



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Colorado State Office

2850 Youngfield Street

Lakewood, Colorado 80215-7210

[www.co.blm.gov](http://www.co.blm.gov)



In Reply Refer To:  
3120 (CO-922)

**MAY 12 2016**

CERTIFIED MAIL – Return Receipt Requested

## Decision

Jeremy Nichols  
Climate and Energy Program Director  
WildEarth Guardians  
2590 Walnut Street  
Denver, CO 80202

May 12, 2016 Competitive Oil & Gas Lease Sale  
Protest COC77676, COC77677, COC77678, COC77680, COC77679 and COC77681

### All Protested Parcels Will be Offered for Sale

The protest period for the May 12, 2016, Competitive Oil and Gas Lease Sale began February 12, 2016 and closed at 4:00 p.m. Mountain Time on March 29, 2016. On March 14, 2016, this office received a protest from WildEarth Guardians (WEG) regarding all six (6) parcels to be offered in the May 2016 lease sale.

The Bureau of Land Management (BLM) received nominations for the May 2016 lease sale until May 1, 2015. The parcels considered for the May 2016 lease sale include Federal fluid mineral estate located in the United States Forest Service's San Juan National Forest (SJNF), BLM Colorado's Tres Rios Field Office (TRFO) and Little Snake Field Office (LSFO). The US Forest Service (USFS) manages the surface estate of the SJNF parcels. The BLM administers the mineral estate of all of the parcels. After preliminary adjudication of the nominated parcels by the BLM Colorado State Office, the parcels were reviewed by the TRFO and LSFO, including an interdisciplinary review, field visits to nominated parcels (where appropriate), review of conformance with the Resource Management Plan decisions for the planning area, and preparation of a Determination of National Environmental Policy Act (NEPA) Adequacy (DNA) for the SJNF parcels within the TRFO boundary and an Environmental Assessment (EA) for the LSFO parcels.

The Lease Sale Notice for the May 2016 Lease Sale provided notice that six (6) parcels containing 6960.480 acres of Federal lands in the State of Colorado would be offered for oil and gas leasing. The Lease Sale Notice and the review versions of the EA and DNA were released on February 11, 2016, initiating a thirty-day protest period. The protest period was subsequently extended an additional 15 days.

The BLM has reviewed your protest arguments in their entirety; the substantive arguments are summarized or quoted in bold, with BLM responses following.

**1. The BLM's proposal to lease falls short of ensuring compliance with NEPA. The BLM's reliance on the EA and the DNA fails to satisfy the agency obligations to analyze and assess the reasonably foreseeable impacts of oil and gas leasing. BLM should prepare an Environmental Impact Statement (EIS) for the lease sale.**

The 1920 Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to lease oil and gas resources on all public domain and acquired land. To lease federal oil and gas, a decision must be reached by the BLM as to which lands to lease. If the BLM decision is to lease a parcel of land, then the SJNF and TRFO or the WRFO, will conduct a site-specific NEPA analysis when exploration or drilling activities are proposed. That analysis will consider site-specific information about the proposed development that is not available or reasonably foreseeable at the present time. The NEPA procedures help to assure identified mitigation measures will prevent undue and unnecessary degradation of the leased lands.

The San Juan National Forest and Tres Rios Field Office Land and Resource Management Plan and Final Environmental Impact Statement (LRMP/FEIS) (September 2013) disclosed and analyzed the reasonably foreseeable potential impacts of oil and gas leasing and development. The LRMP/FEIS addresses oil and gas leasing on certain lands in the SJNF that are legally open to leasing. The DNA confirms that the LRMP/FEIS adequately analyzed the proposed action of leasing the SJNF parcels. The signed DNA adopts the LRMP/FEIS, as provided in 40 CFR 1506.3(a):

*An agency may adopt a Federal draft or final EIS or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under [the NEPA implementing] regulations.*

Mitigation measures, including no surface occupancy, controlled surface use and timing limitation stipulations were developed during the LRMP/FEIS process to address impacts from oil and gas development. These stipulations have been attached to the parcels proposed for lease sale where appropriate.

The EA for the LSFO May 2016 Lease Sale analyzed whether to lease two parcels for oil and gas development and if so, with what stipulations from the 2011 LSFO RMP/EIS. The EA identified no new significant impacts from oil and gas leasing and development that were not identified in the 2011 LSFO RMP/EIS. For these reasons, an EIS is not warranted.

**2. The BLM Failed to Analyze and Assess the Direct, Indirect, and Cumulative Impacts of Greenhouse Gas (GHG) Emissions that Would Result from Issuing the Proposed Lease Parcels.**

For the LSFO Lease Sale parcels, the BLM provided a detailed climate change impacts assessment as established and accepted by the most credible science available (see EA Section 3.4.1.1). The BLM provided GHG estimates on both a per-well and cumulative basis based on the best available information (tables 3-4 and 3-6). BLM explained that any future development on the nominated parcels fits within the expected range of GHG emissions described in the EA. Although the protest claims these impacts to be significant based on the associated uncertainty, the uncertainty described in the EA relates to the level of any potential future development, not the analysis of potential

climate changes derived from the best available science. The climate impacts described in the EA are expected to occur regardless of whether the nominated parcels are ever leased and/or developed, because the climate changes described in the EA are based on the analysis of total global GHG sources and sinks as projected far into the future. Any potential emissions associated with the future development of the nominated leases alone would not cause significant climate change impacts (see EA pg. 32, EPA study). As stated in the EA, before future development can occur, any proposed project will receive additional analysis (at the very least an emissions inventory). BLM will not speculate as to the level of development that may occur on any nominated lease parcels; however, BLM disclosed in the EA that potential future development will incrementally add to the global GHG burden (EA Section 3.4.1.1).

Furthermore, the EA Table 3-3 provides GHG emissions for project-area counties and the 2011 Little Snake RMP/EIS discusses Climate Change in general. The SJNF LRMP/FEIS includes a qualitative discussion on the correlation between oil and gas operations, GHG emissions, and climate change in Sections 3.12 - Air Quality; 3.12.2 - Affected Environment, Greenhouse Gas Emissions and Climate and under numerous discussion topics in Section 3.12. This discussion addresses the reasonably foreseeable impacts that leasing lands within the planning area, including the parcels proposed for inclusion in the May 2016 lease sale, might have on GHG emissions and climate change.

The SJNF LRMP/FEIS estimates GHG emissions for the entire planning area, which includes the locations of the four lease parcels in La Plata County, and discusses climate change at a landscape level. The SJNF LRMP/FEIS also discloses GHG emissions for “typical” oil and gas wells in the planning area. The GHG and climate change analyses are based on the emission inventory method described on page 351 of the 2013 LRMP/FEIS.

In the LSFO EA, Table 3-7, BLM-CO provided an estimate of per well GHG emissions from downstream consumption of oil and gas. Because this information reflects estimates for a “typical” well, it would apply equally to wells in the TRFO as to wells in the LSFO, and provides sufficient information to assist the decision maker.

At this time, specific information on the location and methods for oil and gas development operations that may be proposed on the subject lease parcels is not known. Additionally, the development potential of the oil and gas resource in the area of the leases has considerable uncertainty and the number and location of any future drilling sites, if any, is currently unknown. It is also unknown whether the fluid mineral resources specific to these parcels, if present, are gas, oil or a combination thereof. Since these types of data are unavailable, it would be too speculative, and therefore not useful, to quantitatively analyze GHG emissions at this time.

As stated in Response 1 and in the EA (p. 23), uncertainties in GHG emissions are due to uncertainties in the amount and type of future development on the lease. As described in the response to public comments in the EA (p. 127), an EIS is mandated where further data collection could help prevent speculation; however, further data collection will not show the amount and type of future development, so an EIS will not help resolve these uncertainties. Since information regarding the location, extent, and operating procedures and technologies that might be utilized for oil and/or gas development operations on the subject parcels is not currently known, it is currently not feasible to speculate about the net impacts to climate that might result from leasing and any future oil and gas development operations on the proposed lease parcels. As such, the BLM has qualitatively addressed the potential for GHG emissions and climate impacts from oil and gas operations in the area where the proposed parcels are located in the associated NEPA documents.

The BLM acknowledges that climate change is happening and that it is affected by human activity. In these analyses, the BLM presents a qualitative discussion of the environmental effects of climate change and their socioeconomic consequences. The BLM has considered and disclosed the projected effects of climate change on the resources within the project areas area. The EA also provided for an accounting of the direct GHG emissions for the estimated cumulative development (EA table 3.6). The BLM also has acknowledged that climate science does not allow a precise connection between project-specific GHG emissions and specific environmental effects of climate change. This approach is consistent with the approach that federal courts have upheld when considering NEPA challenges to BLM federal coal leasing decisions. *West Antelope II*, 738 F.3d at 309; *WildEarth Guardians v. BLM*, Civ. Case No. 1:11-cv-1481 (RJL) (D.D.C. filed Mar. 31, 2014).

**3. The BLM failed to analyze the costs of reasonably foreseeable carbon emissions using well-accepted, valid, credible, Government Accountability Office-endorsed, interagency methods for assessing carbon costs that are supported by the White House.**

The BLM finds that including monetary estimates of the Social Cost of Carbon (SCC) in its NEPA Analysis for this proposed action would not be useful. There is no court case or existing guidance requiring the inclusion of SCC in the NEPA context. Estimating SCC is challenging because it is intended to model effects at a global scale on the welfare of future generations caused by additional carbon emissions occurring in the present. A federal Interagency Working Group on the Social Cost of Carbon, convened by the Office of Management and Budget, developed estimates of the SCC, which reflect the monetary cost incurred by the emission of one additional metric ton of carbon dioxide (CO<sub>2</sub>). However for this decision, the BLM finds that including meaningful monetary estimates of the SCC is difficult and would not provide additional pertinent information to the decision maker.

Given the global nature of climate change, estimating SCC of an individual decision requires assessing the impact of the project on the global market for the commodity in question. While we are able to estimate the GHG emissions associated with the proposed action for this project, as described in EA section 3.4.1.1 for the LSFO parcels and Section 3.12 of the Final EIS for the Final SJNF and Proposed Tres Rios Field Office Land and Resource Management Plan, we have not estimated the net effect of this action on global GHG emissions or climate change. Depending on the global demand for oil and gas, the net effect of this project may be partially offset by changes in production in other locations. Accounting for this potential substitution effect is technically challenging.

Further, the applicable NEPA analyses for this proposed action do not include monetary estimates of any benefits or costs. The quantitative economic analysis is primarily a regional economic impact analysis, which is used to estimate impacts on economic activity, expressed as projected changes in employment, personal income, or economic output. These indicators are not benefits or costs, as defined in a benefit-cost analysis. Without any other monetized benefits or costs reported, monetized estimates of the SCC would be presented in isolation, without any context for evaluating their significance. This limits the usefulness of such estimates to the decision maker.

**4. BLM's argument that GHG emissions analysis is more appropriate at the drilling stage is contradicted by past development proposals without GHG emission analysis, and without stipulations giving BLM discretion to limit development based on GHG concerns.**

WEG claims that BLM “seems to argue” that it cannot complete an analysis of reasonably foreseeable GHG emissions at the leasing stage. On the contrary, BLM has completed an analysis of those GHG emissions that it considers to be reasonably foreseeable at leasing (see EA section 3.4.1.1). The BLM explained that it cannot prepare a project-specific analysis without a specific development proposal, but that such analysis would be undertaken upon review of a proposal, in accordance with CO IM 2015-009, which provides direction and methods for project-level air quality analysis (EA p.23).

The examples that WEG provides to dispute this point are several years old (and predate Colorado Instruction Memorandum 2015-009); in fact, BLM-CO has utilized the CARMMS study and estimated GHG emissions from production for recent project approval decisions posted on the Royal Gorge FO, Uncompahgre FO, Colorado River Valley FO, Grand Junction FO and other websites. Also, as stated in the EA (p. 33-34, and 123), Lease Notice CO-56 has been placed on each lease parcel, which advises lessees that BLM may perform future additional analyses (such as air dispersion modeling assessments) or impose specific mitigation measures within its authority as Conditions of Approval on development projects.

### DECISION

The decision to offer the six (6) parcels was made in accordance with BLM policy and regulations. For the reasons described above, your protest of the sale of these parcels is denied.

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1 (enclosed). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from your receipt of this decision. The person appealing the decision has the burden of showing that the decision appealed from is in error.

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 Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must be submitted to each party named in this decision, to the IBLA (see 43 CFR 4.21), and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. 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 regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the protestor’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.

If you have any questions regarding this response, contact Barbara Sterling, Natural Resource Specialist at (303) 239-3642.



Lonny R. Bagley  
Deputy State Director  
Division of Energy, Lands and Minerals

Enclosure

cc: Field Manager, Tres Rios Field Manager  
Field Manager, Little Snake Field Office  
Field Manager, White River Field Office

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
AND
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

- A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
- 1. NOTICE OF APPEAL**.....
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- 2. WHERE TO FILE**
- NOTICE OF APPEAL..... Bureau of Land Management, Colorado State Office  
Division of Energy, Lands, and Minerals (CO-920)  
2850 Youngfield Street, Lakewood, Colorado 80215
- WITH COPY TO SOLICITOR... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region  
755 Parfet Street, Suite 151, Lakewood, Colorado 80215
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- 3. STATEMENT OF REASONS** Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).
- WITH COPY TO SOLICITOR..... U.S. Department of the Interior, Regional Solicitor, Rocky Mountain Region  
755 Parfet Street, Suite 151, Lakewood, Colorado 80215
- 
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
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- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
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- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). 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 Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. 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 show sufficient justification 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

**43 CFR SUBPART 1821--GENERAL INFORMATION**

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska  
Arizona State Office ----- Arizona  
California State Office ----- California  
Colorado State Office ----- Colorado  
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri  
and, all States east of the Mississippi River  
Idaho State Office ----- Idaho  
Montana State Office ----- Montana, North Dakota and South Dakota  
Nevada State Office ----- Nevada  
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas  
Oregon State Office ----- Oregon and Washington  
Utah State Office ----- Utah  
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

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(Form 1842-1, September 2006)