project is expected to require.

3) The BLM ignores other available methodologies for assessing impacts. Other methodologies include comparison to CAA conformity thresholds.

BLM Response: The primary theme that OEC proposes around this claim is to prescribe methods of analysis that they deem sufficient. However, OEC is not the final determinant of sufficiency when reviewing an environmental analysis. While the BLM welcomes feedback and recommendations from the public, the agency retains the discretion to determine the method of analysis most appropriate to the proposed action, so long as it meets NEPA's requirements to take a "hard look" at the impacts to a resource area. Regarding air quality resources, BLM has done so.

The 2025 SEA includes quantitative emissions estimates for criteria pollutants, precursors, and hazardous air pollutants associated with reasonably foreseeable development under the 2020 RFDS (Table 3-3; Section 3.3.2 and 3.3.3). The 2025 SEA discusses health-related endpoints associated with these pollutants, including respiratory and cardiovascular pathways, and identifies the attainment/maintenance status of counties within the analysis area (see Appendix I at I-2 to I-4). Methane, volatile organic compounds (VOCs; e.g., benzene, toluene, xylene), and other pollutants are included in the emissions inventory and greenhouse gas (GHG) analysis (Chapter 3.4; Tables 3-5 to 3-7). The 2025 SEA discusses how VOCs and nitrogen oxides (NO_x) contribute to ozone formation (Appendix I). Section 1.1.1 of Appendix I discusses the regulatory guidance for compliance with the CAA. This includes discussion of the requirements for attainment-maintenance areas, of which Washington County has been designated, to ensure that the activities do not lead to the area returning to a non-attainment area. Protesting Parties are direct to review the response to Issue IV below for a more detailed response pertaining to OEC's concerns related to the requirement of a conformity determination.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

e. *The BLM must take a hard look at impacts to groundwater from well construction practices, hydraulic fracturing, and wastewater injection – particularly in light of the ongoing wastewater migration emergency in Washington County.*

OEC highlights the importance of maintaining safe drinking water for residents in the area. They reinforce this purpose by referencing a recent case where wastewater that was injected underground near Marietta, OH, just outside WNF, and the City of Marietta declared an emergency moratorium on wastewater injection in the area in response to potential risks of drinking water contamination.[12] OEC proceeds to raise the risks to underwater aquifers and other sources of groundwater from improper construction and maintenance of underground oil and gas drilling casings. They conclude by identifying four metrics and actions the BLM must take to adequately assess the effects to groundwater that the project may have:

1) A detailed accounting of all groundwater resources that may be affected by the project.
2) This accounting must be used to assess how new oil and gas operations may impact those resources that were identified.
3) The BLM cannot defer this analysis to the APD stage because the information to do so is available now.
4) Since this project will generate new wastewater in an area already experiencing potential health and drinking water impacts from just such a risk, BLM must take a hard look at how this project further increases that risk.

BLM Response: The BLM has provided an in-depth discussion of the potential effects associated with drinking water resources and wastewater injection. Section 4.6 in the 2016 EA and Section 3.6 in the 2025 SEA discuss impacts on water resources, including potential for impacts on drinking water and water supplies. Section 3.10.2.2 of the 2025 SEA discusses impacts on social conditions from changes in water resources. The discussions explain that issuing leases is unlikely to affect drinking water, and they detail legal requirements and

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[12] See https://www.nytimes.com/2026/07/29/climate/ohio-fracking-water-injection-wells.html.

stipulations that would be applied to leases for the protection of water resources, including the construction and management of drilling equipment.

Additionally, before any drilling may take place, developers must first submit a permit application to the Ohio Department of Natural Resources (ODNR). Among other requirements, a well construction permit application must identify all areas within 100 feet of and within the proposed well site boundary that are within the 5- year time of travel associated with a public drinking water supply, as delineated or endorsed under the "Source Water Assessment and Protection Program." See SEA, Appendix E, Section 1.1.2. The state's management responsibilities add further protections to drinking water resources.

Also in the 2016 EA, Section 4.7 analyzes potential impacts of hazardous wastes and Section 4.8 analyzes potential impacts on Public Health and Safety. Section 3.10.1.3 in the 2025 SEA discusses public health and safety. These discussions of public health address the risks as asserted by the Protesting Parties and how measures are taken to mitigate these risks to levels that contaminations are unlikely to occur. The 2016 EA and 2025 SEA detail legal requirements and stipulations that would be applied to leases for the protection of these resources. See 2016 EA Section 5 and 2025 SEA Section 2.2.3 and Appendix F.

While this initial analysis has been completed at the current leasing stage, further review at the APD stage will be conducted to provide site-specific information to each individual well pad and drilling site which includes a detailed geologic and engineering analysis of the drilling and casing program to ensure that all usable water zones will be isolated and/or protected as required by 43 C.F.R. 3172, and includes detailed waste handling review including emergency response. Without a concrete development proposal, a more detailed level of analysis is not possible.

The *New York Times* article, while demonstrating some potential risks associated with wastewater injection, only gives a surface level view of the issue. To date, testing in the area reported in the article has determined that there is no evidence of wastewater contaminating drinking water. This story provides a localized look at a topic that has not resulted in any breaches in public health safety.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

f. The BLM must analyze the impacts of oil and gas leasing on public health.

OEC cites NEPA as delivering a mandate that agencies analyze the effects to public health imposed by federal actions. They then proceed to denote multiple negative health conditions that they cite as being linked to hydraulic fracturing and other oil and gas development operations. OEC charges BLM with taking a hard look at the public health effects, both proximate and cumulative, of the proposed action. They specifically task the BLM with incorporating the findings from all regionally relevant health impact assessments (HIAs), although they do not provide any reference to the specific HIAs to which they are referring.

BLM Response: The 2016 EA, Section 4.7 analyzes potential impacts of hazardous wastes and Section 4.8 analyzes potential impacts on Public Health and Safety. Section 3.10.1.3 in the 2025 SEA further discusses Public Health and Safety. The 2016 EA and 2025 SEA detail legal requirements and stipulations that would be applied to leases for the protection of health and safety. Should a party be found to not be in compliance with lease terms or any applicable Federal law, rule or regulation, the BLM and the USFS may take action up to and including the revocation of a lease. Further, Sections 3.3.2 and 3.3.3 of the 2025 SEA go into greater detail to disclose health-related endpoints associated with the air pollutants that may be found in the emissions of development activities, including respiratory and cardiovascular pathways. BLM does not purport to hide negative health effects that have been linked to the emissions released from the activities of oil and gas development. Rather, it holds that it has done its due diligence in informing the public of the potential health impacts that may arise over the life of any potential lease that could be issued as a result of this proposed action.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

g. The BLM must prepare an Environmental Impact Statement.

OEC claims that BLM has failed to demonstrate an adequate FONSI and that an EA is insufficient, to which an EIS is the necessary remedy.

BLM Response: The 2025 SEA was prepared in accordance with the CEQ implementing regulations for NEPA (40 C.F.R. 1500 –1508, revised in 2020), Department of Interior NEPA regulations (43 C.F.R. Part 46) and the BLM NEPA Handbook (H-1790-1). The BLM used the EA process to determine if significant impacts would result from the Proposed Action. If significant impacts are identified that cannot be adequately mitigated, the BLM would prepare an EIS. It is important to note that the administrative act of offering parcels for oil and gas leasing and the subsequent issuing of leases would have no direct impacts. There would be no surface disturbance authorized or any direct impacts resulting from the action of leasing, but the 2025 SEA analyzes reasonably foreseeable impacts of potential future oil and gas development to determine whether significant environmental impacts would require further environmental analysis in the form of an EIS, or whether a FONSI may be issued. If leases are proposed for development, during the Stage 3 environmental review of site-specific Applications for Permit to Drill (APD), the BLM would further assess site-specific impacts of proposed development and would prepare additional environmental review based on the potential impacts and their significance. If warranted, additional mitigation would be applied in the form of Conditions of Approval and would consider environmental conditions that may occur at that time and place. Refer to Section 1.2.1 (Actions to be Taken) in the 2025 SEA that describes the Stage 3 environmental review of site-specific APDs.

BLM addressed the resource areas that it was directed to analyze in response to the court order from 2021. The effects to these resource areas were analyzed and documented in the 2025 SEA. No further court instructions or injunction for stay have been ordered. Therefore, the BLM is moving forward with the leasing process.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

IV. The BLM must make a general conformity determination under the Clean Air Act (CAA).

OEC claims that due to the designation of Washington County—including approximately half of the Marietta Unit of WNF—as a maintenance area under the CAA for ozone and particulate matter with a diameter of 2.5 micrometers or less ($PM_{2.5}$), the agency must conduct a full conformity determination analysis. They state that not doing so would be arbitrary and capricious and a violation of NEPA and the APA.

BLM Response: When addressing whether a non-attainment area or maintenance area under the CAA is subject to the General Conformity Rule, the BLM turns to Instruction Memorandum (IM) 2026-011.[13] This IM further calls out how BLM staff are to handle general conformity reviews for oil and gas projects within attachment 3 of this IM.[14] Attachment 3 maintains that all oil and gas leasing activities shall be exempt from the general conformity regulations for two reasons:

1) The act of leasing is an administrative action that does not directly authorize emissions generating activities, and no direct emissions occur.

2) Indirect emissions from the development of leases are not reasonably foreseeable, and a conformity determination is not required 'where the emissions (direct or indirect) are not reasonably foreseeable,' see 40 C.F.R. § 93.153(c)(3). 'Reasonably foreseeable emissions are projected future direct and indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known, and the emissions are quantifiable as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency,' see 40 C.F.R. § 93.152.

In conformance with IM 2026-011, BLM has not conducted a conformity determination for this project.

Aside from the exception provided by IM 2026-011, the BLM also addressed conformity in Appendix I, Section 1.1.1 of the 2025 SEA. Here, the BLM states the conformity decisions are assessed at the APD stage due to the lack of detailed emissions inventory information at the lease sale stage. During its environmental analysis of an APD, BLM may apply further Conditions of Approval, including additional mitigation measures or emissions offsets that may be required to ensure compliance with the General Conformity Rule. If the APD is approved, the lease holder receives notification of air quality control measures necessary for National Ambient Air Quality Standards (NAAQS) protection. Potential control measures are dependent on future regional modeling studies, other analyses, or changes in regulatory standards. The lease holder will be notified of the additional air quality control measures that are necessary to ensure protection and maintenance of the NAAQS as part of the APD approval.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

V. BLM and Forest Service must initiate consultation with the FWS regarding listed and proposed species.

OEC reasserts its concern that all proposed mitigation measures described in the 2025 SEA are discretionary and unenforceable. As such, this leaves the BLM's determination that the action is

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[13] See https://www.blm.gov/policy/im-2026-011.

[14] See https://www.blm.gov/sites/default/files/docs/2026-03/IM2026-011%2C%20ATT%203.pdf.

"not likely to adversely affect" incorrect. This means that the BLM and USFS must reinitiate consultation with the USFWS because their original determination was based on unenforceable mitigation measures.

BLM Response: As stated before, stipulations modify the standard terms of the lease to address known resource conflicts that aren't adequately protected through the standard lease terms. Stipulations and lease notices as identified in the Sale Notice are designed to provide notice of all conditions regarding environmental protection that will be required should they bid on and are issued a lease and in this case flow from our consultation with the USFWS. Should a party be issued a lease, they must ensure that their activities, from exploratory activities all the way through the final well being drilled, adhere to these stipulations. If at any time a party is found to not be in compliance with any of the stipulations, the BLM and the USFS may take action up to and including the revocation of a lease.

There may be situations in which a party may devise a different method of operating that would not necessitate the application of the actual stipulation but could still require the inclusion of mitigation in the form of a Condition of Approval. Alternatively, the mitigation measure may not be appropriate for a given parcel due to the nature of the effective environment at the time development is proposed, if ever. Should a parcel be offered and sold, and a lease issued, the BLM and USFS will commence with additional USFWS consultation to identify whether additional mitigation measures or other steps are necessary to protect the area's environmental resources in compliance with the ESA.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

VI. The Forest Service must amend or revise the Wayne Forest Plan and submit it to Congress prior to issuing any leases in the Wayne National Forest.

OEC once again references the insufficiency of the 2006 LRMP. They reassert that it must be updated to better reflect the most up-to-date information on the effects of oil and gas leasing as well as to reflect newly listed and proposed listed species under the ESA. They also reassert that upon being updated, the LRMP must be submitted to Congress in accordance with the CRA.

BLM Response: BLM once again cites its lack of jurisdiction to change another agency's land use plan. The 2006 LRMP is a plan developed by the USFS, not the BLM. As such, the BLM may participate in the planning process should the USFS choose to include them. However, barring any invitation to join the planning process, the BLM is limited in its capacity to update the 2006 LRMP until that decision is made by USFS. Regardless, in preparing the 2025 SEA, the BLM updated resource analysis to account for any new information about the natural resources in the project area.

Accordingly, this protest issue has been considered, found to be without merit, and is denied.

EXPLANATION IN SUPPORT OF DECISION

As set forth in the BLM's Decision dated September 14, 2026, after a careful review, the BLM determined that protests of the 41 parcels in the September 2026 Lease Sale have been denied.

This Explanation in Support of the Decision sets forth the reasons for the BLM's denial, in response to the issues raised by the Protesting Party.

This Decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, in accordance with the regulations contained in 43 C.F.R. § 4. The notice of appeal must be filed no later than 30 days after the date of receiving notice of this Decision. Any notice of appeal must be filed with the IBLA and must include a copy of the Decision being appealed, a statement of standing, and a statement of timeliness.

If you wish to file a petition for a stay of the effectiveness of this Decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must show sufficient justification based on the criteria at 43 C.F.R. § 4.405(b).

The appellant must serve a copy of the notice of appeal and any accompanying documents on the office of the officer who made the Decision, each person or entity named in the Decision, and the appropriate Office of the Solicitor at the time of filing with IBLA (see 43 C.F.R. §§ 4.403(b), 4.407(b)). Parties must serve the Office of the Solicitor at the address shown on Form 1842-1.

Service on a party known to be represented by an attorney or other designated representative must be made on the representative. If a statement of reasons for the appeal is not included with the notice of appeal, it must be filed within 30 days after the record on appeal is filed with the IBLA. Failure to file a statement of reasons within the time required will subject the challenged Decision to summary affirmance (see 43 C.F.R. § 4.412(a)).

Mitchell Leverette

Mitchell Leverette
State Director
Easter States