



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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JUN 12 2017

In Reply Refer To:  
3100 (NV922)

CERTIFIED MAIL 9171 9690 0935 0137 7440 96

### DECISION

Center for Biological Diversity	:	Protest to All Parcels in the
Michael Saul, Senior Attorney	:	June 14, 2017
1536 Wynkoop St, Suite 421	:	Competitive Oil and Gas Lease Sale
Denver, CO 80202	:	

### PROTEST DISMISSED PARCELS OFFERED FOR SALE

On May 25, 2017, the Bureau of Land Management (BLM), Nevada State Office (NVSO), timely received a protest<sup>1</sup> from the Center for Biological Diversity (CBD). CBD protested all of the 106 parcels offered in the June 14, 2017 Competitive Oil and Gas Lease Sale (the Sale) and the Battle Mountain District Office's (BMDO) Oil and Gas Lease Sale Environmental Assessment (EA), DOI-BLM-NV-B020-2017-0002-EA.<sup>2</sup>

### BACKGROUND

The BLM received nominated parcels for the Sale through September 16, 2016. The nominated parcels included land in Federal mineral estate located in the BLM Nevada's BMDO. After the NVSO completed preliminary adjudication<sup>3</sup> of the nominated parcels, the NVSO screened each parcel to determine compliance with national and state BLM policies, including BLM's efforts related to the management of Greater Sage Grouse on public lands. With the signing of the Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (Sage-Grouse RMPA), and the decision of the U.S. Fish and Wildlife Service not to

<sup>1</sup> The protest is posted on the BLM website, located at: <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/nevada>

<sup>2</sup> The EA was revised April 25, 2017 to further address public comments and concerns and is located at: <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/regional-lease-sales/nevada>

<sup>3</sup> Preliminary adjudication is the first stage of analysis of nominated lands conducted by the State Office to prepare preliminary sale parcels for Field Office review. During preliminary adjudication, the State Office confirms availability of nominated lands for leasing pursuant to 40 U.S.C. § 181 *et seq.*, 43 CFR 3100 *et seq.*, and BLM policies. Once the State Office completes preliminary adjudication, it consolidates the nominated land available for leasing into a preliminary parcel list to send to the Field Office for NEPA analysis and leasing recommendations.

list the sage-grouse; the BLM is currently allowing leasing in Greater Sage Grouse habitat consistent with the Goals, Objectives, and Management Decisions in the Amendment.<sup>4</sup>

On November 2, 2016, the NVSO sent a preliminary parcel list to BMDO for review. This review included interdisciplinary team review by BLM specialists, field visits to nominated parcels (where appropriate), review of conformance with the Land Use Plans, and preparation of an EA documenting National Environmental Policy Act (NEPA) compliance.<sup>5</sup> The BMDO's preliminary EA was made available for a period of public review from January 5, 2017, through February 3, 2017.

The EA tiered to the existing Land Use Plans (LUPs)<sup>6</sup>, in accordance with the Code of Federal Regulations (CFR) at 40 CFR 1502.20:

*Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review . . . the subsequent . . . environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action.*

The BLM described its purpose and need for the June 2017 Lease Sale in its EA as follows:

### ***1.2 Purpose and Need for Action***

*Oil and gas leasing is necessary to provide oil and gas companies with new areas to explore and potentially develop. Leasing is authorized under the Mineral Leasing Act of 1920, as amended and modified by subsequent legislation, and regulations found at 43 CFR part 3100. Oil and gas leasing is recognized as an acceptable use of the public lands under FLPMA. BLM authority for leasing public mineral estate for the development of energy resources, including oil and gas, is described in 43 CFR 3160.0-3.*

*Offering parcels for competitive oil and gas leasing provides for the orderly development of fluid mineral resources under BLM's jurisdiction in a manner consistent with multiple use management and consideration for the natural and cultural resources that may be present. This requires that adequate provisions are included with the leases to protect public health and safety and assure full compliance with the spirit and objectives of NEPA and other federal environmental laws and regulations. This action is being initiated to facilitate*

<sup>4</sup> BLM Nevada- Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (2015).

<sup>5</sup> See BLM, H-1601-1, *Land Use Planning Handbook*, (Mar. 2005) (p. 42): "after the RMP is approved, any authorizations and management actions approved based on an activity-level or project-specific EIS (or EA) must be specifically provided for in the RMP or be consistent with the terms, conditions, and decisions in the approved RMP." See also 43 CFR 1610.5-3.

<sup>6</sup> The Tonopah RMP, approved on October 6, 1997, and the Shoshone-Eureka RMP and associated Record of Decision (1986), both as amended.

*Battle Mountain District's implementation of the requirements in Executive Order (EO) 13212 (2001) and the National Energy Policy Act (2005).*

*The BLM is required by law to consider leasing of areas that have been nominated for lease if leasing is in conformance with the applicable BLM land use plan, in this case the Tonopah RMP (Tonopah Field Office), approved in 1997, or the Shoshone-Eureka RMP (Mt. Lewis Field Office), approved in 1986. The oil and gas parcels addressed in this EA cannot be considered for leasing without supplemental analysis of new information and changes in environmental conditions since these RMPs were approved, such as increased growth, locations of special status species, identification of traditional cultural properties, and recognition of other sensitive resources that were not addressed in the RMPs.*

The EA considered four (4) alternatives:

- The “Proposed Action” alternative, which included offering all 106 nominated parcels with stipulations from the existing RMP that were sent to the BMDO for review as well as one reinstatement.
- The “Partial Deferral Alternative”, which considered offering 58 parcels or portions of parcels consisting of 91,064 acres, while deferring the remaining approximately 104,668 acres pending and RMP update which would develop and apply additional stipulations.
- The “Additional Resource Protection Alternative”, which was developed in response to public and agency comments received on the Draft EA, and considered offering all 106 adjudicated parcels, but with additional resource protection measures including stipulations to mitigate potential resource conflicts with exploration and development; and
- The “No Action” alternative, which considered rejecting all parcels nominated for the lease sale in June 2017. This alternative is included as a baseline for assessing and comparing potential impacts.

On April 26, 2017, the NVSO published a *Notice of Competitive Oil and Gas Lease Sale for June 14, 2017*<sup>7</sup> (Notice), resulting in a total of 106 parcels offered for lease. This protest challenges the EA and all 106 parcels described in the Notice.

## **ISSUES**

CBD participated in the BMDO's public review of the EA, and provided comments to which the BMDO responded in Appendix H of the EA. Several of the CBD's arguments in the protest are substantially identical to the comments they provided the BMDO during their review of the EA. For additional detail, refer to BMDO's responses in Appendix H of the EA.

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<sup>7</sup> The Notice contains a memorandum of general sale information, the final parcel list, and the final stipulations.

CBD's protest generally alleges that the BLM failed to comply with the National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 *et seq.*, the Minerals Leasing Act of 1920, as amended (MLA), 30 U.S.C. § 181 *et seq.*, the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1701 *et seq.*, and the Endangered Species Act of 1973, as amended (ESA), 16 U.S.C. § 1531 *et seq.*

The following addresses the CBD's protest related to the Sale. The BLM has reviewed the CBD's protest in its entirety; the substantive protests are numbered and provided in bold with BLM responses following.

**A. BLM's EA Violates the National Environmental Policy Act ("NEPA") By Failing to Take a Hard Look at Foreseeable Indirect and Cumulative Impacts of the Proposed Action.**

BLM Response:

Per BLM's, H-1790-1, National Environmental Policy Act Handbook, (Jan. 2008) (p. 55), the definition of "hard look," is as follows:

*A "hard look" is a reasoned analysis containing quantitative or detailed qualitative information.*

CBD alleges BLM violated NEPA (42 U.S.C. § 4321 *et seq.*) because the EA tiers to BMDO's two current Resource Management Plans (RMPs), the Tonopah Resource Management Plan (1997) the Shoshone-Eureka Resource Management Plan (1986), and the Sage-Grouse RMPA (2015) which do not address the emergence of new and significant information, including that relating to extraction methods of fracking and horizontal drilling, or the increased seismic risks from such extraction methods. In particular, BLM failed to take a hard look at the potential impacts of the proposed action on water resources, air quality, climate change, human health and safety, seismicity, and sensitive species of plants and wildlife.

Each RMP developed conservative Reasonable Foreseeable Development (RFD) scenarios for oil and gas exploration and development within the BMDO. Even with new shale-oil drilling technology being deployed in Nevada, none of the disturbance or impact thresholds identified in the RMPs have been reached or surpassed, therefore, BLM considers the continuation of oil and gas leasing within the BMDO viable on a case-by-case basis. The level of environmental analysis conducted by BMDO for the Sale is consistent with the NEPA handbook H-1790-1 and the purpose and need for the action.

In accordance with the NEPA Handbook, "Proposed actions are analyzed in an EA if the actions are not categorically excluded, not covered in an existing environmental document, and not normally subject to an EIS." An EA is used to determine if the action would have significant effects; if so, the BLM would need to prepare an EIS. An EA may demonstrate that a proposed action would have effects that are significant but could be reduced or avoided through mitigation. *Id.* None of the issues or potential indirect impacts discussed in the EA meets the "context" and "intensity" considerations for significance as defined in the CEQ regulations at 40 CFR 1508.27.

The EA does not support the claim that there would be significant impacts from leasing or development, thus automatically requiring an EIS. Based on the geographic location and resources, currently available lease stipulations and lease notices were applied to provide mitigation requirements to minimize potential impacts from leasing (EA at Appendix B and C). Once lease development is proposed, additional project and site-specific NEPA will be conducted to address any new resource issues and potential impacts specific to the project or site not addressed at the leasing stage.

The BLM does not consider the proposed action to be highly controversial, as courts have consistently specified that disagreement must be with respect to the character of the effects on the quality of the human environment in order to be considered to be “controversial” within the meaning of NEPA, rather than a mere matter of the unpopularity of a proposal. See *Como-Falcon Coalition, Inc. v. U.S. Dept. of Labor*, 609 F.2d 342 (8th Cir. 1978), cert. denied, 446 U.S. 936 (“Mere opposition to federal project does not make project controversial so as to require environmental impact statement.”) There is not a substantial dispute within federal agencies, the State of Nevada government agencies, or the scientific community as to the effects of oil and gas leasing and development in Nevada, specifically.

In conformance with federal regulation, reasonable mitigation is required to ensure that the proposed operations minimize adverse impacts to other resources, uses, and users, consistent with granted lease rights. *Id.* The operator “must” conduct operations to minimize adverse effects to surface and subsurface resources, prevent unnecessary surface disturbance, and conform to currently available technology and practice. *Id.* The operator is responsible for protecting cultural and historic resources, endangered species, and surface resources. *Id.* In general, but without site specificity at the lease stage, potential impacts from the use of Hydraulic Fracturing as one type of well stimulation technique are addressed at Sections 2.5, 3.2.4, and Appendix E of the EA. An analysis of site specific impacts at the lease stage from a possible use of Hydraulic Fracturing on a lease for which an APD has not been submitted or approved would amount to speculation. As BLM explains in the EA, the right of the leaseholder to use leased lands is subject to specific non-discretionary statutes and lease stipulations. See EA at p.25. If BLM determines impacts are unacceptable, appropriate mitigation is required or the proposal may be denied to prevent unnecessary or undue environmental degradation of resources. *Id.*, at App. H, CBD Responses, and Decision Record, p. 3 (If the [NEPA] evaluation indicates that environmental impacts would be unacceptable, either the project would be modified, mitigation measures would be implemented as conditions of approval (COAs) to reduce the impact, or the proposal could be denied to prevent unnecessary and undue degradation). See also BLM, *Onshore Oil and Gas Order No. 1, Approval of Operations*, 72 Fed. Reg. 10308, at 10334 (Mar. 7, 2007) (BLM will...3. Deny the permit if it cannot be approved and the BLM cannot identify any actions that the operator could take that would enable the BLM to issue the permit...).

In conclusion, the BLM did not violate NEPA process; therefore, the above CBD allegation has been considered, found to be without merit and is dismissed.

## **1. BLM does not Consider Potential Impacts to Water Resources in Proposed Sale Area**

### BLM Response:

The BLM took a "hard look" at the environmental consequences of leasing in the BMDO, including the potential impacts from exploration and development. In Chapter 3 of the EA, Affected Environment and Environmental Consequences addresses the elements that must be reviewed in all environmental analyses, as well as other resources deemed appropriate for evaluation. All resources that may be present or affected by leasing were analyzed for potential indirect impacts from leasing exploration and development.

The EA addressed potential impacts to water resources in Sections 3.2.4 and 4.2.4. The EA analysis determined that there were no significant impacts to water resources from the selected alternative. However, there could be indirect impacts to water resources from oil and gas development on these leases. To reduce potential conflicts with water resources from oil and gas leasing, the BMDO evaluated parcels located within high-value habitat for significant water resources and proposed to apply additional stipulations and mitigation measures to future development activities. Once lease development is proposed, additional site-specific NEPA will be conducted to address any water resource issues and potential impacts specific to the site not addressed at the leasing stage. Furthermore, these activities would be subject to Best Management Practices (BMPs), state and federal regulations, and Conditions of Approval (COAs).

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

### **a. The EA does not analyze impacts to water quantity**

#### BLM Response:

The EA addressed potential impacts to water resources in Sections 3.2.4 and 4.2.4. The EA analysis determined that there were no significant impacts to water resources from the selected alternative. However, there could be indirect impacts to water resources from oil and gas development on these leases. To reduce potential conflicts with water resources from oil and gas leasing, the BMDO evaluated parcels located within high-value habitat for significant water resources and proposed to apply additional stipulations and mitigation measures to future development activities. Once lease development is proposed, additional site-specific NEPA will be conducted to address any water resource issues and potential impacts specific to the site not addressed at the leasing stage. Furthermore, these activities would be subject to Best Management Practices (BMPs), state and federal regulations, and Conditions of Approval (COAs).

Potential impacts to water quality and quantity from Hydraulic Fracturing are addressed in the EA and in the Hydraulic Fracturing White Paper (Appendix H). Any subsequent oil and gas development activities would be subject to all applicable Federal, State, and local laws and

regulations including the Clean Water Act, Safe Drinking Water Act, Hazardous Waste regulations, OSHA regulations, and the State of Nevada Hydraulic Fracturing Rules.

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**b. The EA does not adequately analyze impacts to wildlife that depend on water features**

BLM Response:

The EA addressed potential impacts to wildlife, including wildlife dependent on water features in Sections 3.2.8 and 4.2.8. The EA analysis determined that there were no significant impacts to wildlife from the selected alternative. However, there could be indirect impacts to wildlife from oil and gas development on these leases. To reduce potential conflicts with wildlife habitat and populations from oil and gas leasing, the BMDO evaluated parcels located within high-value habitat and proposed to apply additional stipulations and mitigation measures to future development activities. Once lease development is proposed, additional site-specific NEPA will be conducted to address wildlife issues and potential impacts specific to the site not addressed at the leasing stage. Furthermore, these activities would be subject to Best Management Practices (BMPs), state and federal regulations, and Conditions of Approval (COAs).

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**2. It is Unlawful to Proceed with the Lease Sale without Undertaking a Site-Specific Environmental Assessment.**

BLM Response:

The BLM did take a hard look at the specific parcels offered for oil and gas leasing, and the reasonably foreseeable impacts to the resources on these parcels. BMDO reviewed all 106 nominated parcels and did perform site-specific analysis on all 106 of the parcels to adequately analyze any potential direct or indirect impacts on affected resources present. After conducting onsite reviews for each parcel, by a team of resource specialists, and disclosing to the public any potential impacts to resources from leasing these lands, BMDO was able to recommend to the State Director, the leasing of all 106 nominated parcels in conformance with regulations. BLM does make several references throughout the EA stating that once an APD is submitted, that additional project and site-specific NEPA analysis would be performed in addition to the leasing EA. This should not be misconstrued that the leasing EA is not site-specific. Each parcel is reviewed, scrutinized, and evaluated for any potential impacts, and whether they may directly or indirectly affect resources. If there is scientific evidence that indicates that exploration and development of a particular parcel may have a substantial impact to a resource, it is not recommended for leasing, if no reasonable mitigation is available.

In conclusion, the BLM did conduct site-specific analyses, as stated above. Therefore, the above CBD's protest has been considered, found to be without merit and is dismissed.

**B. BLM Has Failed to Take a Hard Look at Impacts to Greater Sage-Grouse Populations and Habitat in the EA**

**1. BLM's Revised Environmental Assessment Does Not Adequately Consider and Mitigate Impacts to Greater Sage-Grouse**

BLM Response:

The BLM conducted a thorough analysis on potential impacts to the greater sage grouse from oil and gas exploration and development in the September 2015 Sage-Grouse RMPA that amended the BMDO's two RMPs. This amendment defines mitigation and implementation strategies necessary to protect the bird's habitat. BMDO followed these instructions through the leasing process, by attaching stipulations to leases and leasing outside of habitat first before considering leasing within habitat.

It is reasonable and sufficient for the BLM to state that the proposed action and alternatives are in conformance with the Sage-Grouse RMPA. Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**2. The Proposed Lease Sale Does not Comply with the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment (Sage-Grouse RMPA)**

BLM Response:

The BLM NVSO utilized the required prioritization process during the adjudication of the nominated parcels. The BLM conducted a thorough analysis on potential impacts to the greater sage grouse from oil and gas exploration and development in the September 2015 Sage-Grouse RMPA that amended the BMDO's two RMPs. This amendment defines mitigation and implementation strategies necessary to protect the bird's habitat. The BLM NVSO and BMDO followed these instructions through the leasing process, by attaching stipulations to leases and leasing outside of habitat first before considering leasing within habitat.

In conclusion, the proposed action and alternatives are conformance with the Sage-Grouse RMPA, as stated above. Therefore, CBD allegation above is found to be an opinion, without merit, and is dismissed.

**3. The EA Fails to Take a Hard Look at Foreseeable Significant Impacts to Mule Deer, Pronghorn, and Desert Bighorn Sheep Habitat and Populations**

BLM Response:

The BLM considers long term impacts to all wildlife species, including Mule Deer, Pronghorn Antelope, and Desert Bighorn Sheep, from oil and gas exploration and development. As such in the Additional Resource Protection Alternative, areas of Mule Deer and Pronghorn Antelope habitat identified as requiring specific habitat protection received additional stipulations and lease notices. Additionally although Mule Deer, Pronghorn, and Bighorn Sheep do not require the same protection measures as does a sensitive, threatened, or endangered species, BLM coordinates closely with NDOW to meet the goal of sustainability for the species and to identify areas of sensitivity for the species. If such areas are identified, the BLM, in consultation with NDOW, would propose specific mitigation to ensure the habitat would be protected.

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**C. BLM's Proposed Decision and FONSI Are Arbitrary and Capricious Because they Bear no Reasonable Relationship to a Legitimate Purpose or Need**

BLM Response:

The BLM's Purpose and Need as stated in section 1.2 of the EA and reproduced in the Background section above are derived from the requirements of the Mineral Leasing Act of 1920, as amended. The Purpose and Need is consistent with the BLM's responsibility under the Mineral Leasing Act (MLA), as amended, to promote the development of oil and gas on the public domain. Parcels may be nominated by the public, the BLM or other agencies. The MLA establishes that deposits of oil and gas owned by the United States are subject to disposition in the form and manner provided by the MLA under the rules and regulations prescribed by the Secretary of the Interior, where consistent with land use planning, FLPMA and other applicable laws, regulations, and policies.

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**D. BLM's Final EA Violates NEPA By Recommending Adoption of a New Alternative Not Previously Disclosed Or Considered**

BLM Response:

In response to comments received from agencies such as USFWS and NDOW and the public the BLM considered a new alternative in the Revised EA, the "Additional Resource Protection Alternative". This new alternative applied additional stipulations and lease notices to parcels with important wildlife habitats, or sensitive natural resources via this EA process. During the review of these comments and revision of the EA, the Additional Resource Protection Alternative was found to meet the BLM's Purpose and Need, while addressing substantive comments received from the public.

Per BLM's, H-1790-1, National Environmental Policy Act Handbook, (Jan. 2008) (p. 30), Section 5.3.2 When Supplementation is Not Appropriate:

*Supplementation is not necessary if you make changes in the proposed action that are not substantial (i.e., the effects of the changed proposed action are still within the range of effects analyzed in the draft or final EIS).*

*If a new alternative is added after the circulation of a draft EIS, supplementation is not necessary if the new alternative lies within the spectrum of alternatives analyzed in the draft EIS or is a minor variation of an alternative analyzed in the draft EIS. In such circumstances, the new alternative may be added in the final EIS.*

The Additional Resource Protection Alternative lies within the spectrum of alternatives analyzed in the draft EA. Therefore, the above CBD protest above has been considered, found to be without merit and is dismissed.

**E. BLM Has Failed to Consider Impacts to Endangered and Threatened Species and to Ensure that Its Action Will Not Jeopardize their Continued Existence**

BLM Response:

The BLM did consider in the EA all of the Threatened and Endangered Species known to be present on the parcels as well as BLM special status species lists for plants and animals, which includes most if not all of the species referenced by CBD in their protest letter. In the EA it states that the BLM can take actions to protect critical habitat for sensitive species that are not on the lists and even not approve actions, if actions are or may be detrimental to the populations. The EA states that a Lease Notice was attached to all 106 parcels to serve the lessee with notice that the lease and any future activities proposed on it is subject to the Endangered Species Act, and any attendant requirements for additional scrutiny, surveys, and potential mitigation to protect the specie(s) and or the specie's habitat. Stipulations and Lease Notices, like this one, serve a vital role at the leasing stage by putting the BLM, lessee, and the public on notice that developing this lease may be difficult and may require additional mitigation and conformance.

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**F. BLM Has Failed to Consider Climate Impacts or Analyze Reasonable Alternatives to Mitigate Those Impacts**

BLM Response:

The BLM took a "hard look" at the environmental consequences of leasing in the BMDO, including the potential impacts from exploration and development. Chapter 3 of the EA, Affected Environment and Environmental Consequences addresses the elements that must be reviewed in all environmental analyses, as well as other resources deemed appropriate for evaluation. All resources that may be present or affected by leasing were analyzed for potential indirect impacts from leasing exploration and development.

The BLM addressed the potential impacts and environmental consequences to air quality, climate change, and greenhouse gases (GHG) in the EA in sections 3.2.1 (p. 28) and 4.2.1 (p. 99). The potential impacts of GHG from oil and gas operations in Nevada are extremely low, based on the low amount of current production. If production drastically increases in the future, it could increase the affects from GHG, and additional mitigation derived from analysis may be required. Additional analysis on the effects of Hydraulic Fracturing on Air Quality and Human Health and Safety is provided in Hydraulic Fracturing White Paper.

Potential impacts to air quality and climate change from Hydraulic Fracturing are addressed in the EA and in the referenced Hydraulic Fracturing White Paper. Any subsequent oil and gas development activities would be subject to all applicable Federal, State, and local laws and regulations including the Clean Air Act, Hazardous Waste regulations, and OSHA regulations.

Therefore, the above CBD protest has been considered, found to be without merit and is dismissed.

**1. Federal Fossil Fuel Leasing and Production Contributes Significantly to Adverse Impacts of Climate Change**

BLM Response:

The BLM appreciates CBD's comments and opinion on banning leasing and fracking until a programmatic review is conducted. This request is outside the scope of the proposed action. Therefore, the above CBD comment has been considered, found to be unreasonable and without merit, and is dismissed.

**2. BLM Must Consider A Ban on New Oil and Gas Leasing and Fracking in a Programmatic Review and Halt All New Leasing and Fracking in the Meantime**

BLM Response:

The BLM appreciates CBD's comments and opinion on banning leasing and fracking until a programmatic review is conducted. This request is outside the scope of the proposed action. Therefore, the above CBD comment has been considered, found to be unreasonable and without merit, and is dismissed.

**DECISION**

To the extent that CBD has raised any allegations not specifically discussed herein, they have been considered and are found to be without merit. For this reason, and for those previously discussed, CBD's protest of the Sale and the EA is dismissed and all 106 parcels will be offered for sale on June 14, 2017.

## APPEAL INFORMATION

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 and Form 1842-1 (enclosed). If an appeal is taken, a notice of appeal and/or request for stay must be filed in writing, on paper, in this office, either by mail or personal delivery within 30 days after the date of service. Notices of appeal and/or request for stay that are electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as timely filed. The notice of appeal is considered filed as of the date our office receives the hard copy and places our BLM date stamp on the document.


If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) 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 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 (*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 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.

If you have any questions regarding this decision, please contact Brian Amme, Deputy State Director, Minerals Division, at (775) 861-6585.

  
for Marci L. Todd  
Acting State Director

Enclosure:

1- Form 1842-1

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